

**Notice** is hereby given in accordance with G.S. 150B-21.2 that the NC Social Work Certification and Licensure Board intends to adopt the rules cited as 21 NCAC 63 .0214 Certification and Licensure for Military Personnel and Military Spouses, and .0610 Continuances; and to re-adopt the rules cited as 21 NCAC 63 .0102 Definitions, .0204 References, .0211 Work Experience, .0401 Continuing Education Requirements, and .0505 Relationships with Colleagues with amended language as noted. See rule citations below. Deleted language is struck-through and **added language appears underlined and in blue font**.

**Proposed Effective Date:** February 1, 2017

**Public Hearing:       Date:** Thursday, September 15, 2016

**Time:** 4:00 pm.

**Location:** NCSWCLB Office, 1207 S. Cox Street, Suite F, Asheboro, NC 27203

**Reason for Proposed Action:**

**For Adoption:**

**21 NCAC 63 .0214** – The Board is proposing to adopt rules as prescribed by N.C.G.S. 93B-15.1 to clarify the application process for military and military spouse applicants seeking clinical social work licensure in North Carolina.

**21 NCAC 63 .610** – The Board is proposing to adopt a rule to provide social workers involved in contested matters procedural information when requesting additional time to prepare for a scheduled hearing.

**For Re-adoption with amended language:**

**21 NCAC 63 .0102** – The Board is amending the language to provide clarification of the definition of “probation” as a period of time in which practice is subject to specific conditions mandated by the Board, may or may not be associated with a stay of suspension or revocations, and for which noncompliance may result in additional disciplinary action.

Additional amendments include incorporating the use of psychotherapy as part of the definition of clinical social work as it relates to clinical experience required for LCSW licensure to be consistent with the definition of Clinical Social Work Practice defined in N.C. Gen. Stat. § 90B-3(6); and defining “client” and “client system” to provide clarification of what is meant by client or consumer addressed in other sections of the Rules and to be consistent with the Association of Social Work Boards’ (ASWB) Model Practice Act, the Social Work Encyclopedia, and multiple other jurisdictions.

**21 NCAC 63 .0204** – In response to comments and concerns expressed by applicants seeking licensure by comity who have been licensed for a long period of time and are unable to locate a supervisor reference, the Board is removing the requirement for a supervisor reference for applicants seeking LCSW licensure by comity, requiring instead that at least one reference comes from a registered, certified, or licensed social worker. This will allow feedback from someone familiar with social work knowledge, skills, and abilities, but not necessarily require the supervisory perspective for individuals currently licensed at the same level in another jurisdiction. The language still requires a supervisor reference for those applying for the Associate license (LCSWA) who are generally new graduates and able to obtain a reference from their field placement supervisor.

**21 NCAC 63 .0211** – Several amendments are proposed under work experience to support the definition of clinical social work experience for LCSW licensure, and to insure adequate supervision for Associate licensees. Proposed changes include the following:

- Amended language to clarify that clinical practice satisfy the definition of clinical social work as defined in the Social Work Certification and Licensure Act, and to allow military applicants to receive credit for military occupational specialty experience obtained post MSW and deemed substantially equivalent to clinical social work practice as defined in the Social Work Certification and Licensure Act.
- Insuring that clinical practice by Associate licensees is adequately supervised by requiring that, in addition to satisfying the mandate of one hour of supervision for every thirty hours of practice, supervision shall occur no less frequently than at least once every two weeks, and shall include review of case documentation.
- Allow up to 20 hours of supervision via electronic means for clinical licensure and for the Certified Social Work Manager credential to accommodate geographical constraints that interfere with regular supervision conducted in person, face-to-face. Language is incorporated to clarify what is acceptable technology delivered supervision.
- The number of years of experience required for supervisors for the Certified Social Work Manager credential is amended from five years of administrative experience to two years of administrative experience, to be consistent with the years of experience required by a clinical supervisor supervising candidates for clinical licensure.

