

Board of Licensed Social Workers

Temporary Rules for OAR Chapter 877 effective July 1, 2010

(Changes are underlined. Deleted text is set forth in brackets.)

Division 30

877-030-0040

Conduct and Reporting Requirements of Regulated Social Workers

(1) Conduct: The following minimum standards of professional conduct apply to regulated social workers:

(a) Private conduct of regulated social workers is a personal matter to the same extent as with any other person, except when that conduct compromises the fulfillment of professional responsibilities.

(b) Regulated social workers may not participate in, condone, or be associated with dishonesty, fraud, deceit, or misrepresentation.

(c) Regulated social workers may not misrepresent their professional qualifications, education, experience, or affiliations.

(2) Reporting Requirements:

(a) Regulated social workers must report the following to the Board as soon as practicable, but not later than 10 days after:

(A) Being convicted of a misdemeanor or felony;

(B) Being arrested for a felony crime;

(C) Receiving notice of a civil lawsuit that names the regulated social worker as a defendant and makes allegations related to the regulated social worker's practice of clinical social work or the regulated social worker's license or certificate;

(D) Becoming an in-patient in a psychiatric hospital or psychiatric day treatment facility;
or

(E) Receiving notice of a regulatory action related to the regulated social worker's license or certificate.

(b) Regulated social workers must report child and elderly abuse as required by ORS 419B.005 to 419B.050 and 124.050 to 124.095.

(c) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a regulated social worker is required to report to the board any information the regulated social worker has that appears to show that a regulated social worker is or may be an impaired professional or may have engaged in unprofessional conduct according to the guidelines of the code of ethics, to the extent that disclosure does not conflict with the requirements of ORS 675.580. A regulated social worker is an impaired professional if the regulated social worker is unable to practice with professional skill and safety by reason of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability or by reason of a mental health disorder.

(d) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a regulated social worker licensee who has reasonable cause to believe that a licensee has engaged in prohibited or unprofessional conduct is required to report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting regulated social worker must report the conduct without undue delay, but in no event later than 10 working days after the reporting regulated social worker learns of the conduct. In this section:

(i) “Licensee” means a health professional licensed or certified by or registered with a board.

(ii) “Board” has the meaning given that term in ORS 676.150.

(iii) “Prohibited conduct” means conduct by a licensee that:

(I) Constitutes a criminal act against a patient or client; or

(II) Constitutes a criminal act that creates a risk of harm to a patient or client.

(iv) “Unprofessional conduct” means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee's profession or conduct that endangers the health, safety or welfare of a patient or client.

Division 35 – Impaired Professional Program – Repealed in its entirety

Temporary Changes to Division 40: (see next page)

877-040-0000

Management of Complaints

- (1) The board intends to provide fair, expeditious response to complaints.
- (2) A board member who is unable to render an impartial, objective decision regarding a complaint must abstain from participating in the preparation, hearing, deliberation and disposition of the complaint. An abstention is effective at the time a board member announces a decision not to participate.
- (3) A board member who is a complainant or respondent in a complaint is disqualified from participating in the preparation, hearing, deliberation and disposition of the complaint.
- (4) The board may initiate a complaint.
- (5) The Consumer Protection Committee oversees investigations of complaints received by the board. The committee may conduct investigations, prepare reports, require evaluations, and negotiate proposed agreements and may perform other duties prescribed by the board. In carrying out these duties, the committee may assign to the board's staff the duties of conducting investigations and preparing reports. Subject to the approval of the committee, the board Administrator may assist in negotiating a proposed agreement with a respondent.
- (6) If the complainant is a client or former client of the respondent, the complainant must sign a waiver of confidentiality granting the board and its counsel access to records and other materials that are the ethical and legal responsibility of the respondent. Refusal by a complainant to comply with this requirement may result in the dismissal of the complaint.

877-040-0003

Definitions

The following definitions apply in this division of rules:

- (1) "Complainant" -- A person or group of persons who files a complaint or the Board for Board-initiated complaints.
- (2) "Complaint" -- A mandatory report or an allegation that a person regulated by the board has committed an act that would subject the person to discipline under ORS 675.540, or is impaired. A complaint should specifically describe the conduct complained of to the best of the ability of the complainant

(3) “Consumer Protection Committee” -- A committee of one or more board members assigned by the board to fulfill specified functions related to complaints. There may be more than one Consumer Protection Committee.

(4) “Impairment” – an inability to practice with reasonable competence and safety due to the habitual or excessive use of drugs or alcohol, other chemical dependency or a mental health condition.

[(4)] (5) “Respondent” -- A person regulated by the board against whom a complaint is filed.

[(5)] (6) “Social work” in ORS 675.540(1)(c) and (1)(d) means “clinical social work” as defined in ORS 675.510(2).

877-040-0010

Form of Complaints

[(1)] Any person may file a complaint alleging a violation of ORS 675.510 to 675.600 or of the rules of the board, or impairment. [A complaint must be in writing and may be submitted on a form provided by the board for complaints.]

[(2)] A complaint must identify the complainant and the respondent.]

877-040-0018

Procedure for Investigation of Alleged Impairment

(1) On its own motion or upon complaint by any person the board may require a regulated social worker to undergo evaluation to determine if the person has an impairment.

(2) In order to determine whether a regulated social worker has an impairment, the board may require the person:

(a) To cooperate with an evaluation ordered by the board.

(b) To sign a release allowing the board to fully communicate with any treatment program or evaluator to obtain any evaluation respondent has undergone prior to or during the investigation by the board of the alleged impairment.