

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

[49 PA. CODE CH. 47]

Licensed Bachelor Social Worker; Fees

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) amends §§ 47.1, 47.4, 47.11, 47.15, 47.32—47.36a, 47.41, 47.61—47.65 and 47.71, deletes § 47.12b and adds § 47.12e (relating to licensed bachelor social worker) to read as set forth in Annex A.

Effective Date

The amendments will be effective upon publication of this final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

Section 6 of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act) (63 P.S. § 1906) authorizes the Board to: pass upon the qualifications and fitness of applicants for licenses; to adopt and revise rules and regulations requiring applicants to pass examinations relating to their qualifications as a prerequisite to the issuance of a license; and adopt and revise rules and regulations as may be necessary to carry into effect the provisions of the act. Section 18(c) of the act (63 P.S. § 1918(c)) provides that all fees required under the act shall be fixed by the Board by regulation. Section 9 of the act of October 22, 2014 (P.L. 2884, No. 179) (Act 179) directs the Board to promulgate regulations to carry out Act 179, which provided for the licensure of bachelor social workers.

Background and Need for Amendment

Act 179 requires the Board to promulgate regulations for the licensure of bachelor social workers, including the establishment of applicable fees. In determining the appropriate fees for bachelor social workers, the Board undertook a comprehensive review of its overall fee structure because existing fees for licensed social workers, licensed clinical social workers, licensed marriage and family therapists and licensed professional counselors had not been adjusted since 2002, and the fees associated with approval of continuing education providers, programs and activities had not been updated since 2006. This final-form rulemaking effectuates Act 179 with regard to licensure of bachelor social workers, establishes applicable fees for licensed bachelor social workers, adjusts existing fees for the Board's other licensure categories to cover the Board's costs of operations, and eliminates provisions pertaining to provisional licenses, which were eliminated by Act 179.

Summary and Responses to Comments and Description of Amendments to the Final-Form Rulemaking

Notice of the proposed rulemaking was published at 48 Pa.B. 872 (February 10, 2018). Publication was followed by a 30-day public comment period during which the Board received favorable comments from the Association of Social Work Boards (ASWB). The Board also received comments from the Independent Regulatory Review Commission (IRRC) as part of its review under the

Regulatory Review Act (71 P.S. §§ 745.1—745.15). The Board received no comments from the House Professional Licensure Committee (HPLC) or the Senate Consumer Protections and Licensure Committee (SCP/PLC).

Comments from the ASWB

The ASWB's comments were generally favorable, expressing support for the changes proposed by the Board. First, the ASWB noted that the regulations are consistent with their Model Social Work Practice Act (Model Law), in that the Model Law provides for a bachelor's level license, as well as being consistent with 33 other states that regulate social work practice at the bachelors, masters and clinical levels. The ASWB also noted that the proposed continuing education requirements of the Model Law, which suggests that social work licensees complete at least 15 hours of approved programs of continuing education annually, are consistent with the Board's proposal of 30 hours to be completed biennially. The ASWB also noted that Pennsylvania's efforts to add bachelors' level licensure are in concert with the ASWB Mobility Initiative.

The one area of concern raised by the ASWB pertains to § 47.36 (relating to preapproved providers of continuing education courses and programs for social workers and clinical social workers). The ASWB points out that it is unclear how preapproved providers will demonstrate that their courses routinely meet the standards established by the Board once the entity is approved to offer an unlimited number of courses. The Board acknowledges that there is no formal requirement for preapproved providers to submit every course they intend to offer to the Board for review and approval. The Board believes that requiring Board review of every course offered by preapproved providers would be overly burdensome to both the course providers and the Board and cause pre-approved providers unnecessary delays in presenting additional courses. Therefore, the Board relies on the preapproved providers to adhere to the standards set forth in § 47.35 (relating to standards for courses and programs). This is not to say that there is no mechanism to ensure that preapproved providers are following these standards. As the Board does random audits of licensees' compliance with the continuing education requirements, Board staff evaluates all courses that are submitted to assure that they meet the standards of § 47.35. If the Board determines, after notice and an opportunity to be heard, that a particular preapproved provider is not complying with the established standards, the Board may revoke the provider's pre-approved status. Historically, the Board has been able to resolve any identified issues before revocation of pre-approved status has become necessary. Therefore, the Board does not deem this to be an issue that requires changes to the regulations.

Additionally, the ASWB suggests that their Approved Continuing Education (ACE) program was created to help licensing boards to evaluate a continuing education provider's ability to present social workers with effective, relevant continuing education. The Board notes that continuing education providers, courses and programs approved by ACE are already accepted as preapproved by the Board. However, the Board has not considered mandating ACE approval, believing that because ASWB is also an approved provider of continuing education, it may be considered a conflict if the Board would use their ACE program to evaluate other competing continuing education providers.

