

By Senator Meek

36-935A-99

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) "Department" means the Department of Health.

13 (3) "Licensed bachelor social worker" means a person
14 licensed under this part to practice bachelor-level social
15 work.

16 (4) "Licensed master social worker" means a person
17 licensed under this part to practice graduate-level social
18 work.

19 (5) "Practice of licensed bachelor social work" means
20 the provision of generalist nonclinical social work services,
21 based on generic practice knowledge and skills applicable
22 across problems and populations. This includes the use of
23 basic skills relevant to scientific and applied knowledge,
24 theories, and methods to provide social work assessment and
25 referral, needed information and education to clients' social
26 work case management and supportive services to individuals,
27 families, groups, and communities, problem-solving
28 intervention, client-centered advocacy, beginning generalist
29 social work supervision, and research. Nothing in this
30 subsection may be construed to permit the practice of
31 psychotherapy.

1 (6) "Practice of master social work" means the
2 provision of advanced and concentrated nonclinical social work
3 practice skills, including the use of an enhanced base for
4 scientific and applied knowledge, theories, and methods to
5 provide a conceptual and practical framework for an advanced
6 level of assessment, referral, casework management, supportive
7 services to individuals, families, groups, and communities,
8 needed information and education to clients, client-centered
9 advocacy, planning, community organization, supervision,
10 consultation, management, social policy formulation, program
11 development and implementation, problem-solving, crisis
12 intervention, research, and program evaluation. Nothing in
13 this subsection may be construed to permit the practice of
14 psychotherapy.

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

26 (8) "Social work case management" means the
27 organization, coordination, and monitoring of a network of
28 services for a client with multiple needs. The tasks of case
29 management include, but are not limited to, case
30 identification, assessment and planning to meet client needs,
31 promoting the skills and capacities of the client,

1 coordination and referral, implementation of services,
2 advocating for the client when existing resources are
3 insufficient or unavailable, and monitoring, evaluation, and
4 reassessment. Case management may be performed by social
5 workers at all levels.

6 (9) "Supervision" includes, but is not limited to,
7 assigning cases, discussing assessment and intervention plans,
8 reviewing contact with clients, and assisting workers with
9 agency policy, knowledge of available resources, and
10 enhancement of staff moral. Educational supervision is
11 supervision oriented toward professional concerns related to
12 specific cases. Administrative supervision is supervision
13 oriented toward agency policy and public accountability.

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

18 468.853 Advisory Council on Nonclinical Social Work
19 Practice.--

20 (1) There is created within the Department of Health
21 an Advisory Council on Nonclinical Social Work Practice
22 composed of seven members appointed by the secretary of the
23 department.

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

26 1. Two members shall be licensed bachelor social
27 workers.

28 2. Two members shall be licensed master social
29 workers.

30 3. One member shall be a clinical social worker
31 licensed under chapter 491.

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2 Initially, however, the two members seated as licensed
3 bachelor social workers and the two members seated as licensed
4 master social workers may be unlicensed bachelor social
5 workers and unlicensed master social workers who the secretary
6 of the department has determined satisfy all of the
7 requirements for licensure set forth in this part.

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

10 (3)(a) No later than January 1, 2000, the secretary of
11 the department shall appoint seven members of the council as
12 follows:

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

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

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

16 (b) As the terms of the initial members expire, the
17 secretary of the department shall appoint successors for terms
18 of 4 years; and those members shall serve until their
19 successors are appointed.

20 (4) The department may adopt rules as provided in
21 chapter 120 relating to the licensure of master social workers
22 and bachelor social workers.

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

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

27 468.855 Licensure by examination.--

28 (1) LICENSED MASTER SOCIAL WORKER.--

29 (a) Upon verification of documentation and payment of
30 a fee not to exceed \$200, as set by department rule, plus the
31 actual per applicant cost to the department for purchase of

1 the examination from the American Association of State Social
2 Worker's Boards or a similar national organization, the
3 department shall issue a license as a licensed master social
4 worker to an applicant who the department certifies:

5 1. Has made application therefor and paid the
6 appropriate fee.

7 2. Has received a doctoral degree in social work from
8 a graduate school of social work which at the time the
9 applicant graduated was accredited by an accrediting agency
10 recognized by the United States Department of Education or has
11 received a master's degree in social work from a graduate
12 school of social work which at the time the applicant
13 graduated:

14 a. Was accredited by the Council on Social Work
15 Education;

16 b. Was accredited by the Canadian Association of
17 Schools of Social Work; or

18 c. Has been determined to have been a program
19 equivalent to programs approved by the Council on Social Work
20 Education by the Foreign Equivalency Determination Service of
21 the Council on Social Work Education. An applicant who
22 graduated from a program at a university or college outside
23 the United States or Canada must present documentation of the
24 equivalency determination from such council in order to
25 qualify.

