

By the Committee on Health Care and Senators Meadows and Childers

317-2005-98

1                                   A bill to be entitled  
2           An act relating to certain social work  
3           services; creating part XV of chapter 468,  
4           F.S., to provide regulatory provisions  
5           applicable to certain social work practice;  
6           providing intent and definitions; creating an  
7           advisory council within the Department of  
8           Health; providing for appointment and terms of  
9           members and location of headquarters; providing  
10          for rules; providing for different levels of  
11          licensure and practice; providing for licensure  
12          by examination or endorsement; providing for  
13          biennial renewal of licenses; providing for  
14          inactive status and reactivation of inactive  
15          licenses; providing fees; requiring instruction  
16          on human immunodeficiency virus and acquired  
17          immune deficiency syndrome; providing  
18          continuing education requirements and providing  
19          for approval of continuing education providers,  
20          programs, and courses; providing grounds for  
21          disciplinary action and specifying criminal  
22          violations; prohibiting sexual misconduct;  
23          providing penalties; providing exemptions from  
24          regulation under the part; providing that  
25          communications between licensees and clients  
26          are confidential; providing requirements for  
27          the maintenance and transfer of records;  
28          requiring display of license at practice  
29          location; requiring professional designation on  
30          promotional materials; repealing s. 491.0145,  
31          F.S., relating to certified master social

1 workers, to conform; amending s. 491.0149,  
2 F.S., relating to display of license and use of  
3 professional title on promotional materials, to  
4 conform; repealing s. 491.015, F.S., relating  
5 to duties of the Department of Health as to  
6 certified master social workers, to conform;  
7 providing applicability to current  
8 certificateholders; providing an effective  
9 date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Part XV of chapter 468, Florida Statutes,  
14 consisting of sections 468.851, 468.852, 468.853, 468.855,  
15 468.856, 468.857, 468.858, 468.859, 468.861, 468.862, 468.863,  
16 468.864, 468.865, 468.866, 468.867, 468.868, and 468.869, is  
17 created to read:

18

PART XV

19

NONCLINICAL SOCIAL WORK PRACTICE

20

21 468.851 Intent.--The Legislature finds that as society  
22 becomes increasingly complex, emotional survival is equal in  
23 importance to physical survival. Therefore, in order to  
24 preserve the health, safety, and welfare of the public, the  
25 Legislature must provide confidential communication for  
26 members of the public, or those acting on their behalf, to  
27 encourage the seeking out of needed or desired social work  
28 services that are within the practice of nonclinical social  
29 work. The Legislature further finds that, since such  
30 supportive services assist individuals, families, groups, and  
31 communities, the practice of nonclinical social work by  
persons not qualified to practice such profession presents a

1 danger to the public health, safety, and welfare. The  
2 Legislature finds that, to further secure the health, safety,  
3 and welfare of the public and also to encourage professional  
4 cooperation among all qualified professionals, the Legislature  
5 must assist the public in making informed choices of such  
6 services by establishing minimum qualifications for entering  
7 into and remaining in the social work profession regulated  
8 under this part.

9 468.852 Definitions.--As used in this part:

10 (1) "Advisory council" or "council" means the Advisory  
11 Council on Nonclinical Social Work Practice.

12 (2) "Assessment" means the social work function,  
13 practiced by all social workers, of acquiring an understanding  
14 of the problem of a client, whether an individual, a family, a  
15 group, a community, or an organization; what causes the  
16 severity and intensity of the problem; and what can be done to  
17 minimize or resolve it. A nonclinical social worker performing  
18 an assessment examines a variety of issues in the context of  
19 the client's total environment, including health, physical and  
20 intellectual functioning, strengths and resources, service  
21 needs, social networks, and human service providers.

22 (3) "Case management" means the organization,  
23 coordination, and monitoring of a network of services for a  
24 client with multiple needs. The tasks of case management  
25 include, but are not limited to, case identification,  
26 assessment and planning to meet client needs, promoting the  
27 skills and capacities of the client, coordination and  
28 referral, implementation of services, advocating for the  
29 client when existing resources are insufficient or  
30 unavailable, and monitoring, evaluation, and reassessment.

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1 Case management may be performed by social workers at all  
2 levels.

3 (4) "Department" means the Department of Health.

4 (5) "Licensed bachelor social worker" means a person  
5 licensed under this part to practice bachelor-level social  
6 work.

7 (6) "Licensed graduate social worker" means a person  
8 licensed under this part to practice graduate-level social  
9 work.

10 (7) "Practice of licensed bachelor social work" means  
11 the provision of generalist nonclinical social work services,  
12 based on generic practice knowledge and skills applicable  
13 across problems and populations. This includes the use of  
14 basic skills relevant to scientific and applied knowledge,  
15 theories, and methods to provide nonclinical social work  
16 assessment and referral, needed nonclinical social work  
17 information and education to clients, nonclinical social work  
18 case management and supportive services to individuals,  
19 families, groups, and communities. No provision of this part  
20 shall be construed to limit persons from doing work or  
21 activities of a nature consistent with their licensure,  
22 education, or training so long as they do not hold themselves  
23 out to the public as processing social work licensure pursuant  
24 to this part or use a title protected by this part. Nothing in  
25 this subsection may be construed to permit the practice of  
26 psychotherapy.

