

# **SOCIAL WORK IN HAWAII: AN EXAMINATION OF SOME REGULATORY ISSUES**

**JEAN KADOOKA MARDFIN**  
Researcher

Report No. 6, 2000

Legislative Reference Bureau  
State Capitol  
Honolulu, Hawaii

Internet: [www.state.hi.us/lrb/](http://www.state.hi.us/lrb/)

This report has been cataloged as follows:

Mardfin, Jean Kadooka.

Social work in Hawaii: an examination of some regulatory issues. Honolulu, HI:  
Legislative Reference Bureau, December 2000.

1. Social workers - Licenses - Hawaii.  
KFH421.5.L35 A25 00-6

## **FOREWORD**

This report was prepared in response to Senate Resolution No. 58, S.D. 1, adopted during the Regular Session of 2000.

The Legislative Reference Bureau thanks the following persons for their input into this report: Kathleen Hashimoto, Executive Officer, Board of Psychology, Department of Commerce and Consumer Affairs; Noe Noe Tom, Deputy Director, Department of Commerce and Consumer Affairs; Jim McMahon, Assistant Auditor, Office of the Auditor; Debbie Shimizu, National Association of Social Workers; Ronaele Whittington, President, Clinical Social Work Society of Hawaii; and Phyllis Z. Levy, Legislative Chair, Clinical Social Work Society of Hawaii.

Wendell K. Kimura  
Acting Director

December 2000

# TABLE OF CONTENTS

	<i>Page</i>
<b>FOREWORD</b> .....	<i>iii</i>
<b>1. BACKGROUND</b> .....	1
The Objectives of Senate Resolution No. 58, S.D. 1.....	1
Terminology and Abbreviations Used in This Report.....	2
Organization of this Report.....	4
The Social Worker: What is a Social Worker and What Does a Social Worker Do?.....	4
Hawaii’s Definition of “Social Worker”.....	5
History of Regulation of Social Workers in Hawaii.....	6
Auditor’s Reports 86-9 and 88-16.....	7
Chapter 467D, Hawaii Revised Statutes (1989) and Auditor’s Sunset Report No. 91-16.....	12
Chapter 467E Hawaii Revised Statutes (1994) and Auditor’s Sunset Report No. 00-02.....	12
Provisions of Act 225, Session Laws of Hawaii 2000 (H.B. No. 2278, H.D. 2, S.D. 1).....	16
Summary of Sunrise and Sunset Evaluations for Chapters 467D and 467E, Hawaii Revised Statutes.....	17
Number of Social Workers in Hawaii.....	17
Conclusion to Chapter 1.....	18
<b>2. TITLE OR PRACTICE PROTECTION</b> .....	19
Introduction.....	19
Forms of Regulation by States.....	19
Registration.....	19
Certification.....	19
Licensure.....	20
Model Social Work Practice Act.....	22
States’ Selection of Title or Practice Protection.....	25
As a Form of Regulation.....	25
States with Title Protection Only.....	25
Hawaii’s Title Protection Law.....	25
Pennsylvania.....	27
Arizona.....	28
South Carolina.....	28
Wisconsin.....	29
Summary of Title Protection.....	30
States with Practice Protection Only.....	30
Massachusetts.....	31

	<i>Page</i>
Nebraska .....	31
Nevada .....	32
Oklahoma .....	33
Connecticut .....	33
Summary of Practice Protection .....	34
States with Both Practice and Title Protection.....	35
Illinois .....	35
Louisiana .....	35
Michigan .....	36
Minnesota .....	37
New Mexico.....	37
Wyoming .....	38
Effect of Having Both Title Protection and Practice Protection .....	39
Hawaii’s Choice .....	40
Discussion.....	40
<b>3. LEVELS OF PRACTICE.....</b>	<b>45</b>
Levels as a Function of Education and Other Factors.....	45
Introduction .....	45
Education Requirements .....	46
Experience Requirements .....	47
Examination Requirements .....	47
Education Combined With Experience.....	51
Supervision .....	51
Variations on a Theme.....	52
The Clinical Social Worker Level .....	55
Experience and the Clinical Social Worker .....	56
Clinical Social Workers in Hawaii .....	58
Handling Complaints about Clinical Social Workers in Hawaii.....	59
Single Level Versus Multiple Levels.....	59
States that Regulate Only One Level of Social Workers .....	60
States with More than One Level.....	69
Rationale for More than One Level .....	70
Levels for Hawaii .....	72
Perceived Current Harm By Single Level Practitioner	
Lacking Clinical Experience.....	72
Adequate Disclosure About Clinical Social Workers Would	
Prevent Harm To Clients .....	74
Summary of Levels of Practice.....	74
<b>4. CONTINUING EDUCATION FOR SOCIAL WORKERS .....</b>	<b>76</b>
Continuing Education for Professionals .....	76
Continuing Education for Social Workers.....	78

	<i>Page</i>
Standard Guidelines for Continuing Education .....	79
Hawaii Auditor’s Evaluation of Mandating Continuing Education for a Profession .....	81
Complaints About Social Workers .....	83
Summary.....	85
<b>5. COST OF INCREASING SOCIAL WORKER LEVELS OF PRACTICE.....</b>	<b>87</b>
Introduction .....	87
Cost of Adding More Levels to Hawaii’s Law.....	88
Conclusion.....	89
<b>6. ANALYSIS OF FINDINGS.....</b>	<b>91</b>
Introduction .....	91
Analysis and Discussion.....	92
(1) Should the Hawaii law be changed from a "title protection law" to a "practice protection law"? .....	92
(2) Should Hawaii law have more than one social worker level of licensure"? .....	93
Recognizing the Work Environment.....	98
(3) Should Hawaii law require continuing education for social workers? .....	99
(4) How should Hawaii fund the licensing cost? .....	100
<b>7. CONCLUSIONS.....</b>	<b>102</b>
Introduction .....	102
Regulatory Form.....	102
Levels of Practice .....	103
Continuing Education .....	104
Costs .....	105
Conclusion.....	105

### **Tables**

1. ASWB Examination Levels and Content Areas .....	48
2. Social Work Levels of Practice .....	61
3. Comparison of Number of Tiers by State.....	66
4. Comparison of Tiers Used by State.....	66
5. Contrast Between the Intermediate Examination Content Outline and the Clinical Examination Content Outline .....	96

**Appendices**

A.	Senate Resolution No. 58, S.D. 1, Regular Session of 2000.....	107
B.	Examinations by the ASWB: Content Outlines .....	109
C.	Correspondence Between the Legislative Reference Bureau and the Department of Commerce and Consumer Affairs Regarding the Cost of Implementing Alternative Social Work Licensing Laws for Hawaii .....	110

## Chapter 1

### BACKGROUND

#### The Objectives of Senate Resolution No. 58, S.D. 1

Senate Resolution No. 58, S.D. 1 (2000), requested the Legislative Reference Bureau to review Hawaii's and other states' social work licensure laws and to recommend suggested legislation along with its findings and conclusions. Among others, the Legislature requested the Bureau to examine the following subjects:

- (1) The licensing provision of Chapter 467E, Hawaii Revised Statutes;
- (2) The social work licensure laws of other states;
- (3) The rationale of the majority of states to support multi-tiered licensing of social workers;
- (4) The impact on, and benefits to, the public of multi-tiered licensing;
- (5) The rationale for states to choose practice laws rather than title protection licensure laws;
- (6) The continuing education requirements that are embedded in other states' licensing requirements;
- (7) The funding mechanisms that are used to fund social work licensing in other states;
- (8) The levels of supervision, credentialing, education, training, experience, and expertise that are required in other states' licensing laws; and
- (9) The cost of implementing alternative social work licensure laws for Hawaii.

It is not the Bureau's objective to produce another sunrise report reminiscent of an Auditor's study. Instead, this report is designed to answer each of the aspects requested above, from the larger perspective of public policy. This, therefore, is not a report of whether or not social workers should be regulated. The Auditor's office has already answered that question in the negative. Instead, this report answers the questions posed by Senate Resolution No. 58, S.D. 1, concerning multi-tiered regulation. As such, it attempts to describe what the implications might be for social work professionals, consumers, and regulators if a multi-tiered system of regulating social work professionals is instituted. The levels of regulatory options, the form of



“licensing”, whether or not continuing education should be imposed on licensees, and so on, will be examined, explained, discussed, and compared against other states’ laws.

## **Terminology and Abbreviations Used in This Report**

Presented below is a selected list of terms and abbreviations to assist readers who may find themselves inundated by the terms and acronyms sprinkled throughout this report, all necessary to understand the subject of social work and its regulatory provisions.<sup>1</sup>

**Advanced Exam\*** - One of two examinations administered by the Association of Social Work Boards (ASWB) intended to be taken by social workers with a Master of Social Work degree (MSW) or higher degree, plus the required postgraduate supervised experience. The Clinical and Advanced exams are considered on a par, but the Advanced has greater emphasis on management skills. (Underscoring emphasizes the difference in this definition with that provided under “Clinical Exam” below.)

**Association of Social Work Boards (ASWB)** - Formerly known as the American Association of State Social Work Boards (AASSWB), is a national organization with the mission of assisting state licensing boards to provide protection to the public that uses social work services. It was incorporated in 1979 by representatives of state social work credentialing agencies and changed its name in 1999 to Association of Social Work Boards (ASWB). During the transition period, some publications reflect the former name while others have the new name. Additional information can be obtained from the organization’s website, which is [www.aasswb.org](http://www.aasswb.org).

**Basic Exam** - The ASWB examination intended for use by baccalaureate social workers.

**BSW** - The acronym most often used to designate a Bachelor of Social Work degree obtained after four years of college. However, the same abbreviation might be found in some states’ regulatory law for their entry-level “licensee”—the bachelor of social work level with the addition of “LBSW” to mean “licensed bachelor social worker” or similar title, or “CBSW” to mean “certified bachelor social worker”.

**Clinical Exam\*** - One of two examinations administered by the Association of Social Work Boards (ASWB) intended to be taken by social workers with an MSW or higher degree, plus the required postgraduate supervised experience. The Clinical and Advanced exams are considered on a par, but the Clinical has an emphasis on the provision of direct mental health services. (Underscoring emphasizes the difference between this definition and that provided under “Advanced Exam” above).

---

<sup>1</sup> If marked by an asterisk (\*), the terms can be found in ASWB’s, The Exam “Blue Book”, pp. 32-40. Other terms have been added by the writer from other materials.

**CSW\*** - Certified Social Worker or Clinical Social Worker, two designations that jurisdictions may use as possible licensure titles. There are many others, sometimes combined with the term “Independent” or “Private Practice” as in “Certified Independent Clinical Social Worker”.

**Clinical Social Work** - Means the application by persons trained in social work, of established principles of psycho-social development, behavior, psychopathology, unconscious motivation, interpersonal relationships, and environmental stress to the evaluation, assessment, diagnosis, and treatment of bio-psycho-social dysfunction, disability and impairment, including mental, emotional behavior, developmental, and addictive disorders, of individuals, couples, families, or groups. Clinical social work includes, but is not limited to, counseling, psychotherapy, behavior modification, and mental health.<sup>2</sup>

**CSWF** - Clinical Social Worker Federation is based in Arlington, Virginia and claims to be the largest clinical social work membership organization in the United States whose primary mission is to enhance the quality and availability of clinical social work services throughout the United States.<sup>3</sup> Its website is [www.cswf.org](http://www.cswf.org).

**DSW** - The abbreviation often used to designate an educational degree of doctorate of social work.

**Intermediate Exam\*** - The ASWB examination that is intended for social workers who hold an MSW degree, but who do not have post-degree supervision.

**Job Analysis\*** - The study of a profession such as social work in order to determine the knowledge, skills, and abilities needed for competent entry level performance. The ASWB job analyses have done this by surveying practicing social workers to find out what they are actually doing in their jobs, how often they perform specific tasks, and how critical those activities are to competent performance.

**LICSW\*** - Licensed Independent Clinical Social Worker, a title used in many jurisdictions as the level of licensure required for independent practice. Other equivalent designations include LCSW, for Licensed Clinical Social Worker.

**MSW** - The abbreviation used for the Master of Social Work degree, which is obtained after the bachelor level.

**NASW** - The National Association of Social Workers, created in 1955, is based in Washington D.C. and made up of more than 155,000 members who meet professional educational requirements. Its goals are “to promote the quality and effectiveness of social work

---

<sup>2</sup> The Clinical Social Work Federation brochure, “The Universal Mental Health Profession, Clinical Social Work.”

<sup>3</sup> Ibid.

practice and to engage in social action on behalf of human well-being.” More information on this organization can be found at [www.socialworkers.org](http://www.socialworkers.org). There are chapters in every state. Its primary mission includes professional development, setting professional standards of social work practice, among other things. The NASW publishes a NASW Register of Clinical Social Workers that is a directory of clinical social workers who have qualified for inclusion in the register according to NASW criteria on education and experience. The NASW offers two credentials for clinical social workers who meet nationally established standards, the qualified clinical social worker (QCSW) for social workers with a minimum of two years post master’s supervised experience in CSW, and the Diplomate in Clinical Social Work (DCSW) which is the advanced clinical specialization credential whose requirements include a minimum of five years of clinical social work experience and other criteria.

## **Organization of this Report**

This report is organized as follows:

The first chapter is a description of social work as a profession, its history as a regulated profession in Hawaii.

The second chapter explains forms of regulation: registration, certification (title protection), and licensing (practice protection). Statutory provisions from states with title or practice protection are compared.

The third chapter explains social work licensure levels and the role of education, experience, and knowledge in determining levels (or tiers). The statutory provisions of states with only one level and with multiple levels are described and compared. The chapter includes a discussion of the specialty of clinical social work.

The fourth chapter reviews the role of continuing education in professional licensing programs.

The fifth chapter discusses licensing costs.

The sixth chapter presents an analysis of findings. The last chapter presents conclusions.

## **The Social Worker: What is a Social Worker and What Does a Social Worker Do?**

Social workers serve the public in a variety of functions ranging from policy-making and administration to client evaluation and assistance. Their work involves working with groups as well as individuals, and persons of all ages. Their services can be provided in public agencies such as prisons, health care agencies, and schools, or as private providers to individuals,

students, families, or employee work groups. Private sector social workers can be found in hospitals, community health centers, and churches to help with substance abuse, mental illness, marriage counseling, and the like where they function as employees of the parent organization. Others are independent professionals having a private practice. A social worker who works for an organization may provide services ranging from the likes of routine case management or job counseling, to more complex and involved services requiring clinical diagnosis, treatment, and therapy for psycho-social problems.

### **Hawaii's Definition of "Social Worker"**

In Hawaii, a social worker or licensed social worker means a person who:

- (1) Uses the title of "social worker";
- (2) Has met the licensing requirements set forth in Chapter 467E, Hawaii Revised Statutes, which requires the person to have:
  - (A) Earned a Master of Social Work degree from an accredited college or university equivalent to an accredited program by the Council on Social Work Education, or a Doctorate degree from a program accredited by the Western Association of Schools and Colleges;
  - (B) Passed a national exam given by the Association of Social Work Boards; and
  - (C) Paid appropriate fees to the Department of Commerce and Consumer Affairs; and
- (3) Engages in the practice of social work, which is defined as: applying the formal knowledge base, theoretical concepts, specific functional skills, and essential social values that are used to effect change in human behavior, emotional responses, and social conditions, and helping individuals, couples, families, groups, and community organizations enhance or restore their capacities for personal and social functioning and preventing and controlling social problems. Social work practice is the professional application of social work values, principles, and techniques in areas like psychosocial assessments, case management, clinical diagnosis, consultation, research, and so on.<sup>4</sup>

---

<sup>4</sup> Section 467E-1, Hawaii Revised Statutes.

## History of Regulation of Social Workers in Hawaii

Social workers have been regulated in Hawaii through a “licensing”<sup>5</sup> process only since 1994, despite interest among professional social workers since the 1970s in regulating the profession. According to the Auditor, “[t]he chief proponent of regulation has been the Hawaii chapter of the NASW.”<sup>6</sup> Hawaii’s social workers were subject to regulation from January 1, 1990 to December 31, 1992<sup>7</sup>, and then again with certification type licensing (title protection) since 1995.

A literature review of social work regulation in Hawaii revealed at least five studies on this issue. In 1982, the Department of Commerce and Consumer Affairs under its former name of Department of Regulatory Agencies prepared a response to Senate Resolution No. 120, S.D. 1, adopted by the Regular Session of 1981 requesting the Department to study the need for regulation of the practice of social work. Operating on the general premise that regulation is necessary only to the extent that the public health may be endangered by the practitioners of social work, the report identified four general categories from which the public needed protection:

- (1) Unethical abuses resulting in monetary damages to clients;
- (2) Abuses resulting from inadequate training and experience, and doing indirect behavioral damage to clients;
- (3) Fraud and/or waste (emotional) to the State in relation to (1) and (2) above; and
- (4) Fraud and/or waste to private charities in regards to (1) and (2) above.

In the 1982 report, the Department of Regulatory Agencies reported 23 states and Puerto Rico required registration or licensing of their social workers. The Department also estimated that there were about 1,500 providers of social work in Hawaii having varying levels of experience (college graduate, with or without social work degrees, with or without master’s, doctoral level degrees, and years of experience). There were 226 persons certified under the Academy of Certified Social Workers (ACSW) which indicated a minimum of two years of supervised experience after receiving a master’s degree in social work. The Department

---

<sup>5</sup> As will be made clear in subsequent chapters, Hawaii’s form of regulation of social workers is certification and offers title protection. The term “license” is used for the kind of regulation referred to as practice protection. The Bureau follows the Auditor’s lead by using “license” in quotation marks or the word “certified” or “certification” to indicate that Hawaii’s regulation of social workers is a title protection program.

<sup>6</sup> Hawaii, Office of the Auditor, *Sunset Evaluation Report: Social Workers*, Report No. 91-16, Honolulu, November 1991, p. 2.

<sup>7</sup> Chapter 467D, Hawaii Revised Statutes.

concluded that there were no documented complaints to warrant regulation of social workers in Hawaii at that time.

The Department concluded that “Despite NASW’s contention of abuses, there are no documented cases of fraud or of complaints involving social workers in Hawaii on public record. Thus, the primary criterion to judge the need for regulation is lacking. Moreover, public and private agencies which provide the majority of social services have established standards for hiring qualified social workers and provide proper supervision. While private practitioners may be more likely to be involved in abuses since they are not supervised by an agency, they generally attract clients who can afford to pay for services and would not meet the criterion of consumer disadvantage. It appears that if any class of social workers may need to be licensed, it should be limited to those in independent clinical practice but the number of such private practitioners would appear to be too small to consider licensure at the present time.”<sup>8</sup>

Since 1982, the Auditor issued several sunrise and sunset reports on the issue of licensing and regulating social workers. The following summary provides a synopsis of the recent past history of Chapter 467E, Hawaii Revised Statutes, which is the current law regulating social workers in Hawaii.

### **Auditor’s Reports 86-9 and 88-16**

These two sunrise reports by the Auditor concluded that regulation was not warranted for social workers in Hawaii.

The Auditor’s 1986 report was a sunrise analysis of a proposal to regulate the practice of clinical social work and provides a recapitulation (up to that point) of the efforts by Hawaii social workers through its local NASW chapter to seek legal regulation. For example, this report indicates that such “...bills were introduced into the Legislature in 1975, 1978, 1979, 1982, 1983, and 1985. These bills took different forms. Several sought multi-level licensing of all social workers according to their educational backgrounds and type of practice. One bill sought to restrict only the use of the title of social worker. For various reasons, none of the bills passed. The bills were opposed on different occasions by different factions of social workers, the Hawaii Government Employees Association (HGEA), the Department of Commerce and Consumer Affairs (DCCA), and the Hospital Association of Hawaii.”<sup>9</sup>

The 1986 sunrise report by the Auditor focused on a proposed bill that would have required licensure of clinical social workers but did not require licensure of clinical social workers employed by government agencies or social workers (whether employed in the public or

---

<sup>8</sup> Hawaii, Department of Regulatory Agencies, *Report on Senate Resolution No. 120, S.D. 1, Relating to a Study of the Need for Regulation of the Practice of Social Work*, Honolulu, January 13, 1982, pp. 17-18.

<sup>9</sup> Hawaii, Office of the Auditor, *Sunrise Analysis of a Proposal to Regulate the Practice of Clinical Social Work*, Report No. 86-9, Honolulu, January 1986, p. 7.

private sectors). Among other things, the bill defined clinical social work, proposed a Board of Social Work, provided for exemptions and grandfathering of currently employed social workers, and described grounds for denial, suspension, and revocation of licenses.

The Auditor's sunrise report was, therefore, concerned with this narrow group of clinical social workers in private practice. The report found the following:

- (1) There is no evidence that consumers have been or are likely to be injured by clinical social workers in private practice. The Auditor based this conclusion on the lack of evidence that abuses by local (Hawaii) clinical social workers in private practice caused injury to local consumers.<sup>10</sup>
- (2) Consumers of these private services are relatively few in number and not likely to be disadvantaged in selecting a provider.<sup>11</sup>
- (3) Regulation may restrict entry into the occupation. In so concluding, the Auditor referred to the statutory requirement placed upon the Director of Commerce and Consumer Affairs to maintain a reasonable relationship between licensing fees and the cost of services rendered and pointed out that where there are few licensees, the licensing fees are usually higher. Considering the costs for application fee, examination fee, original license fee, and biennial license renewal fee, the total cost could be more than \$400, which could be prohibitive for minority and lower income applicants.<sup>12</sup>
- (4) The impetus for regulation comes from social workers and regulation will benefit primarily social workers and not consumers. Against NASW-Hawaii's contention that regulation (a) would increase public recognition of the profession, (b) have insurance carriers recognize social workers as vendors of services that qualify for reimbursement, the Auditor said: "Social workers' desires for recognition and third-party reimbursements are entirely separate issues from the need to regulate social workers to protect the public. It is true that licensing might serve to

---

<sup>10</sup> "NASW-Hawaii's evidence of injuries to consumers consists mostly of newspaper accounts of incidents on the mainland where social workers employed by public agencies had been charged with negligence or misconduct." *Ibid.*, pp. 13-14.

<sup>11</sup> "Data is not available on the number of consumers of clinical social work service. However, they are probably few in number.... There are only three social workers listed under "Social Workers" in the Oahu telephone directory yellow pages and only one listed in the Hawaii directory. The 1985 NASW Register of Clinical Social Workers lists 22 registered clinical social workers in Hawaii." *Ibid.*, p. 14.

<sup>12</sup> Against the argument offered by NASW-Hawaii that licensing is necessary to protect disadvantaged and vulnerable clients, the Auditor said that private pay clients of clinical social workers in private practice are likely to be middle to high income persons who are more likely to be able to assert their position if necessary by filing a complaint with the Office of Consumer Protection, NASW's peer review procedures for standards of ethical practice, or file a tort action or civil suit if malpractice considerations applied. *Ibid.*, pp. 15-16.

promote professionalism and third-party reimbursements for social workers. However, this would be contrary to sunset law policy which holds that licensing should not be used to promote the self-interests of any particular occupation.”<sup>13</sup>

The Auditor’s conclusion in the 1986 report on clinical social workers said:<sup>14</sup>

Licensing is an exclusionary measure that places restraints on the freedom of individuals to pursue their professions. Unless there is clear evidence that it is needed to protect public health, safety, and welfare, licensure should not be imposed.

There is no evidence that the public need to be protected against misconduct or malpractice by clinical social workers. The situation remains the same as that found by the Department of Commerce and Consumer Affairs in 1982 when it concluded that there was no justification for the State to regulate social workers.

We likewise conclude from our current analysis that regulation of clinical social workers does not meet criteria set forth in the Sunset Law.

Within two years of the sunrise analysis for clinical social workers, the Auditor revisited the issue in: The Auditor’s Report No. 88-16, *Sunrise Analysis Update of a Proposal to Regulate Social Workers*. This report addressed a proposed bill that would have established licensing requirements for the practice of social work. This 1988 bill covered all social workers, not only the clinical social workers. The bill defined social work and prohibited “anyone from performing any social work service or representing oneself as a social worker unless the person is licensed.” Among other provisions, exemptions were allowed for other professionals in activities which overlapped with the practice of social work, federal employees, and students in social work educational programs, but social workers in private independent practice and those employed by state and county government and private agencies would have to be licensed.

As in the earlier study, the Auditor again presented its analysis and findings summarized as follows:<sup>15</sup>

- (1) The practice of social work does not pose sufficient harm to warrant licensure. The Auditor found that the evidence of social worker harm presented by NASW-Hawaii did not warrant licensure because in one case, a federal employee social worker who sexually abused a client would have been exempt from the licensing requirements of the proposed bill. In the second example of harm, five clients of

---

<sup>13</sup> Ibid., pp. 16-17.

<sup>14</sup> Ibid., pp. 22-23.

<sup>15</sup> Such as understaffing and heavy caseloads of CPS social workers. Hawaii, Office of the Auditor, *Sunrise Analysis Update of a Proposal to Regulate Social Workers*, Report No. 88-16, Honolulu, January 1988, pp. 7-13.



Child Protective Services (CPS) complained of services by state social workers. The Auditor said:

These testimonies do not include any explanation of attempts by the clients to bring the complaints to the attention of the agencies involved or if their complaints had been substantiated or resolved by the agencies. It is possible...that some or all of the reported harm may not have been the fault of individual social workers but actually may have been caused by other problems within the agencies.

The Auditor also pointed out that the Office of Consumer Protection and the Office of the Ombudsman had had no complaints against social workers in Hawaii in the previous three years.<sup>16</sup>

- (2) Consumers of public and private social work services are not likely to be disadvantaged in relation to being protected against incompetent social work practice. The Auditor reasoned that social workers in public agencies have to meet minimum requirements of competence through the classification system and the seven levels (Social Worker I, through VII) which distinguish among educational levels, experience, and supervision. Civil service rules, performance ratings by supervisors, in-service training, and procedures for disciplinary actions all serve to protect the clients of public service social workers. State departments that rely on social workers requested exempting government social workers because of the impact on recruitment and after meetings with NASW-Hawaii, an exemption was agreed upon (for the bill) for social workers in state and local government positions.
- (3) Licensing requirements restrict entry into the profession. The 1988 bill required social workers to have academic degrees in social work. For example, a person licensed as a “licensed bachelor social worker” would be required to have a Bachelor in Social Work and a person licensed as a “licensed master social worker” would be required to have a master’s or doctorate in social work. A third level was also proposed, a “certified social worker” who would be required to have a MSW or DSW plus additional experience. The Auditor reported that a survey of Department of Human Services (DHS) and Department of Health (DOH) Social Worker IIIs, when they were first hired in a state social worker position, revealed 45 percent had had a bachelor or master’s degree from other, non-social work areas. This fact, coupled with the 28 percent vacancy rate for social worker positions in these state departments would have strained the state government’s ability to provide adequate social work services to clients.

In addition, the Auditor pointed to other jurisdictions that allow non-social work degree individuals to perform social work at certain levels and quoted from

---

<sup>16</sup> Ibid., pp. 7-8.

a study in Maryland that concluded that “MSWs overall are performing more effectively in State social services than non-MSWs” but further stated that “this analysis does not imply that other employees are not performing effectively.” The study also found when comparing performance on specific tasks that on most tasks “employees with a bachelor’s degree in a field other than social work perform as effectively as employees with a BSW, or an MSW.” MSWs performed significantly better than non-MSWs in only 17 out of the 102 social service tasks.”<sup>17</sup>

The Auditor said, “According to our 1986 sunrise report, there is little relationship between the competence of a practitioner and academic degrees or grades. Experience and certain personality characteristics can also contribute to the effectiveness of a practitioner. Thus, the type of degree held may not be the only factor which affects the competence of a social worker.”<sup>18</sup>

- (4) The impetus for regulation comes from social workers and not from the consumers. The Auditor again pointed out that the drive for licensure was due to the social workers’ desire for public recognition of their profession and to achieve third-party reimbursements, not “aimed primarily at protecting consumers”.<sup>19</sup>
- (5) The Auditor also found that the proposal’s grandfathering clause was too restrictive, and also contained a defective licensing requirement and an unclear requirement for continuing education.

The Conclusion of the Auditor’s 1988 sunrise analysis update was:

The purpose of licensing is to protect the consumer by establishing minimal standards for practice in an occupation. Unless there is a preponderance of evidence showing that consumers are disadvantaged or harmed by practitioners in the occupation, licensure is unwarranted.

We do not find sufficient evidence of consumer complaints or cases of damage involving social workers in Hawaii to warrant regulation. Consumers of social work services in the public and private sector are not disadvantaged. Licensure would benefit the profession more than protect the public.

Based on our analysis we conclude that regulation of social workers does not meet the criteria of the Sunset Law.