26 3. Has had not less than 2 years of social work
27 experience, which took place subsequent to completion of a
28 graduate degree in social work at an institution meeting the
29 accreditation requirements of this subsection, under the
30 supervision of a licensed clinical social worker, a licensed
31 master social worker, or the equivalent who is a qualified

1 supervisor as determined by the department. An applicant who
2 is completing the social work experience required by this
3 subparagraph may practice as a master social work intern or
4 trainee under supervision.

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

7 5. Has demonstrated, in a manner designated by rule of
8 the department, knowledge of the laws and rules governing the
9 practice of master-level social work.

10 (b) The educational program under this subsection must
11 include content on social work values and ethics, diversity,
12 social and economic justice, populations at risk, human
13 behavior and the social environment, social welfare policy and
14 services, social work practice, and research and skills for
15 advanced practice in an identifiable field of practice on
16 social work methodology such as management, administration,
17 program planning and evaluation, staff development, research,
18 community organization, community services, social planning,
19 program supervision, or human service advocacy. The program
20 must include a supervised field placement in an advanced
21 social work method or field of practice.

22 (c) Upon licensure, a licensed master social worker
23 may engage in nonclinical social work practice as authorized
24 by this part. A licensed master social worker may not provide
25 psychotherapy services or any other service for which
26 licensure as a clinical social worker is required, and nothing
27 in this subsection may be construed to permit the practice of
28 psychotherapy.

29 (2) LICENSED BACHELOR SOCIAL WORKER.--

30 (a) Upon verification of documentation and payment of
31 a fee not to exceed \$200, as set by department rule, plus the

1 actual per applicant cost to the department for purchase of
2 the examination from the American Association of State Social
3 Worker's Boards or a similar national organization, the
4 department shall issue a license as a licensed bachelor social
5 worker to an applicant who the department certifies:

6 1. Has made application therefor and paid the
7 appropriate fee.

8 2. Has received a bachelor's degree in social work
9 from a school of social work at a university or college which
10 at the time the applicant graduated:

11 a. Was accredited by the Council on Social Work
12 Education;

13 b. Was accredited by the Canadian Association of
14 Schools of Social Work; or

15 c. Has been determined to have been a program
16 equivalent to programs approved by the Council on Social Work
17 Education by the Foreign Equivalency Determination Service of
18 the Council on Social Work Education. An applicant who
19 graduated from a program at a university or college outside
20 the United States or Canada must present documentation of the
21 equivalency determination from such council in order to
22 qualify.

23 3. Has had not less than 2 years of social work
24 experience, which took place subsequent to completion of a
25 bachelor's degree in social work at an institution meeting the
26 accreditation requirements of this subsection, under the
27 supervision of a licensed clinical social worker, a licensed
28 master social worker, a licensed bachelor social worker, or
29 the equivalent who is a qualified supervisor as determined by
30 the department. An applicant who is completing the social work
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1 experience required by this subparagraph may practice as a
2 bachelor social work intern or trainee under supervision.

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

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

8 (b) The educational program under this subsection must
9 include content on social work values and ethics, diversity,
10 social and economic justice, populations at risk, human
11 behavior and the social environment, social welfare policy and
12 services, social work practice, and research and skills for
13 entry-level practice. The program must include an entry-level
14 supervised placement in a social service setting.

15 (c) Upon licensure, a licensed bachelor social worker
16 may engage in nonclinical social work practice as authorized
17 by this part. A licensed bachelor social worker may not
18 provide psychotherapy services or any other service for which
19 licensure as a licensed graduate social worker or clinical
20 social worker is required, and nothing in this subsection may
21 be construed to permit the practice of psychotherapy.

22 468.856 Licensure by endorsement.--

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

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

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1 (b) Meets the education and experience requirements of
2 this part for the level of social work for which licensure is
3 applied.

4 (c) Has passed a substantially equivalent licensing
5 examination in another state.

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

10 (e) Has demonstrated knowledge of the applicable laws
11 and rules of this state.