27 (8) "Practice of graduate social work" means the  
28 provision of advanced and concentrated nonclinical social work  
29 practice skills, including the use of an enhanced base for  
30 scientific and applied knowledge, theories, and methods to  
31 provide a conceptual and practical framework for an advanced

1 level of nonclinical social work assessment and referral,  
2 nonclinical casework management, and supportive services to  
3 individuals, families, groups, and communities, and advanced  
4 nonclinical social work management. No provision of this part  
5 shall be construed to limit persons from doing work or  
6 activities of a nature consistent with their licensure,  
7 education, or training so long as they do not hold themselves  
8 out to the public as possessing social work licensure pursuant  
9 to this part or use a title protected by this part. Nothing in  
10 this subsection may be construed to permit the practice of  
11 psychotherapy.

12 (9) "Supervision" includes, but is not limited to,  
13 assigning cases, discussing assessment and intervention plans,  
14 reviewing contact with clients, and assisting workers with  
15 agency policy, knowledge of available resources, and  
16 enhancement of staff moral. Educational supervision is  
17 supervision oriented toward professional concerns related to  
18 specific cases and is practiced by all social workers.  
19 Administrative supervision is supervision oriented toward  
20 agency policy and public accountability.

21 (10) "Support services" refers to the provision of  
22 concrete services, including, but not limited to, arranging  
23 transportation, equipment needs, and in-home service, food,  
24 and shelter, and the linking of clients with such services.

25 468.853 Advisory Council on Nonclinical Social Work  
26 Practice.--

27 (1) There is created within the Department of Health  
28 an Advisory Council on Nonclinical Social Work Practice  
29 composed of seven members appointed by the secretary of the  
30 department.

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1           (2)(a) Five members of the council shall be persons  
2 licensed under this part as follows:

3           1. Two members shall be licensed bachelor social  
4 workers.

5           2. Two members shall be licensed graduate social  
6 workers.

7           3. One member shall be a clinical social worker  
8 licensed under chapter 491.

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10 Initially, however, the two members seated as licensed  
11 bachelor social workers and the two members seated as licensed  
12 graduate social workers may be unlicensed bachelor social  
13 workers and unlicensed graduate social workers who the  
14 secretary of the department has determined satisfy all of the  
15 requirements for licensure set forth in this part.

16           (b) Two members of the council shall be citizens who  
17 are not connected with the practice of social work.

18           (3)(a) No later than January 1, 1999, the secretary of  
19 the department shall appoint seven members of the council as  
20 follows:

21           1. Two members for terms of 2 years each.

22           2. Two members for terms of 3 years each.

23           3. Three members for terms of 4 years each.

24           (b) As the terms of the initial members expire, the  
25 secretary of the department shall appoint successors for terms  
26 of 4 years; and those members shall serve until their  
27 successors are appointed.

28           (4) The department may adopt rules as provided in  
29 chapter 120 relating to the licensure of graduate social  
30 workers and bachelor social workers.

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1           (5) All applicable provisions of chapter 455 relating  
2 to activities of regulatory boards shall apply to the council.

3           (6) The council shall maintain its official  
4 headquarters in the City of Tallahassee.

5           468.855 Licensure by examination.--

6           (1) LICENSED GRADUATE SOCIAL WORKER.--

7           (a) Upon verification of documentation and payment of  
8 a fee not to exceed \$200, as set by department rule, plus the  
9 actual per applicant cost to the department for purchase of  
10 the examination from the American Association of State Social  
11 Worker's Boards or a similar national organization, the  
12 department shall issue a license as a licensed graduate social  
13 worker to an applicant who the department certifies:

14           1. Has made application therefor and paid the  
15 appropriate fee.

16           2. Has received a doctoral degree in social work from  
17 a graduate school of social work which at the time the  
18 applicant graduated was accredited by an accrediting agency  
19 recognized by the United States Department of Education or has  
20 received a master's degree in social work from a graduate  
21 school of social work which at the time the applicant  
22 graduated:

23           a. Was accredited by the Council on Social Work  
24 Education;

25           b. Was accredited by the Canadian Association of  
26 Schools of Social Work; or

27           c. Has been determined to have been a program  
28 equivalent to programs approved by the Council on Social Work  
29 Education by the Foreign Equivalency Determination Service of  
30 the Council on Social Work Education. An applicant who  
31 graduated from a program at a university or college outside

1 the United States or Canada must present documentation of the  
2 equivalency determination from such council in order to  
3 qualify.

4 3. Has had not less than 2 years of social work  
5 experience, which took place subsequent to completion of a  
6 graduate degree in social work at an institution meeting the  
7 accreditation requirements of this subsection, under the  
8 supervision of a licensed clinical social worker, a licensed  
9 graduate social worker, or the equivalent who is a qualified  
10 supervisor as determined by the department. An applicant who  
11 is completing the social work experience required by this  
12 subparagraph may practice as a graduate social work intern or  
13 trainee under supervision.