---

<sup>17</sup> Ibid., p. 10 (citing The Maryland Social Work Services Job Analysis and Personnel Qualifications Study, by Booz-Allen and Hamilton, Inc., January 1987, p. III-10).

<sup>18</sup> Ibid., p. 10.

<sup>19</sup> Ibid., p. 12.

Despite the foregoing recommendations, however, the Legislature enacted Chapter 467D, Hawaii Revised Statutes in 1989 (Act 213, Session Laws of Hawaii 1989), to provide for a temporary, voluntary registration program for social workers, primarily to develop information on the need for regulation.

**Chapter 467D, Hawaii Revised Statutes (1989)  
and Auditor’s Sunset Report No. 91-16**

Chapter 467D, Hawaii Revised Statutes, became effective January 1, 1990 and was repealed by operation of law as scheduled on December 31, 1992. Under Chapter 467D, Hawaii Revised Statutes, a person could apply to the Department of Commerce and Consumer Affairs (DCCA) as a registered social worker with written evidence (by oath or affirmation) that the applicant received a master’s degree in social work from an accredited school of social work. Other provisions of Chapter 467D contained provisions for a hearing if registration was denied, required the DCCA to investigate complaints about social workers, gave DCCA the power to discipline violators, and provided for penalties and exemptions.

The Auditor’s report of 1991<sup>20</sup> found that the regulation of social workers was still not warranted. The Auditor found that:

- (1) There was little evidence of actual harm;
- (2) Chapter 467D was not sufficiently related to protecting the public; and
- (3) That other protections against potential harm already existed in both the public and private sectors, such as through the Ombudsman or the Office of Consumer Protection.

The Auditor recommended repeal of Chapter 467D as scheduled, which was allowed to occur in 1992. Accordingly, during 1993 and 1994 social workers were unregulated.

**Chapter 467E Hawaii Revised Statutes (1994)  
and Auditor’s Sunset Report No. 00-02**

In 1994, the Legislature enacted Act 251 (Session Laws of Hawaii 1994) to protect the title of social worker. Act 251 is codified as Chapter 467E, Hawaii Revised Statutes. While the chapter might be referred to as a social worker licensing act, the protection of the use of the title of social worker is not the same as licensing the occupation of social worker. As described by the Auditor: “The law actually then created a ‘title protection’ or ‘certification’ program—not a

---

<sup>20</sup> Hawaii, Office of the Auditor, *Sunset Evaluation Report: Social Workers*, Report No. 91-16, Honolulu, November 1991.

licensing program—since it regulated the use of a title, not the right to practice an occupation. To avoid misunderstanding, we (that is the Auditor) generally place quotation marks around the word “license” or similar words when referring to Hawaii’s social worker regulatory program.”<sup>21</sup>

The Conference Committee Report on S.B. No. 2377 (which became Act 251) reported the purpose of the bill was to:<sup>22</sup>

[s]et standards of qualification, education, and experience for those persons who seek to represent themselves to the public as social workers. Under this bill social workers will be licensed under a program established in the Department of Commerce and Consumer Affairs. To be eligible, a person must have a master’s degree and have passed the national examination given by the American Association of State Social Work. (Now called the Association of Social Work Boards (ASWB)). Exemptions are granted for persons doing similar kinds of work or possessing less than the master’s degree as long as they do not purport to be licensed social workers.

Your Committee finds that the practice of social work should be regulated in order to ensure the protection and welfare of the consuming public.

Chapter 467E, Hawaii Revised Statutes, among other things, defines terms such as of the “practice of social work” and “social worker”, both necessary to an understanding of what a social worker’s tasks include and the requirements for “licensing” (in Hawaii’s case, a kind of licensing referred to as title protection).<sup>23</sup>

The licensing program is administered by the Department of Commerce and Consumer Affairs<sup>24</sup> and authorizes the Director of Commerce and Consumer Affairs to grant permission to a person to use the title of “social worker”, to adopt rules to enforce the social worker program, to discipline a licensed social worker, and to appoint an advisory committee to assist in implementing the social worker chapter.<sup>25</sup> The Director may set fees to defray costs and support the regulatory program.<sup>26</sup>

---

<sup>21</sup> Hawaii, Office of the Auditor, *Sunset Evaluation Report: Social Workers*, Report No. 00-02, Honolulu, January 2000, p. 4.

<sup>22</sup> Hawaii, Legislature, House Journal, Conference Committee Report No. 84 on S.B. No. 2377 (1994), p. 820.

<sup>23</sup> Section 467E-1, Hawaii Revised Statutes.

<sup>24</sup> Section 467E-2, Hawaii Revised Statutes.

<sup>25</sup> Section 467E-3, Hawaii Revised Statutes.

<sup>26</sup> Section 467E-4, Hawaii Revised Statutes.

No person can claim to be a social worker or use the letters “S.W.” or “L.S.W.” with his name unless that person has met the requirements of “licensure”.<sup>27</sup> Exemptions are provided for other professionals who perform overlapping duties as a social worker; a social worker in a federal, state, or county government agency position; and any student enrolled in an educational social worker program.<sup>28</sup> (These same exemptions were present in the 1988 bill that generated the Auditor’s Sunrise Study No. 88-16 as described above.)

The minimum education required for licensing is a master’s degree from a college or university in an accredited social work program and passing the national examination given by the Association of Social Work Boards.<sup>29</sup> A doctoral degree in social work is also acceptable for licensure under Chapter 467E.

An applicant for the “license” of social worker must file an application, pay fees to the Director of Commerce and Consumer Affairs and pass an examination administered by the ASWB. The exam fee is paid by the applicant directly to ASWB.<sup>30</sup> Licenses are renewable triennially, and can be revoked, suspended, denied, or have conditions placed on them for thirteen listed reasons.<sup>31</sup>

A person holding oneself out as a licensed social worker when, in fact, that person is not, can be subject to a fine of not more than \$1,000 (with each day’s violation deemed a separate offense).<sup>32</sup>

Injured consumers are entitled to injunctive relief and the right to sue for damages in any circuit court of the State and if successful, recover three times their actual damages or \$1,000, whichever is greater. The prevailing party has the right to costs and reasonable attorney’s fees.<sup>33</sup>

Chapter 467E was scheduled for repeal by operation of law (sunset) on December 31, 2000. The Auditor submitted a Sunset Evaluation Report in January 2000 to determine:

- (1) Whether regulation of social workers is warranted;
- (2) Whether the current regulatory requirements are appropriate;

---

<sup>27</sup> Section 467E-5, Hawaii Revised Statutes.

<sup>28</sup> Section 467E-6, Hawaii Revised Statutes.

<sup>29</sup> Section 467E-7, Hawaii Revised Statutes.

<sup>30</sup> Sections 467E-8, -9, -10, Hawaii Revised Statutes.

<sup>31</sup> Section 467E-11, -12, Hawaii Revised Statutes.

<sup>32</sup> Section 467E-13, Hawaii Revised Statutes.

<sup>33</sup> Section 467E-14, Hawaii Revised Statutes.

- (3) Whether the regulatory program is being implemented effectively and efficiently.

The Auditor's guiding principle in this as in all other sunset reports is whether the unregulated profession presents a clear and present danger to the public's health, safety, and welfare. If it does, regulation may be necessary; if not, regulation is unnecessary and wastes taxpayers' money. Additional criteria for the evaluation used by the Auditor included:

- (1) Whether the incidence or severity of harm based on documented evidence is sufficiently real or serious to warrant regulation;
- (2) Whether the cause of harm is the practitioner's incompetence or insufficient skill;
- (3) Whether the occupational skill needed to prevent harm can be defined in law and measured;
- (4) Whether alternatives provide sufficient protection to consumers (such as federal programs, other state laws, marketplace constraints, private action, or supervision); and
- (5) Whether most other states regulate the occupation for the same reasons.

The Auditor placed the burden of proof on those in the occupation to justify the need for regulation. The Auditor also examined Chapter 467E for appropriateness, and determined which approach was being taken toward regulation (that is, the form of registration, certification, or licensing). Other parts of the sunset evaluation included assessing the license application process, "licensing" examinations, and enforcement.

The Auditor found only seven complaints made against social workers since the regulatory program started in fiscal year 1995-1996. Six of these cases were closed and the seventh was pending. The Auditor also reported that from 1995 to the present, the Hawaii Chapter of the National Association of Social Workers recorded only one formal complaint. The Auditor found limited evidence of harm to consumers in Hawaii at the hands of social workers. Furthermore, no complaints were found against independent practitioners who work without supervision or without a parent agency.

With respect to the issue of title protection as a form of regulation, the Auditor wrote:<sup>34</sup>

*Title protection*, the type of social worker regulation currently used in Hawaii—which prohibits people from calling themselves social workers without a "license"—has uncertain screening benefits. Furthermore, title protection for social workers does not

---

<sup>34</sup> Hawaii, Office of the Auditor, *Sunset Evaluation Report: Social Workers*, Report No. 00-02, Honolulu, January 2000, p. 13.

clearly achieve its desired purpose of assuring consumers that persons using the title are at least minimally competent.

The regulation's ability to either deter ethical and professional violations or assess the competency of practitioners is limited.

However, the Auditor pointed out that the primary type of social worker harm to consumers fell into the category of unprofessional conduct, such as sexual activities with a client, conflict of interest, exploitation of the professional relationship for personal gain, dishonesty, fraud, deceit, and misrepresentation. All of these types of harm are not addressed by examining a social worker's education or competency level. Instead, the Auditor emphasized that a social worker's personal integrity, compassion, and emotional maturity were more likely to be factors.

The evaluation contains some discussion on other issues that may be analyzed further in the instant report such as overlapping duties with other therapists, allowing exemptions for government social workers, and minimum educational levels to name a few issues. To prevent a repetitious presentation, the Bureau, at this juncture, summarizes the Auditor's Sunset Evaluation only to indicate that this sunset report concluded that regulation of social workers is not warranted and that Chapter 467E should be repealed as scheduled by operation of law, on December 30, 2000. (Emphasis added.)

#### **Provisions of Act 225, Session Laws of Hawaii 2000 (H.B. No. 2278, H.D. 2, S.D. 1)**

During the regular session of 2000, the Legislature enacted Act 225, to allow the Director of Commerce and Consumer Affairs to enter into reciprocity agreements with other states and issue a license to a social worker who has been licensed in that state; if the other state's licensing requirements are deemed equal or greater than the requirements for a license in Hawaii. Alternatively, an applicant who has passed an examination of the Association of Social Work Boards may obtain a license from the Director by endorsement if application for licensure is filed by June 30, 2000. In addition to reciprocity and endorsement, Act 225 repealed the sunset provision so that Chapter 467E, Hawaii Revised Statutes, is no longer scheduled for repeal by operation of law on December 31, 2000.<sup>35</sup>

The Association of Social Work Boards justifies regulation of social workers by stating that (a) regulation protects the public by informing a consumer about what to expect of a social worker, in terms of education, and the like; (b) regulation allows a consumer to file a complaint with the appropriate regulatory agency, which can lead to disciplinary action or license revocation after an investigation; and (c) regulation requires a licensee to meet certain minimum

---

<sup>35</sup> Section 26H-4(b), Hawaii Revised Statutes, see Section 2 of Act 225, Session Laws of Hawaii 2000, (H.B. No. 2278, H.D. 2, S.D. 1).

standards of education, experience, and knowledge and to maintain a skill level through continuing education.<sup>36</sup>

### **Summary of Sunrise and Sunset Evaluations for Chapters 467D and 467E, Hawaii Revised Statutes**

Social workers began seeking statutory licensure in Hawaii beginning in the 1970s. Bills were introduced regularly in the state Legislature since 1975. Despite several studies by the Auditor concluding that licensing, whether for the narrow group of Clinical Social Workers or for social workers in general, was not warranted, social workers were required to be registered from 1990, after the adoption of Act 213 (Session Laws of Hawaii, 1989), which was codified as Chapter 467D. This law provided for a temporary, voluntary registration program for social workers and was repealed by operation of law at the end of 1992. During 1993 and 1994, social workers were unregulated. In 1994, Act 251, Session Laws of Hawaii, 1994 established a certification program for social workers granting them title protection under Chapter 467E, Hawaii Revised Statutes. The Auditor issued two sunrise and two sunset evaluations before the enactment of laws regulating social workers and before the scheduled repeal of these chapters. In reviewing the past twenty-plus years of social worker regulation, one is drawn to a conclusion that the profession of social work has not suffered from lack of evaluation and analysis for purposes of licensure. By repealing the automatic repeal date for Chapter 467E, and the adoption of endorsement and reciprocity for social workers from other jurisdictions, the Legislature apparently desires some kind of continued regulation of social workers.

### **Number of Social Workers in Hawaii**

In March 2000, the Professional and Vocational Licensing Division (PVL) of DCCA reported there were 1,016 social worker licensees distributed throughout the islands as follows:<sup>37</sup>

Oahu, 718;

Big Island of Hawaii, 92;

Maui, 75;

Kauai, 35; and

Molokai, 4.

---

<sup>36</sup> See [www.aasswb.org](http://www.aasswb.org).

<sup>37</sup> Hawaii, Department of Commerce and Consumer Affairs, Report No. RGC1066R, run date 3/06/00, from Kathy Hashimoto, Executive Officer, Board of Psychology, DCCA.



As of July 2000, there were about 958 social worker positions in the state government in such departments as the:

Department of Education, 101 positions;

Department of Human Resources Development, 376 positions;

Department of Health, 340 positions; and

Department of Public Safety, 141 positions.<sup>38</sup>

As government employees, these social workers are exempt from licensure.

### **Conclusion to Chapter 1**

The regulation of social workers in Hawaii has had a long history. After several decades of no regulation, the profession successfully obtained registration for its members, and now certification of social workers, despite many analytical studies finding that the regulation of social workers, in any form, was unnecessary.

The subsequent chapters of this report will examine issues relating to making this regulation more complex and extensive.

---

<sup>38</sup> Hawaii, Department of Human Resources, Classification and Compensation Review Division, Data from Sherry Shishido, July 17, 2000.

## Chapter 2

### TITLE OR PRACTICE PROTECTION

This chapter addresses the following issue as requested by Senate Resolution No. 58, S.D. 1 (2000):

- (5) The rationale for states to choose “practice protection laws” rather than “title protection” licensure laws;

and seeks to answer the question, “Should the Hawaii law be a “practice protection law” and not a “title protection law?”

#### Introduction

In order to understand the difference between “practice” protection laws and “title” protection laws, this chapter begins with an explanation of the forms of statutory regulation of a profession or trade.

Levels of regulation of a profession are means by which a state exercises its power to protect the health, safety, and welfare of the public. Generally, laws regulating professions and occupations tend to divide along three forms: registration, certification, and licensure.

#### Forms of Regulation by States

##### Registration

Registration is considered the least restrictive form of regulation whereby applicants are often, merely, required to register their name, address, and some other relevant information. The state, in this case, considers the level of harm that could be inflicted upon the public to be minimal. There is no effort on the part of the state to determine minimum level of competence, education, or experience.

In Hawaii, social workers were regulated by a registration law between 1990 and 1992 (Chapter 467D, Hawaii Revised Statutes) until that law was repealed by operation of law (Sunset) on December 31, 1992.

##### Certification

Certification, which can come from (a) government agencies pursuant to statutes or (b) from private, nongovernment organizations such as a professional organization, provides title

protection. In the case of social workers, the Association of Social Work Boards (ASWB) offers examinations at the Basic, Intermediate, Advanced, and Clinical levels. Many states use the ASWB exams to certify (or even to license) whether an applicant meets a particular certification or license requirement. For example, in Hawaii, the Intermediate level ASWB exam is used to fulfill the requirements of Chapter 467E, Hawaii Revised Statutes, because a Master's (MSW) degree (and not the Baccalaureate (BSW) degree) in Social Work is the minimum level of education necessary for licensure. In Massachusetts, a practice protection state, and certain other states, a social worker with a BSW degree might obtain a license after taking the Basic level ASWB exam, if such a level is provided for by the licensing statute.

If certification or title protection is the level of regulation required by a particular state, "non-certified individuals legally may perform the same or similar functions as those who are certified, but they are not permitted to use a designated title."<sup>1</sup> This is the category into which Hawaii and ten other states fall.

### **Licensure**

If a state perceives the potential for harm to the consumer is great, licensure is more likely to be required of practitioners. This is the most restrictive form of regulation and five states regulate by requiring a license of its social workers, while thirty-five states regulate social workers through both title protection and practice protection.

The ASWB explains licensure and certification as follows:<sup>2</sup>

States use different terms to refer to legal regulation of a profession. Licensure is the most frequently used term, and usually refers to a requirement to receive board authority to practice a regulated profession. Certification is also a term used in various jurisdictions. From the perspective of a governmental entity authorizing an individual to practice a profession, licensure and certification are synonymous. One state, Michigan, currently uses the term registration, which refers to the gathering by a board of educational levels and experience in order to qualify individuals to practice as social workers. A practice act establishes and empowers a board and sets forth criteria for authorization to practice a profession within a defined scope of practice. Title protection laws are practice acts that limit the use of a specific social work title to those licensed by the board.

---

<sup>1</sup> Kara Schmitt and Benjamin Shimberg, *Demystifying Occupational and Professional Regulation: Answers to Questions You May Have Been Afraid to Ask*, The National Clearinghouse on Licensure, Enforcement, and Regulation, 1996, p. 21.

<sup>2</sup> American Association of State Social Work Boards, *Social Work Laws and Board Regulations*, Culpeper, VA, 1998, p. 5.

During the course of this study, the Bureau found some misunderstanding among social workers themselves about the regulatory differences between title protection and practice protection. For example, one perception is that practice protection, the most restrictive level of regulation by the state, is possible only if a profession is regulated through a full-time board like the Board of Medical Examiners provides for doctors. These individuals believe that, for example, regulation through the Director of Commerce and Consumer Affairs (or other agency), either with or without the assistance of an advisory board, as the Department of Commerce and Consumer Affairs (DCCA) now uses for social workers, cannot provide practice protection. This belief is not correct and has never been correct. Other professions and occupations, including notaries public, funeral and cemetery trusts, mortgage brokers and solicitors, and real estate collection and servicing agents, have been subject to practice protection regulation directly by the Director of Commerce and Consumer Affairs for years. The confusion of the social workers may stem in part from the inconsistent use of terminology by different states and the many different ways the respective states have chosen to label their social worker licensing titles.

The Council on Licensure, Enforcement, and Regulation (CLEAR), a professional group that disseminates information on licensure and credentialing based in Lexington, Kentucky, has stated:<sup>3</sup>

. . . title alone is insufficient to determine whether practice restrictions exist. The best way to determine whether an occupation is licensed is to ask the following question: “Is it legal for unlicensed individuals to practice a specific profession?” If the answer is NO, the profession is licensed no matter what the title may imply.

In general, states do not use consistent terminology in regulating professions. In some situations there is historical reason for the inconsistent terms. For example, the title registered nurses (R.N.), which would appear to imply the least restrictive regulatory protection, in fact, establishes practice protection and nurses must be licensed. Thus, despite the term “registered”, the nurse holding that title is actually licensed. The same can be said of certified public accountants (CPA). The term “certified” implies title protection, but is, in fact, the more restrictive regulation of practice protection.

In the case of social workers, the picture is similarly blurred. Hawaii, for example, uses the title, “Licensed Social Worker” but uses it to mean title protection rather than practice protection. Michigan uses the term “registered” and not the phrase “practice protection”. Michigan is listed by the ASWB as a state that provides for both practice and title protection.

There appears to be no consistent use of terms “registration”, “certification” (title protection), and “licensure” (practice protection) in the statutes which regulate social workers in

---

<sup>3</sup> Schmitt, p. 27.

the different states. However, this inconsistency in terminology can be found in other regulated professions.<sup>4</sup>

The Bureau's findings regarding the inconsistency of terminology is confirmed by the Council on Licensure, Enforcement, and Regulation (CLEAR), which has said:<sup>5</sup>

Initially, there was a clear distinction between the level of competence represented by licensure and that represented by certification . . . . Since the 1970s, however, . . . the distinction between certification and licensure has become less obvious.

CLEAR goes on to describe the situation for occupational therapists:<sup>6</sup>

For instance, even after forming a certifying body, occupational therapists continued their quest for licensure. Because of their efforts, nearly every state now licenses this profession. Interestingly enough, most of the occupational therapy state boards have elected to use the same examination for licensure as is used for certification. This situation is similar for a number of other emerging professions.

Perhaps the same process has been occurring for social workers.

### **Model Social Work Practice Act**

Before entering into a discussion of the forms of regulation chosen by states, a brief digression is necessary about the role of the Model Social Work Practice Act (Model Act).<sup>7</sup> The Bureau's research into state laws regarding regulation of social workers revealed that this profession like many others has a Model Act. The overarching purpose of the Model Act is to protect consumers from unethical or incompetent practitioners by requiring licensure of social workers. Other stated goals are to:

- (1) Establish standards of minimal social work competence;
- (2) Develop a means of addressing consumer complaints about social workers;

---

<sup>4</sup> Ibid., pp. 26-27.

<sup>5</sup> Ibid., p. 25.

<sup>6</sup> Ibid., p. 25.

<sup>7</sup> The Association of Social Work Boards (ASWB), a national organization of social work regulatory boards developed the model act over a two-year period, 1996-1997. An earlier "Model Licensing Act for Social Workers" was available as early as 1973 from the National Association of Social Workers (NASW) according to one of the Auditor's early sunrise analyses.

- (3) Develop a means of removing incompetent or unethical practitioners from practicing social work;
- (4) Increase public education about the services provided by social workers;
- (5) Standardize social work terminology across all states;
- (6) Prepare for possible increased social worker mobility across states;
- (7) Address continuing education issues for the profession; and
- (8) Address issues of standards of conduct for the profession.

The Model Social Work Practice Act can be found in its entirety at [www.aasswb.org](http://www.aasswb.org). According to one of Hawaii's Auditor's early sunrise analyses:

NASW officially adopted a "Model Licensing Act for Social Workers" in 1973, which is supposed to be the basis of all legislative proposals by State chapters. However, most chapters have requested waivers of that model law. Today (that is, 1986) states vary considerable in how they regulate social work. (Emphasis added.)

The Auditor continued:

Some states regulate a broad scope of social work practice while other states regulate only clinical social work. Some states only regulate the use of titles relating to social work while other states prohibit anyone from practicing social work without a license. Some states regulate a single category of social worker while the majority of states regulate multiple levels of practice based on the education and experience of applicants. These levels range from associate social workers or social worker aides with master's degrees in social work and five years of experience.

The majority of states license the practice of social work and prohibit anyone from representing oneself as a social worker without a license. However, because of diversity among the states in the scope of regulation and because licensing in one state may mean something entirely different in another state, licensing as a social worker or as a clinical social worker has no standard, national significance.<sup>8</sup> (Emphasis added.)

These statements were written in 1986 and, as the Bureau discovered, remain true even today, fourteen years later.

---

<sup>8</sup> Hawaii, Office of the Auditor, *Sunrise Analysis of a Proposal to Regulate the Practice of Clinical Social Work*, Report No. 86-9, Honolulu, January 1986, pp. 5-6.

The Association of Social Work Boards (ASWB), a national organization of social work regulatory boards, developed a new model act between 1996 and 1997. The Model Act may be considered for adaptation and adoption by states to regulate their social workers.

In its review of states' laws, the Bureau compared the provisions of the Model Act against various states' provisions.

The Model Act can be a guide for states and any state's social worker statute can be compared against it to identify differences. In 2000, there is no state that follows all of the provisions of the Model Act exactly, although a few have similarities regarding that form of regulation known as "practice protection"; an independent board; three levels of practice for Bachelor Social Workers, Master Social Workers, and Clinical Social Workers; no exemptions for government-employed social workers; and continuing education requirements.

From Hawaii's statutory point of view, the distinguishing differences from the Model Act are:

- (1) Instead of a separate board with powers to establish professional standards, Hawaii regulates social workers through the Director of Commerce and Consumer Affairs.
- (2) Instead of the Model Act's providing for practice protection only, Hawaii provides for title protection only.
- (3) Instead of regulating three levels of practice—Bachelor Social Worker, Master Social Worker, and Clinical Social Worker, based on the Basic, Intermediate, and Clinical examinations, Hawaii regulates one level, at the Master's level and requires an intermediate level exam.
- (4) Instead of providing for no exemptions for licensure, Hawaii exempts nine hundred-odd government-employed social workers.
- (5) Instead of requiring continuing education, Hawaii has no continuing education requirements.

Because of the scarcity of states that have even come close to the provisions of the Model Act and the lack of consistency across states regarding regulatory form, levels of licensure, and mandatory continuing education, relevant sections from the Model Social Work Practice Act will be described only for comparative purposes in this report.

## States' Selection of Title or Practice Protection

### As a Form of Regulation

This section examines the statutory language used by various states to describe “title” and “practice” protection, beginning with states that provide title protection. Hawaii’s law provides title protection, which also can be found in Alberta (Canada), and nine U.S. states, Arizona, Michigan, Montana, New Hampshire, Oregon, Pennsylvania, South Carolina, Texas, and Wisconsin. In addition to noting how the profession is regulated by the language in the statute, this section also provides the particular state’s scope of practice language, usually in its definition of social work.

The Bureau used information provided by the Association of Social Work Boards publication, Social Work Laws and Regulations and its website, [www.aasswb.org](http://www.aasswb.org)<sup>9</sup> to compare Hawaii’s law with those of other states. Hawaii’s pertinent statutory language has been set out in full, but in order to avoid extraneous material, some of the statutory language from other states have been abbreviated to simplify comprehension. The point here is to comprehend the concept of title protection as reflected in a state’s statutory language.

### States with Title Protection Only

**Hawaii’s Title Protection Law.** As earlier indicated, Hawaii’s law for social workers is one of title protection.<sup>10</sup> Hawaii’s statutory provisions are as follows:

**§467E-5 License required.** No person shall purport to be a “social worker” or “licensed social worker”, or use the letters “S.W.” or “L.S.W.” in connection with the person’s name, or use any words or symbols indicating or tending to indicate that the person is a social worker without meeting the applicable requirements and holding a license as set forth in this chapter.

Section 467E-13 Prohibited acts; penalties. (a) No person shall:

- (1) Use in connection with the person’s name any designation tending to imply that the person is a licensed social worker unless the person is duly licensed and authorized under this chapter; or

---

<sup>9</sup> The Association of Social Work Boards was formerly known as the American Association of State Social Work Boards (AASSWB).

<sup>10</sup> For another profession that is also granted title protection, see section 451J-5, Hawaii Revised Statutes, for marriage and family therapists.



- (2) Represent oneself as a licensed social worker during the time the person's license issued under this chapter is forfeited, terminated, suspended, or revoked.

(b) Any person who violates this section shall be subject to a fine of not more than \$1,000 and each day's violation shall be deemed a separate offense.<sup>11</sup> (Emphasis added.)

Hawaii's scope of practice is specific and descriptive:<sup>12</sup>

"Practice of social work" means applying the formal knowledge base, theoretical concepts, specific functional skills, and essential social values that are used to effect change in human behavior, emotional responses, and social conditions, and helping individuals, couples, families, groups, and community organizations enhance or restore their capacities for personal and social functioning and preventing and controlling social problems. Social work practice is the professional application of social work values, principles, and techniques in the following areas:

- (1) Information, resource identification and development, and referral services;
- (2) Preparation and evaluation of psychosocial assessments and development of social work service plans;
- (3) Case management, coordination, and monitoring of social work service plans in the areas of personal, social, or economic resources, conditions, or problems;
- (4) Administration, development, implementation, and evaluation of social work programs and policies;
- (5) Clinical diagnosis, treatment, and prevention of psychosocial dysfunction, disability, or impairment, including emotional and mental disorders;
- (6) Social work consultation; or
- (7) Research through the formal organization and methodology of data collection and the analysis and evaluation of social work data practice. (Emphasis added.)

---

<sup>11</sup> Sections 467E-5 and 467E-13, Hawaii Revised Statutes.

<sup>12</sup> Section 467E-1, Hawaii Revised Statutes (Definitions).

Hawaii also provides a definition of clinical social worker not for licensing purposes, but for purposes of reimbursement from insurers. Therefore, in Chapter 431M, Hawaii Revised Statutes, “clinical social worker” is defined as . . . a person licensed in the practice of social work pursuant to Chapter 467E and certified in clinical social work by a recognized national organization.”<sup>13</sup>

The Bureau examined four other states with only title protection:

Pennsylvania, which recently moved from one to two levels of social worker licenses: Licensed Social Worker (LSW) and Licensed Clinical Social Worker (LCSW);

Arizona, which regulates three levels of social workers: Certified Independent Social Worker (CISW), Certified Master Social Worker (CMSW), and Certified Baccalaureate Social Worker (BSW);

South Carolina, which also regulates three levels: Licensed Independent Social Worker (LISW), Licensed Master Social Worker (LMSW), and Licensed Baccalaureate Social Worker (LBSW); and

Wisconsin, which regulates four levels: Certified Independent Clinical Social Worker (CICSW), Certified Independent Social Worker (CISW), Certified Advance Practice Social Worker (CAPSW), and Certified Social Worker (CSW).