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

17 468.857 Requirement for instruction on human
18 immunodeficiency virus and acquired immune deficiency
19 syndrome.--The department shall require, as a condition of
20 granting a license under this part, that an applicant making
21 initial application for licensure complete an education course
22 acceptable to the department on human immunodeficiency virus
23 and acquired immune deficiency syndrome. An applicant who has
24 not taken a course at the time of licensure shall, upon
25 submission of an affidavit showing good cause, be allowed 6
26 months to complete this requirement.

27 468.858 Renewal of license.--

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

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1 (2) Each applicant for renewal shall present
2 satisfactory evidence that, in the period since the license
3 was issued, the applicant has completed continuing education
4 requirements set by rule of the department. Not more than 30
5 contact hours of continuing education per year may be
6 required.

7 468.859 Inactive status; reactivation of licenses;
8 fees.--

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

12 (a) An inactive license may be renewed biennially for
13 \$50 per biennium.

14 (b) An inactive license may be reactivated by
15 submitting an application to the department, completing the
16 continuing education requirements, complying with any
17 background investigation required, complying with other
18 requirements prescribed by the department, and paying a \$50
19 reactivation fee plus the current biennial renewal fee at the
20 time of reactivation.

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

23 468.861 Continuing education; approval of providers,
24 programs, and courses; proof of completion.--

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

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

30 (3) Proof of completion of the required number of
31 hours of continuing education shall be submitted to the

1 department in the manner and time specified by rule and on
2 forms provided by the department.

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

6 468.862 Discipline.--

7 (1) When the department finds that an applicant or
8 licensee whom it regulates under this part has committed any
9 of the acts set forth in subsection (2), it may issue an order
10 imposing one or more of the following penalties:

11 (a) Denial of an application for licensure, either
12 temporarily or permanently.

13 (b) Revocation of a license, after hearing, either
14 temporarily or permanently.

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

17 (d) Immediate suspension of a license pursuant to s.
18 120.60(6).

19 (e) Imposition of an administrative fine not to exceed
20 \$1,000 for each count or separate offense.

21 (f) Issuance of a public reprimand.

22 (g) Placement of an applicant or licensee on probation
23 for a period of time and subject to such conditions as the
24 department may specify, including, but not limited to,
25 requiring the applicant or licensee to submit to treatment, to
26 attend continuing education courses, to submit to
27 reexamination, or to work under the supervision of a
28 designated licensee.

29 (h) Restriction of practice.

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

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

7 (b) Having a license to practice a comparable
8 profession revoked, suspended, or otherwise acted against,
9 including the denial of licensure by another state, territory,
10 or country.

11 (c) Being convicted or found guilty of, regardless of
12 adjudication, or having entered a plea of nolo contendere to,
13 a crime in any jurisdiction which directly relates to the
14 practice of his or her profession or the ability to practice
15 his or her profession. However, in the case of a plea of nolo
16 contendere, the department shall allow the person who is the
17 subject of the disciplinary proceeding to present evidence in
18 mitigation relevant to the underlying charges and
19 circumstances surrounding the plea.

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

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

25 (f) Maintaining a professional association with any
26 person who the applicant or licensee knows, or has reason to
27 believe, is in violation of this part or of a rule of the
28 department.

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

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

3 (i) Willfully making or filing a false report or
4 record; failing to file a report or record required by state
5 or federal law; willfully impeding or obstructing the filing
6 of a report or record; or inducing another person to make or
7 file a false report or record or to impede or obstruct the
8 filing of a report or record. Such report or record includes
9 only a report or record which requires the signature of a
10 person licensed under this part.

11 (j) Paying a kickback, rebate, bonus, or other
12 remuneration for receiving a client, or receiving a kickback,
13 rebate, bonus, or other remuneration for referring a client to
14 another licensee under this part, to a provider of mental
15 health care services, or to a provider of health care services
16 or goods; referring a client to oneself for services on a
17 fee-paid basis when those services are already being paid for
18 by some other public or private entity; or entering into a
19 reciprocal referral agreement.

20 (k) Committing any act upon a client which would
21 constitute sexual battery or which would constitute sexual
22 misconduct as defined pursuant to s. 468.863.

23 (l) Making misleading, deceptive, untrue, or
24 fraudulent representations in the practice of any profession
25 licensed under this part.

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

29 (n) Failing to make available to a client, upon
30 written request, copies of records in the possession or under
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1 the control of the licensee which have been prepared for the
2 client.

3 (o) Failing to respond within 30 days to a written
4 communication from the department concerning any investigation
5 by the department, or failing to make available any relevant
6 records with respect to any investigation about the licensee's
7 conduct or background.