14 4. Has passed a theory and practice examination  
15 provided by the department for this purpose.

16 5. Has demonstrated, in a manner designated by rule of  
17 the department, knowledge of the laws and rules governing the  
18 practice of graduate-level social work.

19 (b) The educational program under this subsection must  
20 include content on social work values and ethics, diversity,  
21 social and economic justice, populations at risk, human  
22 behavior and the social environment, social welfare policy and  
23 services, social work practice, and research and skills for  
24 advanced practice in an identifiable field of practice on  
25 social work methodology such as management, administration,  
26 program planning and evaluation, staff development, research,  
27 community organization, community services, social planning,  
28 program supervision, or human service advocacy. The program  
29 must include a supervised field placement in an advanced  
30 social work method or field of practice.

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1           (c) Upon licensure, a licensed graduate social worker  
2 may engage in nonclinical social work practice as authorized  
3 by this part. A licensed graduate social worker may not  
4 provide psychotherapy services or any other service for which  
5 licensure as a clinical social worker is required, and nothing  
6 in this subsection may be construed to permit the practice of  
7 psychotherapy.

8           (d) A person who meets the requirements under this  
9 section to be licensed as a graduate social worker and applies  
10 for licensure after June 30, 1998, and before December 1,  
11 1999, is exempt from the examination requirements of this  
12 section.

13           (2) LICENSED BACHELOR SOCIAL WORKER.--

14           (a) Upon verification of documentation and payment of  
15 a fee not to exceed \$200, as set by department rule, plus the  
16 actual per applicant cost to the department for purchase of  
17 the examination from the American Association of State Social  
18 Worker's Boards or a similar national organization, the  
19 department shall issue a license as a licensed bachelor social  
20 worker to an applicant who the department certifies:

21           1. Has made application therefor and paid the  
22 appropriate fee.

23           2. Has received a bachelor's degree in social work  
24 from a school of social work at a university or college which  
25 at the time the applicant graduated was accredited by an  
26 accrediting agency recognized by the United States Department  
27 of Education or has received a bachelor's degree in social  
28 work from a school of social work at a university or college  
29 which at the time the applicant graduated:

30           a. Was accredited by the Council on Social Work  
31 Education;

1           b. Was accredited by the Canadian Association of  
2 Schools of Social Work; or

3           c. Has been determined to have been a program  
4 equivalent to programs approved by the Council on Social Work  
5 Education by the Foreign Equivalency Determination Service of  
6 the Council on Social Work Education. An applicant who  
7 graduated from a program at a university or college outside  
8 the United States or Canada must present documentation of the  
9 equivalency determination from such council in order to  
10 qualify.

11           3. Has had not less than 2 years of social work  
12 experience, which took place subsequent to completion of a  
13 bachelor's degree in social work at an institution meeting the  
14 accreditation requirements of this subsection, under the  
15 supervision of a licensed clinical social worker, a licensed  
16 graduate social worker, a licensed bachelor social worker, or  
17 the equivalent who is a qualified supervisor as determined by  
18 the department. An applicant who is completing the social work  
19 experience required by this subparagraph may practice as a  
20 bachelor social work intern or trainee under supervision.

21           4. Has passed a theory and practice examination  
22 provided by the department for this purpose.

23           5. Has demonstrated, in a manner designated by rule of  
24 the department, knowledge of the laws and rules governing the  
25 practice of bachelor-level social work.

26           (b) The educational program under this subsection must  
27 include content on social work values and ethics, diversity,  
28 social and economic justice, populations at risk, human  
29 behavior and the social environment, social welfare policy and  
30 services, social work practice, and research and skills for

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1 entry-level practice. The program must include an entry-level  
2 supervised placement in a social service setting.

3 (c) Upon licensure, a licensed bachelor social worker  
4 may engage in nonclinical social work practice as authorized  
5 by this part. A licensed bachelor social worker may not  
6 provide psychotherapy services or any other service for which  
7 licensure as a licensed graduate social worker or clinical  
8 social worker is required, and nothing in this subsection may  
9 be construed to permit the practice of psychotherapy.

10 (d) A person who meets the requirements under this  
11 section to be licensed as a bachelor social worker and applies  
12 for licensure after June 30, 1998, and before December 1,  
13 1999, is exempt from the examination requirements of this  
14 section.

15 468.856 Licensure by endorsement.--

16 (1) The department shall license a person in any level  
17 of nonclinical social work regulated by this part who, upon  
18 applying to the department and remitting the appropriate fee,  
19 demonstrates to the department that he or she:

20 (a) Holds an active, valid license to practice and has  
21 actively practiced that level of social work in another state  
22 for 3 of the 5 years immediately preceding licensure.

23 (b) Meets the education and experience requirements of  
24 this part for the level of social work for which licensure is  
25 applied.