These four states were selected at random to represent states with different numbers of social work levels. The following discussion describes first, what it is that constitutes the unlawful representation of social work by a person and second, what social work involves in order for someone to identify the kind of practices or acts that constitute social work tasks.

**Pennsylvania.** Pennsylvania is a title protection state that specifies restrictions on the use of the title “Licensed Social Worker” and “Licensed Clinical Social Work” as follows: “Only individuals who have received licenses as licensed social workers (or licensed clinical social workers) may style themselves as licensed social workers and use the letters “LSW” (or as licensed clinical social workers and use the letters LCSW) in connection with their names . . . .”

Pennsylvania defines the following terms to describe the scope of practice of social workers and clinical social workers:

---

<sup>13</sup> Section 431M-1, Hawaii Revised Statutes (Definitions).

“Application of social work methods and theory”, “Practice of clinical social work”, and “Practice of licensed social work”.<sup>14</sup>

**Arizona.** In much the same fashion, title protection is provided in Arizona: It is unlawful for a person to represent himself to the public by any title incorporating “certified baccalaureate social worker”, “certified master social worker”, “certified independent social worker” or “certified social worker” or to describe his activities and services by such a title unless he is certified in that category pursuant to this article.<sup>15</sup>

In Arizona, the “Practice of social work” means professional services which are developed to effect change in human behavior, and includes psychotherapy, social planning, and research.<sup>16</sup>

**South Carolina.** South Carolina provides similar language by stating: A social worker licensed under this chapter may use the title (LISW, LMSW, or LBSW) . . . following his name.<sup>17</sup> Social work practice means service and action to effect changes in human behavior, . . .

---

<sup>14</sup> Title 63 (Professions and Occupations), Section 1903 (Definitions), Pennsylvania Statutes Annotated provide: “Application of social work methods and theory” includes psychosocial assessment, crisis intervention, case management, client centered advocacy, psychotherapy, and family therapy with individuals, couples, families . . . to prevent . . . dysfunction at home, work, and community. “Practice of clinical social work” is holding oneself out to the public by any title or description incorporating the term “licensed clinical social worker” . . . tending to indicate that one is a licensed clinical social worker, and rendering as service in which a special knowledge of social resources, human personality and capabilities . . . is directed at helping people achieve productive . . . lives . . . . Includes application of social work methods and theory, plus additional training and study as defined by the board . . . and “Practice of licensed social work” is holding oneself out to the public by any title or description incorporating the term “licensed social worker” . . . rendering a service directed at helping people achieve productive lives....”

(Pennsylvania also allows a person with a bachelor’s degree in social work plus three years experience under the supervision of a social worker with a master degree and proof of current enrollment in a master’s degree program to qualify upon application, for a Provisional social work license. However, this person may not be issued more than three provisional licenses).

<sup>15</sup> Section 32-3294, Arizona Revision Statutes (Unlawful act; exception) also includes subsection B: This section does not prohibit a person from using a title granted by a national professional organization if the title clearly indicates the name of the certifying body.

<sup>16</sup> Section 32-3251, Arizona Revision Statutes.(Definitions). “Practice of social work” means professional services which are developed to effect change in human behavior, emotional responses and social conditions of individuals, couples, families, groups and communities and which involve specialized knowledge and skill related to human development, including and understanding of unconscious motivation, the potential for human growth, the availability of social resources and knowledge of social systems. Practice of social work includes:

- (a) the use of psychotherapy for the purpose of diagnosis, evaluation and treatment of individuals, couples, families and groups.
- (b) social planning, administration and research for community social services delivery systems.

<sup>17</sup> Section 40-63-90, South Carolina Code (Title and initials; display of license). A social worker licensed under the provisions of this chapter, upon payment of the prescribed fee, may use the title appearing on this license and the corresponding letters (“LBSW” for “Licensed Baccalaureate Social Worker”; “LMSW” for “Licensed Master Social  
(Footnote continued on next page.)

guided by special knowledge, acquired through formal professional social work education . . . and includes the following activities: . . . counseling, explain and interpret psychological aspects, provide general assistance, information, referral, and so on.

**Wisconsin.** Wisconsin law prohibits a person from using the title “social worker”, “advance practice social worker” or “independent social worker” unless certified. “Social work” in Wisconsin means applying psychosocial, psychotherapeutic, or counseling principles in assessing, diagnosing, and treating an individual or group to restore their functioning in a community.<sup>18</sup>

---

Worker”; or “LISW” for “licensed Independent Social Worker”) following his name, unless the license has been revoked or suspended or has lapsed. Every person to whom a license is issued shall display the license in a prominent place in his office or place of employment.

Section 40-63-60, South Carolina Code (Social work practice, defined). For the purposes of this chapter, “social work practice” means service and action to effect changes in human behavior, a person’s emotional responses, and the social conditions of individuals, families, groups, organizations, and communities. For the purpose of this definition, the practice of social work is guided by special knowledge, acquired through formal professional social work education, or social welfare policies and services, social welfare systems, and resources, human development and behavior within the context of the social environment, and methods of bringing about change in individuals, families, groups, communities, and social welfare organizations. Social work practice involves the disciplined application of social work values, principles, and methods. Social work practice includes, but is not restricted to the following activities utilizing professional social work knowledge and methods to:

- (1) conduct a variety of counseling activities and therapeutic approaches . . . ;
- (2) explain and interpret the psychological aspects of a situation;
- (3) explain and provide general assistance, information, and referral services;
- (4) provide resources to meet basic human needs;
- (5) help organizations and communities analyze social problems and human needs;
- (6) assist organizations and communities to develop their capacity for general neighborhood or community improvement;
- (7) develop policies, plans, and programs to address social needs and improve social conditions;
- (8) supervise employees engaged in the direct delivery of social services.

<sup>18</sup> Section 457.04, Wisconsin Statutes (Prohibited practices). Except as provided in Section 457.02, no person may do any of the following:

- (1) Use the title “social worker” unless the person is certified as a social worker under this chapter.
- (2) Use the title “advance practice social worker” unless the person is certified as an advanced practice social worker, independent social worker or independent clinical social worker under this chapter.
- (3) Use the title “independent social worker” unless the person is certified as an independent social worker or independent clinical social worker under this chapter.

Section 457.01(9), Wisconsin Statutes (Definitions). “Social work” means applying psychosocial, psychotherapeutic or counseling principles, methods or procedures in the assessment, evaluation, psychosocial or psychotherapeutic diagnosis, prevention, treatment or resolution of a social, psychological, personal, emotional or mental disorder of an individual, couple, family, group of individuals or community, including the enhancement or restoration of, or the creation of societal conditions favorable to the enhancement or restoration of, or the creation of societal conditions favorable to the enhancement or restoration of the capacity of an individual, couple, family, group of individuals or community for social functioning or the delivery of services to a groups of individuals or a community to assist the group or community in providing or improving the provision of social or health services to others. (Emphasis added.)

## Summary of Title Protection

The language of these states all refer to the illegality of using the “title” by different levels of social worker. However, it is already evident that while title protection can be easily ascertained in Arizona and Wisconsin because the words used includes “unless certified”, title protection (as opposed to practice protection) is not as clearly expressed in the statutory language of South Carolina and Pennsylvania (except for the use of the phrase “may use the title” and “holding oneself out by any title”), because both South Carolina and Pennsylvania use the word license as in “individuals who have received licenses”.

The effect of title only protection is, as described by CLEAR, “Those without the title may perform the services of the occupation, but may not use the title.”<sup>19</sup> Or, according to the ASWB, “Title protection laws are practice acts that limit the use of a specific social work title to those licensed by the board.”<sup>20</sup>

In addition to looking at the section describing prohibited practices or prohibited acts, one must also read the state’s definition of the scope of practice for social workers in that state. The scope of practice describes actions or techniques which define what a certified or licensed social worker can do in that state. If there is more than one social worker level certified, then the scope of practice for each particular level must be examined. Some states provide detailed descriptions of a social worker’s scope of practice while others provide a more general definition.

## States with Practice Protection Only

The more restrictive form of regulation requires a license to practice social work. This means that for a scope of practice consisting of different elements or aspects of social work, if only one element in that scope of practice is exercised by a person, that person is “practicing social work” and that person must have a social worker license. Among the fifty states plus the District of Columbia, Puerto Rico, and the Virgin Islands, the following five states regulate practice only: Massachusetts (four levels), Nebraska, Nevada, and Oklahoma (each with three levels), and Connecticut (one level). The Bureau examined the statutes of these five states for this section. These states use the phrase “shall not engage in the *practice*” of social work. The definition of the scope of practice for social workers is provided for these states as well.

All other remaining states provide both practice and title protection. An examination of the statutory language from some of these states will follow after the description of states with practice protection only.

---

<sup>19</sup> The National Clearinghouse on Licensure, Enforcement, and Regulation and the Council of State Governments, *Occupational and Professional Regulation in the States: a Comprehensive Compilation*, Pam Brinegar, Editor, Lexington, KY, 1990, Introductory page.

<sup>20</sup> American Association of State Social Work Boards, p. 5.

**Massachusetts.** Massachusetts licenses four practice levels as follows: Licensed Independent Clinical Social Worker (LICSW), Licensed Certified Social Worker (LCSW), Licensed Social Worker (LSW), and Licensed Social Work Associate (LSWA). In Massachusetts, no person shall engage in the practice of social work, or independent practice of clinical social work, unless he is licensed. No person shall hold himself out to be a licensed certified social worker, or a licensed social worker, or a licensed social work associate, unless he has met the applicable requirements of licensure (education, experience, and so on).<sup>21</sup>

Massachusetts defines the “practice of social work” “counseling”, and “psychotherapy of a nonmedical nature”.<sup>22</sup>

**Nebraska.** In Nebraska, no person may represent himself as a social worker unless certified to practice social work. Other professionals who do overlapping kinds of work are exempted, but they are not to “hold themselves out to the public by title as being engaged in the practice of social work.”<sup>23</sup> Despite the use of “No person may represent himself as a social worker . . .” which resembles statutory language for title only protection, Nebraska is listed by ASWB as a practice protection state. (Emphasis added.)

---

<sup>21</sup> Chapter 112, Section 133, Massachusetts General Laws (Unauthorized practice; punishment). No person shall engage in the practice of social work unless he is licensed under the provisions of section 131.

No person shall hold himself out to be a licensed certified social worker, or a licensed social worker, or a licensed social work associate unless he has met the applicable requirements set forth in section 131.

No person shall engage in the independent practice of clinical social work or hold himself out to be a licensed independent clinical social worker, unless he is licensed under the applicable provisions of section 131.

Violation of this section shall be punishable by a fine of not more than \$500, or by imprisonment for not more than three months or by both such fine and imprisonment. (Emphasis added.)

<sup>22</sup> Chapter 112, Section 130, Massachusetts General Laws (Definitions). “Practice of social work” is the rendering or offering to render professional service for any fee, monetary or otherwise, to individuals, families, or groups of individuals, which services involve the application of social work theory and methods in the prevention, treatment, or resolution of mental and emotional disorders or family or social dysfunctioning caused by physical illness, intrapersonal conflict, interpersonal conflict or environmental stress. Such professional services may include, but shall not be limited to, the formulation of a psychosocial evaluation, counseling, psychotherapy of a nonmedical nature, referral to community resources, and the development and provision of educational programs. (Emphasis added.)

<sup>23</sup> Section 71-1, 1318, Nebraska Revised Statutes (Practice of social work, certificate required; exceptions). Practice of social work; certificate required: exceptions. After September 1, 1994, no person may represent himself or herself as a social worker unless he or she is certified to practice social work pursuant to the Uniform Licensing Law, except that nothing in this section shall be construed to prevent:

- (1) Qualified members of other professions, including but not limited to, licensed physicians, registered or licensed practical nurses, attorneys, marriage and family therapists, psychologists, psychotherapists, vocational guidance counselors, school psychologists, members of the clergy, court employees, or other persons licensed or certified under chapter 71, article 1, from doing work consistent with the scope of practice of their respective professions, except that such qualified members shall not hold themselves out to the public by title as being engaged in the practice of social work. (Emphasis added.)

Nebraska law provides a detailed definition of social work areas: Social work practice . . . shall mean the professional activity of helping individuals, groups, . . . to improve, . . . their capacities for personal and social functioning and the professional application of social work values in the following areas of practice. (The statute goes on to seven practice areas, and then lists four areas that social work practice does not include such as measuring and testing of personality or intelligence.)<sup>24</sup> (Emphasis added.)

**Nevada.** Nevada's three levels of social workers include Licensed Clinical Social Worker (LCSW), Licensed Independent Social Worker (LISW), and Licensed Social Worker (LSW), and provide that it is unlawful for any person to represent himself as a social worker unless he is licensed.<sup>25</sup> (Emphasis added.)

---

<sup>24</sup> Section 71-1,1311, Nebraska Revised Statutes (Social work practice or the practice of social work, defined). Social work practice or the practice of social work, defined.

- (1) Social work practice . . . shall mean the professional activity of helping individuals, groups, and families or larger systems such as organizations and communities to improve, restore, or enhance their capacities for personal and social functioning and the professional application of social work values, knowledge, principles, and methods in the following areas of practice:
  - (a) Information, resource identification, and development, and referral services;
  - (b) Preparation and evaluation of psychosocial assessments and development of social work service plans;
  - (c) Case management, coordination
  - (d) Development implements, of social work programs and policies
  - (e) Supportive contacts to assist individuals and groups with personal adjustment to crisis, transition, . . . especially in the area of services given in hospitals, schools, shelters for the homeless. . . . Nothing in this subdivision shall be construed to prevent charitable and religious organizations, the clergy, governmental agencies, hospitals, (et al), from providing supportive contacts to assist individuals and groups with adjustment to crisis, transition, . . . if such persons . . . do not represent themselves to be social workers.
  - (f) Social casework for and prevention of psychosocial dysfunction, disability, or impairment; and
  - (g) Social work research, consultation, and education
- (2) Social work practice shall not include the following:
  - (a) The measuring and testing of personality or intelligence;
  - (b) Accepting fees . . . for the treatment of disease or injury. . . by drugs, surgery, or any manual or mechanical treatment whatsoever;
  - (c) Prescribing drugs or electroconvulsive therapy; and
  - (d) Treating organic diseases or major psychiatric diseases.
- (3) A certified master social worker who practices within the confines of this section shall not be required to be licensed as a mental health practitioner. (Edited for space.) (Emphasis added.)

<sup>25</sup> Section 641B.500, Nevada Revised Statutes (Representation as social worker without license). It is unlawful for any person to represent himself as a social worker within the meaning of this chapter unless he is licensed pursuant to the provisions of this chapter.

Section 641B.505, Nevada Revised Statutes (Independent and clinical practice of social work without license)

1. Except as other provided in this chapter, it is unlawful for a person to engage in:
  - (a) The independent practice of social work unless he is licensed as a clinical social worker or an independent social worker pursuant to this chapter.

(Footnote continued on next page.)

**Oklahoma.** Oklahoma licenses three levels of social work: Licensed for Private Practice Social Worker (LSW), Licensed Social Worker (LSW), and Licensed Social Work Associate (LSWA). Oklahoma provides as follows: no person shall engage in the practice of social work for compensation unless he or she is licensed as a licensed social worker or licensed social work associate.<sup>26</sup>

In Oklahoma, “practice of social work” means the professional activity of helping individuals, groups, (and others) restore their capacity for physical, social, and economic functioning.<sup>27</sup>

**Connecticut.** Connecticut regulates only one level of social workers and its law provides that “No person shall practice clinical social work unless he has obtained a license.”<sup>28</sup>

The practice of clinical social work in Connecticut is defined as follows:

“Clinical social work” means the application by persons trained in social work, of established principles of psychosocial development, behavior, psychopathology, unconscious motivation, interpersonal relationships and environmental stress to the evaluation, assessment, diagnosis and treatment of biopsychosocial dysfunction, disability and impairment, including

---

(b) The clinical practice of social work unless he is licensed as a clinical social worker pursuant to this chapter.

2. As used in this section, “independent practice of social work” means the unsupervised practice of social work, other than for a public employer, for compensation. (Emphasis added.)

Section 641B.510, Nevada Revised Statutes. Use of title of licensee or otherwise implying licensure. It is unlawful for any person, other than a person licensed pursuant to this chapter, to use the title of a licensee in connection with his work, or in any other way imply that he is licensed by the board, unless he is so licensed. (Emphasis added.)

<sup>26</sup> Section 59-1251, Oklahoma Statute (License required-Exemptions). A. In order to safeguard the welfare of the people of the State of Oklahoma, no person shall engage in the practice of social work for compensation or hold himself or herself forth as performing the services of a social worker unless he or she is licensed as a licensed social worker or licensed social work associate in this state, nor may any person participate in the delivery of social work service unless under the supervision of a person licensed under these provisions, and no person may use any title, abbreviation, sign, card, or device incorporating the words “social worker” or a derivative thereof unless such person has been duly licensed under the provisions of this law. (Emphasis added.)

<sup>27</sup> Section 59-1250.1, Oklahoma Statute (Definitions). In Oklahoma, “practice of social work” means the professional activity of helping individuals, groups or communities enhance or restore their capacity for physical, social and economic functioning and the professional application of social work values, principles and techniques in areas such as clinical social work, social service administration, social planning, social work consultation and social work research to one or more of the following ends: Helping people obtain tangible services; counseling with individuals, families and groups; helping communities or groups provide . . . social and health services; . . . The practice of social work requires knowledge of human development and behavior; of social economic and cultural institutions and forces; and of the interaction of all of these factors. Social work practice includes the teaching of relevant subject matter and of conducting research into problems of human behavior and conflict. (Edited for space considerations.) (Emphasis added.)

<sup>28</sup> Section 20-195n, Connecticut General Statutes, (Definitions).



mental, emotional behavioral, developmental and addictive disorders, of individuals, couples, families or groups.<sup>29</sup>

### Summary of Practice Protection

States deemed by ASWB to provide practice protection only generally use the phrase, “no person shall engage in the practice of social work unless he is licensed . . . .” As of 1998, only five states and Puerto Rico have been identified by the ASWB as regulating social work through practice protection.

A few observations are relevant here. In a state like Connecticut, where only one level, the clinical social worker level, is regulated, a license is required of the social worker with the special training who deals with psychosocial dysfunctions. But a social worker who does case management, for example, but does not assess, diagnose, or treat mental or emotional disorders, can continue to perform social work activities and would not have to be licensed.

In Nevada, notice that the difference in the definitions of “social work” and “clinical social work” is the addition of the words “psychotherapeutic methods and techniques” and “the diagnosis and treatment of mental and emotional conditions” in the definition of clinical social work. Otherwise, the definitions are nearly the same.

Where the practice of clinical social work might overlap with other professions doing similar practices a state usually includes language to allow for this. For example, note Nebraska’s language allowing psychologists, marriage therapists, and others to do work “consistent with the scope of practice of their respective professions” and other language specifying social work practice shall not include personality testing, treating a disease by surgery, electroconvulsive therapy, and so on.

According to the ASWB, “a practice act establishes and empowers a board and sets forth criteria for authorization to practice a profession within a defined scope of practice.” It is the “most restrictive form of state regulation” because the licensee must first meet all the standards set by state law before being licensed to perform in the professional capacity.<sup>30</sup>

The Bureau relied on ASWB’s designation of a state as a practice protection state, because the language in some of the states described in this part appear equivocal. Note Nebraska’s: “It is unlawful for any person, other than a person licensed, to use the title of a licensee, unless he is so licensed. And no person may represent himself as a social worker unless he is certified to practice social work . . . . And Nevada’s: It is unlawful for any person to represent himself as a social worker unless he is licensed. These states, Nebraska, Nevada, and

---

<sup>29</sup> Section 20-195m, Connecticut General Statutes, (Definitions).

<sup>30</sup> American Association of State Social Work Boards, Social Work Laws and Board Regulations, Culpeper, VA, 1998, p. 5.

Oklahoma, could be viewed as a title protection or perhaps both title and practice protection states. Neither provides as unequivocal a prohibition as Massachusetts' "No person shall engage in the practice of social work unless he is licensed." (Emphasis added.)

The next section describes the statutory provisions of six of the thirty-five states (plus the District of Columbia and the Virgin Islands), which provide for both title and practice protection for social workers.

### States with Both Practice and Title Protection

There are many more states with both practice and title protection than either practice only or title only protection. For the purpose of this study, the Bureau examined the statutory language of the following six randomly selected states: Illinois, Louisiana, Michigan, Minnesota, New Mexico, and Wyoming. One would expect to find that these states specify that a social worker has both title and practice protection if licensed.

**Illinois.** There are two licensing levels in Illinois, the "Licensed Clinical Social Worker"(LCSW) and the "Licensed Social Worker" (LSW).

In Illinois, no person shall without a license as a social worker hold himself or herself out to the public as a social worker or use the title "social worker" or "licensed social worker"; or offer to render social work services if the words "social work" or "licensed social worker" are used to describe the person or services.<sup>31</sup>

Illinois' statutes define "Clinical social work practice", "Independent practice of clinical social work", and "Licensed social worker" to delineate each level's scope of practice.<sup>32</sup>

**Louisiana.** Louisiana has three levels of social workers, "Licensed Clinical Social Worker" (LCSW), "Graduate Social Worker" (GSW), and "Registered Social Worker" (RSW). In Louisiana, practice and title protection are provided for as follows: An individual who

---

<sup>31</sup> Illinois Compiled Statutes, 20/10 (License restrictions and limitations).

<sup>32</sup> Illinois Compiled Statutes, 20/3 (Definitions). "Clinical social work practice" means the providing of mental health services for the evaluation, treatment, and prevention of mental and emotional disorders in individuals, families and groups based on knowledge and theory of psychosocial development, behavioral psychopathology, unconscious motivation, interpersonal relationships and environmental stress. "Independent practice of clinical social work" means application of clinical social work knowledge and skills by a licensed clinical social worker who regulates and is responsible for her or his own practice or treatment procedures.

"Licensed social worker" means a person who holds a license authorizing the practice of social work, which includes social services, to individuals, groups or communities in any one or more of the fields of social casework, social group work, community organization for social work education. Social casework and social group work may also include clinical social work, as long as it is not conducted in an independent practice. (Emphasis added.)

possesses a current, valid license shall have the right to practice and use the title licensed clinical social worker and the abbreviation LCSW, graduate social worker and the abbreviation GSW, and registered social worker and the abbreviation RSW. Louisiana also allows a temporary (up to three years) provisional certificate to a MSW graduate.<sup>33</sup>

Louisiana also defines “Clinical social work” and “Social work practice”.<sup>34</sup>

**Michigan.** Michigan uses the term “registered” instead of “licensed” in its regulation of social workers. While deemed by ASWB as a state with both practice and title protection, its statutory language does not use the word “practice”. It provides that an individual shall not represent that he or she is a certified social worker or use a title including “certified social worker”, “social work”, “social work technician”, or an abbreviation of those terms or the letters “CSW”, “SW”, or “SWT” or similar words which would indicate that he or she is registered.<sup>35</sup>

---

<sup>33</sup> West’s Louisiana Statutes Annotated, 2703 (Definitions).

- A. An individual who possesses a current, valid license issued by the board pursuant to this Chapter shall have the right to practice and use the title licensed clinical social worker and the abbreviation LCSW.
- B. An individual who possesses a current, valid license issued by the board pursuant to this Chapter shall have the right to practice and use the title graduate social worker and the abbreviation GSW.
- C. An individual who possesses a current, valid provisional certificate issued by the board pursuant to this Chapter shall have the right to practice and use the title graduate social worker-provisional and the abbreviation GSW--provisional.
- D. An individual who possesses a current, valid registration issued by the board pursuant to this Chapter shall have the right to practice and use the title registered social worker and the abbreviation RSW. (Emphasis added.)

<sup>34</sup> West’s Louisiana Statutes Annotated, 2715 (Rights and privileges). “Clinical social work practice” means a specialty within the practice of master’s social work.

“Social work practice” means (a) the professional application of social work values, theories, and interventions to one or more of the following: enhancing the development, problem-solving, and coping capacities of people; promoting the effective and humane operations of systems that provide resources and services to people; linking people with systems that provide them with resources, services, and opportunities; developing and improving social policy; and engaging in research related to the professional activities. The practice of social work shall include but not be limited to clinical social work, planning and community organization, policy and administration, research, and social work education. Social work practice is guided by knowledge of human behavior, biopsychosocial development, social systems and resources, economic and cultural institutions, and their interactions.

(b) A social worker is not authorized to administer or interpret psychological tests. . . or practice psychology, or medicine. but may, based on scope of practice, administer, use, or interpret tests of language, education and achievement. . . as well as tests of abilities, interests and aptitudes. (Emphasis added.)

<sup>35</sup> Section 333.18503, Michigan Compiled Laws (Representation or use of title; prohibition). Section 18503. An individual shall not represent that he or she is a certified social worker, social worker, or social work technician or use a title including “certified social worker”, “social work”, “social work technician”, or an abbreviation of those terms or the letters “CSW”, “SW.”, or “SWT”. or similar words which would indicate that he or she is registered under this article unless the individual is registered in that capacity under this article. Public Health Code Act 368 of 1978. (Emphasis added.)

“Social work” means the professional application of social work values, principles, and techniques to counseling or to helping an individual, family, group, or community do one or more of the following: (i) enhance or restore the capacity for social functions (ii) provide, obtain, or improve tangible social and health services.<sup>36</sup>

**Minnesota.** Minnesota regulates four levels of social workers: “Licensed Independent Clinical Social Worker” (LICSW), “Licensed Independent Social Worker” (LISW), “Licensed Graduate Social Worker” (LGSW), and “Licensed Social Worker” (LSW). Minnesota law provides as follows: “No individual shall engage in social work practice unless that individual holds a license . . . and no individual shall be presented to the public by any title incorporating the words “social work” or “social worker” . . .<sup>37</sup> Notice that Minnesota’s prohibition separately addresses practice and use of title. This kind of clarity is often not found in other states which regulate both the use of title and the practice of social work.

Minnesota defines social work practice in general, then defines social work practice for all levels of licensure, and finally for persons licensed at the LICSW level and others working under the supervision of a LICSW, social work practice includes the diagnosis and treatment of mental and emotional disorders.<sup>38</sup>

**New Mexico.** New Mexico provides title and practice protection for three levels of social workers: “Licensed Independent Social Worker” (LISW), Licensed Master Social Worker” (LMSW), and Licensed Baccalaureate Social Worker (LBSW).

---

<sup>36</sup> Section 333.18501, Michigan Compiled Laws (Definitions).

<sup>37</sup> Section 148B.27, Minnesota Statutes (Prohibition against unlicensed practice or use of titles; penalty).

Subdivision 1. Practice. No individual shall engage in social work practice unless that individual holds a valid temporary permit or a license as a licensed social worker, licensed graduate social worker, licensed independent social worker, or licensed independent clinical social worker.

Subdivision 2. Use of titles. No individual shall be presented to the public by any title incorporating the words “social work” or “social worker” unless that individual holds a valid temporary permit for a license issued under sections 148B.18 to 148B.289. City, county, and state agency social workers who are not licensed under sections 148B.18 to 148B.289 may use only the title city agency social worker or county agency social worker or state agency social worker. (Emphasis added.)

<sup>38</sup> Section 148B.11, Minnesota Statutes (Social work practice).

(a) Social work practice is the application of social work theory, knowledge, methods, and ethics to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities, with particular attention to the person-in-environment configuration.

(b) For all levels of licensure, social work practice includes assessment, treatment planning and evaluation, case management, information and referral, counseling, advocacy, teaching, research, supervision, consultation, community organization, and the development, implementation, and administration of policies, programs, and activities.

(c) For persons licensed at the licensed independent clinical social worker level, and for persons licensed at either the licensed graduate social worker or the licensed independent social worker level who practice social work under the supervision of a licensed independent clinical social worker, social work practice includes the diagnosis and treatment of mental and emotional disorders in individuals, families, and groups. The treatment of mental and emotional disorders includes the provision of individual, marital, and group psychotherapy. (Emphasis added.)

New Mexico provides that no person shall:

- (1) practice as an independent social worker or
- (2) use the title or represent himself as a licensed social worker.<sup>39</sup>

New Mexico's scope of practice reads as follows: a person is practicing social work if he advertises, offers himself to practice, is employed in a position described as social work or holds out to the public or represents in any manner that he is licensed to practice social work in this state. Social work practice means a professional service . . . . Social work practice focuses on both direct and indirect services . . . . Areas of specialization that address these include but are not limited to the following; (and goes on to describe five areas of specialized social work practice: clinical, research, community organization, administration, and university faculty).<sup>40</sup>

**Wyoming.** Wyoming regulates two levels "Licensed Certified Social Worker"(LCSW), and "Certified Social Worker" (CSW) under its title and practice protection law for social workers.