Comments from IRRC

IRRC pointed out that § 47.15(a)(5) (relating to biennial renewal; inactive status; failure to renew) references “a late fee required by § 47.4 . . .” but that no corresponding late fee is set forth in § 47.4 (relating to licensure fees). IRRC suggested that the Board clarify this reference by amending § 47.4 to include the late fees as authorized by section 225 of the Bureau of Professional and Occupational Affairs (BPOA) Fee Act (63 P.S. § 1401-225), noting that it is beneficial to the regulated community to have all fees associated with licensure, renewal and reactivation located in one place. The Board agrees with IRRC’s comment and has amended § 47.4 by adding the late fee of \$5 per month, or part of a month, for late renewal, as authorized under the BPOA Fee Act.

Fiscal Impact

This final-form rulemaking will have a fiscal impact on the regulated community of licensed bachelor social workers in that they would be required to pay a \$75 application fee, and a \$95 biennial renewal fee. They would also incur costs associated with completion of 30 hours of continuing education each biennium. Because there are many free and low-cost options for meeting the continuing education requirements, the Board estimates an average cost of \$300 per biennium to comply with the continuing education requirements. It would also have an impact on applicants for licensure as licensed social workers, licensed clinical social workers, licensed marriage and family therapists and licensed professional counselors due to the increased application fees. Applicants for licensure as a licensed social worker would incur a \$50 increase (from \$25 to \$75); applicants for licensure as a licensed clinical social worker would incur a \$45 increase (from \$45 to \$ 90); and applicants for licensure as a licensed marriage and family therapist or licensed professional counselor would incur a \$55 increase (from \$45 to \$100). Providers of continuing education courses and programs and, to a lesser extent, licensees would incur a \$20 increase in the application fee for approval of providers/courses/activities from \$45 to \$65. This final-form rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions of the Commonwealth.

Paperwork Requirements

This final-form rulemaking will require bachelor level social workers to file an application for licensure and keep documentation on file to demonstrate completion of continuing education credit hours. The Board has developed an application for licensure as a bachelor social worker and will need to revise some of its other applications to provide for the increased fees. There should be no other paperwork requirements for the Commonwealth or the regulated community.

Sunset Date

The Board continuously monitors the effectiveness of its regulations on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 31, 2018, the Board submitted a copy of the proposed rulemaking and a copy of a Regulatory Analysis Form to the IRRC and to the Chairpersons of the SCP/PLC and the HPLC. A copy of this material is available to the public upon request.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of

the comments received during the public comment period, as well as other documents when requested. In preparing the final-form regulation, the Board has considered all comments.

Under section 5(g)(3) and (j.2) of the Regulatory Review Act (71 P.S. § 745.5a(g)(3) and (j.2)), on February 19, 2020, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, the IRRC met on February 20, 2020 and approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Sandra Matter, Board Administrator, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P.O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 2540), (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.

(3) This final-form rulemaking does not include any amendments that would enlarge the scope of the proposed rulemaking published at 48 Pa.B. 872.

(4) These amendments to the regulations of the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors are necessary and appropriate for enforcing the act.

Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board at 49 Pa. Code Chapter 47, are amended by amending §§ 47.1, 47.4, 47.11, 47.15, 47.32—47.36a, 47.41, 47.61—47.65 and 47.71, deleting § 47.12b and adding § 47.12e to read as set forth in Annex A.

(b) The Board shall submit this final-form rulemaking to the Office of General Counsel and the Office of Attorney General for approval as required by law.

(c) The Board shall submit this final-form rulemaking to IRRC, the HPLC and the SCP/PLC for approval as required by law.

(d) The Board shall certify this final-form rulemaking and deposit them with the Legislative Reference Bureau as required by law.

(e) This final-form rulemaking shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

JOY E. CORBY, PhD, LMFT,
Chairperson

(Editor’s Note: See 50 Pa.B. 1482 (March 7, 2020) for IRRC’s approval order.)

Fiscal Note: Fiscal Note 16A-6922 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 47. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

GENERAL PROVISIONS

§ 47.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

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Client/patient—An individual, group or family for whom a licensed bachelor social worker, licensed social worker or licensed clinical social worker provides social work services or clinical social work services. In the case of an individual with a legal guardian, such as a minor or legally incapacitated adult, the individual is the client/patient.

Immediate family member—A parent/guardian, child, sibling, spouse or other family member with whom the client/patient resides.