26 (c) Has passed a substantially equivalent licensing  
27 examination in another state.

28 (d) Holds a license in good standing, is not under  
29 investigation for an act that would constitute a violation of  
30 this part, and has not been found to have committed any act  
31 that would constitute a violation of this part.

1       (e) Has demonstrated knowledge of the applicable laws  
2 and rules of this state.

3       (2) The department may not issue a license by  
4 endorsement to any applicant who is under investigation in  
5 this or another jurisdiction for an act that would constitute  
6 a violation of this part until such time as the investigation  
7 is complete, at which time the provisions of s. 468.862 apply.

8       468.857 Requirement for instruction on human  
9 immunodeficiency virus and acquired immune deficiency  
10 syndrome.--The department shall require, as a condition of  
11 granting a license under this part, that an applicant making  
12 initial application for licensure complete an education course  
13 acceptable to the department on human immunodeficiency virus  
14 and acquired immune deficiency syndrome. An applicant who has  
15 not taken a course at the time of licensure shall, upon  
16 submission of an affidavit showing good cause, be allowed 6  
17 months to complete this requirement.

18       468.858 Renewal of license.--

19       (1) The department shall prescribe by rule a method  
20 for the biennial renewal of licenses at a fee set by rule, not  
21 to exceed \$150.

22       (2) Each applicant for renewal shall present  
23 satisfactory evidence that, in the period since the license  
24 was issued, the applicant has completed continuing education  
25 requirements set by rule of the department. Not more than 25  
26 classroom hours of continuing education per year may be  
27 required.

28       468.859 Inactive status; reactivation of licenses;  
29 fees.--

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1           (1) Inactive status is the licensure status that  
2 results when a licensee has applied to be placed on inactive  
3 status and has paid a \$50 fee to the department.

4           (a) An inactive license may be renewed biennially for  
5 \$50 per biennium.

6           (b) An inactive license may be reactivated by  
7 submitting an application to the department, completing the  
8 continuing education requirements, complying with any  
9 background investigation required, complying with other  
10 requirements prescribed by the department, and paying a \$50  
11 reactivation fee plus the current biennial renewal fee at the  
12 time of reactivation.

13           (2) The department may adopt rules relating to  
14 inactive licenses and the reactivation of licenses.

15           468.861 Continuing education; approval of providers,  
16 programs, and courses; proof of completion.--

17           (1) Continuing education providers, programs, and  
18 courses shall be approved by the department.

19           (2) The department has the authority to set a fee not  
20 to exceed \$300 for each provider submitted for approval. Such  
21 fees shall be deposited into the Health Care Trust Fund.

22           (3) Proof of completion of the required number of  
23 hours of continuing education shall be submitted to the  
24 department in the manner and time specified by rule and on  
25 forms provided by the department.

26           (4) The department may adopt rules as provided in  
27 chapter 120 to approve continuing education providers,  
28 programs, and courses.

29           468.862 Discipline.--

30           (1) When the department finds that an applicant or  
31 licensee whom it regulates under this part has committed any

1 of the acts set forth in subsection (2), it may issue an order  
2 imposing one or more of the following penalties:

3 (a) Denial of an application for licensure, either  
4 temporarily or permanently.

5 (b) Revocation of a license, after hearing, either  
6 temporarily or permanently.

7 (c) Suspension of a license for a period of up to 5  
8 years, after hearing.

9 (d) Immediate suspension of a license pursuant to s.  
10 120.60(6).

11 (e) Imposition of an administrative fine not to exceed  
12 \$1,000 for each count or separate offense.

13 (f) Issuance of a public reprimand.

14 (g) Placement of an applicant or licensee on probation  
15 for a period of time and subject to such conditions as the  
16 department may specify, including, but not limited to,  
17 requiring the applicant or licensee to submit to treatment, to  
18 attend continuing education courses, to submit to  
19 reexamination, or to work under the supervision of a  
20 designated licensee.

21 (h) Restriction of practice.

22 (2) The following acts of a licensee or applicant are  
23 grounds for which the disciplinary actions listed in  
24 subsection (1) may be taken:

25 (a) Attempting to obtain, obtaining, or renewing a  
26 license under this part by bribery or fraudulent  
27 misrepresentation or through an error of the department.

28 (b) Having a license to practice a comparable  
29 profession revoked, suspended, or otherwise acted against,  
30 including the denial of licensure by another state, territory,  
31 or country.

1       (c) Being convicted or found guilty of, regardless of  
2 adjudication, or having entered a plea of nolo contendere to,  
3 a crime in any jurisdiction which directly relates to the  
4 practice of his or her profession or the ability to practice  
5 his or her profession. However, in the case of a plea of nolo  
6 contendere, the department shall allow the person who is the  
7 subject of the disciplinary proceeding to present evidence in  
8 mitigation relevant to the underlying charges and  
9 circumstances surrounding the plea.

10       (d) False, deceptive, or misleading advertising or  
11 obtaining a fee or other thing of value on the representation  
12 that beneficial results from any treatment will be guaranteed.