Wyoming uses the following language: (a) No person shall:

---

<sup>39</sup> Section 61-31-4, New Mexico Statutes Annotated (License required). A. Effective January 1, 1990, unless licensed to practice social work under the Social Work Practice Act (61-31-1 to 61-31-24 NMSA 1978) no person shall:

- (1) Practice as an independent social worker as defined in the Social Work Practice Act; or
- (2) Use the title or represent himself as a licensed social worker or use any other title, abbreviation, letters, figures, signs or devices that indicate the person is licensed as a social worker. (Emphasis added.)

<sup>40</sup> Section 61-31-6, New Mexico Statutes Annotated (Scope of practice).

- A. For the purposes of the Social Work Practice Act, a person is practicing social work if he advertises, offers himself to practice, is employed in a position described as social work or holds out to the public or represents in any manner that he is licensed to practice social work in this state.
- B. Social work practice means a professional service and emphasizes the use of specialized knowledge of social resources, social systems, and human capabilities to effect change in human behavior, emotional responses and social conditions. Services may be rendered through direct assistance to individuals, couples, families, groups, and community organizations. Social work practice focuses on both direct and indirect services to facilitate change on the intrapersonal, interpersonal, and systemic levels. Areas of specialization that address these include but are not limited to the following; (and goes on to describe five areas of clinical social work practice, social work research practice, social work community organization, planning, and development practice, social work administration, and university social work faculty. (Edited for space considerations.) (Emphasis added.)

(i) Engage in the practice of professional counseling, clinical social work .) unless licensed or certified to so practice or to present himself to the public as being licensed.<sup>41</sup>

Wyoming also defines the “practice of clinical social work”.<sup>42</sup>

New Mexico’s and Minnesota’s statutes clearly separates its prohibition against unlicensed *practice* or unlicensed use of *title* by subdividing each prohibition. Minnesota however allows the use of title protection only while the social worker holds a “valid temporary permit, or if a person is not licensed but is working for a governmental agency. This individual is allowed to use the title of city/county/or state/agency social worker”.

New Mexico protects the practice of independent social workers in the five areas of specialization of CSW Practice.

Other states like Illinois do not specifically use the word “practice”. These statutes use the phrases “hold himself out to the public as . . .” or “represent himself or herself as . . . .” For example Illinois uses the phrase “No person shall hold himself out to the public as a social worker, or offer to render to the public social work services”.

### **Effect of Having Both Title Protection and Practice Protection**

The Bureau relied on a determination by the Association of Social Work Boards (ASWB) to identify the states with both practice and title protection because it is not always clear simply from the statutory language whether both title and practice protection are the regulatory goals of the particular state. Moreover, the Bureau was not able to ascertain from its interviews why many states have chosen the dual protection of both title and practice protection. Alaska, which provided the clearest reasoning for both title and practice protection indicated that “licensure establishes professional standards, provides consumer protection, and gives social work recognition as a unique and specialized profession, while title protection will end the generic use of the term, social worker.”<sup>43</sup>

---

<sup>41</sup> Section 33-38-110, Wyoming Statutes (Prohibited acts; penalties).

<sup>42</sup> Section 33-38-102, Wyoming Statutes (Definitions) “practice of clinical social work” means applying social work theory and methods to the diagnosis, treatment and prevention of psychosocial dysfunction, disability or impairment, including emotional and mental disorders. It is based on knowledge of one or more theories of human development within a psychosocial context. The perspective of person-in-situation is central to professional social work practice. Professional clinical social work includes but is not limited to interventions directed to interpersonal interactions, intrapsychic dynamics, and life support and management issues. Professional clinical social work services consist of assessment, diagnosis, treatment, including psychotherapy and counseling, client-centered advocacy, consultation and evaluation with individuals, families, groups, communities and organizations. (Emphasis added.)

<sup>43</sup> Alaska Licensing Handout, Division of Occupational Licensing, 2000.

In a state that regulates both title and practice a person who does not meet regulatory licensing standards would not be able to use the title of social worker (or its variant label forms like certified social worker) nor perform (i.e., practice) any social work services unless that person is licensed. If a person who is not licensed cannot legally perform any social work task, why would they attempt to call themselves a social worker and expect not to be sanctioned? Interestingly, the Bureau was told that for Alaska, title protection affects the Licensed Baccalaureate Social Worker (LBSW) and the Licensed Master Social Worker (LMSW) levels while practice protection affects only the Licensed Clinical Social Worker (LCSW) level.<sup>44</sup>

For purposes of this study, states with both title and practice protection might be more practicably combined with states that have chosen the regulatory form of licensure, practice protection only. The regulatory effect of restricting entry into the social work profession unless a person is licensed remains basically the same. Under this combination there are forty (five plus thirty-five) states requiring licensure as a regulatory form for its social workers.

The next part of this chapter discusses whether, given the kinds of regulation available to a state and the different ways the states have chosen to regulate their social workers, Hawaii should abandon its current regulatory scheme for licensure.

## **Hawaii's Choice**

### **Discussion**

This chapter first examined the significance of each kind of professional regulation (registration, certification, licensure) available to government. That section was followed by an examination of the statutory language chosen by states in the title protection and practice protection categories. This final section discusses the rationale for title and practice protection and what this means for Hawaii—is Hawaii's title protection law that certifies social workers instead of licensing them inappropriate in some way so as to justify a change to practice protection?

The overriding public policy concern for regulating a profession or vocation is protecting the public from some perceived risk of harm when practitioners perform their services for or upon the public. Despite the existence of a Model Social Work Practice Act that has selected practice protection instead of title protection, the variety of choices made by states indicate that each state has made its choice within the realm of politics and expediency. The choice between title protection and practice protection depends on the state's perception of what is the appropriate regulatory strategy for social workers in order to protect the public from harm. Given the variety of approaches to be found across states, there is obviously disagreement as to the degree of harm a consumer is probably exposed to from a social worker. Ultimately, the choice between title and practice protection deals with risk perception by a state's policy makers.

---

<sup>44</sup> Telephone interview with Colleen Patrick-Riley, Chairperson, Division of Family and Youth, Anchorage, Alaska, November 15, 2000.

In many states with only one level of certification or licensure, as a general rule it is the clinical social worker specialist who might be viewed with the potential for creating harm because the clinical social worker delves into the realm of mental illness diagnosis, assessment, and treatment. Incompetent practice could (at least as compared to other social workers) lead to emotional damage to the client, or physical harm to the client or others. Furthermore, a clinical social worker who works in private practice (independently, outside the aegis of an agency or organization) may be viewed as potentially more likely to cause harm because of the lack of supervision and reliance on professional judgment.

Title protection states (of which there are ten) seem to feel that the need (to protect) is sufficiently met when persons are not permitted to use the title if they have not met the prerequisites of the law but may nonetheless counsel, coordinate social services for the home bound, advise, etc. This may include the minister who counsels couples; school counselors who advise teenagers; social service workers who provide variety of help to the elderly; and so on. Title protection states include both one level and multiple-level social workers so a distinction cannot be drawn on the basis of levels of social workers in the title protection scheme. In fact, for purposes of analysis, the number of levels of social workers that a state certifies or licenses is best ignored in deciding whether a state should choose title protection or practice protection. As a title protection state Hawaii is definitely in the minority as to choice of regulatory form.

Practice protection states (of which there are forty<sup>45</sup>) probably surmise that the dangers of being exposed to social workers are sufficiently critical to require a person to be licensed as a social worker before being able to do any of the tasks identified as social worker tasks. Without putting an esoteric spin on the choice between title and practice protection, the decision comes down to “risk perception” which is an area of research that is beyond the scope of this study. However, the perception of risk from certified instead of licensed social workers will affect the policy decision reflected in the law.<sup>46</sup> In 1994, when the Legislature adopted the current law certifying social workers it may have made a reasoned assessment of how much protection the public needed from social workers. The Bureau believes that this perception of risk continues at the same level so that licensure in the form of practice protection is not necessary at this time.

Despite an extensive review of state statutes, interviews with professional social workers, and an examination of the literature dealing with regulation in general, the Bureau could find no conclusive evidence to justify licensing social workers. It is true that there are more states that require licensure than certification. The choice between one or another form of regulation for social workers may be the result of the influence of professional organizations like the National

---

<sup>45</sup> In this group of states, the Bureau would include the thirty-five states with both title and practice protection of social workers because these states, not only do not want anyone to call themselves a social worker unless licensed, these states specify that only licensed social workers may perform social worker type tasks.

<sup>46</sup> For a short discussion about recent developments in the study of risk perception the reader might enjoy Ruth Bennett, “Risky Business, the science of decision making grapples with sex, race, and power” in *Science News*, Volume 158, September 16, 2000.



Association of Social Workers and the Clinical Social Work Society.<sup>47</sup> Like occupational therapists, social workers too may be seeking licensure over certification as a matter of form and status, not in view of necessity based upon the facts.

In the Bureau's assessment of potential consumer harm, the need to protect consumers from a risk of harm that may be caused by social workers is sufficiently met by Hawaii's current law. Hawaii's law allows non-certified persons to perform social work type tasks as long as they do not use the title, "licensed" social worker. Hawaii's law requires the intermediate level examination administered by the NASW for someone who has been educated in social work techniques and principles in a graduate program leading to a master's in social work degree. This person may have no experience at the time of testing and certification, but this is the State's expectation of minimal competence for someone entering the social work profession. As will be seen in subsequent chapters this minimal level of competency has not revealed exposure of Hawaii's citizens to harm. Among other title protection states, New York is the most similar to Hawaii's, having a minimum educational requirement of a master's in social work. Other one level title protection states, Montana and New Hampshire, both certify only a clinical level for a master's or doctorate in social work with two years experience being the minimal level of competence. This means that anyone else with fewer than two years experience or who may be a new graduate of social work is essentially unregulated. However, that person may work at social work tasks but cannot call himself or herself a social worker.

In other one level states with practice protection, the single level that is regulated is the clinical level which requires a person with a master's or doctorate in social work to have experience (either two or three years of experience). Any other social worker (one with less experience or one who does not work in psychotherapeutic services) cannot perform clinical social work, but also is not regulated.

Proponents of licensing point out that title protection is not enough in terms of protecting the consumer from incompetence and not enough in terms of clarifying the nature of the social worker's credentials for the consumer. In the Auditor's view, however, "the potential harm from social workers apparently results not from lack of competency (in terms of qualifications, knowledge, and skills) but from unethical and unprofessional actions."<sup>48</sup>

If Hawaii's Legislature finds some distinction is preferred it may clarify the current linguistic confusion about certification and licensure by changing the word "license" to "certification" in Chapter 467E, Hawaii Revised Statutes to more accurately reflect the social worker's title. Some of the movement towards practice protection is the result of trying to clarify the public confusion caused by the liberal use of terms like "registered" and "certified".

---

<sup>47</sup> Indeed, "Recent empirical work in political economy suggests that political influence and funding of licensing initiatives by the professions are the most important factors influencing whether an occupation becomes regulated by the states." (Footnotes omitted.) Morris M. Kleiner. "Occupational Licensing" *Journal of Economic Perspectives*, v. 14, no. 4, Fall 2000, p. 199.

<sup>48</sup> Hawaii, Auditor, *Sunset Evaluation Report: Social Workers*. Report No. 00-02, Honolulu, January 2000, p. 13.

In a state like Washington, for example, that is currently seeking practice protection status, it has been reported by one publication that an increase in use of the term “certified” among various professions has caused confusion in the public’s mind about the qualifications of a professional who is labeled “certified social worker”.<sup>49</sup>

In Hawaii, the confusion if any, may be limited to the social work professionals—not the consumer, and is perhaps the result of labeling social workers as “licensed” when they are really certified.<sup>50</sup> If the intention of the Legislature in 1994 was to require licensure, the statutory language does not so provide. However, it is unlikely that Hawaii’s social workers would be happy to have a title such as “certified social worker” to replace “licensed social worker” even if that would be a more accurate description of their regulatory status.

The Legislature may also, merely, follow the majority of states instead of coming to grips with the distinction between the degree of protection consumers need from social workers. Because there are more states that require licensure rather than certification of social workers, the preference in the United States can be viewed as moving toward licensure.<sup>51</sup> Proponents of licensure over certification claim that licensure provides greater protection of the consumer by requiring specific experience and training. In Washington, proponents for social work licensure claim that licensure will provide a “consistent meaning of high quality and standards” and is better understood by the consumer to mean a person has met these standards in order to practice their profession.<sup>52</sup>

But as can be seen from the requirements for certification, certain kinds of education, experience, and training are also prerequisites for title protection. In fact, the same kind of educational degree and type of examination, (Basic, Intermediate, Clinical, or Advanced), can be a requirement for a state with title protection, as well as for a state with practice protection. The Basic examination is given to the person with a bachelor in social work; the Intermediate examination is given to the individual with an educational degree of a doctorate or master’s in social work with no experience; the Clinical and Advanced examination is given respectively to the person with experience in clinical or general administrative or managerial social work

---

<sup>49</sup> Laura W. Groshong, Chair, Government Relations for the States, Clinical Social Work Federation, Washington Sunrise Report, Seattle, Washington, August 18, 2000.

<sup>50</sup> Hawaii, too, has a number of “certified” vocations including: “certified mechanic” (Section 437B-1, Hawaii Revised Statutes); “certified pesticide applicator” (Section 149A-2, Hawaii Revised Statutes); “certified shorthand reporter” (Section 606-13.5, Hawaii Revised Statutes); “certified safety professional” (Section 396-3, Hawaii Revised Statutes); “certified substance abuse counselor”, (Section 286-251, Hawaii Revised Statutes), and “certified substance abuse staff” (Section 431M-1, Hawaii Revised Statutes).

<sup>51</sup> According to a recent article, "Occupational Licensing", author Morris M. Kleiner reported: "Occupational licensing is becoming an increasingly dominant factor in the regulation of services in the United States. the numbers of occupations that require licenses is growing. The number of workers who require licenses to work in their present occupation is increasing. . . . However, the amount of analysis of state and local regulation of occupations seems to be declining." *Journal of Economic Perspectives*, v. 14, no. 4, Fall 2000, p. 198.

<sup>52</sup> Groshong, p. 10.

experience. Thus, a choice of regulation through title protection as opposed to practice protection does not necessarily translate into distinguishing the minimum qualification requirements of social workers.

The Legislature, in its deliberation for choosing whether to replace certification with licensure, should remember the following advice from a recognized authority on occupational and professional licensing:<sup>53</sup>

Once a profession has achieved licensure status, it is illegal for non-licensed individuals, or individuals licensed in other professions, to engage in *any* of the activities set forth in the profession's "scope of practice" unless there is an overlap in the various professions' scopes of practice. For this reason, licensing laws are often referred to as "practice acts" because they define what aspects of practice are regulated. Each profession's scope of practice includes the specific activities that only licensees may perform, presumably because there is a significant risk of harm to the public if the activities were performed by someone lacking the requisite knowledge, skills or abilities acquired through defined training and experience. Because of the restrictions imposed by licensure, it should be used only as the remedy of last resort. (Emphasis added.)

In the Bureau's analysis of complaints against social workers and readings of authorities on state regulatory options, title protection as adopted by Chapter 467E, Hawaii Revised Statutes reasonably protects the public's health, safety, and welfare.

Closely related to the issue of title or practice protection, is the issue of how many levels of practice a state chooses to regulate. The terms, "levels" and "tiers", are used interchangeably in this report. The ASWB uses the phrase "levels of practice" while Senate Resolution No. 58, S.D. 1 used the term "tiers". Aspects of social work levels or tiers will be discussed in the next chapter.

---

<sup>53</sup> Schmitt, pp. 24-25.

## Chapter 3

### LEVELS OF PRACTICE

This chapter addresses the following issues as requested by Senate Resolution No. 58, S.D. 1:

- (3) The rationale of the majority of states to support multi-tiered licensing of social workers;
- (4) The impact on, and benefits to the public of multi-tiered licensing;
- (8) The levels of supervision, credentialing, education, training, experience, and expertise that are required in other states' licensing laws;

And seeks to answer the question: "Should Hawaii have more than one level of social worker licensure?"

#### Levels as a Function of Education and Other Factors

##### Introduction

A review of how states organize social workers into levels of practice reveals states with as few as one level of practice and some with as many as five levels of practice. At the time of the Bureau's review, during the summer of 2000, there were about nine states with one level; nine states with two levels; twenty-two states with three levels; nine states with four levels; and one state with five levels. See Table 3 (Comparison of Number of Tiers by State) at the end of this chapter.

To understand the structure of social worker levels of practice, this part explains social work education, experience, and examination, generally. A level of practice for social workers is a function of:

- (a) The level of education the individual has attained;
- (b) That person's years of experience in social work tasks; and
- (c) Which level of professional examination that person has successfully passed.

In addition to education, experience, and knowledge (examination), the level of practice can be identified by:

- (a) The social worker's specialty such as advanced practice or clinical social work; or
- (b) The social worker's work environment, that is whether the social worker is an employee in an organization like a hospital or social service agency, or is in private practice working without supervision.

The level at which a person is certified or licensed under social work licensing schemes is based on these factors and the state's own particular license requirements and available levels. If the state licenses only one level, the particular requirements for that level must be achieved. However, if that same social worker wishes to be licensed in another state that provides for two or more levels, that person must inquire what these different levels are and what each level requires for licensure before deciding for which level the practitioner might qualify and apply in that state. The concept of levels has been touched on in the earlier discussions of title and practice protection and the Model Social Work Practice Act, but this chapter will discuss more in detail some of the differences among states with multiple levels and examine the statutes of some of these states. Also, because Hawaii licenses only one level, a comparison with other one-level states may be enlightening.

### **Education Requirements**

The typical degree progression for social workers is the Baccalaureate in Social Work (BSW) (four years of college), a Master's in Social Work (MSW) (graduate level), and a Doctorate.

Like other professions, social work education is accredited by a nationally recognized accrediting group. For schools of social work this is the Council on Social Work Education (CSWE). At the graduate level accreditation is conducted by the regional accreditation organization. For the region occupied by Hawaii this is the Western Association of Schools and Colleges (WASC). In Hawaii, the University of Hawaii at Manoa has a School of Social Work<sup>1</sup> that graduates about twenty to twenty-five BSWs and seventy to ninety MSWs each school year. Other Hawaii schools which grant social work degrees include Brigham Young University, Hawaii with about twenty BSWs per academic year and Hawaii Pacific University with about fifteen to twenty BSWs per academic year.<sup>2</sup>

According to material received from the state Department of Human Resources Development (DHRD) that describes the social work series (which covers the seven classes of social workers hired by various state agencies), "the current trend in social work education is

---

<sup>1</sup> For more information, see <http://www2.hawaii.edu/sswork/welcome.html>.

<sup>2</sup> Hawaii Pacific University's program is seeking accreditation by the CSWE.

toward emphasizing a common core of social work knowledges (sic) and methods which are applicable in any setting and with any client group.”<sup>3</sup>

### **Experience Requirements**

Not every level of social worker certified or licensed to practice must have experience in social work duties. Although many social work students gain practical experience in some courses, experience is obtained after the completion of formal education, and is usually specified by a state’s regulatory provisions as “BSW plus N years” or “MSW plus N hours of experience”. Initially, persons with a Bachelor’s in Social Work (BSW) and even a Master’s in Social Work (MSW) may have no experience when hired for their first job. Hence, several states have a level for licensure that requires a BSW without experience or a MSW without experience. This class might be thought of as the entry-level job for most social workers.

### **Examination Requirements**

A state may regulate any number of levels and specify for each of the levels what the educational attainment must be, the number of years or hours of experience, and so on. In addition, for each level of licensure, an examination is usually required to test the knowledge level of social work applicants. Some states like Michigan may have no examination requirement. A state may simply accept the results of the examination of a professional organization like the Association of Social Work Boards (ASWB) or it might create its own examination. For example, California prepares and administers its own examination (written and oral) for two reasons, the high pass rate for the national examination and the lack of local input into that national examination.<sup>4</sup> One state, New Mexico, requires a cultural awareness examination.

The ASWB conducts exams for the different levels, which are described as Basic, Intermediate, Advanced, or Clinical. Typically, an applicant will apply and pay a fee to the ASWB in order to take the test. Some states require an applicant for a social worker license to have their credentials checked by the regulatory agency in a pre-approval process before applying with ASWB to take the licensing examination.

The ASWB began offering examinations in 1983. According to the ASWB:<sup>5</sup>

---

<sup>3</sup> Hawaii Department of Human Resources Development (formerly the Department of Personnel Services), Class Specification for the Social Work Series, Pt. 1, approved October 25, 1982, p. 1.

<sup>4</sup> Corinna Vallianatos, “Licensure’s Hurdles Hinder Easy Moves” NASW News. July 2000, p. 3, quoting California State Board of Behavioral Sciences Executive Officer, Sherri Mehl.

<sup>5</sup> Association of Social Work Boards, The Exam “Blue Book”, 1997, pp. 3-16.

. . . these examinations are based on a nationwide job analysis in which social workers are surveyed and asked about a wide spectrum of tasks. The examinations are intended to determine minimum competence to practice safely. The tests, whether at the Basic, Intermediate, Advanced, or Clinical levels are the same in every state in terms of content, knowledge, skills, and abilities that are tested and in the level of competence that it takes to pass. [E]xaminations are the main product and responsibility of the association. Without them it would be difficult to determine whether an individual possessed the basic competency to practice. The examination is a national standard, marking a threshold below which practice should not be allowed to fall . . . . The entire examination program rests on the association's job analyses. A survey of social work practice in a wide variety of settings across the country, the job analysis and its results shape not only the actual questions that appear on the examinations, but the very need for a particular examination at a particular level of practice. The job analysis survey lists a series of tasks common to social work, and then asks participants to rate how often they perform each task, how critical knowledge of the task is regardless of how often its is performed, and whether the ability to perform this task is a necessary entry-level skill at their particular level of practice.

In Appendix B of this report is a list of the content area and percentage of the examination taken up by different aspects of social work practices for each kind of examination level. As summarized below in chart form, these topics vary slightly in terms of percentage of the examination. Some of the content topics are common across all the examinations (such as professional values and ethics), but are completely absent in another examination level. For example, in the clinical social work examination, Diagnosis and assessment, (12%); Psychotherapy and clinical practice, (19%); the Therapeutic relationship, (8%); Clinical Supervision, consultation, and staff development, (3%); and Clinical practice, and management in the organizational setting, (5%) result in nearly half of the examination being devoted to clinical aspects of social work. Very little of these topics can be found in the Intermediate examination. These differences reflect competency expectations in subject area emphasis, topical knowledge, and experience.

**Table 1**

**ASWB EXAMINATION LEVELS AND CONTENT AREAS**

<b>Content Area</b>	<b>Basic</b>	<b>Intermediate</b>	<b>Advanced</b>	<b>Clinical</b>
Human Development & Behavior	15%	15%	10%	17%
Effects of Diversity	7%			
Effects of Culture, Race, Ethnicity, Sexual Orientation, Et. Al.			5%	
Issues of Diversity		4%		5%
Assessment in Social Work Practice	23%			

LEVELS OF PRACTICE

<b>Content Area</b>	<b>Basic</b>	<b>Intermediate</b>	<b>Advanced</b>	<b>Clinical</b>
Assessment, Diagnosis, & Treatment Planning			23%	
Diagnosis & Assessment				12%
Social Work Practice with Individuals, Couples, Et. Al.	23%			
Psychotherapy & Clinical Practice				19%
Interpersonal Communication	7%			
Assessment, Diagnosis, & Treatment Planning		15%		
Direct Practice		21%	17%	
Communication		10%	7%	9%
The Therapeutic Relationship				8%
Relationship Issues			7%	
Professional Social Worker/Client Relationship	4%	11%		
Professional Values & Ethics	7%	10%	8%	11%
Supervision in Social Work	3%		3%	
Supervision & Administration		5%		
Clinical Supervision, Consultation, Staff Development				3%
Practice Evaluation, & Utilization of Research	3%	3%	5%	3%
Service Delivery	7%	5%	5%	9%
Clinical Practice & Management in the Organizational Setting				5%
Social Work Interface with Other Systems			7%	
Social Work Administration	3%		5%	

Source: Association of Social Work Boards, The Exam "Blue Book", 1997, pp. 9-16.



Hawaii's Licensed Social Worker (LSW) requires having a minimum educational level of a MSW and passing an Intermediate level exam.

In Hawaii, for example, only a person with a MSW or doctorate can be "licensed" (although in Hawaii this actually means "allowed to use the title of social worker").<sup>6</sup> Persons with a Baccalaureate in Social Work (BSW) might perform some of the duties of social worker but cannot call themselves "Licensed Social Workers". No provision exists for licensing a person having only a BSW so that a person with only a BSW cannot even apply for licensure.

A similar situation can be found in New York, which has only one level of licensure, Certified Social Worker. In New York's Office of the Professions' "Question and Answer" section of its webpage, [www.op.nysed.gov/scw.htm](http://www.op.nysed.gov/scw.htm), the question raised was: "Which licensing examination should an applicant take: "Intermediate", "Advanced", or "Clinical"?"

The answer was: "New York State requires the "Intermediate" examination but accepts either the "Advanced" or the "Clinical" examinations. Since the Advanced and Clinical exams are based on a minimum of two years practice experience (the former based on "generalist" practice, the latter on "clinical" practice"), they may exceed the competency of recent MSW graduates. The "Intermediate" exam is based on generalist practice and reflects the knowledge expected of recent MSW graduates . . . . The advantage of taking a higher level exam, is in the event such person seeks a higher level license in another state, she or he would not have to pass another exam at that level."<sup>7</sup>

New York and Hawaii are similar in several respects:

- (1) There is one level of licensure;
- (2) The minimum educational requirement is the master's degree in social work;
- (3) The minimum exam level is the ASWB Intermediate exam for both Hawaii and New York, but New York will accept the higher exam levels while the issue of accepting a higher exam level in Hawaii has not been raised; and
- (4) Both states provide for title protection, not practice protection.

---

<sup>6</sup> Section 467E-5, Hawaii Revised Statutes.

<sup>7</sup> New York, Office of the Professions, Homepage, Social Work, Frequently Asked Questions. [www.op.nysed.gov/csw.htm](http://www.op.nysed.gov/csw.htm).

## Education Combined With Experience

For some states with multiple levels, experience can be substituted for a lack of a BSW for licensing as a social worker usually at the entry level. There are a few states that allow licensing for other than a social work degree, if experience of a relevant nature can be proffered. Maine allows a person with a Bachelor of Arts (BA) or Bachelor of Science (BS) degree plus 96 hours of consultation concurrent with 3200 hours of social work employment experience occurring within the past two to four years to apply for a Licensed Social Worker (LSW) license.<sup>8</sup> Utah allows the license of Social Service Worker (SSW) to a person with a BA in any field plus one year of supervised experience.<sup>9</sup>

In only a few states, can experience serve as a substitute for anything less than a BSW degree. In these states, experience added to an Associate degree (usually a two-year college program) or no college degree can lead to initial licensure. For example, Ohio allows a person with an Associate of Arts (AA) degree to seek licensure as a social work assistant (SWA).<sup>10</sup>

## Supervision

Supervision (and supervisor qualification) is a requirement specified for obtaining relevant social work experience—usually in relation to obtaining an advanced or clinical level category. Thus, if a state licenses a clinical level, for example, experience of a certain number of hours or years are required before that social worker can take the ASWB Clinical examination. Supervisor qualification refers to the qualification of the person supervising. Usually this person must be licensed at the same level or higher than that for which the person being supervised is seeking to become licensed. Another aspect of supervision is the type of supervision (individual or group) and how often that supervision is actually provided (hours per month, or week, or in ratio form such as “one hour of supervision for every 15 hours of practice”).

Provision for a supervisory level is available in the Model Act. Recall from Chapter 2 that the Model Act proposed three levels: bachelor social worker, master social worker, and clinical social worker. This means an individual providing supervision to a bachelor in social work level of certification or licensure must also be at least a Bachelor in Social Work, or a Master in Social Work, or a Clinical Social Worker. An individual providing supervision to a Master in Social Work level would have to be at least a Master in Social Work or a Clinical Social Worker, with the additional requirement that the supervisor shall have attained the independent status of such licensure designation. According to the Model Act “‘independent’ is not private practice, but [means] unsupervised practice of social work.” The Model Act specifies

---

<sup>8</sup> Maine, Rules for Department of Professions and Financial Regulation 02:416. Chapter 3, sec. 1.B.1 (LSW Licensure Eligibility).

<sup>9</sup> Section 58-60-205, Utah Code (Qualifications for licensure as a clinical or certified social worker and social service worker.)