**21 NCAC 63 .0401** – The Board is proposing several technical amendments to address capitalization and sentence structure. In addition, the Board is responding to several comments and concerns regarding access to continuing education for maintaining professional competencies through the following proposed amendments:

- Live synchronous audio-video broadcasts allowing for real time interaction between instructor and participants will be considered an attended training rather than a distance education activity.
- The Board recognizes the value of practitioner well being as it relates to practicing with reasonable skill and safety and will allow limited credit during each renewal cycle for activities focused on self-care and well being;
- The Board also recognizes the learning benefits practitioners may get from preparing for conducting an organized training event focused on social work practice and will allow limited credit during each renewal cycle for presenting a formal training.
- Language is amended to clearly describe what is meant by job orientation as it relates to activity that is not acceptable for continuing education credit.

**21 NCAC 63 .0505** – To remove confusion regarding to whom social workers may refer clients, language is amended to reflect the original intent, which is to refer to professionals who are recognized by their respective profession as competent to carry out the services required. In addition, language is incorporated to provide clear guidelines about appropriate relationship with colleagues over whom the social workers exercise professional authority and responsibility for reporting incompetent and unethical behavior to bring it in line with the National Association of Social Workers Code of Ethics and other jurisdictions.

**Procedure by which a person can object to the agency on a proposed rule:** Specify the text of the rule to which the objection pertains. Submit the objection in writing, including the specified text to which the objection is directed and the reason for the objection. Objection shall be sent to the Rule Making Coordinator, Micki Lilly, Executive Director, NCSWCLB, P.O. Box 1043, Asheboro, NC 27204. **CLOSED**

Comments may be submitted to: NCSWCLB Executive Director, Micki Lilly, P.O. Box 1043, Asheboro, NC 27204 **CLOSED**

Comment period ends: September 15, 2016, 5:00 pm EST. **CLOSED**

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal Impact:**

- State
- Local
- Substantive ( $\geq$ \$1,000,000)
- None

**RULE CITATIONS:**

**21 NCAC 63 .0102 DEFINITIONS**

Whenever used in this Chapter, the definitions set forth in G.S. 90B-3 are herein incorporated by reference. The following definitions apply in this Chapter:

- (1) NCSWCLB - this designation represents the North Carolina Social Work Certification and Licensure Board.
- (2) CSW - this designation represents the certified social worker level of certification.
- (3) CMSW - this designation represents the certified master social worker level of certification.
- (4) CSWM - this designation represents the certified social work manager level of certification.
- (5) LCSW - this designation represents the licensed clinical social worker level of certification.
- (6) LCSWA - this designation represents the licensed clinical social worker associate level of certification.
- (7) Reprimand. Reprimand is a public rebuke and sanction by the Board for practice misconduct. A reprimand typically is given for less severe offenses and may require specific follow-up actions by the social worker.
- (8) Censure. Censure is an act involving severe condemnation and a sanction by the Board for practice misconduct. Censuring is typically for severe offenses and may require specific follow-up actions by the social worker.
- (9) Probation. Probation ~~is a stay of revocation or suspension allowing limited practice within preconditions established by the Board. Violations of these conditions may result in revocation.~~ is a period of time in which a license or certification is subject to specific practice conditions determined by the board. The individual is permitted to continue practice subject to compliance with the conditions set forth in the order determining the probation status. A violation of the conditions of probation can result in additional disciplinary action taken by the board.
- (10) Suspension. Suspension is the withdrawal of privilege to practice for a specific period of time.

- (11) Revocation. Revocation is the withdrawal of privilege to practice as a certified or licensed social worker in the State of North Carolina.
- (12) Clinical Social Work Experience. As it relates to the work experience required for LCSW licensure, two years of clinical social work experience in direct practice means the professional application of master or doctoral social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial function. Clinical social work experience requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment, including the use of psychotherapy, of to treat one or more of the following disorders or conditions: mental, emotional, addictive, behavioral, or developmental disorders and conditions. In addition, the clinical social work experience may also include clinical case management, information and referral, mediation, client education, clinical supervision and clinical consultation that is directly related to the treatment plan or personal care plan of a client or consumer.
- (13) Diagnosis. In the context of licensed clinical social work practice diagnosis is the process of distinguishing, beyond the general social work assessment, among one or more of the following: mental, emotional, addictive, behavioral, or developmental disorders and conditions within a psychosocial framework on the basis of their similar and unique characteristics consistent with American Psychiatric Association or World Health Organization classification systems.
- (14) Clinical Case Management. A comprehensive approach to care integrating a broad array of interventions to include planning, implementation and management of care for clients with one or more of the following: mental, emotional, addictive, behavioral, or developmental disorders and conditions. Interventions by the clinical case manager shall involve face-to-face contact with the client on a regular basis, shall be grounded in clinical social work theory, and shall be guided by the client's treatment plan or personal care plan.
- (15) Treatment. Clinical social work intervention, including individual, couples, family, or group psychotherapy, that is empirically grounded and used to help resolve symptoms of one or more of the following: mental, emotional, addictive, behavioral, or developmental disorders and conditions.
- (16) Surrender. Surrender is the voluntary relinquishment of a certification or license by its holder. The surrender of a certification or license shall be accepted only by Consent Order with the Board.
- (17) Client. Client means the individual, couple, family, group, organization, or community that seeks or receives social work services. Client status is not dependent on billing or payment of fees for such services. A power of attorney, legal guardian or person who is responsible for making decisions relative to the provision of social work services for a minor or adult is also deemed a recipient of social work services as part of the client system.
- (18) Client system. Client system means the client and those in the client's environment who are potentially influential in contributing to a resolution of the client's issues.

