Oregon
Theodore R. Kulongoski, Governor

State Board of Clinical Social Workers
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November 3, 2009

NOTICE OF PUBLIC MEETING

STATE BOARD OF CLINICAL SOCIAL WORKERS
Rules Advisory Committee

Saturday, November 7, 2009
10:00 a.m. – 1:00 p.m.
Morrow Crane Building
Second Floor Large Conference Room
3218 Pringle Road SE
Salem, OR 97302-6310

THIS MEETING SITE IS FULLY ADA ACCESSIBLE.
IF YOU NEED SPECIAL ACCOMODATIONS TO ATTEND
THIS MEETING, PLEASE CALL 503-378-5735.

Members of the Board's Rules Advisory Committee will convene under the leadership of the Rules Committee of the Board to discuss possible rule changes under consideration by the Board for submission into the rulemaking process, to implement legislation taking effect January 1, 2010.

The Board will consider the feedback from the Rules Advisory Committee in the Public Meeting of the full Board scheduled for November 10, 2009. The Board may authorize initiation of the rulemaking process at that meeting.

Please publish this notice as a courtesy in the business agenda section or state government section. Thank you.

Sincerely,

Martin Pittioni
Executive Director

Board of Licensed Social Workers
Rules Advisory Committee 2009-10
(as of 11/02/2009)

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November 3, 2009

Dear Rules Advisory Committee Members,

Over the next year the Board will be developing rules in response to House Bills 2059 and 2345 and Senate Bill 177 of the last legislative session. All three enrolled bills are available at the web site maintained for the legislature (web-links are at the very end of this document); key provisions are set forth in this document. We anticipate the use of three sets of rules to implement board policies that respond to the three new acts.

The first set of rules will have an effective date of January 1, 2010; others will be effective July 1, 2010, and the final group of rules will be effective January 1, 2011.

The meeting of the Rules Advisory Committee on November 7, 2009 is for the purpose of addressing the policies to be effective January 1, 2010. These policies will respond to some portions of Senate Bill 177 that will be effective on that date and to certain portions of House Bill 2059, which is also effective January 1, 2010. The major portions of Senate Bill 177 take effect January 1, 2011, and the policies needed to implement those portions of the act will be the subject of subsequent meetings of the Rules Advisory Committee.

House Bill 2345 changes the process used to work with impaired health care professionals. Board policies needed to implement those changes will be the subject of future meetings of the Rules Advisory Committee and will likely take effect July 1, 2010.

The Board is also contemplating a policy change that would be effective January 1, 2010 that would adjust the existing policy regarding the re-licensing of former license holders, and to streamline rules affecting the licensure renewal process.

January 1, 2010 rule changes:

1. Sections 8 and 11 of Senate Bill 177

Accrediting organization

Sections 8 and 11 of the act require the board to recognize an accrediting organization. For example, section 8 of the act creates a new sub-section (2)(b) to ORS 675.530, adding the portion in bold:

> (b) Holds a master's degree in social work from a college or university accredited by **an accrediting organization recognized by the board**;

Under the law to take effect January 2010, applicants for certification or license would be required to hold a master's degree from an institution accredited by an accrediting organization recognized by the board. The current statutory requirement is that the institution be accredited by the Council on Social Work Education. Under the change in the statute, the board must make an independent selection of the accrediting organization.

2. Definition of "social work":

Effective January 1, 2010, Section 12 of the act amends ORS 675.540, which authorizes the board to take certain actions against a license if the licensee:

> "(c) Is unable to perform the practice of { - clinical - } social work by reason of mental illness, physical illness or alcohol or other drug abuse; (d) Has been grossly negligent or has engaged in unprofessional conduct in the practice of { - clinical - } social work; or * * *"

Currently, the board is authorized by ORS 675.540 to take action if a licensee is unable to practice, or improperly practiced, "clinical social work," a term defined by statute (see the current version of ORS 675.540). Effective January 1, 2010 the statute will authorize the board to take action against a licensee who is unable to practice, or improperly practiced, "social work," a term not defined by statute. After January 1, 2010, in order to perform the function described in ORS 675.540 (the Board's authority to discipline if the Board finds Board statute or rule have been violated by the conduct of a licensee), the board believes it must have a proper definition of "social work."