13       (e) Advertising, practicing, or attempting to practice  
14 under a name other than one's own.

15       (f) Maintaining a professional association with any  
16 person who the applicant or licensee knows, or has reason to  
17 believe, is in violation of this part or of a rule of the  
18 department.

19       (g) Knowingly aiding, assisting, procuring, or  
20 advising any nonlicensed person to hold himself or herself out  
21 as licensed under this part.

22       (h) Failing to perform any statutory or legal  
23 obligation placed upon a person licensed under this part.

24       (i) Willfully making or filing a false report or  
25 record; failing to file a report or record required by state  
26 or federal law; willfully impeding or obstructing the filing  
27 of a report or record; or inducing another person to make or  
28 file a false report or record or to impede or obstruct the  
29 filing of a report or record. Such report or record includes  
30 only a report or record which requires the signature of a  
31 person licensed under this part.

1       (j) Paying a kickback, rebate, bonus, or other  
2 remuneration for receiving a client, or receiving a kickback,  
3 rebate, bonus, or other remuneration for referring a client to  
4 another licensee under this part, to a provider of mental  
5 health care services, or to a provider of health care services  
6 or goods; referring a client to oneself for services on a  
7 fee-paid basis when those services are already being paid for  
8 by some other public or private entity; or entering into a  
9 reciprocal referral agreement.

10       (k) Committing any act upon a client which would  
11 constitute sexual battery or which would constitute sexual  
12 misconduct as defined pursuant to s. 468.863.

13       (l) Making misleading, deceptive, untrue, or  
14 fraudulent representations in the practice of any profession  
15 licensed under this part.

16       (m) Soliciting clients personally, or through an  
17 agent, through the use of fraud, intimidation, undue  
18 influence, or a form of overreaching or vexatious conduct.

19       (n) Failing to make available to a client, upon  
20 written request, copies of records in the possession or under  
21 the control of the licensee which have been prepared for the  
22 client.

23       (o) Failing to respond within 30 days to a written  
24 communication from the department concerning any investigation  
25 by the department, or failing to make available any relevant  
26 records with respect to any investigation about the licensee's  
27 conduct or background.

28       (p) Being unable to practice the profession for which  
29 he or she is licensed under this part with reasonable skill or  
30 competence as a result of any mental or physical condition or  
31 by reason of illness; drunkenness; or excessive use of drugs,



1 narcotics, chemicals, or any other substance. In enforcing  
2 this paragraph, upon a finding by the secretary, or his or her  
3 designee, that probable cause exists to believe that the  
4 licensee is unable to practice the profession because of the  
5 reasons stated in this paragraph, the department shall have  
6 the authority to compel a licensee to submit to a mental or  
7 physical examination by psychologists, physicians, or  
8 licensees under chapter 491, designated by the department. If  
9 the licensee refuses to comply with such order, the  
10 department's order directing the examination may be enforced  
11 by filing a petition for enforcement in the circuit court in  
12 the circuit in which the licensee resides or does business.  
13 The department shall be entitled to the summary procedure  
14 provided in s. 51.011. A licensee affected under this  
15 paragraph shall at reasonable intervals be afforded an  
16 opportunity to demonstrate that he or she can resume the  
17 competent practice for which he or she is licensed with  
18 reasonable skill and safety to clients.

19 (q) Violating any provision of this part or chapter  
20 455, or any rule adopted pursuant thereto.

21 (r) Failing to meet the minimum standards of  
22 performance in professional activities when measured against  
23 generally prevailing peer performance, including the  
24 undertaking of activities for which the licensee is not  
25 qualified by training or experience.

26 (s) Delegating professional responsibilities to a  
27 person who the licensee knows or has reason to know is not  
28 qualified by training or experience to perform such  
29 responsibilities.

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1           (t) Violating a rule relating to the regulation of the  
2 profession or a lawful order of the department previously  
3 entered in a disciplinary hearing.

4           (u) Failure of the licensee to maintain in confidence  
5 a communication made by a client in the context of such  
6 services, except as provided in s. 468.867.

7           (v) Making public statements which are derived from  
8 test data, client contacts, or behavioral research and which  
9 identify or damage research subjects or clients.

10           468.863 Sexual misconduct.--Sexual misconduct by any  
11 person licensed under this part, in the practice of his or her  
12 profession, is prohibited. Sexual misconduct shall be defined  
13 by rule of the department.

14           468.864 Sexual misconduct by licensees under this  
15 part; penalties.--

16           (1) Any licensee under this part who commits sexual  
17 misconduct with a client, or former client when the  
18 professional relationship was terminated primarily for the  
19 purpose of engaging in sexual contact, commits a felony of the  
20 third degree, punishable as provided in s. 775.082 or s.  
21 775.083; however, a second or subsequent offense is a felony  
22 of the second degree, punishable as provided in s. 775.082, s.  
23 775.083, or s. 775.084.