8 (p) Being unable to practice the profession for which
9 he or she is licensed under this part with reasonable skill or
10 competence as a result of any mental or physical condition or
11 by reason of illness; drunkenness; or excessive use of drugs,
12 narcotics, chemicals, or any other substance. In enforcing
13 this paragraph, upon a finding by the secretary, or his or her
14 designee, that probable cause exists to believe that the
15 licensee is unable to practice the profession because of the
16 reasons stated in this paragraph, the department shall have
17 the authority to compel a licensee to submit to a mental or
18 physical examination by psychologists, physicians, or
19 licensees under chapter 491, designated by the department. If
20 the licensee refuses to comply with such order, the
21 department's order directing the examination may be enforced
22 by filing a petition for enforcement in the circuit court in
23 the circuit in which the licensee resides or does business.
24 The licensee against whom the petition is filed shall not be
25 named or identified by initials in any public court records or
26 documents, and the proceedings shall be closed to the public.
27 The department shall be entitled to the summary procedure
28 provided in s. 51.011. A licensee affected under this
29 paragraph shall at reasonable intervals be afforded an
30 opportunity to demonstrate that he or she can resume the

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1 competent practice for which he or she is licensed with
2 reasonable skill and safety to clients.

3 (q) Violating any provision of this part or chapter
4 455, or any rule adopted pursuant thereto.

5 (r) Failing to meet the minimum standards of
6 performance in professional activities when measured against
7 generally prevailing peer performance, including the
8 undertaking of activities for which the licensee is not
9 qualified by training or experience.

10 (s) Delegating professional responsibilities to a
11 person who the licensee knows or has reason to know is not
12 qualified by training or experience to perform such
13 responsibilities.

14 (t) Violating a rule relating to the regulation of the
15 profession or a lawful order of the department previously
16 entered in a disciplinary hearing.

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

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

23 468.863 Sexual misconduct.--Sexual misconduct by any
24 person licensed under this part, in the practice of his or her
25 profession, is prohibited. Sexual misconduct shall be defined
26 by rule of the department.

27 468.864 Sexual misconduct by licensees under this
28 part; penalties.--

29 (1) Any licensee under this part who commits sexual
30 misconduct with a client, or former client when the
31 professional relationship was terminated primarily for the

1 purpose of engaging in sexual contact, commits a felony of the
2 third degree, punishable as provided in s. 775.082 or s.
3 775.083; however, a second or subsequent offense is a felony
4 of the second degree, punishable as provided in s. 775.082, s.
5 775.083, or s. 775.084.

6 (2) Any licensee under this part who violates
7 subsection (1) by means of deception commits a felony of the
8 second degree, punishable as provided in s. 775.082, s.
9 775.083, or s. 775.084.

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

12 (4) For the purposes of this section:

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

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

18 (c) "Sexual misconduct" means the oral, anal, or
19 vaginal penetration of another by, or contact with, the sexual
20 organ of another or the anal or vaginal penetration of another
21 by any object.

22 468.865 Violations; penalty; injunction.--

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

25 (a) Use the following titles or any combination
26 thereof, unless the person holds a valid, active license as a
27 licensed master social worker issued pursuant to this part:

28 1. "Licensed master social worker."

29 2. "Licensed social worker."

30 3. "Master social worker."

31 4. "Advanced social worker."

- 1 5. "Social worker."
2 (b) Use the following titles or any combination
3 thereof, unless the person holds a valid, active license as a
4 licensed bachelor social worker issued pursuant to this part:
5 1. "Licensed bachelor social worker."
6 2. "Bachelor social worker."
7 3. "Baccalaureate social worker."
8 4. "Licensed social worker."
9 5. "Social worker technician."
10 6. "Social worker."
11 (c) Use the term "psychotherapist" or "sex therapist,"
12 unless such person is licensed pursuant to chapter 458,
13 chapter 459, chapter 490, or chapter 491, or is certified
14 under s. 464.012 as an advanced registered nurse practitioner
15 who has been determined by the Board of Nursing as a
16 specialist in psychiatric mental health and the use of such
17 term is within the scope of his or her practice based on
18 education, training, and licensure.
19 (d) Present as his or her own the social work license
20 of another.
21 (e) Give false or forged evidence to the department
22 for the purpose of obtaining a license.
23 (f) Use or attempt to use a license issued pursuant to
24 this part which has been revoked or is under suspension.
25 (g) Knowingly conceal information relative to any
26 violation of this part.
27 (h) Beginning January 1, 2000, practice in this state
28 any social work that is regulated under this part, as such
29 practice is defined in s. 468.852, unless the person holds a
30 valid, active license to practice nonclinical social work
31 issued under this part. This paragraph does not apply to the

1 practice of clinical social work, which is regulated under
2 chapter 491.

