

Annual List of Rulemaking Activity
Rules Adopted January 1, 2022 to December 31, 2022
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Professional and Financial Regulation,
Office of Professional and Occupational Regulation,
Board of Social Worker Licensure

Umbrella-Unit: **02-416**

Statutory authority: 32 MRS §§ 7030(2), 7053, 7060

Chapter number/title: **Ch. 10,** Definitions
Ch. 11, Advisory Rulings
Ch. 12, Licensure by Endorsement (*formerly* Application for Licensure)
Ch. 13, Licensure
Ch. 14, Continuing Professional Education
Ch. 15, Scope of Practice
Ch. 16, Code of Ethics and Grounds for Discipline (*formerly* Enforcement and Disciplinary Procedures)
Ch. 17, Record Retention Requirements
Ch. 18 (*New*), Telehealth

Filing numbers: **2022-196 to 204**

Effective date: 10/11/2022

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

(See Basis Statement)

Basis statement:

The Maine Board of Social Worker Licensure (the “Board”) is charged by the Legislature with the regulation of social workers in the State of Maine for the sole purpose of protecting the public health and welfare. The Legislature granted the Board rulemaking authority pursuant to 32 MRS §7030.

The principal reasons for this rulemaking was to: (1) update the Board’s current rules, (2) adopt rules to implement Licensure by Endorsement pursuant to Public Law 2021, Chapter 167, “An Act to Facilitate Licensure for Credentialed Individuals from Other Jurisdictions”, and (3) adopt rules to implement Public Law 2021, Chapter 291, “An Act Regarding Telehealth Regulations”.

The rules were initially noticed for comment on April 20, 2022. At its June meeting, the Board reviewed the comments and directed Board staff to make additional changes to Chapter 13, “Licensure”. Those changes were noticed on June 29, 2022, and comments were accepted through July 29, 2022 at 5:00 p.m.

Chapter 10, Definitions: The rulemaking clarifies terms used to describe educational and experience requirements for licensure, to update the term “sexual misconduct” to include violations that occur during electronic communication, and to update the definition of “organic mental illness” to reflect the term as used in the most recent version of the *Diagnostic and Statistical Manual of Mental Disorders*.

Chapter 11, Advisory Rulings: The rulemaking adopts minor, technical formatting amendments.

Chapter 12, Application for Licensure: The rulemaking repeals and replaces Chapter 12, currently titled “Application for Licensure”, relocating relevant provisions to Chapter 13 and replacing the rule with a newly created Chapter 12, titled “Licensure by Endorsement”. This chapter describes the pathway for Maine licensure for applicants with an active license in a U.S. jurisdiction that maintains licensing requirements that are substantially similar to

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Maine's requirements. This rule implements LD 149 (PL 2021 ch. 167), "An Act to Facilitate Licensure for Credentialed Individuals from Other Jurisdictions".

Chapter 13, Licensure: The rulemaking amends this chapter by incorporating sections relocated from the former Chapter 12, "Application for Licensure", removing submission of letters of professional recommendation from the requirements for initial licensure, clarifying which licensed professionals are qualified to provide consultation hours, amending the rule to reflect that consultation hours may be completed in person, through video or audio-only technology, or any combination thereof, and may be individual or in a group of not more than 8 members; and clarifies that "social work employment" as the term is used in rule must consist entirely of work that is compensated financially. At its June meeting, the board directed staff to make additional changes to Chapter 13, "Licensure", in response to comments received from the public.

The changes to Chapter 13 add to the categories of licensees that may serve as consultants for a licensed master social worker conditional (clinical) licensee to satisfy the requirement of hours needed to obtain the licensed clinical social worker level of license. The rule expands the categories of acceptable licensees to serve as consultants to include licensed marriage and family therapists, licensed psychologists, licensed psychiatrists, or any similarly-credentialed licensee from any state or country.

The changes would also clarify the board's intent that the hours of consultation required for either an active social worker-conditional license applying to be a licensed social worker or a licensed master social worker conditional clinical must be in-person, or via live, synchronous video technology, or any combination thereof, and may be completed individually or in a group of not more than eight (8) members. Audio-only technology is not permitted. For the consultation for the licensed master social worker conditional clinical level of license, a minimum of 72 of the 96 hours must be completed through individual consultation for those individuals with master's degrees in clinical concentrations and for those with degrees in nonclinical concentrations, 144 hours must be completed through individual consultation.

Chapter 14, Continuing Professional Education: The rulemaking adopts amendments to this chapter by incorporating a new statutory requirement pursuant to 32 MRS §7060 to complete course work in family or intimate partner violence, clarifying the retention rule for documentation of continuing education activities, and making amendments to the scope of acceptable continuing professional education activities, specifically delineating the number of hours that may be earned through sessions in which immediate interaction with the instructor is/is not available, and hours that may be earned through teaching, writing and/or independent study.

Chapter 15, Scope of Practice: The rulemaking adopts minor, technical amendments to clarify the terminology used to describe the different categories of licenses described therein.

Chapter 16, Enforcement and Disciplinary Procedures: The rulemaking adopts to amend Chapter 16, currently titled "Enforcement and Disciplinary Procedures", by amending the title to "Code of Ethics and Grounds for Discipline". The amendments would omit the procedures for imposing discipline and conduct of adjudicatory hearings that are contained elsewhere in Maine law, namely in Title 10, Section 8003 and Title 5, Chapter 375. The amendments clarify what activities considered "misconduct," incorporate by reference the *Code of Ethics* Adopted by the National Association of Social Workers (NASW) © 2021, and amends what conduct is considered "sexual misconduct."

Chapter 17, Record Retention Requirements: The rulemaking adopts minor, technical formatting amendments to this chapter.

Chapter 18, Telehealth: The rulemaking adopts a new rule, Chapter 18, "Telehealth", to implement the provisions of PL 2021 ch. 291 (32 MRS §§ 7071 *et seq.*) by establishing

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standards of practice and appropriate restrictions for when licensees use telehealth to provide services to clients.

Fiscal impact of rule:

Minimal.