24           (2) Any licensee under this part who violates  
25 subsection (1) by means of deception commits a felony of the  
26 second degree, punishable as provided in s. 775.082, s.  
27 775.083, or s. 775.084.

28           (3) The giving of consent by the client to any such  
29 act shall not be a defense to these offenses.

30           (4) For the purposes of this section:

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1       (a) "Client" means a person to whom the services of a  
2 licensee under this part are provided.

3       (b) "Deception" means a representation to the client  
4 that sexual contact by the licensee is consistent with or part  
5 of the treatment of the client.

6       (c) "Sexual misconduct" means the oral, anal, or  
7 vaginal penetration of another by, or contact with, the sexual  
8 organ of another or the anal or vaginal penetration of another  
9 by any object.

10       468.865 Violations; penalty; injunction.--

11       (1) It is unlawful and a violation of this part for  
12 any person to:

13       (a) Use the following titles or any combination  
14 thereof, unless the person holds a valid, active license as a  
15 licensed graduate social worker issued pursuant to this part:

- 16           1. "Licensed graduate social worker."  
17           2. "Graduate social worker."  
18           3. "Advanced social worker."

19       (b) Use the following titles or any combination  
20 thereof, unless the person holds a valid, active license as a  
21 licensed bachelor social worker issued pursuant to this part:

- 22           1. "Licensed bachelor social worker."  
23           2. "Bachelor social worker."  
24           3. "Baccalaureate social worker."  
25           4. "Social worker technician."

26       (c) Use the term "psychotherapist" or "sex therapist,"  
27 unless such person is licensed pursuant to chapter 458,  
28 chapter 459, chapter 490, or chapter 491, or is certified  
29 under s. 464.012 as an advanced registered nurse practitioner  
30 who has been determined by the Board of Nursing as a  
31 specialist in psychiatric mental health and the use of such

1 term is within the scope of his or her practice based on  
2 education, training, and licensure.

3 (d) Present as his or her own the social work license  
4 of another.

5 (e) Give false or forged evidence to the department  
6 for the purpose of obtaining a license.

7 (f) Use or attempt to use a license issued pursuant to  
8 this part which has been revoked or is under suspension.

9 (g) Knowingly conceal information relative to any  
10 violation of this part.

11 (h) Beginning January 1, 1999, practice in this state  
12 any social work that is regulated under this part, as such  
13 practice is defined in s. 468.852, unless the person holds a  
14 valid, active license to practice nonclinical social work  
15 issued under this part. This paragraph does not apply to the  
16 practice of clinical social work, which is regulated under  
17 chapter 491.

18 (2) It is unlawful and a violation of this part for  
19 any person to describe his or her services using the following  
20 terms or any derivative thereof, unless such person holds a  
21 valid, active license under chapter 490 or chapter 491, or is  
22 certified under s. 464.012 as an advanced registered nurse  
23 practitioner who has been determined by the Board of Nursing  
24 as a specialist in psychiatric mental health and the use of  
25 such term is within the scope of his or her practice based on  
26 education, training, and licensure:

27 (a) "Psychotherapy."

28 (b) "Sex therapy."

29 (c) "Sex counseling."

30 (d) "Clinical social work."

31 (e) "Psychiatric social work."

1           (3) It is unlawful and a violation of this part for  
2 any person to use the term "social worker" or "licensed social  
3 worker" or to describe his or her services using the following  
4 terms or any derivative thereof, unless such person holds a  
5 valid, active license under this part or is a clinical social  
6 worker licensed under chapter 458, chapter 459, or chapter  
7 491:

8           (a) "Social work."

9           (b) "Social work services."

10           (4) Nothing in this section may be construed to permit  
11 the practice of psychotherapy.

12           (5) Any person who violates any provision of  
13 subsection (1), subsection (2), or subsection (3) commits a  
14 misdemeanor of the first degree, punishable as provided in s.  
15 775.082 or s. 775.083.

16           (6) The department may institute appropriate judicial  
17 proceedings to enjoin violation of this section.

18           468.866 Exemptions.--

19           (1) No provision of this part may be construed to  
20 limit the practice of physicians licensed under chapter 458 or  
21 chapter 459, psychologists licensed under chapter 490, or  
22 clinical social workers, marriage and family therapists, or  
23 mental health counselors licensed under chapter 491, so long  
24 as they do not unlawfully hold themselves out to the public as  
25 possessing a license issued under this part or use a  
26 professional title protected by this part. However, a clinical  
27 social worker licensed under chapter 491 may use the term  
28 "social work," "licensed social worker," or "social worker."

29           (2) No provision of this part may be construed to  
30 limit the practice of nursing, school psychology, school  
31 guidance counseling, or psychology or to prevent qualified

1 members of other professions from doing work of a nature  
2 consistent with their training and licensure, so long as they  
3 do not hold themselves out to the public as possessing a  
4 license issued under this part or use a title protected by  
5 this part.