3 (2) It is unlawful and a violation of this part for
4 any person to describe his or her services using the following
5 terms or any derivative thereof, unless such person holds a
6 valid, active license under chapter 490 or chapter 491, or is
7 certified under s. 464.012 as an advanced registered nurse
8 practitioner who has been determined by the Board of Nursing
9 as a specialist in psychiatric mental health and the use of
10 such term is within the scope of his or her practice based on
11 education, training, and licensure:

12 (a) "Psychotherapy."
13 (b) "Sex therapy."
14 (c) "Sex counseling."
15 (d) "Clinical social work."
16 (e) "Psychiatric social work."

17 (3) It is unlawful and a violation of this part for
18 any person to describe his or her services using the following
19 terms or any derivative thereof, unless such person holds a
20 valid, active license under this part or is a clinical social
21 worker licensed under chapter 491:

22 (a) "Social work."
23 (b) "Social work services."
24 (4) Nothing in this section may be construed to permit
25 the practice of psychotherapy.

26 (5) Any person who violates any provision of
27 subsection (1), subsection (2), or subsection (3) commits a
28 misdemeanor of the first degree, punishable as provided in s.
29 775.082 or s. 775.083.

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

1 468.866 Exemptions.--
2 (1) No provision of this part may be construed to
3 limit the practice of physicians licensed under chapter 458 or
4 chapter 459, psychologists licensed under chapter 490, or
5 clinical social workers, marriage and family therapists, or
6 mental health counselors licensed under chapter 491, so long
7 as they do not unlawfully hold themselves out to the public as
8 possessing a license issued under this part or use a
9 professional title protected by this part. However, a clinical
10 social worker licensed under chapter 491 may use the term
11 "social work," "licensed social worker," or "social worker."
12 (2) No provision of this part may be construed to
13 limit the practice of nursing, school psychology, school
14 guidance counseling, or psychology or to prevent qualified
15 members of other professions from doing work of a nature
16 consistent with their training and licensure, so long as they
17 do not hold themselves out to the public as possessing a
18 license issued under this part or use a title protected by
19 this part.
20 (3) No provision of this part may be construed to
21 limit the performance of activities of a rabbi, priest,
22 minister, or clergyman of any religious denomination or sect,
23 or use of the term "Christian counselor" or "Christian
24 clinical counselor" when the activities are within the scope
25 of the performance of his or her regular or specialized
26 ministerial duties and no compensation is received by him or
27 her, or when such activities are performed, with or without
28 compensation, by a person for or under the auspices or
29 sponsorship, individually or in conjunction with others, of an
30 established and legally cognizable church, denomination, or
31 sect, and when the person rendering service remains

1 accountable to the established authority thereof, so long as
2 such person does not unlawfully hold himself or herself out to
3 the public as possessing a license issued under this part or
4 use a professional title protected by this part.

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

7 (a) Is an employee of a governmental or
8 nongovernmental social service agency or organization, who
9 provides social work services appropriate to that agency. This
10 exemption expires on January 1, 2005, after which no person
11 may be exempt under this paragraph unless the person works in
12 a program that administers and maintains a competency-based
13 training program for employees providing social work services
14 or the agency maintains external accreditation by an
15 appropriate standard-setting body as defined by the department
16 and unless the person does not use the titles "social work" or
17 "social worker." The department shall approve competency-based
18 training programs developed by social service agencies
19 delivering services in the exempt settings identified in this
20 paragraph or by organizations representing these agencies if
21 such competency-based programs meet criteria established by
22 the department. The intent of this paragraph is to ensure that
23 the employee obtains minimum competency. Competency-based
24 training does not equate to either a BSW or an MSW degree.

25 (b) Is a nonpaid volunteer in any governmental or
26 nongovernmental agency or organization.

27 (c) Is a student providing services regulated under
28 this part who is pursuing a course of study that leads to a
29 degree in a profession regulated by this part, is providing
30 services in a training setting, provided such services and
31

1 associated activities constitute part of a supervised course
2 of study, and is designated by the title "student intern."

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

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

8 2. Such nonresident is licensed to practice the
9 services provided by a state or territory of the United States
10 or by a foreign country or province.