## 21 NCAC 63 .0204 REFERENCES

- (a) Applicants for the LCSW and CSWM classifications shall have a minimum of three references related to the applicant's experience, as required by G.S. 90B-7(d) and (e). Applicants for other classifications shall have a minimum of three references. Relatives of applicants, clients, or subordinates of applicants may not submit references for applicants. A current Board member shall not submit a reference for an applicant unless he/she is the applicant's current or only social work supervisor. In such a case the Board member may submit a reference, but he/she shall excuse himself/herself from review of that particular applicant.
- (b) All references ~~must~~ shall come from individuals who have or had a professional association with the applicant and have knowledge of the applicant's professional experience in the practice of social work.
- (c) For applicants for LCSWA licensure, ~~One~~ at least one reference ~~must~~ shall be from one who has been or is currently a ~~supervisor~~ supervising the applicant in a social work setting.

(d) For applicants seeking certification or licensure by comity, at least one reference shall be from a registered, certified, or licensed social worker who has been or is currently practicing in a social work setting.

## **21 NCAC 63 .0211 WORK EXPERIENCE**

(a) For the Licensed Clinical Social Worker credential:

- (1) Two years of post-MSW clinical social work experience shall mean 3,000 clock hours of work or employment for a fee or salary while engaged in the practice of clinical social ~~work~~ work as defined in this Chapter. The 3,000 hours shall be accumulated over a period of time not less than two years nor more than six consecutive years. Practicum or internship experience gained as part of any educational program shall not be included. Pursuant to N.C.G.S. 93B-15.1(a) military applicants may receive credit for military occupational specialty experience obtained post MSW degree and deemed substantially equivalent to clinical social work practice as defined in this Chapter.
- (2) Appropriate supervision shall mean supervision ~~in person~~ by ~~an~~ a MSW who is also a Licensed Clinical Social Worker and who is in good standing with the Board. A supervisor formally disciplined by any professional credentialing body or professional organization, or who has violated the provisions of an occupational licensing Board may not provide supervision to an associate licensee without the written permission of the Board. The Licensed Clinical Social Worker Associate's (LCSWA) clinical social work supervisor shall have an additional two years of clinical social work experience post LCSW licensure.
- (3) Appropriate supervision shall be that which is provided on a regular basis, conducted no less than once every two (2) weeks, with at least one hour of supervision during every 30 hours of experience. A minimum of 100 hours of supervision is required. Unless otherwise preapproved by the Board, no more than 20 hours of supervision may be provided through the use of technology. All supervision provided through the use of technology shall be synchronous, involve visual and audio interaction throughout the entire session, and shall take place in such a manner as to maintain the confidentiality of the communication. It is the professional responsibility of the clinical supervisor to make the initial determination whether or not the applicant's work experience meets the definition of clinical social work practice. The Board shall make the final determination whether or not the applicant's work experience meets the definition of clinical social work practice. Appropriate supervision may be individual or group supervision. Individual supervision shall mean one on one, ~~in person~~, face-to-face supervision by ~~an~~ a MSW who is also ~~an~~ a LCSW where the supervisor reviews and discusses clinical social work cases, reviews documentation, and provides evaluative comments and direction to the LCSWA. Group supervision shall mean face-to-face supervision provided by ~~an~~ a MSW who is also ~~an~~ a LCSW in a group setting, during which the supervisor reviews and discusses clinical social work cases, reviews documentation, and provides feedback and direction to each LCSWA in the group. A maximum of 25 hours of group supervision may be applied toward meeting the supervision requirements for the LCSW.