3. Prohibited or unprofessional conduct:

Section 1(3) of enrolled House Bill 2059 (2009) provides:

> (3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee's board within 10 days after the conviction or arrest.

The board has requirements for self-reporting in OAR 877-030-0040(2) (attached).

Section 8 of enrolled House Bill 2059 (2009) provides:

> (8) Except as part of an application for a license or for renewal of a license and except as provided in subsection (3) of this section, a board may not require a licensee to report the licensee's criminal conduct.

The board needs to implement section 1(3) of the act, possibly by amending OAR 877-030-0040(2), but without violating section 1(8) of the act.

4. Reporting of prohibited conduct and unprofessional conduct

Section 1(4) of enrolled House Bill 2059 (2009) provides:

> (4) The board responsible for a licensee who is reported to have engaged in prohibited or unprofessional conduct shall investigate in accordance with the board's rules. If the board has reasonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present the facts to an appropriate law enforcement agency without undue delay, but in no event later

than 10 working days after the board finds reasonable cause to believe that the licensee engaged in prohibited conduct.

This subsection requires the board to promptly report possible "prohibited conduct" to a law enforcement agency no "later than 10 working days after the board finds reasonable cause to believe that the licensee engaged in prohibited conduct."

The 10-day deadline in section 1(9) is triggered when the board has "reasonable cause to believe that the licensee engaged in prohibited conduct."
"Prohibited conduct" is defined by section 1(1)(c) as

> "conduct by a licensee that: (A) Constitutes a criminal act against a patient or client; or (B) Constitutes a criminal act that creates a risk of harm to a patient or client."

"Licensee" is defined by section 1(1)(b) as

> "a health professional licensed or certified by or registered with a board."

The board needs to develop a policy that implements section 1(9) of House Bill 2059.

5. Re-licensing: Under the current board rules, a person who allows a license to lapse, for instance a licensee who moves to another state and then returns several years later without having maintained a license in another state, must apply for an original license and meet all requirements of OAR 877-020-0008 – there is no abbreviated set of requirements for a person who formerly held a license. The board is considering whether it should adopt a policy that allows previously licensed applicants to become relicensed without fulfilling all the requirements applicable to a never-before-licensed applicant. One example of such a policy might be the policy applicable to a licensee who applies to re-activate a license following a period of inactivity under OAR 877-020-0055.

6. Renewals/Continuing education: Under current board rule 877-025-0021, each renewing licensee subject to report CE is required to submit a report to the Board.

The Board is moving toward implementation of on-line renewals and wants to streamline the CE reporting process, and is considering limiting the requirement to submit a written CE report only to those licensees subject to a CE audit.

7. Renewals/Active Practice Requirement. Under current board rule 877-020-0030(4)(a), licensees are required to attest that they have been actively engaged in the practice of clinical social work. The Board as part of language in Section 14 of Senate Bill 177 amended ORS 675.560(4) to eliminate that requirement. Accordingly, the Board is now proposing to conform its rule to the new statutory language going into effect on January 1, 2010. This is part of the effort of the Board to streamline its renewal process and requirements.

The board seeks your input in its development of the policies described above to assist us in drafting rules. Additionally, we seek your recommendations on whether the rule will have a fiscal impact, what the extent of that impact will be, and whether the rule will have a significant adverse impact on small businesses.

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Mark Troseth
Chair, Rules Committee
Board of Licensed Social Workers

Links to full text of the three bills referenced:

Senate Bill 177 - Enrolled:
http://www.leg.state.or.us/09reg/measpdf/sb0100.dir/sb0177.en.pdf
House Bill 2059 – Enrolled:
http://www.leg.state.or.us/09reg/measpdf/hb2000.dir/hb2059.en.pdf
House Bill 2345 – Enrolled:
http://www.leg.state.or.us/09reg/measpdf/hb2300.dir/hb2345.en.pdf