6 (3) No provision of this part may be construed to  
7 limit the performance of activities of a rabbi, priest,  
8 minister, or clergyman of any religious denomination or sect,  
9 or use of the term "Christian counselor" or "Christian  
10 clinical counselor" when the activities are within the scope  
11 of the performance of his or her regular or specialized  
12 ministerial duties and no compensation is received by him or  
13 her, or when such activities are performed, with or without  
14 compensation, by a person for or under the auspices or  
15 sponsorship, individually or in conjunction with others, of an  
16 established and legally cognizable church, denomination, or  
17 sect, and when the person rendering service remains  
18 accountable to the established authority thereof, so long as  
19 such person does not unlawfully hold himself or herself out to  
20 the public as possessing a license issued under this part or  
21 use a professional title protected by this part.

22 (4) A person is not required to be licensed under this  
23 part who:

24 (a) Is a salaried employee of a government agency;  
25 developmental services program or mental health, alcoholic, or  
26 drug abuse facility operating under chapter 393, chapter 394,  
27 or chapter 397; subsidized child care, subsidized child care  
28 case management, or child care resource and referral program  
29 operating under chapter 402; child-placing or child-caring  
30 agency licensed under chapter 409; domestic violence center  
31 certified under chapter 415; accredited academic institution;

1 or research institution, if such employee is performing duties  
2 for which he or she was trained and hired solely within the  
3 confines of such agency, facility, or institution.

4 (b) Is a salaried employee of a private, nonprofit  
5 organization providing counseling services to children, youth,  
6 and families, if such services are provided for no charge, if  
7 such employee is performing duties for which he was trained  
8 and hired.

9 (c) Is a student providing services regulated under  
10 this part who is pursuing a course of study that leads to a  
11 degree in a profession regulated by this part, is providing  
12 services in a training setting, provided such services and  
13 associated activities constitute part of a supervised course  
14 of study, and is designated by the title "student intern."

15 (d) Is not a resident of this state but offers  
16 services in this state, provided:

17 1. Such services are performed for no more than 5 days  
18 in any month and no more than 15 days in any calendar year;  
19 and

20 2. Such nonresident is licensed to practice the  
21 services provided by a state or territory of the United States  
22 or by a foreign country or province.

23 (e) Is certified in "school social work" by the  
24 Department of Education and is performing school social work  
25 services as an employee of a public or private educational  
26 institution. This exemption may not be construed to authorize  
27 any unlicensed practice that is not performed as a direct  
28 employee of an educational institution.

29 (f) Is employed by, or is an independent contractor  
30 for, a facility or agency licensed under parts II, III, IV, or  
31 VI or chapter 400, practices only in the facility under the

1 supervision of the facility administrator and does not engage  
2 in the practice of clinical social work.

3 (g) Is a volunteer in public or private nonprofit or  
4 for profit social welfare agency, when the activities are  
5 within the scope of performance of his or her regular duties  
6 and no financial compensation is received by him or her, so  
7 long as such person does not unlawfully hold himself or  
8 herself out to the public as possessing a license issued under  
9 this part.

10  
11 The exemptions in paragraphs (a) and (b) expire on January 1,  
12 2003, after which no person may be exempt under such  
13 conditions unless the person works in a program that  
14 administers and maintains a competency-based training program  
15 for employees providing social work services, or if the agency  
16 maintains external accreditation by an appropriate  
17 standard-setting body as defined by the department. The  
18 department shall approve competency-based training programs  
19 developed by agencies delivering services in the exempt  
20 settings identified in paragraphs (a) and (b) or by  
21 organizations representing these agencies if such  
22 competency-based programs meet criteria established by the  
23 department.

24 (5) No provision of this part may be construed to  
25 limit the activities of an employee of a governmental or  
26 nongovernmental agency or organization whose job  
27 responsibilities do not include methods of a psychological  
28 nature used to evaluate, assess, diagnose, treat, or prevent  
29 emotional or mental disorders or dysfunctions (whether  
30 cognitive, affective, or behavioral), sexual dysfunction,  
31 behavioral disorders, alcoholism, and substance abuse, so long



1 as such employee does not hold himself or herself out as  
2 performing social work or being a social worker.

3 (6) No provision of this part may be construed to  
4 limit the practice of any individual who solely engages in  
5 behavior analysis so long as he or she does not hold himself  
6 or herself out to the public as possessing a license issued  
7 under this part or use a title protected by this part.

8 (7) Nothing in subsections (2)-(5) exempts any person  
9 from the provisions of s. 468.865(1)(a)-(b).

10 (8) Any person who is not licensed under any provision  
11 of this part by January 1, 1999, and who desires to become so  
12 licensed shall register with the department that person's  
13 intent to become fully licensed no later than January 1, 2000.  
14 The costs to the department of such registration shall be  
15 borne by the registrant. The department may require affidavits  
16 and supporting documentation sufficient to demonstrate that  
17 the registrant is preparing for examination by January 1,  
18 1999, under this part. The department may adopt rules as  
19 provided in chapter 120 to register any person desiring to  
20 become licensed under this part. Upon receipt of the  
21 department's notice of registration, the registrant may  
22 practice services as defined in s. 468.852(7) and (8),  
23 provided the registrant uses "trainee" or "intern" with any  
24 title or description of the registrant's work and on any  
25 business correspondence and work product, including, but not  
26 limited to, a business card, letterhead, sign, billing, or  
27 report, unless exempt under this part.