<sup>10</sup> Section 4757.29, Ohio Revised Code.

the areas of supervisory responsibility (skills, competence, ethics) and accountability (client, agency, legal requirements, professional ethics, and professional responsibility). In the Model Act, a board of social workers reserves the right to audit supervisory plans.<sup>11</sup>

### Variations on a Theme

From this point on, it is helpful to remember that while designations for practice levels often reflect and imitate the minimum educational degree such as Bachelor in Social Work degree (BSW) or the master in social work degree (MSW), “level” refers to the practice status, not the educational degree. Some states add the initial “L” to differentiate the degree from the license level, so a LBSW or LMSW means, respectively, a licensed bachelor social worker or licensed master social worker.

After the entry-level license for a person with a BSW or MSW degree with no experience, the designations for license level labels can get more complicated.

In some states (and Hawaii is one of them), the MSW is the minimum educational degree needed for a license. In general, a person with an MSW with experience is often considered at a more advanced level than an MSW with no experience. Some states ask for experience in terms of hours instead of years, but the effect is basically the same: when experience can be added to the MSW degree, a license might be available at a level higher than the usual entry level. Thus, for example, in South Carolina with its three levels of social work licensure, the first level is for the person with a BSW degree and the license granted is the LBSW (Licensed Baccalaureate Social Worker). The person with a MSW degree (or a doctoral degree in social work) but no experience can be licensed at the LMSW or Licensed Master Social Worker level. In this example, both the LBSW and the LMSW have no experience. The difference in license level is due to the graduate level education attained by the LMSW. South Carolina’s third level is a LISW (Licensed Independent Social Worker), if the person with a MSW (or doctorate) has had two years of experience. An LISW can work outside an agency setting (i.e., independently). Note that “independent” in South Carolina’s LISW level means “private practice” which differs from the Model Act’s meaning of “independent” to mean “unsupervised practice”. Unsupervised practice can occur in an agency setting. Private practice usually does not connote relationship as an employee in an agency. This is another example of confusing terminology.

A review of Table 2 (Social Work Levels of Practice) shows how experience links with education from one level to another in different states. Experience is necessary for the levels that are usually designated as “advanced practice”, “private practice”, “clinical social work”, or “independent social worker”.

According to the ASWB guide to social work laws, “Experience of at least two years, or 3,000 hours of supervised, post-graduate work experience is required for both the Advanced and Clinical categories of regulation. Almost all states that offer these licensure categories require

---

<sup>11</sup> Model Social Work Practice Act Article III, Section 306, (Independent Practice).

the work experience to be obtained in an agency or organizational setting where there is accountability for practice. Supervision of private practice is not accepted.”<sup>12</sup>

Beyond the entry level, the more common terms to be found in states with multiple levels of licensure are “private practice” or “independent practice”. The Model Act defines “independent practice” as the practice of social work outside an organized setting in which the social worker assumes responsibility and accountability for services provided. A person with a Master in Social Work or a Baccalaureate in Social Work may engage in Independent Practice after two years of full-time supervised practice. Under the Model Act, a Baccalaureate in Social Work may also practice independently after obtaining 3000 hours of experience over two years within a maximum of four years. This descriptive title of independent practice “should not be construed as private practice, in which Clinical Social Workers accept fees for service from clients or third party payers on the client’s behalf.”<sup>13</sup> According to the Model Act, independent practice is permitted for each practice category, “. . . but the requirements for independent status vary, as does the acceptable range of activities that may be undertaken in each category.”<sup>14</sup>

By the provision of the Model Act, a social worker in “independent practice” assumes responsibility and accountability for services provided, after completion of all applicable supervision requirements.

The states do not use the terms “private practice” (Clinical Social Workers accepting fees for service) and “independent practice” (working outside an organizational setting) the same way that the Model Act does. For example, “private practice” according to Maine’s statute means practicing social work on a self-employed basis.<sup>15</sup> In Massachusetts, “independent” as used in “licensed independent clinical social worker” is defined as an individual who is licensed by the board to practice independent clinical social work and who has had three years of full-time experience in the field of clinical social work, or the equivalent in part-time experience, at least two of which are subsequent to receiving the master’s degree in social work; and has passed a specialty examination in clinical social work.<sup>16</sup> One cannot assume that “private practice” in Maine means the same as “licensed independent clinical social worker” in Massachusetts, simply from a reading of the statute.

---

<sup>12</sup>American Association of State Social Work Boards, Social Work Laws and Board Regulations, Culpeper, VA, 1998, p. 21.

<sup>13</sup> Section 306, Model Act, Comments.

<sup>14</sup> Section 104, Model Act, Comments.

<sup>15</sup> Section 7001-A, Maine Revised Statutes (Definitions).

<sup>16</sup> Chapter 112, Section 131, Massachusetts General Laws.

In Alabama:<sup>17</sup>

No person may engage in the private independent practice of social work unless he is licensed as a Licensed Certified Social Worker (LISW) with a doctorate or master's social work degree and has had two years' full-time or three years' part-time postgraduate experience under appropriate supervision in the specified social work method or four years' full-time or five years' part-time post graduate experience and has passed an examination . . . .

Different still, from independent or private practice, is the term "advanced practice". Recall that NASW explained the differences in their examination for advanced (social worker) and clinical (social worker) by saying that the Advanced examination has greater emphasis on management skills while the Clinical examination has an emphasis on the provision of direct mental health services.

"Advanced practice" is not a term as commonly found among the states with multiple levels as the terms "independent" or "private practice". Wisconsin which has four levels (title protection only) offers a certification of "advanced practice social worker" for a person who has at least two years of full-time supervised social work after receiving the master's or doctorate degree.<sup>18</sup> Furthermore, in Wisconsin, a certified advanced practice social worker may not engage in psychotherapeutic social work unless that person has completed 3,000 hours of supervised clinical practice after receiving a master's degree, consisting of a minimum of one hour per week of face-to-face supervision during the 3,000 hour period by a person qualified by being listed in the National Association of Social Workers (NASW) register of Clinical Social Workers.<sup>19</sup>

Texas, with five levels, uses a title, Advanced Clinical Practitioner (APSW) and Advanced Practice, which are specialties of the Licensed Master Social Worker (LMSW) level (for the social worker with a master's or doctorate in social work). Other levels in Texas are the licensed social worker (LSW) for the person with a baccalaureate in social work and the Social Work Associate (SWA) for the person with a baccalaureate in the behavioral or social sciences or related field. Identified as a state with five levels, Texas really has three basic levels, SWA, LSW, and LMSW and two specialties in the LMSW level.<sup>20</sup>

Although few states use the actual phrase "advanced practice", many states that require the Advanced ASWB examination for a license level have been labeled as regulating a level that is not independent or private practice, hence, according to one source, an "advanced practice social worker" is one who has had two years post-graduate experience who uses "independent

---

<sup>17</sup> Section 34-30-3, Code of Alabama (Private independent practice of social work).

<sup>18</sup> Section 457.03 (2), Wisconsin Statutes (Duties of examining board and sections).

<sup>19</sup> Chapter SFC7.01, Wisconsin Administrative Code (Psychotherapeutic social work).

<sup>20</sup> Chapter 505, Texas Occupations Code (Social Workers).

judgment” in their practice, but is not working independently.<sup>21</sup> By this definition, there are fifteen states that provide for the Advanced Practice Social Worker level. (See Table 4-Comparison of Tiers Used by State, p. 29). Here is another example where a label alone may not adequately describe a level or tier, but requires a closer reading of a particular state’s definition of scope of practice, other terms, and eligibility requirements.

From the above discussion, it is clear that “independent”, “private”, and “advanced” practice can have slightly different meanings in different states and an examination of the definition in the state statute is critical. “Independent” can mean working without supervision, but can also mean working outside an agency setting. However, “private practice” also implies working without supervision and outside an agency setting. Furthermore, an “advanced practice” social worker has been described as a social worker who uses “independent” judgment.

The next section of this chapter discusses the specialty of clinical social work.

### **The Clinical Social Worker Level**

A level of licensure often found in social work is the clinical level, where the social worker serves as a psychotherapist. Clinical social work is referred to “as a practice specialty of the social work profession.” For example, Louisiana’s statutes describes “clinical social work practice” to mean a specialty within the practice of master’s social work.<sup>22</sup> The aims of the Clinical Social Worker are to (1) diagnose and treat biopsychosocial disability and impairment including mental and emotional disorders and development disabilities; (2) achieve optimal prevention of biopsychosocial dysfunction, and (3) support and enhance biopsychosocial strengths and functioning. Clinical social work practice applies specific knowledge, theories and methods to assessment and diagnosis, treatment planning, intervention, and outcome evaluation.<sup>23</sup>

It is not necessary to have a doctorate to be licensed as a Clinical Social Worker (CSW), although some CSWs may have a doctorate degree in social work. Often, a person with a MSW degree with specific experience in clinical services may qualify as a CSW. A Clinical Social Worker may also seek professional certification on a voluntary basis by taking an examination administered by the National Association of Social Workers (NASW) after meeting certain experience requirements. These certificates come in two types, the first is the Qualified Clinical Social Worker (QCSW) and the second is the Diplomate in Clinical Social Work (DCSW). The QCSW requires a minimum of two years of postmaster’s supervised experience in clinical social work and no specific competence examination. The second is the NASW’s DCSW, which

---

<sup>21</sup> Material prepared by Laura Groshong, Chair, Government Relations for the States, Clinical Social Work Federation, Licensure “Tier” System, November 1999, (Definitions).

<sup>22</sup> Section 2703, Louisiana Statutes Annotated (Definitions).

<sup>23</sup> American Board of Examiners handout received from Phyllis Levy, Legislative Chair, Clinical Social Work Society of Hawaii.

requires five years clinical social work practice and passing a “cognitive advanced examination” and a clinical assessment examination. Both the QCSW and DCSW member can choose to be listed in NASW’s Register of Clinical Social Workers which is used to identify QCSWs and DCSWs, but “. . . neither the procedures nor the review panel process in any way examines, determines, or establishes the competence of any clinical social worker; [because] . . . the listings represent the certified statements of applicants.”<sup>24</sup>

Clinical Social Workers may also seek the credential of Board Certified Diplomate in Clinical Social Work (BCD) from the American Board of Examiners (ABE) in Clinical Social Work, “an independent board that sets and safeguards advanced standards for the profession of clinical social work.” The BCD’s requirements include five years and 7,500 hours of direct clinical practice, a master’s degree in social work with specified clinical course content, and a license from the jurisdiction in which the clinician practices. The ABE publishes a Diplomate Directory about Clinical Social Workers who provide mental-emotional health care. According to material issued by its president Richard A. Reif, “the Directory lists information about 13,000 BCE practitioners who are highly qualified to render services addressing biopsychosocial disorders, including assessment, diagnosis, treatment, and client-centered consultation and supervision.”<sup>25</sup>

In general, the following definition for Clinical Social Worker from the Clinical Social Work Federation is useful, but the exact scope of practice for the clinical level must be found in a state’s particular statute.

**Clinical Social Work** means the application by persons trained in social work, of established principles of psycho-social development, behavior, psychopathology, unconscious motivation, interpersonal relationships and environmental stress to the evaluation, assessment, diagnosis and treatment of bio-psycho-social dysfunction, disability and impairment, including mental, emotional behavior, developmental, and addictive disorders, of individuals, couples, families, or groups. Clinical social work includes, but is not limited to: counseling, psychotherapy, behavior modification, and mental health.

### **Experience and the Clinical Social Worker**

Education, experience, supervision, and often, independent or private practice issues all come together for the level described as clinical social worker. For example, in Louisiana with three levels of licensure, a Clinical Social Worker must (1) be of good moral character; (2) have a master’s degree in social work; (3) have completed at least thirty-six months of full-time postgraduate social work practice and twenty-four accumulated months of postgraduate social work experience in a setting practicing social work under the supervision of a board approved clinical supervisor; and (4) passed an examination. The Licensed Clinical Social Worker may

---

<sup>24</sup> From NASW Register of Clinical Social Workers, Ninth Edition 1999, p. vi.

<sup>25</sup> 1997 ABE Diplomate Directory, Boston, American Board of Examiners in Clinical Social Work, 1997, Introduction page.

independently engage in advanced social work practice based on the application of social work theory.”<sup>26</sup>

Another example of experience needed for a Clinical Social Worker can be found in Florida’s statutes which define “clinical social work experience” as a period during which the applicant provides clinical social work services, including assessment, diagnosis, treatment, and evaluation of clients; provided that at least 50 percent of the hours worked consist of providing psychotherapy and counseling services directly to clients.”<sup>27</sup>

Wyoming’s two levels are categories within the clinical social worker level. There is no generalist category. The first level in Wyoming is a Certified Social Worker, a person who has received a Baccalaureate in Social Work degree, passed the Basic ASWB examination, and has a designated clinical supervisor. The second level is the Licensed Clinical Social Worker. This state has a “provisional” master of social work category for the person with a MSW degree who is working under a clinical supervisor to earn 3,000 hours of clinical experience before taking a Clinical Social Worker examination for a license as a Clinical Social Worker. As a two level state, Wyoming may be arguably the exception to the Bureau’s early finding that no two level state could be found that certified or licensed a social worker with just a baccalaureate degree. Two level states usually provide for a general entry level or generalist position for a person with a Master’s in Social Work degree, who does no clinical work, and a clinical social work level. On the other hand, in Wyoming the emphasis even for the baccalaureate level is on clinical experience (note the requirement for a designated clinical supervisor), not general social work. In other words, if a person with a Baccalaureate Social Work degree sought licensure in Wyoming’s social work program, then that person must be supervised by a Clinical Social Worker. Presumably, if the same person wished to do other social work tasks, and did not wish to work in clinical social work, that person would not need a license but would not be able to call himself or herself a “social worker” because of both title and practice protection laws in that state. In effect, Wyoming provides two levels within the clinical social work category, a certified level for a supervised baccalaureate and a fully qualified, experienced, Licensed Clinical Social Worker.<sup>28</sup> Wyoming’s licensing structure allows a person with just a baccalaureate degree in social work to avoid obtaining a Master of Social Work degree and progress (under appropriate supervision) towards obtaining a license at a clinical social worker level. Peculiarly, a person who does obtain a Master in Social Work degree occupies no level with a provisional license until fully licensed at the clinical level. Any other person, who performs social work duties, as long as it is not in the specialty of clinical social work, is unregulated.

---

<sup>26</sup> Title 37, Section 2708, Louisiana Revised Statutes (Qualification; licensed clinical social worker).

<sup>27</sup> Section 491.003, Florida Statutes (Definitions).

<sup>28</sup> Telephone interview, Rick Bengston, Licensing specialist, Wyoming Mental Health Professions Licensing Board, Cheyenne, WY, November 8, 2000.



## Clinical Social Workers in Hawaii

Hawaii offers a de facto second social worker level for Clinical Social Workers who expect reimbursement from an insurer under Chapter 431M, Hawaii Revised Statutes (Mental Health and Alcohol and Drug Abuse Treatment Insurance Benefits). Here, a person meeting the licensing criteria under Chapter 467E who also receives certification in clinical social work by meeting the requirements of “a recognized national organization”,<sup>29</sup> can present satisfactory proof of this certification to appropriate insurers (HMSA, Kaiser, et al.) to become a provider of service for reimbursement purposes.<sup>30</sup> The insurer then conducts its own (or through a contractor) verification of the applicant’s qualifications before approving any payments for reimbursement. By accepting a Clinical Social Worker as a provider, the insurer is approving payment for social work and affirming that the Clinical Social Worker meets the knowledge and skills in the subject area (i.e., mental health) for which insurance is available.

The number of Clinical Social Workers serving as providers of service under Chapter 431M, Hawaii Revised Statutes, is unknown because the Insurance Commissioner does not seek to keep track of the number of these providers.<sup>31</sup> The local chapter of Clinical Social Work Society of Hawaii reports two hundred Clinical Social Workers in Hawaii.<sup>32</sup> The National Association of Social Work (NASW) Clinical Register lists forty-seven names in its register for the state of Hawaii.<sup>33</sup>

The Honolulu telephone directory yellow pages lists about fifteen names of social workers under about five different headings including the category, “social workers” some of whom are listed with the credentials, QCSW, DCSW, or BCD. If any of these “independent” or “private practice” social workers expect to be reimbursed for their services as “clinical” social workers from an insurer, they must meet the requirements in Chapter 431M, Hawaii Revised Statutes.

It is true, however, as the proponents of a CSW level argue, that a social worker without clinical certification could set up a practice independent of an organization’s auspices with only a

---

<sup>29</sup> Section 431M-1, Hawaii Revised Statutes (Definitions).

<sup>30</sup> The National Association of Social Workers (NASW) offers two credentials for Clinical Social Workers who meet nationally established standards: (1) Qualified Clinical Social Worker (QCSW) and (2) Diplomate in Clinical Social Work (DCSW). A third certification is available from the American Board of Examiners (ABE) in Clinical Social Work for a Board Certified Diplomate in Clinical Social work (BCD).

<sup>31</sup> Paul Yuen, Supervising Attorney for Insurance Division, Department of Commerce and Consumer Affairs telephone interview, August 15, 2000.

<sup>32</sup> Letter to the author from Ronaale Whittington, DSW, President Clinical Social Worker Society of Hawaii, July 15, 2000.

<sup>33</sup> See [www.socialworkers.org](http://www.socialworkers.org).

“license” (LSW) obtained pursuant to Chapter 467E, Hawaii Revised Statutes, but this “LSW” could only accept private paying clients.

### **Handling Complaints About Clinical Social Workers in Hawaii**

If a complaint were filed against a Clinical Social Worker, first a determination must be made of the nature of the complaint to identify whether it is in the purview of Chapter 431M or Chapter 467E.

Jurisdiction over a complaint must fall within the “licensing” concerns for Chapter 467E to apply. This might include failure to be licensed, practicing while under the influence of alcohol, drugs, engaging in professional misconduct, and so on.<sup>34</sup> If a complaint were about billing, or reimbursement to the patient, for example, Chapter 431M would be the relevant applicable law.

If Chapter 467E is applicable, the complaint process goes through Department of Commerce and Consumer Affairs (DCCA) procedure in the Regulated Industries Complaints Office (RICO). This office mediates and resolves consumer complaints, prosecutes disciplinary actions against licensees, and pursues Circuit Court injunctions and fines against unlicensed persons. Enforcement is brought either against persons holding licenses, or against unlicensed individuals engaged in activities that require licensing. Actions against licensees are typically brought in the context of administrative hearings pursuant to Chapter 91, Hawaii Revised Statutes (Administrative Procedure Act), while actions for unlicensed activity are brought in the Circuit Courts.

If the complaint concerns the insurance aspects, however, the complainant follows whatever process has been established by the insurer to resolve complaints. There are forty-seven Clinical Social Workers in Hawaii who are listed in NASW’s Clinical Register, and there appears to be no formal complaints about Clinical Social Workers. Instead, the best information regarding complaints continues to be what is collected by DCCA about social workers in general, not Clinical Social Workers in particular. The reader is directed to the chapter on continuing education for a review of data from the DCCA regarding complaints made against social workers generally since 1995. There have been only nine complaints about social workers since 1995. The insurance division of DCCA does not maintain records about Clinical Social Workers who perform as vendors under Chapter 431M, Hawaii Revised Statutes.

### **Single Level Versus Multiple Levels**

The Auditor’s study reported that 74 percent of the fifty-three jurisdictions provided for multi-tiers while 26 percent had single tiers like Hawaii.<sup>35</sup> As of June 2000, the Bureau has

---

<sup>34</sup> Section 467E-12, Hawaii Revised Statutes (Revocation, suspension, denial, or condition of licenses; fines).

<sup>35</sup> Hawaii, Office of the Auditor, *Sunset Evaluation Report: Social Workers*, Report No. 00-02, Honolulu, January 2000, p. 15.

found a small increase in the number of multi-tier states (78 percent), and a corresponding decrease in the number of states with a single tier (22 percent). There are eleven states with two levels of regulation; nineteen states with three levels, and eleven states (including the District of Columbia) with four levels. Texas is listed as having five levels.

The states with three or more levels are more likely to provide for a basic level for a Baccalaureate in Social Work and an intermediate level for a Master's in Social Work. The third level is usually the clinical specialty. The Bureau found at least three states that recently changed from one level to two levels (Pennsylvania and Wyoming), or more levels (Louisiana now has three levels). Other states reported to have moved from one to more than one level are: Iowa, Alaska, and Colorado.<sup>36</sup> Using information from the ASWB, the Bureau created a summary chart of states with one, two, three, four, and five levels of practice.

Table 2 displays jurisdictions (fifty states plus Alberta, District of Columbia, Puerto Rico, and Virgin Islands) by the number of levels of regulation and whether the protection is for practice only, title only, or both, practice and title protection. Another way to view levels of regulation is to compare the tiers used by the states as displayed in Table 3 and Table 4.

### **States that Regulate Only One Level of Social Workers**

The Bureau identified twelve jurisdictions with only a single level, five of which regulate social workers with title protection, Hawaii (Licensed Social Worker), Montana (Licensed Social Worker), New Hampshire (Certified Clinical Social Worker), New York (Certified Social Worker), and Alberta, Canada.

Only two single level jurisdictions provide for practice protection, Connecticut (Licensed Clinical Social Worker) and Puerto Rico (Licensed Social Worker). All other single level states regulate both title and practice: Alaska (Licensed Clinical Social Worker), Delaware (Licensed Clinical Social Worker), Missouri (Licensed Clinical Social Worker), Washington (Certified Social Worker), and Vermont (Licensed Independent CSW).

If the form of regulation for a state is practice protection and that state regulates only one tier, licensing is at its most restrictive for only a narrow group of practitioners. This is true for Connecticut, because practice protection (in Connecticut's case) is for a Clinical Social Worker "who is trained in social work, of established principles of psychosocial development, behavior, psychopathology, unconscious motivation, interpersonal relationships and environmental stress to the evaluation, assessment, diagnosis and treatment of biopsychosocial dysfunction, disability and impairment, including mental, emotional, behavioral, developmental, and addictive disorders

---

<sup>36</sup> "Licensure's Hurdles Hinder Easy Moves", NASW News, July 2000, p. 3.

Table 1  
Social Work Levels of Practice

<sup>1</sup> This table was constructed from information found at [www.aasswb.org/board/](http://www.aasswb.org/board/) and AASSWB Social Work Laws and Board Regulation, 1998, updated to 1/6/99

License level: upper case; Education: lower case; Experience: +2 (yrs.) or 2,000 (hrs.); CE: Continuing Education hours required per license period.

Levels Type of reg.	4 levels: 12 jurisdictions	3 levels: 19 jurisdictions	2 levels: 11 jurisdictions	1 level: 12 jurisdictions
<p><b>Title Protection only</b></p> <p>Certification required by statute or professional organization means that "non-certified individuals legally may perform same or similar functions as those who are certified but they are not permitted to use a designated title"</p> <p>10 + Alberta</p>	<p><b>WI</b> CICSW:dmsw+2 CISW:dmsw CAPSW:dmsw CSW:mbsw CE 30 hr/2 yr (7/1/99)</p>	<p><b>AZ</b> CISW:dmsw+2 CMSW:dmsw BSW:bsw CE 40 hr/2 yr</p> <p><b>MI</b> Does not require exam for L. CSW:msw+2 SW:msw or ba+2 SWT:2 college+1 CE not req.</p> <p><b>SC</b> LISW:dmsw+2 LMSW:dmsw LBSW:bsw CE 20 hr/yr</p>	<p><b>OR</b> LCSW:dmsw+2 CSWA:dmsw CE 20 hr/yr</p> <p><b>PA</b> LSW:dmsw CSW:dmsw+3 CE 30 hr/2 yr</p>	<p><b>HI</b> LSW:dmsw CE not req. No bd.</p> <p><b>MT</b> LSW:dmsw+2 CE 20 hr/yr</p> <p><b>NH</b> CCSW:dmsw+2 CE 60 hr/3 yr</p> <p><b>NY</b> CSW:msw CE not req.</p> <p><b>Alberta</b> CE not req.</p>

<p><b>Practice Protection only</b></p> <p>Means that an unlicensed individual cannot practice a specific profession as it is defined in a state's scope of practice</p> <p>5 + PR</p>	<p><b>MA</b>  LICSW:dmsw+3  LCSW:dmsw+0 to 3  LSW:bsw,ba+1 to 8  LSWA:aa/ba  CE 5 to 30 hr/2 yr</p>	<p><b>NV</b>  LICSW:dmsw+3000  LISW:dmsw+3000  LSW:maw or  bsw+3000 or  ma/ba+3000  CE 30 hr/2 yr</p> <p><b>NE</b>  CMHP:ma+3000  CMSW:dmsw+3000  CSW:mbsw  CE 32 hr/2 yr</p> <p><b>OK</b>  LSW(privt):dmsw+2  LSW:dmsw+2  LSWA:bsw+2  CE 12 hr/yr</p>	<p>None</p>	<p><b>CT</b>  LICSW:dmsw+3000  CE (drafting)</p> <p><b>PR</b>  LSW:bsw  CE not req.</p>
---	---	--	-------------	---

<p><b>Both Title and Practice Protection</b></p> <p>35 + vi + DC</p>	<p><b>AL</b> PIP:dmsw+2 LCSW:dmsw+2 LGSW:msw LBS:bsw CE 20-30 hr/2 yr</p> <p><b>CO</b> LCSW:dmsw+1,+2 LISW:dmsw+1,+2 LSW:msw RSW:bsw CE not req.</p> <p><b>DC</b> LISW:msw+3000 LCSW:msw+3000 LGSW:msw LSWA:bsw CE 24 hr/2 yr</p> <p><b>MD</b> LCSW(clin):DMSW+2 LCSW:dmsw+2 LLGSW:dmsw LSW:bsw CE 24 hr/2 yr</p> <p><b>MN</b> LICSW:dmsw+2 LISW:dmsw+2 LGSW:msw LSW:bsw CE 30 hr/2 yr</p> <p><b>NC</b> CCSW:dmsw+2 CSWM:dmbw+2 CMSW:dmsw CSW:bsw</p>	<p><b>AR</b> LCSW:msw+2 LMSW:msw LSW:bsw CE 48 hr/2 yr</p> <p><b>ID</b> CSW(Indp):dmsw+2 CSW:dmsw SW:bsw CE 20 hr/yr</p> <p><b>IA</b> LISW:dmsw+2 LMSW:dmsw LBSW:bsw CE 27 hr/2 yr</p> <p><b>KS</b> LSCSW:dmsw+2 MSW:msw BSW:bsw CE 60 hr/2 yr</p> <p><b>KY</b> LCSW:dmsw+2 CSW:msw LSW:bsw/ba(equiv) CE 3 hr. spec. training/3 yr</p> <p><b>LA</b> LCSW:msw+3 GSW:msw RSW:bsw CE 20 hr/yr</p> <p><b>ME</b> LCSW:dmsw+2 LMSW:dmsw LSW:bsw or ba/bs+3200</p>	<p><b>CA</b> req. oral exam LCSW:msw+2 ASW:msw CE 36 hr/renewal pd.</p> <p><b>FL</b> LCSW:dmsw+2 CMSW:msw+2 CE 30 hr/2 yr</p> <p><b>GA</b> LCSW:msw+3 LMSW:msw CE 35 hr/2 yr</p> <p><b>IL</b> LCSW:dmsw+2000 and 3000 LSW:mbsw+3 CE 30 hr/2 yr</p> <p><b>IN</b> LCSW:msw+2000 LSW:bmsw+0 to 2 CE 40 hr/2 yr</p> <p><b>RI</b> LICSW:dmsw+2 LSW:bmsw CE 30 hr/2 yr</p> <p><b>TN</b> LCSW(Ind.prac):dmsw+2 CMSW:dmsw CE 30 hr/2 yr</p> <p><b>VA</b> LCSW:msw+2 LSW:msw or bsw+2 CE required after 2003</p>	<p><b>AK</b> (1/1/99) LMSW:dmsw LBSW:bsw CE 45 hr/2 yr</p> <p><b>DE</b> LCSW:dmsw+2 CE 45 hr/2 yr</p> <p><b>MO</b> LCSW:dmsw+2 CE req. hrs not specified</p> <p><b>WA</b> CSW:dmsw+2 CE not req.</p> <p><b>VT</b> LICSW:dmsw+2 CE not req.</p>
--	---	---	---	--

	<p>CE 40 hr/2 yr</p> <p><b>SD</b>  CSW(privt.ind.prac):dmsw+2  CSW:dmsw  SW:bsw, ba+2  SWA:aa/ba  CE 30 hr/2 yr</p> <p><b>TX (5 levels)</b>  LMSW(acp):dmsw+3  LMSW(ap):dmsw+2  LMSW:dmsw  LSW:bsw  SWA:ba+1  CE 15 hr/yr</p> <p><b>VI</b>  CISW:dmsw+2  CSW:dmsw  SW:bsw or  ba+2  SWA:aa/ba  CE 2 units/2 yr</p> <p><b>WV</b>  LICSW:dmsw+2  LCSW:dmsw+2  LGSW:msw  LSW:bsw  CE 50 hr/2 yr</p>	<p>CE 25 hr/2 yr</p> <p><b>MS</b>  LCSW:dmsw+2  LMSW:dmsw  LSW:bsw  CE 40 hr/2 yr</p> <p><b>NJ</b>  LCSW:dmsw+2  LSW:dmsw  CSW:bsw or ba+1  CE 20 hr/2 yr</p> <p><b>NM</b> Rq. Cultural awareness  exam  LISW:msw+2  LMSW:msw  LBSW:bsw  CE 15 hr/yr</p> <p><b>ND</b>  LICSW:dmsw+4  LCSW:dmsw  LSW:bsw  CE 20 hr/2 yr</p> <p><b>OH</b>  LISW:dmsw+2  LSW:dmsw  SWA:aa  CE 30 hr/2 yr</p> <p><b>UT</b>  CSW:dmsw+2  CSW:dmsw  SSW:msw or  bsw/ba+1  CE 40 hr/2 yr</p>	<p><b>WY</b>  LCSW:dmsw+2  CSW:bsw  CE 45 hr/2 yr</p>	
--	--	---	---	--

Explanation of abbreviations used in:

Table 2: Social Work Levels of Practice

Each state is abbreviated with its 2-letter code used by the US postal service.