(b) For the Certified Social Work Manager credential:

- (1) Two years of post social work degree experience shall mean 3,000 clock hours of employment for a salary while engaged in administrative social work duties including, policy and budgetary development and implementation, supervision and management, program evaluation, planning, and staff development. Such duties shall be carried out in an administrative setting where social work or other mental health services are delivered. The 3,000 hours shall be accumulated over a period of time not less than two years nor more than six consecutive years. Practicum or internship experience gained as part of any educational program shall not be included.
- (2) Appropriate supervision shall mean face-to-face supervision ~~in person~~ by a social work administrator certified by the Board on at least one level who has a minimum of ~~five~~ two years of administrative experience in a social work or mental health setting. Appropriate supervision shall be that which is provided on a regular basis throughout the applicant's two years of administrative social work

experience. A minimum of 100 hours of supervision is required. A maximum of 50 hours of group supervision may be applied toward meeting the supervision requirements for the CSWM. No more than 20 hours of supervision may be provided through the use of technology. All supervision provided through the use of technology shall be synchronous, involve visual and audio interaction throughout the entire session, and shall take place in such a manner as to maintain the confidentiality of the communication.

## **21 NCAC 63 .0214 Certification and Licensure for Military Personnel and Military Spouses.**

Upon receipt of a request for certification or licensure pursuant to G.S. 93B-15.1 from an applicant with military training and experience, the Board shall issue a certificate or license upon the applicant's satisfying the following conditions:

- (1) Has completed and submits to the Board, application information as described in Rules .0202, .0203, and .0204 of this Section;
- (2) Has provided to the Board written documentation to satisfy conditions set out in G.S. 93B-15.1(a) and (c); and
- (3) Has passed the qualifying examination for the level of certification or licensure for which the applicant is applying.

(b) Upon receipt of a request for certification or licensure pursuant to G.S. 93B-15.1 from a military spouse, the Board shall issue a certificate or license upon the applicant's satisfying the following conditions:

- (1) Has completed and submits to the Board, application information as described in Rules .0202, .0203, and .0204 of this Section;
- (2) Has provided written documentation to satisfy conditions set out in G.S. 93B-15.1(b) and (c); and
- (3) Has passed the qualifying examination for the level of certification or licensure for which the applicant is applying.

(c) Any military-trained applicant or military spouse who meets the requirements of G.S. 93B-15.1 may apply for certification or licensure under G.S. 90B-8.

- (1) Applicants for certification and licensure by comity shall have passed an examination in the country, state, or territory in which he or she is currently licensed, certified, or registered that is determined by this Board to be equivalent to the qualifying examination required for the level of certification or license for which the applicant is applying.
- (2) Military trained applicants and military spouse applicants needing to expedite the licensing process in order to secure employment may apply for a temporary license as described in Rule .0213 of this Section. A temporary license shall apply only to clinical licensure and requires the following:
  - (A) Submission of an application and official written verification of equivalent licensure, certification, or registration in good standing from the jurisdiction under which the applicant is currently licensed, certified, or registered;
  - (B) Payment of the applicable temporary license fee;
  - (C) Prior to the expiration of the temporary license, the applicant shall fulfill all requirements for documentation of education, experience, training, and examination, and pay any additional application fee as described in Rule .0202 of this Section. Upon receipt of all required documentation and applicable fees, the Board shall issue the appropriate clinical license for a period not to exceed two years.

## **21 NCAC 63 .0401 CONTINUING EDUCATION REQUIREMENTS**

(a) Continuing education for certification or licensure renewal is required to maintain professional knowledge and technical competency. Renewal of certification or licensure requires 40 contact hours of continuing education

credits approved by the Board within each two year renewal cycle. However, if a certification or licensure is for less than a full two-year period, then 30 contact hours of continuing education credits are required. One unit of credit is equal to one contact hour. One academic course hour of credit is equal to 15 contact hours. Credit for auditing an academic course shall be for actual clock hours attended during which instruction was given with one clock hour equal to one contact hour of credit.

(b) During each renewal period all certified and licensed social workers shall engage in a minimum of four contact hours of continuing education focused on ethics related to social work practice and ethical decision-making.