11 (e) Is certified in "school social work" by the
12 Department of Education and is performing school social work
13 services as an employee of a public or private educational
14 institution. This exemption may not be construed to authorize
15 any unlicensed practice that is not performed as a direct
16 employee of an educational institution.

17 (f) Is a salaried employee of a facility licensed
18 under part II or part III of chapter 400, practices only in
19 the licensed facility under the supervision of the facility
20 administrator, and does not engage in the practice of clinical
21 social work.

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

27 (6) Any person who is not licensed under any provision
28 of this part by January 1, 2000, and who desires to become so
29 licensed shall register with the department that person's
30 intent to become fully licensed no later than January 1, 2001.
31 The costs to the department of such registration shall be

1 borne by the registrant. The department may require affidavits
2 and supporting documentation sufficient to demonstrate that
3 the registrant is preparing for examination by January 1,
4 2000, under this part. The department may adopt rules as
5 provided in chapter 120 to register any person desiring to
6 become licensed under this part. Upon receipt of the
7 department's notice of registration, the registrant may
8 practice services as defined in s. 468.852(7) and (8),
9 provided the registrant uses "resident" with any title or
10 description of the registrant's work and on any business
11 correspondence and work product, including, but not limited
12 to, a business card, letterhead, sign, billing, or report,
13 unless exempt under this part.

14 (7) Any person who meets the requirements of s.
15 468.855(1)(a)1.-2. or s. 468.855(2)(a)1.-2. and has not less
16 than 2 years of social work experience related to the
17 licensing area which took place subsequent to completion of a
18 bachelor's or master degree in social work at an institution
19 meeting the accreditation requirements of s. 468.855(1) or
20 (2), as applicable, is eligible to apply for the appropriate
21 license and receive a license if he or she has met all other
22 qualifications except the 2 years of experience under a
23 qualified professional. This subsection and the ability to
24 become licensed under this subsection shall expire January 1,
25 2001.

26 (8) Except as stipulated by the department, the
27 exemptions contained in this section do not apply to any
28 person licensed under this part whose license has been
29 suspended or revoked by the department or another
30 jurisdiction.

31

1 (9) Nothing in this section shall be construed to
2 exempt a person from meeting the minimum standards of
3 performance in professional activities when measured against
4 generally prevailing peer performance, including the
5 undertaking of activities for which the person is not
6 qualified by training or experience.

7 468.867 Confidential communications.--Any
8 communication between any person licensed under this part and
9 his or her client shall be confidential. This secrecy may be
10 waived under the following conditions:

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

15 (2) When the client agrees to the waiver, in writing,
16 or, when more than one person in a family is receiving
17 nonclinical social work services, when each family member
18 agrees to the waiver, in writing.

19 (3) When there is a clear and immediate probability of
20 physical harm to the client, to other individuals, or to
21 society and the person licensed under this part communicates
22 the information only to the potential victim, appropriate
23 family member, or law enforcement or other appropriate
24 authorities.

25 468.868 Records.--Each person licensed under this part
26 who provides independent services as defined in this part must
27 maintain records. The department may adopt rules defining the
28 minimum requirements for records and reports, including
29 content, length of time records must be maintained, and
30 transfer of either the records or a report of such records to
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1 a subsequent licensee or other individual with written consent
2 of the client or clients.

3 468.869 Display of license; use of professional title
4 on promotional materials.--

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

9 (2) Each person licensed under this part must include
10 the words "Licensed Master Social Worker" or the letters
11 "LMSW," or "Licensed Bachelor Social Worker" or the letters
12 "LBSW," as applicable, on all promotional materials, including
13 cards, brochures, stationery, advertisements, and signs,
14 naming the licensee.

15 Section 2. Paragraph (a) of subsection (1) of section
16 491.0149, Florida Statutes, is amended to read:

17 491.0149 Display of license; use of professional title
18 on promotional materials.--

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

25 Section 3. Sections 491.0145 and 491.015, Florida
26 Statutes, 1998 Supplement, are repealed.

27 Section 4. Any person who, on the effective date of
28 this act, holds an active, valid certificate to practice
29 master social work under section 491.0145, Florida Statutes,
30 as it existed immediately prior to the effective date of this
31 act, may continue to practice under such certificate until the

1 certificate expires or until January 1, 2000, whichever occurs
2 sooner, after which the provisions of part XV of chapter 468,
3 Florida Statutes, as created by this act, shall control.

4 Section 5. This act shall take effect July 1, 1999.

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7 LEGISLATIVE SUMMARY

8 Prescribes regulations governing the practice of
9 nonclinical social work.

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