28 (9) Any person who meets the requirements of s.  
29 468.855(1)(a)1.-2. or s. 468.855(2)(a)1.-2. and has not less  
30 than 2 years of social work experience related to the  
31 licensing area which took place subsequent to completion of a

1 bachelor's or graduate degree in social work at an institution  
2 meeting the accreditation requirements of s. 468.855(1) or  
3 (2), as applicable, shall be allowed to apply for the  
4 appropriate license and receive a license if he or she has met  
5 all other qualifications except the 2 years of experience  
6 under a qualified professional. This subsection and the  
7 ability to become licensed under this subsection shall expire  
8 January 1, 2004.

9 (10) Except as stipulated by the department, the  
10 exemptions contained in this section do not apply to any  
11 person licensed under this part whose license has been  
12 suspended or revoked by the department or another  
13 jurisdiction.

14 (11) Nothing in this section shall be construed to  
15 exempt a person from meeting the minimum standards of  
16 performance in professional activities when measured against  
17 generally prevailing peer performance, including the  
18 undertaking of activities for which the person is not  
19 qualified by training or experience.

20 468.867 Confidential communications.--Any  
21 communication between any person licensed under this part and  
22 his or her client shall be confidential. This secrecy may be  
23 waived under the following conditions:

24 (1) When the person licensed under this part is a  
25 party defendant to a civil, criminal, or disciplinary action  
26 arising from a complaint filed by the client, in which case  
27 the waiver shall be limited to that action.

28 (2) When the client agrees to the waiver, in writing,  
29 or, when more than one person in a family is receiving  
30 nonclinical social work services, when each family member  
31 agrees to the waiver, in writing.

1           (3) When there is a clear and immediate probability of  
2 physical harm to the client, to other individuals, or to  
3 society and the person licensed under this part communicates  
4 the information only to the potential victim, appropriate  
5 family member, or law enforcement or other appropriate  
6 authorities.

7           468.868 Records.--Each person licensed under this part  
8 who provides services as defined in this part must maintain  
9 records. The department may adopt rules defining the minimum  
10 requirements for records and reports, including content,  
11 length of time records must be maintained, and transfer of  
12 either the records or a report of such records to a subsequent  
13 licensee or other individual with written consent of the  
14 client or clients.

15           468.869 Display of license; use of professional title  
16 on promotional materials.--

17           (1) Each person licensed under this part must  
18 conspicuously display the valid license issued by the  
19 department or a true copy thereof at each location at which  
20 the licensee practices his or her profession.

21           (2) Each person licensed under this part must include  
22 the words "Licensed Graduate Social Worker" or the letters  
23 "LGSW," or "Licensed Bachelor Social Worker" or the letters  
24 "LBSW," as applicable, on all promotional materials, including  
25 cards, brochures, stationery, advertisements, and signs,  
26 naming the licensee.

27           Section 2. Paragraph (a) of subsection (1) of section  
28 491.0149, Florida Statutes, is amended to read:

29           491.0149 Display of license; use of professional title  
30 on promotional materials.--

31

1           (1)(a) A person licensed under this chapter as a  
2 clinical social worker, marriage and family therapist, or  
3 mental health counselor, ~~or certified as a master social~~  
4 ~~worker~~ shall conspicuously display the valid license issued by  
5 the department or a true copy thereof at each location at  
6 which the licensee practices his or her profession.

7           Section 3. Sections 491.0145 and 491.015, Florida  
8 Statutes, are repealed.

9           Section 4. Any person who, on the effective date of  
10 this act, holds an active, valid certificate to practice  
11 master social work under s. 491.0145, Florida Statutes, as it  
12 existed immediately prior to the effective date of this act,  
13 may continue to practice under such certificate until the  
14 certificate expires or until January 1, 1999, whichever occurs  
15 sooner, after which the provisions of part XV of chapter 468,  
16 Florida Statutes, as created by this act, shall control.

17           Section 5. This act shall take effect July 1, 1998.

18  
19                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
20                                           COMMITTEE SUBSTITUTE FOR  
21                                           Senate Bill 402

22 The committee substitute creates part XV, chapter 468, Florida  
23 Statutes, for the initial regulation of nonclinical social  
24 work by the Department of Health with advice from the  
25 seven-member Advisory Council on Nonclinical Social Work  
26 Practice. The committee substitute provides definitions of  
27 practice, licensure requirements, prohibitions, and violations  
28 for the regulation of licensed bachelor social work and  
29 licensed graduate social work. The committee substitute  
30 substantially revises exemptions to the licensing requirements  
31 for nonclinical social work. The committee substitute exempts  
the experience requirement for nonclinical social work  
licensure for any applicant who meets the educational  
requirements and who applies before January 1, 2004.