(c) The following activities may be approved for continuing education: education.

- (1) ~~academic~~ Academic social work courses taken for credit or ~~audit~~; audit.
- (2) ~~agency-based~~ Agency-based staff development, seminars, institutes, workshops, mini courses or conferences oriented to social work practice, values, skills and ~~knowledge~~; knowledge.
- (3) ~~cross-disciplinary~~ Cross-disciplinary offerings from medicine, law and the behavioral/social sciences or other disciplines, if such offerings are related to social work practice, values, skills and ~~knowledge~~; knowledge.
- (4) ~~distance~~ Distance learning activities including online courses and home study courses which have been pre-approved by the Association of Social Work Boards (ASWB) or the North Carolina Chapter of the National Association of Social Workers (NASW-NC). The maximum continuing education credit granted for distance learning activities is one half of the required hours, up to a maximum of 20 contact hours per renewal period. Live synchronous audio-video broadcasts allowing for real time interaction between the instructor and participants attending through electronic means are not considered distance learning activities.
- (5) ~~study~~ Study groups focusing on social work practice if the following can be documented:
  - (A) study topic;
  - (B) study material;
  - (C) facilitator; and
  - (D) date and hours of attendance.
- (6) Continuing education focusing on practitioner self-care and well-being shall not exceed six contact hours of credit during a single renewal cycle.
- (7) No more than five contact hours of credit may be acquired during a single renewal cycle for presenting a formal training focused on social work practice provided the following information can be provided and verified:
  - (A) Confirmation from the organization for which the licensee presented which identifies the licensee as the presenter, confirms the title and date of the presentation, the length of the presentation, and number of attendees; and
  - (B) The dates of the presentation shall fall within the renewal cycle;

(d) Credit shall not be granted for:

- (1) identical programs completed within the same renewal period;
- (2) ~~job orientation~~; orientation or training directed at procedural mandates such as, but not limited to health and safety practices, new hire training, and compliance training; or
- ~~(3) on the job training; or~~
- ~~(4)~~(3) supervision and case consultation.

## **21 NCAC 63 .0505 RELATIONSHIPS WITH COLLEAGUES**

Social workers shall act with integrity in their relationships with colleagues and other professionals. They shall know the areas of competence of other professionals and shall cooperate with them in serving clients.

- (1) The social worker shall treat with respect and represent accurately the views, qualifications and findings of colleagues, and when expressing judgment on these matters shall do so fairly and through appropriate channels.

- (2) In referring clients, social workers shall refer to professionals who are recognized ~~members of their own disciplines and are~~ by their respective profession as competent to carry out the services required.
- (3) If a social worker's services are sought by an individual who is already receiving similar services from another professional, consideration for the client's welfare shall be paramount. It requires the social worker to proceed with great caution, carefully considering both the existing professional relationship and the therapeutic issues involved.
- (4) Social workers shall accept their responsibility to provide competent professional guidance to colleagues, employees, supervisees, and students. They shall foster working conditions that provide fairness, privacy and protection from physical or mental harm. They shall evaluate fairly the performance of those under their supervision, and share evaluations with supervisees. Social Workers shall not harass and shall not engage in sexual relationships with supervisees, students, trainees, or other colleagues over whom they exercise professional authority. They shall not abuse the power inherent in their position.
- (5) Social workers shall take appropriate measures to discourage, prevent, expose and correct unethical or incompetent behavior by colleagues, including reporting incompetent and unethical behavior to the appropriate licensing authority, but shall take equally appropriate steps to assist and defend colleagues unjustly charged with such conduct.

## 21 NCAC 63 .0610 CONTINUANCES

- (a) All motions for continuance shall be addressed to the Chair or the designated presiding officer of the contested case hearing.
- (b) Motions for a continuance of a hearing may be granted in accordance with the Rules of Civil Procedure. The Board is not required to grant a motion to continue.
- (c) Motions for a continuance shall be in writing and shall be received in the office of the Board no less than seven calendar days before the hearing date.
- (d) In determining whether good cause exists, the presiding officer may consider the ability of the party requesting a continuance to proceed effectively without a continuance.
- (e) A motion for a continuance filed less than seven calendar days from the date of the hearing shall be denied if a continuance has been previously granted unless the reason for the motion could not have been ascertained earlier.