Table 2 presents states by the number of levels of regulation (five levels to one level) and by form of regulation (title, practice, or both—title and practice).

Texas (TX) is the only state with 5 levels and has been included in the column for 4-level states.

A. LICENSEE's title: Upper case letters:

Capitalized abbreviations indicate the state's abbreviation for each licensing level. Generally, these abbreviations can be deciphered as follows:

- "A" for "Advanced"
- "C" may mean "Certified" or "Clinical"
- "G" usually means "Graduate"
- "I" usually means "Independent"
- "L" usually means "Licensed"
- "MH" usually means "Mental Health"
- "P" usually means "Practice" or "Practitioner"
- "R" usually means "Registered"
- "SW" means social worker

Unfortunately, some states use the same abbreviation for the title of the license (BSW or MSW) that is used for the educational degree required for licensure. (e.g. Kansas)

The license may be prefixed with "L" as in "LMSW" to mean "Licensed Master Social Worker" or "G" to mean "Graduate Master Social Worker"

B. EDUCATION

Lower case letters are used to represent the educational level required for the license.

- "dsw" means Doctorate in Social Work
- "msw" means Master's in Social Work
- "bsw" means Baccalaureate in Social Work
- "ba" means a Bachelor of Arts degree, often in a related field like psychology, although some states do not require equivalency.
- "aa" means an Associate of Arts degree, typically two years of college work.
- "dmsw" means either a doctorate or a master in social work is the educational degree required.

C. EXPERIENCE

Number of years of experience are indicated in terms of a single digit ("2" or "3") or multiple digits ("2000" or "3000") for hours of experience.

D. OTHER

CE means "Continuing Education" and indicated as hours per renewal period such as "32 / 2 yr" to mean 32 hours per 2 year renewal period.



**Table 3**  
**COMPARISON OF NUMBER OF TIERS BY STATE**

<b># of Tiers</b>	<b>States that Use</b>
One	CT, DE, HI, MO, MT, NY, VT, WA, WY (9)
Two	CA, FL, GA, IL, IN, OR, RI, TN, VA (9)
Three	AK, AZ, AR, IA, ID, KS, KY, LA, ME, MI, MS, NE, NV, NH, NJ, NM, ND, OH, OK, PA, SC, UT (22)
Four	AL, CO, MD, MA, MN, NC, SD, WV, WI (9)
Five	TX (1)

Source: Laura W. Groshong, Chair, Government Relations for the States, Clinical Social Work Federation (206) 524-3690.

**Table 4**  
**COMPARISON OF TIERS USED BY STATE**

<b># of Tiers</b>	<b>Name of Tiers</b>	<b>States that Use"</b>
One	Clin./Indep. SW	AK, CT, DE, MO, MT, NY, VT, WA, WY (9)
One	Master Social Worker	HI (1)
Two	Clin./Indep. SW	CA, FL, GA, IL, IN, OR, RI, TN, VA (9)
Two	Advanced Practice SW	FL, GA, TN (3)
Two	Master Social Worker	IL, IN, VA (3)
Two	Associate SW	CA, OR (2)

LEVELS OF PRACTICE

# of Tiers	Name of Tiers	States that Use
Three	Advanced Practice SW	ID, MI, NE, ND (4)
Three	Master Social Worker	AZ, AR, IA, KS, LA, ME, MI, MS, NH, NM, PA, SC (12)
Three	Bachelor SW	AZ, AR, ID, IA, KS, KY, LA, ME, MI, MS, NV, ND, NH, NJ, NM, ND, PA, SC, UT (19)
Three	Associate SW	MI, OH, OK (3)
Four	Clin./Indep. SW	AL, CO, MD, MA, MN, NC, SD, WV, WI (9)
Four	Advanced Practice SW	AL, CO, MD, MN, NC, WV, WI (7)
Four	Master Social Work	AL, CO, MD, MA, MN, NC, SD, WV, WI (9)
Four	Bachelor SW	AL, CO, MD, MA, MN, NC, SD, WV, WI (9)
Four	Social Work Associate	MA, SD (2)
Five	Clin./Indep. SW	TX (1)
Five	Advanced Practice SW	TX (1)
Five	Master Social Work	TX (1)
Five	Bachelor SW	TX (1)
Five	Social Work Associate	TX (1)

Source: Laura W. Groshong, Chair, Government Relations for the States, Clinical Social Work Federation (206) 524-3690

of individuals, couples, families, or groups”.<sup>37</sup> A social worker performing any task within the defined scope of practice for “clinical social work” must be licensed, but case management, counseling, advising, and other non-clinical social work duties can be done by any social worker. Essentially, this means a social worker who does not practice clinical social work is unregulated, because in a state like Connecticut, only the Clinical Social Worker is regulated. The public policy to justify a practice protection regulation for only one tier like the specialty of Clinical Social Worker is to protect consumers from the special practices of a Clinical Social Worker (psychotherapy) that a state believes can harm a client if exercised by an unlicensed individual (one who has not been warranted by the state for competency). Under this scenario, a school counselor, spiritual adviser, or a social services case manager in nonclinical work, with a baccalaureate or a master’s degree in social work is not expected to cause harm to a client, so these “levels” are not required to be licensed.

Jurisdictions like Hawaii and any other state that licenses only one level under the form of regulation known as title protection do not prevent anyone from doing social work, as long as that person does not use the title of Licensed Social Worker. A state that strongly resembles Hawaii’s title protection for social workers is New York. As previously described (see Examination Requirements), New York’s title protection is for the Certified Social Worker with a minimum education level of a Master’s in Social Work who has, as yet, no experience, but who has passed the Intermediate level examination from ASWB. It is true that an individual seeking certification in New York state may have a doctorate, many years of experience, and passed an Advanced or Clinical level examination but New York’s minimum certification requirements is very much like Hawaii’s.<sup>38</sup>

A state with only a single level may use the abbreviation such as “LSW” for Licensed Social Worker or “LCSW” for Licensed Clinical Social Worker. Hawaii, Montana, and Puerto Rico use the same abbreviation “LSW”. However, Montana’s level of practice while abbreviated “LSW” requires a clinical social work exam and is, therefore, more similar in terms of educational level, experience, and examination requirement, to the other states in the one-level group which use the abbreviation “LCSW”. The restriction on the title of Licensed Social Worker (or Licensed Clinical Social Worker) will be as described in that state’s definition of clinical social work.

Puerto Rico also uses the same letters for licensed social workers, “LSW”. But a licensee needs only the minimum education level (Baccalaureate in Social Work), requires no experience, and no examination. These requirements are less strict than Hawaii’s law requires. The caution is this: the fact that a state licenses only one level of social worker does not mean that these states’ laws are comparable to Hawaii’s. Connecticut licenses one level, a clinical level (practice protection). New York licenses one level, a master’s level (title protection). Comparisons cannot be made simply on the basis of similar number of levels or common abbreviations.

---

<sup>37</sup> Section 20-195, Connecticut General Statutes (Definitions).

<sup>38</sup> New York’s law may be amended in 2001 to encompass both title and practice protection and more than one level, to include the clinical social worker specialist. Telephone interview with Marcia Weinberg, Legislative Chair, New York Clinical Social Work Society, New York City, November 17, 2000.

## States with More than One Level

By the Bureau's count, in Table 2, there are eleven jurisdictions with one level of licensure; eleven jurisdictions with two levels; nineteen jurisdictions with three levels; nine jurisdictions with four levels; and one jurisdiction with five levels.<sup>39</sup>

Levels of practice reflect the social worker's accomplishments in terms of education, experience, and successful completion of an examination. According to proponents of multiple licensing levels for social workers, having a multi-level or multi-tiered social worker law would make clear to a consumer what level the social worker is operating out of in terms of education, experience, and subject knowledge (expressed as passing an examination of a certain level: basic, intermediate, advanced, clinical). The proponents believe that a consumer would then know "what he/she is paying for". Another observation made about tiers was that a person with a Baccalaureate in Social Work would have an opportunity to obtain an entry level license, which is currently unobtainable in Hawaii under Chapter 467E, Hawaii Revised Statutes.

Except for the situation in Wyoming (described earlier), where a person with a bachelor of social work is licensed specifically to allow that person to pursue a clinical social work level license under appropriate supervision, a bachelor level license for an entry level generalist would not benefit the consumer as much as it would benefit two other groups. In the first group, are the schools that produce new BSW graduates because justification for the undergraduate program can be made stronger if jobs as a licensee are available to new BSWs. The second group benefiting from a license for baccalaureates, is the graduates who see regulation as a way to elevate the status of being a social worker following only four years of college study.

Historically, if social workers were regulated at all, most states initially required a master's degree in social work for entry into the profession. As these individuals gained more experience, they sought recognition in a specialty license like the "Clinical" Social Worker category if they were practicing psychotherapy or "advanced" practice if they worked in upper level managerial or administrative capacities. In the meantime, states gradually began to allow a baccalaureate degree in social work to gain entry into the profession and work towards a master's level.

Some professionals object to licensing a level for baccalaureates because they claim very few, if any, baccalaureate graduates can claim title to a profession merely on the basis of a bachelor's degree. For example, these professionals say, a BA in psychology does not entitle that person to claim to be a "psychologist" or a BA in mathematics a "mathematician", and so on. From the viewpoint of a definition of "professional" (see chapter on Continuing Education), a postsecondary degree is usually a prerequisite to identifying a "professional". However, from the viewpoint of regulatory practice, if a state does not regulate a title like "mathematician" a person using that title may not be violating the law. Similarly, if a person with a baccalaureate in economics "advised" a friend to buy a particular stock, that person could be a self-described

---

<sup>39</sup> The total numbers vary in some of these counts when compared against Table 2 prepared by the Clinical Social Work Federation in November 1999. The reader is invited to individual states' statutes to identify the discrepancies.

“economist” and may not be violating a law. (But, as an “investment adviser” who “for compensation” advises others in investing in securities, there may be legal ramifications).<sup>40</sup> The point is that persons with a Baccalaureate in Social Work can be permitted to be licensed at one of the levels in a multi-level state if determined by the state legislature to be justified for whatever reason. Similarly, if a professional title is not regulated by a state, then there may be no violation of law by one who purports to call himself by any self-described title.

### **Rationale for More than One Level**

The Bureau’s investigated six states that have recently changed from one to more than one level of certification or licensure for social workers to identify the reasons for that change. Most states’ boards that were contacted did not have specific recollection of the reason for increasing the number of social worker licensing levels. In most situations the change was believed to be industry driven because professional organizations like the NASW and others have been seeking regulation for many years.<sup>41</sup>

- (1) Iowa changed from one level to three levels (title and practice protection) in 1996. This move was made “to follow national trends”.<sup>42</sup>
- (2) Pennsylvania changed from one to two levels (title protection only) in 1998. The legislative intent of the bill that licensed and regulated social workers states in part that the practice of social work . . . is declared to affect the public safety and welfare and to be subject to regulation . . . in the public interest to protect the public from unprofessional, improper, unauthorized and unqualified practice of licensed social work.<sup>43</sup>
- (3) Colorado changed from one to four levels (both title and practice protection) in 1998, in response to that state’s professional organizations lobbying efforts.<sup>44</sup>
- (4) Louisiana changed from one to three levels (both title and practice protection) in 2000. The Bureau was told by the Administrator of the Louisiana Board of Social

---

<sup>40</sup> Section 485-1, Hawaii Revised Statutes (Definitions) “Investment adviser”.

<sup>41</sup> “NASW has actively sought legal regulation of social work practice throughout the country.” From NASW Register of Clinical Social Workers, Ninth Edition, 1999, p. vii.

<sup>42</sup> Telephone interview with Roxanne Sparks, Board Administrator, Iowa Board of Social Work Examiners, November 1, 2000.

<sup>43</sup> Pennsylvania, Social Workers, Marriage and Family Therapists, and Professional Counselors Act, Act 136 of 1998.

<sup>44</sup> Telephone interview with Jazell Carter, Administrative Assistant, Colorado Board of Social Work Examiners, November 1, 2000.

Work Examiners that several reasons probably went into the decision to increase levels. The first was a change in the attitude of the legislators who were younger and better educated and concerned about consumer protection. The second reason was that employers started to expect to hire Licensed Social Workers as an employment requirement, not a legal requirement. However only a single tier called an independent private practitioner of social work had existed since 1972. This tier provided only for the private paying client. If a patient complained about the independent private practitioner, the state could sanction this social worker.<sup>45</sup> However, a dissatisfied patient who used the services of a social worker who worked in an agency as an employee had no satisfactory remedy if the employer did nothing about the complaint. Hence, the feeling was that changing the single tier to three-tiers would require more accountability of social workers and the social work board.<sup>46</sup>

- (5) Alaska changed its single level to two (title and practice protection) in 1999. The desire for more than the single clinical social work level came from professionals and the legislature. First, professionals wanted a realistic recognition of the different levels of professional practice performed by social workers, including the bachelor level and the master's level with no experience. Second, legislators apparently were concerned about appropriate standards for child protection. The new law that resulted created three levels, and also removed the exemption for licensure for government employed social workers.<sup>47</sup>
- (6) Wyoming changed from one level to two levels (title and practice protection) on July 1, 1997. Proponents for change were believed to be professionals in social work as well as counselors, marriage and family therapists, addictions practitioners, and mental health workers (Wyoming's board is a composite board made up of representatives from these different but related professionals). Between 1988 and 1997, "licensing" was voluntary and many individuals called themselves "counselors". This may have disturbed both professionals and dissatisfied consumers who may not have known what kind of services they were entitled to receive.<sup>48</sup>

---

<sup>45</sup> As the Hawaii Auditor explained, private paying clients are likely to be more sophisticated and from a higher socio-economic class who would be more knowledgeable about the kind of services being received from a CSW. Therefore, they can and would be more likely to complain to relevant authorities if they received poor service.

<sup>46</sup> Telephone interview with Suzanne Pevey, Administrator, Louisiana Board of Social Work Examiners, July 19, 2000.

<sup>47</sup> Telephone interview with Colleen Patrick-Riley, Chair, Division of Family and Youth, Anchorage, Alaska, November 15, 2000, and with Wanda Fleming, Licensing Examiner Board of Social Work Examiners, Juneau, Alaska, October 31, 2000.

<sup>48</sup> Telephone interview with Rick Bengston, Licensing Specialist, Wyoming Mental Health Professions Licensing Board, Cheyenne, WY, November 8, 2000.

New York may increase its social worker levels in 2001 from its single Certified Social Worker (with a master's degree in social work) to add a Clinical Social Worker if a proposed bill is adopted. This proposal will be offered and supported by the state's clinical social work society. New York has between 80,000 and 90,000 social workers (Hawaii as less than 2,000) and the addition of the clinical level is viewed by professional clinical social workers as necessary to maintaining accountability in the profession.<sup>49</sup>

## **Levels for Hawaii**

In Hawaii, the movement towards more levels of certification or licensure is industry driven and most strongly promoted by Clinical Social Workers. Although three levels of certification or licensure is the preferred choice among most states (twenty-two out of fifty states) and is endorsed by the Model Act, the interest in Hawaii appears to be for a master social worker level who is a generalist (no experience and an intermediate level examination) and a clinical social worker level (two or three years supervised experience gained after the master's level and a clinical examination).

There appear to be at least two inter-related concerns driving the desire to add a clinical social worker level to Chapter 467E, Hawaii Revised Statutes. The first concern is that consumers are currently being harmed with only one regulatory level of social worker available for licensure. The second concern involves protecting consumers through adequate disclosure of the nature of social worker levels.

### **Perceived Current Harm By Single Level Practitioner Lacking Clinical Experience**

There is concern that a "Licensed" Social Worker with a newly minted master in social work degree has insufficient education and experience but could practice privately and without any supervision as an independent therapist after obtaining a legitimate "LSW". This could, it was argued, cause "harm" to clients. (What kind of harm could not be specified by the concerned social workers in terms of quantifiable criteria.) As far as it goes, this may be a legitimate concern. The Bureau, however, has not been able to find sufficient justification for this concern because there is no documented evidence of unsupervised independent private practice being exercised by LSWs and no evidence in the complaints data collected by the DCCA. The Bureau found three "LSWs" listed in the GTE Hawaiian Telephone yellow pages under five related subject categories for social workers. None of these three persons appear as solo private practitioners but instead are listed with other social workers who have listed themselves having advanced certifications. While working in association with certified CSWs does not guarantee direct supervision it would appear that if solo practice is available, these "LSWs" would, in fact, be out on their own without any association with certified CSWs. Additionally (at the risk of being repetitious), the data for complaints about social workers

---

<sup>49</sup> Telephone interview with Marcia Weinberg, Legislative Chair, New York Clinical Social Work Society, New York City, November 17, 2000.

compiled at DCCA do not rise to a level of concern about private practitioners who have a “LSW” but no experience in clinical social work or psychotherapy because none of the complaints involved social workers who are, in fact, practicing (incompetently) as psychotherapists. Chapter 4, (Continuing Education for Social Workers) contains a more detailed account of the complaints collected by the DCCA.

The Bureau concludes that Chapter 467E, Hawaii Revised Statutes provides the minimum level of competency to be expected of a person with a graduate degree in social work and no experience. There is no evidence that the public is being harmed by “LSW’s” in solo private practice. If Hawaii made no changes to the law regarding levels because the risk of harm appears to be minimal to non-existent based on the data of complaints since 1995, this decision would be in line with the standards recommended by major writers in the field of occupational licensing and public policy. That is, regulation of a profession should do so only to the extent necessary to protect the health, welfare, and safety of the consumer.

Clinical Social Workers also argue that a single level of a master of social work harms consumers because when the only “licensed” level is the master’s level with no experience, services that should involve the use of more experienced clinical level social workers are being conducted by a master’s level social worker. These services could be of a variety of providers including schools, health maintenance organizations, employers’ contracted mental health services, and so on. The point being pushed by the Clinical Social Workers is that unless the “highest” “license” level available is the clinical social work level, at any time social work (including psychotherapeutic social work) services are called for, the provider can justify the use of a master’s level “Licensed” Social Worker instead of a Clinical Social Worker because that is the only and highest level that the State “licenses”. Without specific data, the Bureau is obligated to look at the available facts and the facts as reflected in complaint information do not show any justification for this concern. Therefore, even if there might be some relevance to this charge, the Bureau is not able to substantiate any of it. Further, if this issue is a concern about what kind of standards insurance companies have for clinical social work, this study is not designed to address that problem except to point out that the prerequisites under Chapter 431M, Hawaii Revised Statutes require both a “license” under Chapter 467E, Hawaii Revised Statutes and clinical experience sufficient to earn certification. Those who are concerned about the availability of only the single master’s license level would like to have a “license” level for a Clinical Social Worker plus a certification requirement at the DCSW or BCD categories (not the QCSW certificate) from “a recognized national organization”. Only a person who has completed the following requirements, (a) earned a master’s degree in social work with specified clinical content; (b) earned five years of supervised experience in clinical practice; (c) passed the ASWB’s clinical level examination (for the license level in Chapter 467E, Hawaii Revised Statutes); (d) and passed the certification examination of the NASW’s Diplomate in Clinical Social Work (DCSW) or the American Board of Examiners’ Board Certified Diplomate (BCD) in Clinical Social Work (for purposes of Chapter 431M, Hawaii Revised Statutes) would be deemed sufficiently competent at the clinical social work level. These requirements would result in restricting entry into clinical social work and is more regulation than the state of Hawaii needs at present, since the data do not show the kind of harm that some professionals anticipate.



## **Adequate Disclosure About Clinical Social Workers Would Prevent Harm To Clients**

Proponents of more than one level of licensure for social workers claim that by adding a CSW level to Chapter 467E, Hawaii Revised Statutes, there is more disclosure to the future consumer of the different kinds of social workers and what kind of expectations the consumer should have for each level. In particular, the consumer would know not to expect clinical services from a person who lacked that experience and was not certified or licensed to perform psychotherapy.

Clinical Social Workers claim that the vendorship provisions in Chapter 431M, Hawaii Revised Statutes, is insufficient in its certification standards because it allows a Qualified Clinical Social Worker (QCSW) to be a vendor when that level of certification does not require a clinical examination and requires only 2,000 hours or two years of supervised clinical experience. The Bureau cannot dispute the requirement for the minimum hours of experience required by the QCSW. While this “lesser” qualification may be a legitimate concern, these qualification requirements have been set up by insurers whose standards must be assumed to have some rational basis. Furthermore, whether it is 2,000 hours or 3,000 hours, or 5,000 hours, does not negate the value of that experience for purposes of providing minimal competent service to clients if the insurer is willing to accept that QCSW as a vendor. In fact, there is no way to quantify (measure) how the quality of service provided by a QCSW differs from that provided by the Diplomate in Clinical Social Work (DCSW) or Board Certified Diplomate (BCD). There is no demonstrable evidence of incompetence being perpetuated by the MSW degreed individual who meets the Clinical Social Worker certification requirements under Chapter 431M, Hawaii Revised Statutes, for third party reimbursement.

If these standards are believed to be inadequate, the Bureau believes the social work professionals should take up these concerns with the insurance industry that accepts these vendorship standards or with DCCA which regulates the insurance industry.

Social work professionals have been promoting licensure for all social workers since the 1970s and for Clinical Social Workers, in particular, since 1986. To date, however, the proponents have failed to document the existence of harm to consumers that should serve as the appropriate basis for licensure.

## **Summary of Levels of Practice**

This chapter explained levels of practice in the social work profession by first describing the factors such as education, experience, specialty, and examination requirements that enter into the determination of levels. Then a statutory exploration of more than twenty-five states with a single level or multiple levels was conducted to determine whether generalizations about single level or multiple level jurisdictions could be made. It is clear that no generalization can be made merely from the similarities of professional label abbreviations used by one state and another.

Some generalization can be made among states based on whether states share a common number of levels. These can be summarized as:

- (1) If a state has only one level of licensure, that level is more often than not the clinical level because the perception of risk of harm is greatest when an incompetent psychotherapist works with a client.
- (2) If a state has only two levels of licensure, these levels are the clinical level to perform psychotherapy and a generalist master's level to perform other social work tasks that are not psychotherapy related.
- (3) With the exception of Wyoming's unique two levels described earlier (both of which are basically levels in the category of clinical social work), in none of the states with only one or two levels did the Bureau find a bachelor level certified or licensed as a general entry level without also providing for the master's level. Thus, the bachelor level can be found only among the states which have chosen to follow the national trend of establishing three levels or more.

The NASW recognized the dilemma of an occupation with wide variety in regulatory forms, levels, titles labels, exemptions, and so on, in a recent article in NASW News. This article pointed out the difficulty that social workers have if they desire to move from one state to another state because of different licensing requirements. "Because every state developed requirements for licensure separately and at different times, and because the requirements are molded by state legislatures that try to meet the unique needs of the clients social workers serve, there is 'no united leadership on this issue.'"<sup>50</sup>

As the Auditor stated: "The differing approaches to regulation among various jurisdictions suggest some uncertainty about how to ensure social worker competence."<sup>51</sup>

---

<sup>50</sup> Corinna Vallianatos, "Licensure's Hurdles Hinder Easy Moves" NASW News, July 2000, p. 3 (quoting Florida Chapter Executive Director, Jim Aiken).

<sup>51</sup> Hawaii, Office of the Auditor, *Sunset Evaluation Report: Social Workers*, Report No. 00-02, Honolulu, January 2000, p. 15.

## Chapter 4

### CONTINUING EDUCATION FOR SOCIAL WORKERS

This chapter addresses the following issue as requested by Senate Resolution No. 58, S.D. 1 (2000):

- (6) The continuing education requirements that are embedded in other states' licensing requirements;

and seeks to answer the question, "Should Hawaii law require continuing education for social workers?"

This chapter examines the debate about continuing education for professionals and vocations, in general, how various states approach continuing education for social workers, and provide guidance to the Legislature when it considers whether or not to mandate continuing education for social workers.

#### Continuing Education for Professionals

When a state regulates a profession, it should do so in the least restrictive manner that will protect the health and safety of the public without unduly restricting entry into the profession. At the time of initial licensing, the licensee is expected to meet minimum levels of educational knowledge, experience, competency, and proficiency as measured by an examination. Continuing professional education is viewed by its proponents as a means to ensure that the licensee has maintained the knowledge and skills necessary to continue to practice competently by keeping up with new research in the field, technological advances, and so on. Hence, some regulated professions require the licensee to show evidence of having certain hours or number of continuing education courses when applying for renewal of the license.

Continuing education for professionals is an outgrowth of adult education and the whole concept of lifelong learning. According to this philosophy, no longer can a professional expect to know everything that needs to be learned by the end of the formal education process. A number of factors, including advances in technology, longer lifespans, higher expectations of consumers, the growing inter-relationships among subject areas where boundaries of one profession can blend into others, and a growing recognition among professionals themselves of the need to keep abreast of professional information for professional growth, have contributed to the increased interest in continuing education for professionals.

Continuing professional education differs from the formal university or college education in several respects. These include the fact that:

- (1) The consumers of continuing education, the professionals, already have some experience and may want practical, hands-on courses that can be directly related to the work experience;
- (2) Working professionals may want a convenient time and place for the classes and, perhaps, employer support in the form of time off or tuition subsidy;
- (3) Structure, content, participatory opportunity, and other factors affect the provision of continuing professional education in ways different from the traditional educational process.

The providers of continuing education also vary. In some cases, continuing education courses are offered by university-associated programs. Other providers can be unions, professional associations, or private entrepreneurs. The field of continuing education for professionals has developed into a separate educational field. For purposes of this report, the Bureau used the following definitions of “profession” and “continuing professional education”.<sup>1</sup>

A profession is “an occupation that requires the possession of a postsecondary degree to qualify for entry, that involves the independent practice or application of a defined and organized body of competencies which is unique to that occupation, and which is formally recognized and regulated—internally or externally—by some type of licensure, accreditation, or permit.”

Continuing professional education describes the varied modes and content of education and learning that are recognized by appropriate authorities as contributing to the knowledge, competence, development, and performance of individual professionals after they have been licensed as practitioners.

Writers and researchers in continuing professional education have been examining a variety of issues including professionals as learners, motivation, quality assurance, mandating continuing education for a profession, and accrediting providers of continuing education.

One issue that has been the focus of debate, is the question of whether mandatory continuing education assures the public’s safety by assuring continued competence among the practitioners. Some studies endorse mandatory continuing education as a condition for relicensing while some writers say that mandatory continuing education does not guarantee that the practitioner has learned—only that the minimum courses were taken by a licensee.

---

<sup>1</sup> E. Stephen Hunt, (ed.) *Professional Workers as Learners*, U.S. Department of Education, Office of Educational Research and Improvement (Washington D.C.: September 1992), pp. 5-6.

## Continuing Education for Social Workers

Social workers, like other regulated professionals, are expected to bring a certain level of education, experience, and integrity to their work. Some states require continuing education for social workers to renew a license. Hawaii does not.