Licensed bachelor social worker—A person who is currently licensed as a licensed bachelor social worker under section 7 of the act (63 P.S. § 1907).

Licensed clinical social worker—A person who is currently licensed as a licensed clinical social worker under section 7 of the act.

Licensed social worker—A person who is currently licensed as a licensed social worker under section 7 of the act.

Professional relationship—A relationship which is deemed to exist for the period of time beginning with the first professional contact or consultation between a licensed bachelor social worker, licensed social worker or licensed clinical social worker and a client/patient and continuing thereafter until the last date of a professional service. If a licensed bachelor social worker, licensed social worker or licensed clinical social worker sees a client/patient on an intermittent basis, the professional relationship is deemed to start anew on each date that the licensed bachelor social worker, licensed social worker or licensed clinical social worker provides a professional service to the client/patient.

Related field—Includes the fields of psychiatry, psychology, marriage and family therapy, counseling, art therapy, dance/movement therapy, drama therapy, music therapy, human services and counseling education.

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§ 47.4. Licensure fees.

The fee schedule for licensure as a licensed bachelor social worker, licensed social worker, licensed clinical social worker, licensed marriage and family therapist or licensed professional counselor shall be as follows:

- (1) Application fee for licensure and original license issuance as a licensed bachelor social worker or licensed social worker \$75
- (2) Biennial renewal for a licensed bachelor social worker, licensed social worker, licensed clinical social worker, licensed marriage and family therapist or licensed professional counselor \$95
- (3) Verification of licensure \$15
- (4) Certification of license, scores or hours \$25
- (5) Application fee for licensure and original license issuance as a licensed clinical social worker \$90
- (6) Application fee for licensure and original license issuance as a licensed marriage and family therapist or licensed professional counselor \$100
- (7) Late renewal fee (per month or part of month) . . . \$5

LICENSURE

§ 47.11. Licensure examination.

(a) The examination required as a prerequisite to original licensure as a licensed social worker is the Association of Social Work Boards' (ASWB) master's level examination.

(b) The examination required as a prerequisite to being granted a license to hold oneself out as a licensed bachelor social worker is the ASWB bachelor's level examination.

(c) The examination required as a prerequisite to being granted a license to hold oneself out as a licensed clinical social worker is the ASWB clinical level examination.

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§ 47.12b. (Reserved).

§ 47.12e. Licensed bachelor social worker.

To be issued a license to hold oneself out as a licensed bachelor social worker, an applicant shall provide proof satisfactory to the Board, that the applicant has met all of the following conditions:

- (1) Satisfied the general requirements for licensure of § 47.12 (relating to qualifications for licensure).
- (2) Received a bachelor's degree from a program of social work or social welfare accredited by the Council on Social Work Education.
- (3) Passed the bachelor's license examination requirement set forth in § 47.11 (relating to licensure examination).

§ 47.15. Biennial renewal; inactive status; failure to renew.

(a) Biennial renewal.

(1) A license granted under the act expires on the last day of the renewal month of every biennial period unless renewed for the next biennium.

(2) A licensed bachelor social worker, licensed social worker or licensed clinical social worker who fails to renew his license shall cease using the title licensed bachelor social worker, licensed social worker or licensed clinical social worker.

(3) Biennial renewal forms, other forms and literature to be distributed by the Board will be forwarded to the last mailing address given to the Board by the licensee. Whenever the licensee changes his mailing address of record, the licensee shall notify the Board, in writing, within 10 days after making the address change.

(4) To retain the right to use the title licensed bachelor social worker, licensed social worker or licensed clinical social worker when engaging in practice, the licensee shall renew his license in the manner prescribed by the Board and pay the biennial renewal fee required by § 47.4 (relating to licensure fees), prior to the expiration of the current biennium.

(5) When a license is renewed after the expiration of the biennial period, a late fee required by § 47.4, as authorized by sections 224—227 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. §§ 1401-224—1401-227), shall be applied for each month or part of a month that the licensee failed to renew the license or failed to notify the Board of the licensee's desire to be placed on inactive status. This late fee will be charged in addition to the biennial renewal fee.

(6) The licensee who fails to pay the biennial renewal fee or who notifies the Board that the licensee does not desire to renew his license, will not be sent biennial renewal forms for the following biennial renewal periods, unless the licensee notifies the Board in writing of the licensee's desire to reactivate the license.

(7) A licensee who practiced bachelor social work, social work or clinical social work and used or implied the licensee was a licensed bachelor social worker, licensed social worker or licensed clinical social worker during a period in which the licensee was not licensed is subject to prosecution under section 16 of the act (63 P.S. § 1916).