When a state's regulatory law requires continuing education for renewal of a license, it specifies the hours needed per renewal period, the legitimate sources or providers of courses, how exemptions or waivers may be obtained, if at all, whether the board will audit the applicant's renewal application, and the kinds of continuing education training the applicant should meet. For example, in California, the continuing education requirements include "training, education, and coursework by approved providers in one or more of the following:

- (1) Aspects of the discipline that are fundamental to the understanding, or the practice, of social work;
- (2) Aspects of the social work discipline in which significant recent developments have occurred; and
- (3) Aspects of other related disciplines that enhance the understanding or the practice of social work."<sup>2</sup>

*Social Work Laws and Board Regulations* (1998, updated to Jan 1, 1999), issued by the ASWB provides a summary table about continuing education requirements for social workers by state. This table reveals that nine jurisdictions, including Hawaii, have no requirements for continuing education for social workers. However, the Bureau's research found at least two of these nine states, Virginia and Wisconsin, recently changed their laws to require continuing education for social workers. A draft proposal for the Virginia regulations can be found in the newsletter issued by the Virginia Board of Social Work, "On Board" volume 9, Winter, 1999-2000.<sup>3</sup> Implementation of a thirty-hour continuing education requirement for each biennial licensure renewal is expected to begin after the 2003 license renewal date.

In Wisconsin, a new thirty-hour continuing education requirement per two-year period began July 1, 1999. For social workers in Wisconsin, at least four of the thirty hours must be in the subject of social work ethics and at least two of those four hours must be in issues concerning professional boundaries. One hour of continuing education is defined as a period of not less than fifty minutes. The type of continuing education programs that may satisfy the state's requirements are also specified, such as theories and concepts of human behavior and the social environment, social work research, social policy and program evaluation, and social work

---

<sup>2</sup> *California Business and Professions Code*, sec. 4996.22(e).

<sup>3</sup> <http://www.dhp.state.va.us/social/socialreg.htm>.

practice evaluation. Original documents showing attendance at the continuing education program must be retained for at least four years and must be presented upon request.<sup>4</sup>

Kansas requires sixty hours of continuing education credits per two-year license renewal period and West Virginia requires fifty hours per two-year license renewal period. These states' requirements can be contrasted with twelve hours per year in Oklahoma, and fifteen hours per year in New Mexico and Texas. Massachusetts requires a range of hours, depending on which level of licensure is being renewed, from thirty hours per two-year license renewal period for Licensed Independent Clinical Social Workers, twenty hours for Licensed Clinical Social Workers, ten hours for Licensed Social Workers, and five hours for Licensed Social Worker Associates.<sup>5</sup> Most states average about twenty hours per two-year license renewal period.

This review demonstrates that there is wide variability in continuing education requirements for social workers among the states that mandate continuing education for renewal of social workers' licenses. The variability can be found in the number of continuing education hours required, the kind of courses that meet the requirements, and in some states, the number of hours required in certain subjects such as ethics.

### **Standard Guidelines for Continuing Education**

The difficulty of assuring continued professional competency by mandating continuing education has not escaped serious analysis by at least one state, Virginia. Virginia has issued guidelines for its regulatory boards to: "ensure both the continuing competence of licensed and state-certified health professionals and the need for any continuing education requirements to be defensible from a public policy perspective."<sup>6</sup>

Its six guiding principles are as follows:

- (1) Continuing competence requirements should be validated by reference to specific performance competencies (knowledge, skills, abilities) required for the continued safe practice of a licensed or certified health occupation or profession. Documentation of the potential for harm to the public, which may result from the absence of State regulatory requirements, must be recognizable and not remote or dependent on tenuous argument.

---

<sup>4</sup> Wisconsin, Department of Regulation & Licensing, Rules SFC 8.01, et seq. (See: <http://www.drl.state.wi.us/agencies/drl/Regulation/html/ALERT.HTM>).

<sup>5</sup> American Association of State Social Work Boards, *Social Work Laws and Board Regulations*, (Virginia: 1998) Table 5, Miscellaneous features, pp. 33-38.

<sup>6</sup> Richard D. Morrison, *Continuing Education Requirements: Suggested Guidelines*, Resource Briefs, The National Clearinghouse on Licensure, Enforcement, and Regulation, 1993, Foreword.

In other words, the harm that could occur to a consumer must be specific and the continuing education training must be able to prevent that kind of harm from occurring.

- (2) Continuing competence mandates must be accompanied by a requirement that the practitioner present credible evidence he or she possesses the requisite competence.

This means that the practitioner must be able to demonstrate competence after engaging in a continuing education program. The Virginia standard states: “this evidence must be criterion-referenced. Mere participation in an educational activity, no matter how well structured, does not constitute acceptable evidence that competence has been acquired.”

- (3) Continuing competency requirements and the criteria upon which they are validated must be relevant in their reflection of changing occupational roles, levels of specialization, the technological and therapeutic environment, standards of care, and public expectations.

Many developments can occur in any profession after the practitioner has left school or had been initially licensed. New techniques, revised protocols, even consumers’ expectations change over time. Continuing education courses must reflect these changes to assure the public that the professional is meeting these new developments.

- (4) Requirements should be based on a national level of evidence.

This principle is based on the idea that professionals should be allowed greater mobility by giving the licensing board the authority to grant licenses by reciprocity and endorsement. If continuing education requirement standards can be accepted nationwide, then a practitioner would be competent across state lines.

- (5) Continuing competence requirements must be administratively feasible, cost-effective, and equitably applied and enforced. Programs designed to meet these requirements must be accessible to all practitioners. Adequate procedural safeguards, including appeals procedures, must be available to individuals affected by continuing competence requirements.

This means that continuing education courses must be administered in a cost-effective and enforceable manner. The entire continuing education program must be thought through carefully before being implemented.

- (6) Continuing competence requirements should represent the least restrictive provisions consistent with public protection and should be established only when the public is not effectively protected by other means.<sup>7</sup>

In a way requiring continuing education is like preaching to the choir. A responsible professional will voluntarily keep up with new developments to avoid becoming professionally obsolete while a practitioner without these concerns may simply attend continuing education courses in person, but not internalize the lessons presented. Guidelines from the Virginia experience help professional boards focus on the value of continuing education and the most effective ways to achieve it.

### **Hawaii Auditor's Evaluation of Mandating Continuing Education for a Profession**

In Hawaii, the Auditor conducted an evaluation, in 1994, of the mandatory continuing education program for real estate brokers and salespersons.<sup>8</sup> That evaluation provided guidelines that can be applied when considering whether or not to require continuing education for any other profession. The objectives of the evaluation were to determine:

- (1) Whether there is a reasonable need to require continuing education for real estate brokers and real estate salespersons to protect the health, safety, and welfare of the public;
- (2) Whether the existing continuing education requirements were appropriate for protecting the public; and
- (3) Whether the continuing education requirements were being implemented effectively and efficiently.

The Auditor's standard for evaluating continuing education was then, and still is, *whether continuing education results in better consumer protection by assuring competency of licensees*. Proponents of continuing education programs for real estate professionals argued that the number of consumer complaints about real estate professionals was a measure of whether continuing education benefited the consumer. The Auditor's review of the complaints made of real estate professionals indicated that the fluctuating nature of the number of complaints did not justify a conclusion or trend about the effectiveness of continuing education. In fact, based on a study by the Real Estate Commission and the Research and Education Center of the University of Hawaii, the number of consumer complaints may have been more directly related to the number of real estate transactions. When the number of real estate transactions rose, the number of consumer

---

<sup>7</sup> Ibid., pp. 2-3.

<sup>8</sup> Hawaii, Office of the Auditor, *Evaluation of the Continuing Education Program for Real Estate Brokers and Salespersons*, Report No. 94-25 (Honolulu, December 1994), p. 3.



complaints increased correspondingly perhaps because there were more opportunities for dissatisfaction to occur. Therefore, the cause and effect relationship between complaints and continuing education was not conclusive.<sup>9</sup>

The Auditor said that “continuing education should exist solely to protect consumers [b]ut the benefits for consumers are uncertain while the benefits for many of the key players in the real estate industry are quite clear”.<sup>10</sup> Despite the Auditor’s recommendation that the mandatory continuing education requirement for real estate professionals be scheduled for repeal by operation of law, this law continues in force today.<sup>11</sup>

Instead of mandatory continuing education, the Auditor said that consumers may be better protected by raising fines. Stronger penalties might send a “clear message to real estate agents that any wrongdoing will have an immediate and significant consequence.”<sup>12</sup>

Other studies report difficulty in linking mandatory continuing education and professional competence. In particular, the following problems require serious consideration. The problems “inherent in implementing mandatory continuing professional education programs” are:<sup>13</sup>

- (1) The effectiveness of mandatory continuing education was yet to be demonstrated;
- (2) The cost of services to the ultimate patient-client consumer would be increased by required continuing education;
- (3) Standards of quality would have to be set; and
- (4) The knowledge gained by practitioners participating in educational activities would have to be measured.

---

<sup>9</sup> Ibid., p. 7.

<sup>10</sup> Ibid., p. 11.

<sup>11</sup> Section 467-11.5, Hawaii Revised Statutes.

<sup>12</sup> Hawaii, Office of the Auditor, *Evaluation of the Continuing Education Program for Real Estate Brokers and Salespersons*, Report No. 94-25 (Honolulu, December 1994), p. 9.

<sup>13</sup> These problems were identified in a study of professionals in accounting, law, and medicine, but the findings of the study can be applied to the profession of social workers as well. See Milton R. Stern and Donna S. Queeney, “The Scope of Continuing Professional Education: Providers, Consumers, Issues,” in *Professional Workers as Learners*, E. Stephen Hunt (ed.), Washington, DC: U.S. Department of Education, 1992, p. 26.

Stern and Queeney reported:<sup>14</sup>

Perhaps the strongest argument against mandatory continuing education, as well as the greatest obstacle to effective quality control in general, remains the lack of documentation of a positive relationship between educational participation and practitioner competence. A few studies have been undertaken in an attempt to identify causal relationships between continuing professional education and practitioner competence. However, research in this area is exceedingly sparse. Not surprisingly, most continuing professional educators have found identification of such relationships too difficult and frustrating a task, and have chosen not to pursue it.

Provider program evaluations solicit information on participants' satisfaction with their overall experience, but they ignore measurement of knowledge acquisition or the educational activities' impact on professional practice. Efforts to ascertain what learning has taken place or what changes might be made in practice as a result of participation in continuing professional education are rare. (Emphasis added.)

Alternatives to continuing education that may have greater assurance of consumer protection and improving the practitioner's performance are those that focus on the context of the professional's practice by identifying the knowledge, skills, and abilities needed to do the job competently and then applying this test to individual practitioners. Another alternative is peer review, where other practitioners examine the performance of one of their own against certain standards, identify areas that need improvement, and suggest training.<sup>15</sup>

Finally, another alternative to continuing education may be mandatory re-examination. Re-examination could be limited to a part of a social worker's performance that the profession itself might have identified as needing review, such as professional ethics. The re-examination would then focus only on that subject area and be required of each licensee before renewal of the license. Participation by the members of the profession to help identify the kind of competencies the consumer can expect from a licensed or certified social worker would raise the level of relevancy of continuing education.

## Complaints About Social Workers

The Bureau's examination of whether or not continuing education should be required for social workers for relicensing purposes encounters the dilemma of how to validate continued competence for the protection of consumers, the standard articulated and applied by the Auditor. Despite its defects, data about the number of consumer complaints about social workers may be the best reflection of problems (if any) in the profession. Therefore, the Bureau requested

---

<sup>14</sup> Stern, p. 27.

<sup>15</sup> See John F. Azzaretto, "Quality Control in Continuing Professional Education: Accountability, Effectiveness, and Regulation," in *Professional Workers as Learners*, E. Stephen Hunt (ed.), Washington, DC: U.S. Department of Education, 1992, pp. 68-69.

consumer complaint data from the Department of Commerce and Consumer Affairs (DCCA) concerning social workers.

As a participant in a national data base, Disciplinary Action Reporting System (DARS) maintained by the Association of Social Work Boards (ASWB), Hawaii has access and input to a state-by-state list of social worker licensees who have been disciplined for one reason or another. As of April 25, 2000, there were 1,019 licensees in DARS against whom sanctions were imposed. None of them were in Hawaii. The DARS list contains the names and states of licensees against whom disciplinary action have been taken. The ASWB estimates there are about 300,000 licensed or certified social workers in the United States.<sup>16</sup> Thus, the total number of sanctioned licensees represents about one-third of one percent of the total number of social workers in the United States.

Before a social worker in Hawaii is granted a "license", the Department of Commerce and Consumer Affairs can check to see that the person's name does not appear in DARS. DCCA can also compare their list of disciplined Hawaii licensees against those who have been reported to DARS (none at the moment). Thus, the list can be used at the precicensing stage and later for persons "licensed" by the State.

The Bureau requested and received, from the Department of Commerce and Consumer Affairs, the number of complaints made against social workers in Hawaii for the past five years and the outcome for each.

The following data are the complaints made against social workers in Hawaii since 1995:<sup>17</sup>

1995: One unlicensed activity complaint (insufficient evidence).

1996: Two complaints. One of which resulted in legal action (Director's Final Order 4/18/97). The other was inactivated because complainant was unavailable. Both cases against licensees.

1997: Two complaints. Both against the same respondent, resulting in one warning letter relating to unlicensed activity. Respondent subsequently became licensed.

1998: Two complaints. One of which resulted in the filing of a lawsuit alleging unlicensed activity. The other case inactivated due to insufficient evidence against the licensee.

---

<sup>16</sup> Association of Social Work Boards (ASWB), *Social Work Licensing in the United States: Protecting the Public*, prepared for the Joint Conference of the International Federation of Social Workers and the International Association of Schools of Social Work, Montreal, Quebec, Canada, July 30, 2000, p. 1.

<sup>17</sup> Information received from Kathleen Hashimoto, Executive Officer, Board of Psychology, Department of Commerce and Consumer Affairs, September 5, 2000.

1999: One complaint. Unlicensed activity, warning letter issued.

2000: One complaint. Against licensee, insufficient evidence.

The results of those nine complaints in the past five years can be summarized as follows:

- (1) Four cases concerned one social worker that was involved in custody recommendations.
- (2) Five cases involved possible unlicensed activity.
- (3) Four cases resulted in findings against licensees.
- (4) Two legal actions were commenced, of which one is pending and one resulted in director's final order.

These numbers of complaints about social workers hardly rise to the level of regulatory concern or need for mandatory continuing education. There are about 1016 licensed social workers and another 958 social workers that work for the state government and are exempt from licensure for a total of 1974 social workers. The nine complaints over a five-year period represents only one-half of one percent of the number of licensed and exempted social workers in Hawaii. Hawaii's figures appear to mirror the proportion of complaints listed in DARS. It is questionable whether a continuing education program, had it existed since the adoption of Chapter 467E, Hawaii Revised Statutes, would have reduced the number of complaints to zero. Furthermore, four of the nine complaints dealt with unlicensed activity, not with competence or incompetence. Unlicensed persons would not have been subject to the continuing education requirements.

## Summary

Continuing education has historically been a voluntary, individual, effort to maintaining professional excellence and avoiding becoming obsolete in one's chosen occupation. Conclusive evidence is still not available linking continuing education with assured quality performance by a licensee. However, the Bureau found more states require continuing education as a condition for relicensure of social workers in their state than do not. The number of continuing education hours required for relicensure varies from an average low of about twelve hours per year to a higher average of thirty hours per year. The providers of continuing education courses can range from a college or university program to professional association sponsored workshops, seminars, and conferences.

The Bureau found that while no serious consideration has been given by legislatures to alternatives to continuing education, such as mandatory re-examination, practice audits, peer review, or stronger penalties, these alternatives may be more relevant to assuring the protection

of consumers than mandatory continuing education. If social workers (or any other profession) are earnest about continued proficiency and competency after initial licensure, input from the professionals and consideration of these alternatives would help to raise the level of discourse about professional competency. Finally, the small number of complaints concerning social workers (nine in the last five years—four concerning unlicensed activity) does not justify the imposition of mandatory continuing education.

## Chapter 5

### COST OF INCREASING SOCIAL WORKER LEVELS OF PRACTICE

This chapter addresses the following issue as requested by Senate Resolution No. 58, S.D. 1:

- (9) The cost of implementing alternative social work licensure laws for Hawaii.

And seeks to answer the question: “How should Hawaii fund the licensing costs?”

#### Introduction

The regulation of social workers in Hawaii is administered by the Director of Commerce and Consumer Affairs through its Professional and Vocational Licensing Division (PVL). Social workers, like twenty-one other professions, vocations, and occupations do not have an independent board overseeing its activities. Instead, the PVL staff provides the administrative support necessary for “licensing” (actually, certification), such as collecting fees, collecting and reporting data, and other paperwork relevant to social workers.

The Regulated Industries Complaints Office (RICO) is charged with enforcing the laws and programs administered by the Department of Commerce and Consumer Affairs (DCCA). Enforcement costs, including investigating complaints, conducting administrative hearings, and other actions dealing with compliance with social work “licensing” are operated on a “self-funded” basis and the revenues are derived from license fees as well as recovered fines and penalties. Under the current program the following fees are collected from each social worker for a triennium: application fee, \$60; new license, \$100 and a Compliance Resolution Fund fee of \$105. (Total: \$265.)

A scan of administrative and licensure fees set by social work regulatory boards in the Association of Social Work Boards (ASWB) “Social Work Laws and Board Regulations”, 1998<sup>1</sup> reveals that these fees are not unusually high or low compared to other states. Alaska, for example, has a \$50 application fee, \$410 for the initial license, plus other fees for a wall certificate (\$20), license report (\$100), and so on. Other states like Maine, Minnesota, Nebraska, New Jersey, and Virginia have a single application fee, but different amounts for initial license fees depending on the level of licensure being sought. Still, other states like California, Kansas, Kentucky, Massachusetts, Nebraska, New Mexico, Ohio, have different amounts for application fees depending on the level of social work license being sought. Some states charge a separate fee for endorsement and reciprocal licenses.

---

<sup>1</sup> American Association of State Social Work Boards, Social Work Laws and Board Regulations, Culpeper, VA, 1998, Table 6, pp. 41-45.

## Cost of Adding More Levels to Hawaii's Law

The Bureau made some assumptions when it requested the aid of the DCCA to calculate the costs of increasing the number of levels from one to three in Hawaii. The first group of cost figures started from the premise that title protection would continue to be the form of regulation, but for three certified (bachelor, master, and clinical) levels, instead of the one level that exists today. The pool from which the new licensees would come from included about 40 to 50 bachelor of social work degrees from University of Hawaii, Manoa; Hawaii Pacific University; and Brigham Young University, Hawaii; about 70 to 90 master of social work degrees from the University of Hawaii, Manoa, and about ten new clinical social workers per year. The degree level would determine the social work "licensing" level for which the graduate could apply and take the appropriate test, assuming the following: a person with a bachelor's degree would take the Basic examination, and the person with the master's degree would take the Intermediate examination<sup>2</sup>. In the case of the clinical workers, reference is not to the college degree so much as the years of experience in clinical practice and that person would take the Clinical level examination whether that person has a master's or a doctorate degree.

Another assumption was that government employed social workers would be certified and not exempted from the provisions of Chapter 467E, Hawaii Revised Statutes. There are about 958 social workers in the State government departments of Education, Human Services, Health, and Public Safety. These positions use the title "social worker". As there is no central office which maintains a breakdown of the educational levels achieved by the positions in social work (bachelor, master, doctorate) or the number of persons with degrees in related fields like psychology, the Bureau made the assumption that all 900-plus positions would be educationally qualified at the master of social work level but this assumption might be overly optimistic.<sup>3</sup> Even if government employed social workers may not all be licensed immediately, the assumption of having all 900-plus positions educationally qualified at the master of social work level was made so that the cost estimate would be based on the highest figure available instead of only a portion of that figure. There may be objections to requiring "licensure" of government employed social workers, but many social workers who are concerned about how society views their work apparently believe that licensed social workers in government can help the status and public image of social workers in general by not condoning a double standard and instead ensuring consistency in expectations and standards for these professionals. Other states that have changed their policy of no longer exempting government employed social workers from licensure or certification have allowed a grandfathering provision up to a certain date as long as the person stayed in the same position. When the government employee changed social work jobs, the person would be required to be licensed.

---

<sup>2</sup> Note that some states require the person with a master in social work to take the Basic (instead of Intermediate) level examination, although this appears to be the exception rather than the rule. See Virginia, which has two levels of practice.

<sup>3</sup> Those government employed social workers who do not meet the educational prerequisite of a bachelor's, master's, or doctorate in social work would still be able to work for a government agency, but probably would not be able to be certified (unless a substitution was allowed for the social work degree in the description of job qualifications) and probably could not use the title "social worker". This may have ramifications in recruitment, compensation, and perhaps other matters.

The second group of cost figures started from the premise that practice protection would replace title protection for three separate levels.

a. The DCCA's estimate for administering three levels under title protection was a total cost of \$132,000 for the first year, and \$79,000 for each of the second and third years. For social worker applicants, the fees currently in existence (application \$60; new license \$100, and Compliance Resolution Fund (CRF) \$105), need not increase. The DCCA expected that by the end of the third year of the licensing period, these fees would result in a self sufficient program. The single unknown cost figure for the social worker applicant is the separate examination fee to be paid by the applicant directly to the examining agent.

If title protection (certification) continued and the number of levels of licensure increased from one to three, the program could continue to cost licensees the same in terms of fees and the program could continue to be self sufficient for DCCA by the end of the third year. The estimate for this scenario requires government employed social workers to be certified and assumes the local universities will continue to produce their expected number of graduates each year.

b. Under the second scenario of practice protection (licensure), many more professionals could be included in the definition of social work practice, because practice protection means that other professionals, such as marriage and family therapists, psychologists, counselors, and members of the clergy may be performing social work functions. In this form of regulation, practice protection restricts social work practice only to those licensed to perform social work functions, but for the DCCA, regulation would actually expand, because school counselors, clergy, and perhaps other professionals not yet identified who are currently unregulated, would be exercising the functions in the social worker's scope of practice and would have to be licensed unless exempted. In this scenario, there may be about 2633 applicants to be licensed, approximately doubling the number of social workers estimates under the first scenario (title protection for three levels).

The cost estimate for each year of the triennium under this scenario would be \$212,000 and in order to be a self sufficient program, the fees would have to be increased by about \$50 for the application and an unknown amount for the CRF fee.

## **Conclusion**

The Department of Commerce and Consumer Affairs pursues self sufficiency in the administration of regulatory laws which means that regardless of the final regulatory scheme chosen for certifying or licensing social workers, their application, license, and other fees would have to be increased if program costs increase. Many states require their regulatory programs to be self-sufficient and increasing fees to cover higher costs appears to be a consensus among many states.<sup>4</sup> For example, New Mexico has created a board of social work examiners fund into

---

<sup>4</sup> Letter to the author from Laura W. Groshong, Clinical Social Worker Federation, Government Relations Co-Chair for the States October 7, 2000.



which all income received by the board is deposited and the fund is used to meet the necessary expenses of implementing that state's social work practice act.<sup>5</sup> The Alaska Chapter of NASW instructs new applicants about how to apply for licensure in Alaska and its licensing handout states that in addition to fulfilling educational, examination, and experience requirements the applicant must "pay all fees. Fees are set by the Division of Occupational Licensing. Because state law requires all licensing boards to be self-funding, fees are based on the total cost of administering the licensing program." (Emphasis added.)<sup>6</sup>

The licensees in Hawaii may, in fact, not oppose a moderate increase in fees if it is viewed that the increase in costs brings only well qualified practitioners into the profession. However, as the Auditor has pointed out, some increase in fees may prevent entry into the profession by otherwise qualified professionals who might not be able to afford the up-front costs of licensure.

---

<sup>5</sup> Section 61-31-16, New Mexico Statutes Annotated (Fund established).

<sup>6</sup> National Association of Social Workers, Alaska Chapter, Licensing Handout 2000 [www.naswak@alaska.net](http://www.naswak@alaska.net).

## Chapter 6

### ANALYSIS OF FINDINGS

#### Introduction

Senate Resolution No. 58, S.D. 1 (2000), while ostensibly focused on the multi-tiered regulation of social workers, actually embraced a much wider range of inter-related issues as reflected in nine distinct questions as follows:

- (1) The licensing provision of chapter 467E, Hawaii Revised Statutes;
- (2) The social work licensure laws of other states;
- (3) The rationale of the majority of states to support multi-tiered licensing of social workers;
- (4) The impact on, and benefits to, the public of multi-tiered licensing;
- (5) The rationale for states to choose practice laws rather than title protection licensure laws;
- (6) The continuing education requirements that are embedded in other states' licensing requirements;
- (7) The funding mechanisms that are used to fund social work licensing in other states;
- (8) The levels of supervision, credentialing, education, training, experience, and expertise that are required in other states' licensing laws; and
- (9) The cost of implementing alternative social work licensure laws for Hawaii.

These questions have been distilled to four basic issues which are the focus of this chapter:

- (1) **Should the Hawaii law be changed from a “title protection law” to a “practice protection law”?**
- (2) **Should Hawaii law have more than one social worker levels of “licensure”?**
- (3) **Should Hawaii law require continuing education for social workers?**

**(4) How should Hawaii fund the licensing costs?**

**Analysis and Discussion**

**(1) Should the Hawaii law be changed from a “title protection law” to a “practice protection law”?**

Forty of fifty states have chosen the regulatory form known as practice protection either in combination with title protection in the case of thirty of these states, or practice protection only, for ten of these states. Ten of the fifty states (Hawaii included) have chosen title protection only.

The difference between practice and title protection is that practice protection requires that a person be licensed to perform any of the tasks or services in the social worker’s scope of practice, and makes it illegal for an unlicensed person to perform those tasks and services. Under a title protection law, persons may perform any of these tasks without a license as long as those persons do not call themselves social workers. In other words, persons who call themselves “licensed” (actually, certified) social workers in Hawaii must, in fact, have met and fulfilled the requirements of the social worker licensing law, Chapter 467E, Hawaii Revised Statutes. Practice protection is the most restrictive form of regulation, because an unlicensed person who performs acts within the social workers’ scope of practice, unless specifically exempted, commits a violation of law.

Hawaii now provides title protection for persons having a minimum education level of a master’s in social work and no experience who successfully passes the Intermediate level examination administered by the Association of Social Work Boards (ASWB). It is true, as is pointed out by the proponents of practice protection, that Hawaii is in the smaller group of states that require title protection instead of practice protection. The real question is whether that matters at all. The general standard for regulating professions is that the profession should be regulated only to the extent necessary to protect the health, safety, and welfare of the public. It is not a matter of “right” or “wrong” or “better” or “worse” choice for states that have chosen title protection over practice protection. More likely a state’s selection of practice or title protection is a state’s perception (as interpreted by the state’s legislative body) of the danger for consumers posed by incompetent social workers. The legislature may be convinced of the perceived risks by the number of consumer complaints about social workers or the political strength and influence of the social work professionals in the legislative lobbying process, and other non-measurable factors.

Disregarding for the moment the interacting influences of education, experience, and levels of social work practice, and considering only whether practice protection might be more suitable for Hawaii’s social workers, the Bureau has been guided by the standard, “Would Hawaii’s consumers be better protected from harm due to social worker incompetence under a practice protection regulatory system than they have been under the title protection system that has been in effect since 1995”?

“Incompetence” is a measurable factor that can be tested for in an examination and measured against educational attainment. Hawaii’s examination is labeled an “intermediate level” examination by the ASWB. A breakdown of its content area and percentage of examination can be found in the Appendix B, and can be compared against the “basic” examination, “advanced” examination, and the “clinical” examination. None of the examinations measure compassion, honesty, emotional maturity, and other behavioral features of a social worker’s personality.

Under the current regulatory scheme in Hawaii (title protection for one level) there has been no evidence that harm due to incompetent practice of social work exists, much less is on the increase. Nine complaints over five years (less than two per year) made against a field of about 1,016 licensed social workers not to mention 958 social workers employed by government agencies who are exempt from licensure, represent a very small part of one percent of the persons providing social work services. Many of the complaints center upon unlicensed activity or unethical behavior rather than the incompetence of social workers.

A total of nine complaints in five years against nearly two thousand licensed and exempt social workers does not provide much support to justify raising the bar to a practice protection form of regulation. The Bureau does not doubt the sincerity of those social workers interviewed of their desire to protect consumers by allowing only highly qualified practitioners to enter the field. But they have failed to demonstrate that their proposals would protect from a problem that: (1) Actually exists; and (2) Would be solved by greater regulation (i.e., practice protection).

If trading title protection for practice protection could guarantee the identification of and sorting out of those individuals whose unethical behavior would tarnish the profession, then the case for practice protection would be stronger. As it is, the Bureau concludes that title protection is and has been sufficient to protect the health, safety, and welfare of consumers.

**(2) Should Hawaii law have more than one social worker level of “licensure”?**

Closely related to the issue of title or practice protection is the issue of how many levels of practice a state chooses to regulate. The terms “levels” and “tiers”, are used interchangeably in this report. The ASWB uses the phrase “levels of practice” while Senate Resolution No. 58, S.D. 1 used the term “tiers”.

Ignoring for purposes of this discussion the form of regulation, (title protection as Hawaii has today, or practice protection which was discussed earlier), the decision on how many social worker levels should be provided for in Hawaii again requires consideration of whether having more than one level protects consumers from harm due to professional incompetence.

In the Bureau’s interviews, the goal stated by proponents of multi-tiered regulation is to inform the consumer about the educational, experience, and other accomplishments of the social worker who is being hired or assigned to that consumer. By being so informed, it is felt that

consumers will be protected because they can expect and receive the kind of service corresponding to that level of skills and experience. With this distinction, proponents of multiple levels point out, consumers will receive the best and informed care. In the Bureau's view, while consumer protection is the professed objective, the overriding concern among social workers appears to be a desire for recognition of the value of social workers with the specialized experience described as "clinical" social work.

Social workers in Hawaii appear to be suffering from something of a professional identity crisis. As a helping profession there are few sharp demarcations between skill levels of practitioners except educational attainment, examination certificates, and perhaps membership in some professional organizations. Therefore, the choice of "levels of practice" might be viewed as the professionals' desire to develop what is described in marketing as "versioning" (basic, standard, deluxe).<sup>1</sup>

As envisioned by the proponents who were interviewed for this study, the basic version is the bare bones, no frills social worker—a level that requires a basic education (bachelor in social work degree), basic examination, a "no experience" entry level professional who is given routine assignments and requires supervision by a more experienced social worker. This "product" or provider will be able to perform adequately the minimally necessary kinds of social work tasks and for some clients may prove to be all that is needed.

Hawaii's Legislature appears to have rejected the basic version from the early days of requiring registration of social workers, (Chapter 467D, Hawaii Revised Statutes that was in force between January 1, 1990 to December 31, 1992), because a master's degree in social work was even then the minimum educational requirement.

The Bureau's investigation into other states' levels of practice showed that if a state has only one level of practice, it is most often the clinical social worker level that is regulated and not the bachelor in social work. In fact, in 1986, Hawaii's Legislature considered and rejected the creation of a single level of clinical social workers for Hawaii after the Auditor examined that proposal in a sunrise review. Except for Puerto Rico, which does not qualify as one of the fifty states, no state accepts the bachelor in social work as the minimum educational requirement if only one level is regulated. The minimum level of education is the master's in social work with no experience, in the case of New York and Hawaii. In all other one-level states, a master's in social work with experience is required for the clinical social work level.

The intermediate or standard version in this stratification is the master's in social work level that has more skills learned in the graduate program and can be expected to perform more than the basic services, presumably with less direct supervision. This version may start out with no experience, but such experience can be gained over time to lead to the deluxe version. Some clients may need only this standard version to help solve their problems. By adopting Chapter

---

<sup>1</sup> For a recent explanation of the function of versioning, see Alan Murray, *The Wealth of Choices*, New York: Crown Publishers, 2000, 264 pages.

467E, Hawaii Revised Statutes in 1994, the Legislature accepted a standard version for a social worker with a master's degree and no experience, that would get the job done.

Finally, the deluxe version with more “bells and whistles” would be the specialty level of clinical social worker, one who has had more training, more clinical experience under supervised conditions, passed a clinical examination, and so on. Like any deluxe version, the public expectation is that the performance of this version will be more accurate, faster, and somehow better than either the basic or standard versions. Presumably this social worker can be entrusted to work with more complex social work issues such as assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders and conditions.

Hawaii recognizes a de facto clinical social worker level as provided by Chapter 431M, Hawaii Revised Statutes, which the Bureau examined only from the point of view of the availability of another social worker level. A clinical social worker who meets the “licensing” requirements (actually, certification) of Chapter 467E, Hawaii Revised Statutes and meets professional certification requirements under Chapter 431M, Hawaii Revised Statutes can be reimbursed by an insurer for professional services in mental health, alcohol, and drug abuse treatment.

A consumer could, but probably would not, be referred to a clinical social worker who has not been accepted by an insurer as a provider of mental health, alcohol, and drug abuse treatment services. A “licensed social worker” (LSW) with no experience could not be certified under Chapter 431M, Hawaii Revised Statutes and therefore, would not be able to be reimbursed by an insurer. This is because clinical social work certification from the National Association of Social Workers and the American Board of Examiners requires a minimum number of years of clinical experience before an “LSW” could apply for voluntary, professional certification from these organizations. The assurance of competency comes from the insurer who performs the screening necessary to accept the clinical social worker as a provider of service. The Bureau is not convinced that any additional consumer safety concerns would be addressed by creating a clinical social worker level in Chapter 467E, Hawaii Revised Statutes.

However, proponents who wish to see a clinical level added to Chapter 467E, Hawaii Revised Statutes feel that providing for clinical social workers in Chapter 431M, Hawaii Revised Statutes is not enough to assure that consumers are protected from inexperienced or poorly supervised social workers who are currently certified as “LSW” (i.e. approved as a vendor by an insurer). They argue that the “LSW” in Chapter 467E, Hawaii Revised Statutes requires only successfully passing the intermediate level examination which does not cover the clinical content area to the same degree as the clinical examination does. The intermediate examination is geared more to generalists rather than to clinical practitioners. This is evident from a review of the content outline of examinations by the ASWB (see Appendix B).

In the Intermediate Examination Content Outline (Intermediate) there are ten major content areas while in the Clinical Examination Content Outline (Clinical) there are eleven major content areas. The differences between the content emphasis can be contrasted as follows:

**Table 5**

**CONTRAST BETWEEN INTERMEDIATE EXAMINATION CONTENT  
OUTLINE AND CLINICAL EXAMINATION CONTENT OUTLINE**

<b>Intermediate</b>		<b>Clinical</b>	
Content	% of exam	Content	% of exam
Human Development & Behavior in the Social Environment	15%	Human Development & Behavior	17%
Issues of Diversity	4%	Issues of Diversity	5%
Assessment, Diagnosis, & Treatment Planning	15%	Diagnosis & Assessment	12%
Direct Practice	21%	Psychotherapy & Clinical Practice	19%
Communication	10%	Communication	9%
Professional Social Worker/Client Relationship	11%	The Therapeutic Relationship	8%
Professional Values & Ethics	10%	Professional Values & Ethics	11%
Supervision & Administration	5%	Clinical Supervision, Consultation, & Staff Development	3%
Practice Evaluation, & Utilization of Research	3%	Practice Evaluation, & Utilization of Research	3%
Service Delivery	5%	Service Delivery	9%
		Clinical Practice and Management in the Organizational Setting	5%

There are several similar content areas (with only slight variation in percent of examination) between the intermediate and the clinical examinations, such as Human Development and Behavior (15% v. 17%), Issues of Diversity (4% v. 5%), Communication (10% v. 9%), Professional Values and Ethics (10% v. 11%), Practice Evaluation, and Utilization of Research (3% in both Intermediate and Clinical examination content areas), and Service Delivery (5% v. 9%).

More significantly, it is the content areas that are absent from the Intermediate examination that clinical social workers allude to as important in establishing professional

competence. These are the content areas of Psychotherapy and Clinical Practice (19%), Therapeutic Relationship (8%), Clinical Supervision, Consultation, and Staff Development (3%), and Clinical Practice and Management in the Organizational Setting (5%) which are covered in the clinical, but not in the intermediate examination.

In addition, the Clinical Social Workers (CSWs) argue that the requirement in Section 431M-1 defining clinical social worker requires the “LSW” be “certified in clinical social work by a recognized national organization” and this certification in the case of the “Qualified Clinical Social Worker” (QCSW) criteria is not equal to the “Diplomate in Clinical Social Work” (DCSW) or the “Board Certified Diplomate in Clinical Social Work” (BCD). While the DCSW and the BCD require five years of experience in clinical practice and passing an examination, the QCSW requires fewer years of experience and no specific competence examination.

In effect, proponents who wish to see the clinical social worker level added to Chapter 467E not only want minimum criteria to be higher in Chapter 431M, by asking vendorship requirements to include a clinical examination and five years post master’s clinical experience and eliminating the QCSW qualifying certification. They also want Chapter 467E, Hawaii Revised Statutes to specify a clinical social worker level of licensure to offer the deluxe version to consumers. This level of licensure would include a requirement that the applicant successfully pass the clinical level ASWB examination instead of the Intermediate examination.

A review of the professional requirements for reimbursements for mental health services under Chapter 431M, Hawaii Revised Statutes is beyond the scope of this study, which is directed primarily toward multi-tiered licensing. The Bureau finds that the reimbursement provisions in Chapter 431M provides a separate identification for clinical social workers among all other social workers in Hawaii—in other words, a de facto clinical social worker licensing level. Formal establishment of a separate level of licensure is unnecessary.

The clinical social worker in Hawaii is able to receive everything pertinent to a separate level, including “licensure” (under Chapter 467E, Hawaii Revised Statutes) and opportunity to be reimbursed for a specialty in social work (under Chapter 431M, Hawaii Revised Statutes). Proponents of the formal establishment of a separate licensing level claim that the intermediate level examination for licensure under Chapter 467E, Hawaii Revised Statutes does not test for clinical experience and that, therefore, non-clinically trained or non-clinically tested persons (like the QCSW, in the case of Chapter 431M, Hawaii Revised Statutes) are performing social work to the detriment of consumers. This claim, however, is unsupported by documented evidence. The Bureau was not able to confirm that there is any “harm” to consumers due to the practices of clinical social workers under Chapter 431M, Hawaii Revised Statutes or even if there would be any greater “benefit” to consumers if another level were added to Chapter 467E, Hawaii Revised Statutes.

The “versioning” proposals for multiple levels of social worker licensing might be looked at as ways to recognize social workers’ different levels of education, experience, and knowledge (as determined by an examination), or specialties. None of these “levels” really address the issue



of protecting the consumer from harm but merely to acknowledge the accomplishments of each level of social worker licensed.

The Legislature should recognize that if it chooses to exercise its prerogative and establish multiple licensing levels as a way for the State to differentiate masters of social work without experience from those with it (whether as advanced or clinical specialists), it will be doing so for reasons other than protection of the consumer.

### **Recognizing the Work Environment**

Besides their concern about practitioners having less training or inadequate testing in clinical aspects of social work, clinical social workers point to the presumed dangers of social workers practicing on their own, outside the auspices of an organization such as a social service agency, prison, or hospital. There is a desire to assure the public that any social worker who works in private independent practice must be a clinically trained social worker. Some states do give clinical social workers who practice outside an organizational setting a different title.

Under current Hawaii law, there is nothing to prevent a “Licensed” Social Worker (LSW) from setting up a private practice that is not part of an organizational setting. The concern expressed by some social workers is that there is no assurance of supervised experience since the LSW can be granted upon successful completion of the Intermediate level examination with no additional required hours or years of experience. A recent graduate with a master’s degree in social work with no experience could set up a private practice after meeting all licensing requirements under Chapter 467E, Hawaii Revised Statutes. However, the person’s income would have to come solely from private paying clients. The person could not receive insurance reimbursements, because in order to be certified as a clinical social worker under Chapter 431M, Hawaii Revised Statutes, to be reimbursed by an insurer, a minimum number of years of experience is a prerequisite (in the case of the QCSW, three years of experience). So a person with a new master’s degree could not meet the experience requirement for insurance reimbursement for mental health services.

There is no data to determine how many private-paying clients such a practitioner must retain in order to maintain an independent professional practice. It is also difficult to ascertain how many social workers practice independently. Like the Auditor, the Bureau looked to the Oahu yellow pages of the GTE Hawaiian telephone directory and found no fewer than five different but related categories under which social workers are listed. These are: Counselors-Personal; Psychosocial Therapists; Marriage, Family, Child & Individual Counselors; Psychotherapists; and Social Workers.

In all, there were about fifteen names of social workers, three of whom describe their licensing certificate with only the abbreviation “LSW” and without other professional certificates like QCSW (Qualified Clinical Social Worker), DCSW (Diplomate in Clinical Social Work), or BCD (Board Certified Diplomate in Clinical Social Work). However, these three names appear not as solo practitioners, but associated with firms or other social workers who show certification

from clinical social work organizations. Therefore, there appears to be no social worker with a “LSW” listed as a sole independent private practitioner who lists “just” an “LSW”.

While this kind of private practice by a newly licensed and inexperienced “LSW” is possible to establish in theory, it does not appear to exist at all, much less to any great extent. The theoretical possibility of such a situation occurring, viewed in context with the lack of it happening in actuality and with little or no documented harm, creates little basis for regulatory concern.<sup>2</sup>

It is not clear that establishing a level for “independent private practice of social work” necessarily provides any more protection to a client than exists under the current regulatory scheme. It appears preferable to leave intact the current clinical social worker’s certification and vendorship process established under Chapter 431M, Hawaii Revised Statutes. There is little reason to change the social worker regulatory law unless credible evidence is presented that documents a pattern of inappropriate social work practices that goes beyond anecdotal evidence.

### **(3) Should Hawaii law require continuing education for social workers?**

The primary issue is whether, after initial licensure (which, in Hawaii’s case is actually certification), a continuing education requirement for renewal of a license can assure competency of social workers to the benefit of consumers. This standard, used by the Auditor and many researchers in the field of continuing education has not been satisfactorily answered. Not enough research has been conducted to confidently link mandatory continuing education requirements in any particular profession with competency by practitioners of that profession.

For one thing, while technical competence can be assessed by examination, it is difficult to assess a social worker’s character traits such as honesty, compassion, and emotional maturity. It is also difficult to assess how two otherwise similarly trained and experienced social workers will impact upon the treatment outcome for a client. The outcome differences may be due to less measurable factors such as personality, intelligence, compatibility, or other things that the client brings into the counseling relationship.

When discussing continuing education for social workers or any other profession, the question has been asked, how many complaints has the State received about members of this profession? This reasoning is based on the assumption that there would be no (or very few) complaints about social workers if continuing education was a requirement for renewal of a “license” because a social worker who maintains skills and knowledge through continuing education assures performing competently. In Hawaii, there have been only nine complaints over a five year period which should qualify as “very few” complaints. Continuing education for social workers has not been required during this time. What role can mandatory continuing

---

<sup>2</sup> Like the Auditor, the Bureau believes that a private paying client would be sophisticated enough to bring complaint against a private practice social worker who does not provide competent service.

education play here, when its very absence has not seemed to affect the number of complaints about social workers?

The Auditor, who reviewed complaint data about real estate professionals and research about the correlation between continuing education and competence concluded that providing stronger penalties in the form of higher fines might be considered in order to protect consumers from incompetent practitioners. In addition to stronger penalties, other alternatives to mandated continuing education include peer review, mandatory re-examination, and practice audits. These alternatives may assure greater consumer protection overall than mandatory continuing education but would require serious, dedicated input from social work professionals to identify the parameters for each kind of alternative and to make it work. By contrast, a continuing education requirement would be the easy, minimum effort alternative that would pacify the proponents of continuing education without positively assuring continued competence of professionals.

The Model Act also recognized the dilemma posed by mandatory continuing education. Its comments indicate: “. . . no single model has emerged as the single most effective way to ensure continuing competence” and goes on to state: “. . . at some point in the future, license renewal by examination may become a necessity in order to verify continued minimal competence.”<sup>3</sup> (Emphasis added.)<sup>3</sup>

#### **(4) How should Hawaii fund the licensing costs?**

The self funding nature of Department of Commerce and Consumer Affairs’ programs would mean that the cost of licensing and any fines and penalties collected for lack of compliance with the law must cover the cost of running this program. The Bureau received the assistance of Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs to develop a cost breakdown for three levels of practice in (a) the current title protection form of regulation (certification) and (b) in a regulatory form known as practice protection (which would require a license of anyone who practiced a task within the definition of a social worker’s scope of practice). Government employed social workers would not be exempt from both scenarios, certification or licensure. The first scenario (title protection for three levels) was expected to result in an increase in the number of applicants from 90 to 1308 in the first year and 150 new applicants in the second and third year of the triennium. Costs for the first year were estimated to be \$132,000 and for the second and third years, \$79,000 each year. These costs could be maintained with the fees currently in existence (application \$60, new license \$100, and Compliance Resolution Fund (CRF) fee \$105). Of course, the assumption that these fees can remain the same is heavily dependent on the assumption of the number of new applicants and that there will be no exemption for government employed social workers.

The second scenario (practice protection for three levels of social work practice) could widen the scope of regulation to include professionals who perform academic counseling, spiritual advising, mental health therapy, and so on, including some who are currently unregulated like members of the clergy, because these professionals perform services that

---

<sup>3</sup> Association of Social Work Boards (ASWB) Model Social Work Practice Act (Comments to section 310).

overlap with those of social workers. In other words, more professionals would be covered under the umbrella of social work tasks such as clinical diagnosis. Under this scenario the total minimum cost of \$212,000, for an estimated minimum of 2633 applicants, would have to be made up with an increase in application fees of \$50 and an unknown amount for the CRF fee. In both scenarios, an additional unknown cost to the applicant is the fee to take the qualifying examination for that level.

If the unregulated and the overlapping service providers were and could be clearly statutorily exempted, and the number of applicants limited to only those social workers performing social work tasks, then the fees might more closely resemble the first scenario of no increase.

Unfortunately, the estimates for the costs and fees are dependent upon the assumptions made by the Bureau. For example, requiring government employed social workers to be “licensed” may prove to be difficult if the requirement for a degree in social work prevents the recruitment of individuals who may have degrees in related fields such as social services or human behavior.<sup>4</sup> This may create impacts on providing adequate services for some of the groups served by the affected agencies. However, the double standard of requiring “licenses” of non-government social workers and exempting government social workers makes a mockery of government regulatory standards.

The Bureau concludes that licensing fees for social workers may have to be increased if the number of levels of social workers increases and more persons are required to be licensed. The exact amount of the fee increase cannot be calculated with certainty at this time without more certainty about non-exemption for government social worker employees and the number of graduates who will be eligible for certification.

---

<sup>4</sup> In 1988, Senate Bill No. 2524 was amended to exempt state government social workers at the request of the affected state departments and the agreement of NASW-Hawaii. (footnote omitted) Hawaii, Office of the Auditor, *Sunrise Analysis of a Proposal to Regulate the Practice of Clinical Social Work*. Report No. 88-16, Nov 1988, p. 9.

## Chapter 7

### CONCLUSIONS

#### Introduction

This last chapter contains the final conclusions of the Bureau based on its review of the literature, interviews, and an examination of the statutory provisions of many other states.

#### Regulatory Form

**There is no evidence that consumers of social work services will be better protected from incompetent social workers by changing Hawaii law from a “title protection law” to a “practice protection law”.**

State regulation of professions and vocations should be limited to what is necessary to protect the health, safety, and welfare of consumers. In terms of social work practitioners, this means protection from incompetent members of that profession. The form of regulation should be sufficient to protect consumers, but not unduly restrict entry into the profession. In regulating social workers since 1995, the Legislature has acknowledged a need to protect the public from a perceived risk of harm by social workers in the course of performing social work tasks. The form of regulation was not, and is not, overly restrictive. The title protection now enjoyed by social workers in Hawaii allows professionals who are not social workers by virtue of educational degree, experience, or occupation, to perform social worker-type tasks without violating the law as long as they do not call themselves “licensed social workers”. This allows consumers to consult and organizations to hire case managers, counselors, social service workers, ministers, psychologists, and other behavioral interventionists, instead of “licensed” social workers, if they so choose.

The minimum requirements expected of a new applicant for “licensure” in Hawaii are a master of social work degree and the ability to pass the intermediate examination for social workers. These professional standards for certification have been in effect for five years.

Practice protection, which Senate Resolution No. 58, S.D. 1 requested the Bureau investigate as an alternative to title protection, restricts the performance of social work functions to only those persons who are licensed by the State. Persons who can do the tasks identified in the profession’s scope of practice such as case management, advocacy, outreach, diagnosis and treatment for mental health, counseling, and the like, must either become licensed social workers or risk being sanctioned for practicing social work without a license.

Available evidence does not document a need for tighter regulation. To the extent that complaints have been filed at all, they do not demonstrate a pattern of harm caused by

## CONCLUSIONS

incompetent social workers. Over the course of five years, there have been a total of nine complaints lodged against the nearly 2000 social workers in Hawaii, about half of whom are already exempt from licensure by virtue of being government-employees. Evaluation of the few complaints actually filed revealed that a majority did not complain of incompetence but of:

- (1) Unlicensed activity, which would not be prevented or eliminated by increasing the level of regulation to practice protection; or
- (2) Professional misconduct or unethical practices, which cannot be predicted beforehand (whether by examination or other method) at the time of granting certification or licensure.

Therefore, the current regulatory form, title protection, appears to be an adequate level of regulation for this profession.

### Levels of Practice

**There is no evidence that increasing the number of Hawaii's social worker licensing levels will better protect the public from receiving treatment at the hands of less competent social workers.**

Some social work professionals claim that having multiple levels differentiates on the basis of training and gives a consumer a clearer picture of what a social worker's skills, experience, and knowledge are. Even assuming this assertion to be true, it is not clear how such a differentiation actually promotes consumer protection.

First, as to the Bachelor of Social Work level of licensure, the Bureau received no strong arguments from advocates of multi-tiered licensing for establishing this as the entry level for the profession. If anything, retaining the master's degree in social work requirement helps to justify the status of social work as a profession. While establishing a bachelor level of licensure might boost the recruitment efforts of schools of social work, it is not at all clear how consumers would benefit.

In states that increased their levels of licensure from one to two, the most common practice was to add, if anything, a Clinical level of licensure, not a Bachelor. Therefore, the Bureau sees no need to establish a Bachelor in Social Work licensure level.

As for the addition of a Clinical Social Worker licensure level, the Bureau has not been able to identify anything that an additional licensure level would do to increase protection of consumers. The current method of certifying clinical social workers under the vendorship provisions of the insurance for mental health services law (Chapter 431M, Hawaii Revised

Statutes), assures that these providers of clinical social work services (and not other social workers who are not experienced and certified) have met the requirements for certification by the insurer. The certification also allows for reimbursement by insurers for referrals to clinical social workers of patients who are in need of mental health, alcohol, and drug abuse treatment.

Clinical social workers who disagree with the criteria presently being used for certification for insurance reimbursement purposes (whether they relate to experience, testing standards, or any other issue) should request the Insurance Commissioner and the respective insurance companies to review these requirements in light of Chapter 431M, the mental health insurance benefits law. This is not a reason to revise Hawaii's system for licensing social workers.

The Bureau recognizes that of all social workers, the clinical social workers present the strongest argument for a separate category for regulation because their work can affect the mental state of a client, when a clinical social worker assesses and treats the mental and behavioral aspects of that client. This would help to explain why, with the exception of Hawaii and New York, states having only one level of regulation regulate the clinical social workers and no others. Regulation of a single tier of clinical social workers was reviewed and rejected in 1986 by the Auditor's sunrise study, because the need for any regulation at all had not been documented. Documentation of the need for a separate licensing level for clinical social workers is similarly lacking.

If the Legislature wanted to make Hawaii comparable to these other single tier licensing states, and is concerned about potential harm caused to consumers by clinical social workers, it could accomplish this by changing Hawaii's law to license clinical social workers and deregulate the rest. However, the Legislature should realize that, as the Auditor found, there is no actual evidence of harm occurring to consumers in Hawaii, because of the total of nine complaints filed at the DCCA during a five year period, none pertained to a clinical social worker.

### **Continuing Education**

**There is no evidence that requiring continuing education for social workers will cause the public to receive better care, services, or protection from unprofessional behavior of social workers. There are alternatives to continuing education that could raise the level of professionalism among all social workers including peer review, mandatory re-examination, practice audits, and stiffer penalties for violating the law.**

The Bureau did not find justification for establishing a mandatory continuing education requirement for social workers. Continuing education per se does not guarantee the successful performance of social work tasks because factors other than knowledge such as compassion, emotional maturity, honesty, and the nature of client interaction may have a greater impact on successful treatment. Alternatives to mandatory continuing education such as re-examination, peer review, and practice audits, may be more suitable to improving or maintaining social worker competency and protection of the consumer. Moving away from the easy "process" approach of

## CONCLUSIONS

continuing education to a more rigorous performance based evaluation of professional competency will elevate the “status” of social workers in the eyes of other professions.

Another alternative to mandatory continuing education is increasing penalties for violations.

### Costs

#### **Licensing fees must adequately fund the social work certification program without unduly restricting entry into the profession.**

According to the Professional and Vocational Licensing Division (PVL) of the Department of Commerce and Consumer Affairs (DCCA), changes in regulatory fees would be affected more by a change to practice protection (the more restrictive form of regulation) than by simply increasing the levels of licensure if title protection is retained. The estimates were made on the assumptions that: (1) Government employed social workers would no longer be exempt from certification or licensing; (2) No independent regulatory board would be created; and (3) No mandatory continuing education requirement would be added.

Under this scenario, the PVL concluded that no increase in fees may be needed, even if the number of licensure levels was increased to three, if the form of regulation continues to be title protection. By comparison, there could be an increase of at least \$50 for each three-year licensing cycle, as well as a possible increase in the Claims Resolution Fund fee, if practice protection replaces title protection. This could be necessitated because professionals in other fields who perform any task within the social work scope of practice could be affected by the social work licensure requirements. Unless these professionals in other fields are exempted from licensure as social workers, the number of social worker licensees would necessarily increase. One cost factor that remains unknown for the respective scenarios is the cost of the examination for each level.

The DCCA estimates, as noted above, are based upon assumptions which, if altered, could affect the cost estimates. The common denominator, however, is that under the scheme followed by the DCCA in regulating several dozen professions and occupations, the program of licensing social workers must be self supporting and fees would be raised in order to cover increases in costs.

### Conclusion

The Bureau concludes that the current method of regulating social workers, title protection, is adequate for the profession and the needs of the consumer. There appears to be no need to increase the number of social worker licensing levels beyond the current single master’s level to protect consumers of social work services. The need to protect consumers from allegedly inexperienced or incompetent social workers practicing clinical social work appears to



be a problem whose existence in Hawaii has never been documented, much less proven. Data on complaints gathered by the DCCA reveals few complaints against social workers generally and none against clinical social workers. The vendorship process of certifying clinical social workers for third party reimbursement is not the focus of this report. Chapter 431M, Hawaii Revised Statutes provides certain qualifying requirements for the clinical social worker who seeks reimbursement from insurers, which constitutes a de facto second level of regulation for clinical social workers that has a meaningful application. Any perceived inadequacies of the certifying process in Chapter 431M, Hawaii Revised Statutes should be addressed to the Insurance Commissioner.

The Bureau also concludes that there is no need to require continuing education for social work professionals. Penalties for violations of the social work licensing can be increased, and alternative competency standards, such as periodic re-examination and peer review, would appear to further the aims of the social work profession more effectively.

## APPENDIX B

# Examinations by the ASWB: Content Outlines<sup>1</sup>

### Basic: content area and percentage of exam

I. Human Development and Behavior.....	15%
II. Effects of Diversity .....	7%
III. Assessment in social work practice.....	23%
IV. Social work practice with individuals, couples, families, groups, and communities.....	23%
V. Interpersonal communication.....	7%
VI. Professional social worker/client relationship .....	4%
VII. Professional values and ethics .....	7%
VIII. Supervision in social work .....	3%
IX. Practice Evaluation and utilization of research.....	3%
X. Service delivery.....	7%
XI. Social work administration .....	3%

### Intermediate: content area and percentage of exam

I. Human development and behavior in the social environment.....	15%
II. Issues of diversity .....	4%
III. Assessment, diagnosis, and treatment planning.....	15%
IV. Direct Practice.....	21%
V. Communication .....	10%
VI. Professional social worker/client relationship .....	11%
VII. Professional values and ethics .....	10%
VIII. Supervision and administration.....	5%
IX. Practice evaluation and the utilization of research .....	3%
X. Service delivery.....	5%

### Advanced: content area and percentage of exam

I. Human development and behavior.....	10%
II. Effects of culture, race, ethnicity, sexual orientation, gender, age, and disability .....	5%
III. Assessment, diagnosis, and treatment planning.....	23%
IV. Direct practice .....	17%
V. Communication .....	7%
VI. Relationship issues.....	7%
VII. Professional values and ethics .....	8%
VIII. Supervision .....	3%
IX. Practice evaluation and the utilization of research .....	5%
X. Service delivery.....	5%
XI. Administration .....	5%
XII. Social work interface with other systems.....	7%

### Clinical: content area and percentage of exam

I. Human development and behavior.....	17%
II. Issues of diversity .....	5%
III. Diagnosis and assessment.....	12%
IV. Psychotherapy and clinical practice .....	19%
V. Communication .....	9%
VI. The therapeutic relationship .....	8%
VII. Professional values and ethics .....	11%
VIII. Clinical supervision, consultation, and staff development.....	3%
IX. Practice evaluation and the utilization of research .....	3%
X. Service delivery.....	9%
XI. Clinical practice and management in the organizational setting .....	5%

<sup>1</sup> American Association of State Social Work Boards, The Exam "Blue Book", 1997, pp.10-16  
Inserts (after 9-21-00)