(b) *Inactive status.*

(1) A licensee who does not intend to use the title licensed bachelor social worker, licensed social worker or licensed clinical social worker in this Commonwealth and who does not desire to renew his license shall inform the Board in writing. Written confirmation of the Board's receipt of the licensee's letter and notice that the license has been classified as inactive will be forwarded to the licensee.

(2) A licensee applying for licensure renewal will not be assessed a late fee for preceding biennial periods in which the licensee was not engaging as a licensed bachelor social worker, licensed social worker or licensed clinical social worker in this Commonwealth, if the licensee properly notified the Board of the licensee's desire to be placed on inactive status.

(3) If the other conditions of the act and this chapter have been met, active status will be restored upon payment of fees as required under § 47.4.

(c) *Reactivation.* A licensee who is applying to return to active status after expiration of a license as a licensed bachelor social worker, licensed social worker or licensed clinical social worker shall:

(1) Pay fees which are due as required under the act, § 47.4 and sections 224—227 of the Bureau of Professional and Occupational Affairs Fee Act.

(2) Submit a sworn statement stating the period during which the licensee was not using the title or engaging as a licensed bachelor social worker, licensed social worker or licensed clinical social worker in this Commonwealth.

CONTINUING EDUCATION

§ 47.32. Requirement for biennial renewal.

The Board requires, as a condition of biennial renewal of a bachelor social worker's license, a social worker's license or a clinical social worker's license, the completion during the preceding biennium of 30 clock hours of continuing education in acceptable courses and programs

in social work offered by approved providers. Excess clock hours may not be carried over to the next biennium. At least 3 of the required 30 clock hours must be related to ethical issues.

§ 47.33. Acceptable continuing education courses and programs.

(a) Only courses or programs offered by Board approved providers will be accepted for continuing education credit, except as provided in § 47.36a (relating to other sources of continuing education).

(b) For renewal of a social worker's license or a clinical social worker's license, continuing education courses and programs must be appropriate for the master's level practitioner and pertain to the practice of social work or clinical social work as defined in section 3 of the act (63 P.S. § 1903).

(c) For renewal of a bachelor social worker's license, continuing education courses and programs must pertain to the practice of bachelor social work as defined in section 3 of the act or contribute to the professional development of the licensed bachelor social worker. Nothing in this subsection should be construed as expanding the scope of practice of a licensed bachelor social worker.

(d) The Board will not approve courses or programs in office management or in practice building.

(e) A licensee may accrue up to 20 of the required clock hours in home study courses offered by approved providers if the home study course has specific learning objectives which the provider evaluates to assure that learning has taken place. Home study courses must be indicated as such on the certificates of attendance.

§ 47.34. Registration of continuing education providers who offer one course or program.

(a) An agency, organization, institution, association, center or individual seeking to offer one organized course or program may apply to the Board as a provider.

(b) An applicant for Board approval as a provider of a course or program shall submit an application, along with a fee of \$65, at least 90 days before the date the course or program commences.

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§ 47.35. Standards for courses and programs.

(a) A provider or licensee seeking Board approval of a course or program shall present evidence that the course or program has all of the following:

(1) Subject matter pertaining to the enhancement of the licensed bachelor social worker's, licensed social worker's or licensed clinical social worker's knowledge and practice skills related to helping people achieve adequate and productive personal, interpersonal and social adjustments in their individual lives, in their families and in their community.

(2) For courses targeted to licensed social workers and licensed clinical social workers, evidence that the course or program is geared toward the master's level practitioner.

(3) An established mechanism measuring the quality of the course or program being offered.

(4) Established criteria for selecting and evaluating faculty or source material.

(5) Established criteria for the evaluation of each course or program upon completion.

(6) A minimum total duration of at least 1 clock hour. The Board will not approve partial credit for a course or program.

(b) Providers shall comply with relevant Federal, State and local laws related to serving people with disabilities and shall provide adequate facilities and appropriate instructional materials to carry out the continuing education course or program.

(c) Providers shall insure that instructors have suitable qualifications and are of good reputation and character.

§ 47.36. Preapproved providers of continuing education courses and programs for licensed social workers, licensed clinical social workers and licensed bachelor social workers.

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(b) The Board will consider for approval, as preapproved providers, other organizations who offer multiple courses and programs for licensed bachelor social workers, licensed social workers and licensed clinical social workers. The request for approval shall be submitted to the Board in writing and accompanied by a \$65 fee, along with a rationale as to why the organization should be included as a preapproved provider with specific reference to the standards in § 47.35.

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§ 47.36a. Other sources of continuing education.

(a) Clock hours may be granted on a case-by-case basis for the following:

- (1) Participation in clinical conferences, clinical rounds or training under a preceptor provided through hospitals, medical centers, schools and universities.
- (2) First-time experience as a teacher.
- (3) Publications of articles, books and research relating to the practice of bachelor social work, social work or clinical social work.
- (4) Services as a preceptor, lecturer or speaker.

(b) A licensee who wishes to obtain clock hours for credit under subsection (a)(1), (2) or (4) shall submit, prior to participating in the event, an application for approval along with a \$65 fee as provided by § 47.34(b) (relating to registration of continuing education providers who offer one course or program). A licensee seeking to obtain clock hours for a publication under subsection (a)(3), shall submit, after the publication of the article, book or research, an application for approval along with a fee as provided by § 47.34(b).

§ 47.41. Disciplinary action authorized.

(a) A licensed bachelor social worker, licensed social worker or licensed clinical social worker who submits fraudulent clock hour reports will be subject to disciplinary action under section 11(a)(5) of the act (63 P.S. § 1911(a)(5)).

(b) The falsification of a clock hour report by a program provider will result in revocation of approval by the Board for further program offerings of that provider.

SEXUAL MISCONDUCT

§ 47.61. Prohibited conduct.

Sexual intimacies between a licensed bachelor social worker, licensed social worker or licensed clinical social worker and a current client/patient, or an immediate family member of a current client/patient, are prohibited.

§ 47.62. Former sexual partners as clients/patients.

Licensed bachelor social workers, licensed social workers and licensed clinical social workers may not accept as client/patients individuals with whom they have engaged in sexual intimacies.

§ 47.63. Sexual intimacies with a former client/patient or an immediate family member of a former client/patient.

(a) Sexual intimacies between a licensed bachelor social worker, licensed social worker or licensed clinical social worker and a former client/patient, or an immediate family member of a former client/patient are prohibited for 7 years following the termination of the professional relationship.

(b) Following the passage of the 7-year period, licensed bachelor social workers, licensed social workers and licensed clinical social workers may engage in sexual conduct with a former client/patient, or an immediate family member of a former client/patient which is not exploitive. In determining whether the conduct is exploitive, the licensed bachelor social worker, licensed social worker or licensed clinical social worker shall consider all of the following:

- (1) The amount of time that has passed since the professional relationship terminated.
- (2) The nature and duration of the professional relationship.
- (3) The circumstances of termination.
- (4) The client/patient's personal history—for example, unique vulnerabilities.
- (5) The client/patient's current mental status.
- (6) Statements or actions made by the licensed bachelor social worker, licensed social worker or licensed clinical social worker during the course of professional relationship suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the client/patient.
- (7) The likelihood of adverse impact on the client/patient and immediate family members of the client/patient.

§ 47.64. Disciplinary proceedings.

(a) A violation of §§ 47.61—47.63 (relating to prohibited conduct; former sexual partners as clients/patients; sexual intimacies with a former client/patient or an immediate family member of a former client/patient) will be deemed unprofessional conduct and will subject the licensed bachelor social worker, licensed social worker or licensed clinical social worker to discipline under section 11(a)(2) of the act (63 P.S. § 1911(a)(2)).

(b) The consent of a former client/patient or immediate family member of a former client/patient to engage in sexual intimacies with the licensed bachelor social worker, licensed social worker or licensed clinical social worker is not a defense in any disciplinary action brought under §§ 47.61—47.63.

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§ 47.65. Impaired professional program.

When the Board takes disciplinary or corrective action against a licensed bachelor social worker, licensed social worker or licensed clinical social worker under section 11(a) of the act (63 P.S. § 1911(a)), for conduct prohibited by §§ 47.61—47.63 (relating to prohibited conduct; former sexual partners as clients/patients; and sexual intimacies

with a former client/patient, or an immediate family member of a former client/patient), the licensed bachelor social worker, licensed social worker or licensed clinical social worker will not be eligible for placement into an impaired professional program in lieu of disciplinary or corrective action.

**CODE OF ETHICAL PRACTICE AND STANDARDS
OF PROFESSIONAL CONDUCT**

§ 47.71. Codes of ethical practice and professional conduct.

The Board subscribes to the codes of ethics and practice standards promulgated by the National Association of Social Workers (NASW), the Pennsylvania Society for

Clinical Social Work and the Model Social Work Practice Act of the Association of State Social Work Boards. Licensed bachelor social workers, licensed social workers and licensed clinical social workers (licensees) shall adhere to these codes and standards, except when they conflict with this chapter. The Board will use these codes and standards in resolving ambiguities which may arise in the interpretation of this chapter, except that whenever any conflict exists between this chapter and the professional associations' codes and standards, this chapter shall prevail.

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