

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

John Thurston

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Department of Health

Department Division of Health Related Boards, Social Work Licensing Board

Contact Ruthie Bain E-mail swlb@arkansas.gov Phone 501-372-5071

Statutory Authority for Promulgating Rules A.C.A. 17-103-203

Rule Title: Rules of the Social Work Licensing Board

Intended Effective Date
(Check One)

☐ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☒ Other 07/01/2020
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

03/30/2020

05/01/2020

06/19/2020

09/10/2019

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Ruthie Bain

swlb@arkansas.gov

06/22/2020

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Ruthie Bain

Signature

501-372-5071

swlb@arkansas.gov

Phone Number

E-mail Address

Director

Title

06/22/2020

Date

**DEPARTMENT OF HEALTH
SOCIAL WORK LICENSING BOARD**

RULES

**FOR THE
ADMINISTRATION OF THE
SOCIAL WORK LICENSING ACT**



Act Effective July 1981

**Act Revisions 1983, 1987, 1989, 1995, 1997, 2001,
2003, 2005, 2009, 2015, 2019**

RULES REVISIONS EFFECTIVE JULY 1, 2020

RULES OF THE ARKANSAS SOCIAL WORK LICENSING BOARD

Pursuant to Ark. Code Ann. §17-103-203, the Arkansas Social Work Licensing Board hereby establishes and promulgates the following rules.

I. Board Meetings:

- A. Regular meetings of the Board shall be held once each month at a time established by a majority vote of the Board. A special meeting may be called at any time by the chair or by any officer of the Board upon written request of three or more of the members.
- B. All regular meetings of the Board are open to the public. Any person desiring to appear before the Board at any of its regular meetings shall submit a written request to the Board at least 15 days prior to the meeting. The request must state in detail the nature and purpose of the appearance. The Chair of the Board has the right to determine when and if such a request can be honored.
- C. Written minutes of each meeting shall be kept and distributed to the members with the notice for the next meeting.

II. Application Procedures:

A. Pre-Licensure Background Check

- 1. Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.
- 2. The individual must obtain the pre-licensure criminal background check petition form from the Board.
- 3. The Board will respond with a decision in writing to a completed petition within a reasonable time.
- 4. The Board's response will state the reasons for the decision.
- 5. All decisions of the Board in response to the petition will be determined by the information provided by the individual.
- 6. Any decision made by the Board in response to a pre-licensure criminal background check petition is not subject to appeal.

7. The Board will retain a copy of the petition and response and it will be reviewed during the formal application process.
- B. Application for licensure may be submitted online on the Board's website. Paper applications shall be submitted to the Board on the form designated by the Board and shall be accompanied by the application fee.
- C. The applicant must request an official transcript from his/her college or university with the social work degree posted. The transcript must be received by the Board directly from the college or university. A transcript on file with the Association of Social Work Boards ("ASWB") will also be accepted.
- D. An applicant shall sign a release of information to the Board for a state and federal criminal background check to be administered by the Identification Bureau of the Arkansas State Police. The applicant shall be responsible for payment of any fee associated with the background check.
- E. Waiver Request for Offenses on Background Check
 1. If an individual has been convicted of an offense listed in A.C.A. §17-2-102(a), except those permanently disqualifying offenses found in A.C.A. §17-2-102(e), the Board may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:
 - a. An affected applicant for a license; or
 - b. An individual holding a license subject to revocation.
 2. The Board may grant a waiver upon consideration of the following, without limitation:
 - a. The age at which the offense was committed;
 - b. The circumstances surrounding the offense;
 - c. The length of time since the offense was committed;
 - d. Subsequent work history since the offense was committed;
 - e. Employment references since the offense was committed;
 - f. Character references since the offense was committed;
 - g. Relevance of the offense to the occupational license; and

- h. Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.
 - 3. A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees.
 - 4. The Board will respond with a decision in writing and will state the reasons for the decision.
 - 5. An appeal of a determination under this subsection will be subject to the Administrative Procedure Act §25-15-201 *et seq.*
- F. An applicant applying for licensure as a Licensed Certified Social Worker (“LCSW”) must provide documentation of LCSW Supervision.
- G. Licensure for Active Duty Service Members, Returning Military Veterans, and their Spouses
 - 1. As used in this subsection:
 - a. “automatic licensure” means the granting of occupational licensure without an individual’s having met occupational licensure requirements provided under Title 17 of the Arkansas Code or by these Rules.
 - b. “returning military veteran” means former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.
 - 2. The Board shall grant automatic licensure to an individual who holds a substantially equivalent license in another U.S. jurisdiction and is:
 - a. An active duty military service member stationed in the State of Arkansas;
 - b. A returning military veteran applying for licensure within one (1) year of his or her discharge from active duty; or
 - c. The spouse of a person under Section G(2) a and b above.
 - 3. The Board shall grant automatic licensure upon receipt of all of the following:
 - a. Payment of the initial application and licensure fee;

- b. Evidence that the individual holds a substantially equivalent license in another state; and
 - c. Evidence that the applicant is a qualified applicant under Section E(ii) above.
 - H. Applications will be reviewed by the Board after all the required information is received. Applicants will be notified by mail of the action taken on the application. If approved, the applicant will be notified of his/her eligibility to take the examination. If the Board determines that the applicant has not met all the requirements and the application is denied, the applicant may request a hearing before the Board.
 - I. An application is valid for six (6) months from the date of the application.
- III. Provisional License: (Ark. Code Ann. §17-103-306)
 - A. Upon application and satisfactory documentation of all requirements, the Board may issue a provisional license for the practice of social work to an applicant for licensure as a Licensed Social Worker or Licensed Master Social Worker. Provisional licensure as a Licensed Certified Social Worker is prohibited.
 - B. The Bachelor's and Master's level provisional license will be issued only one time per person and cannot be renewed.
 - C. The Bachelor's and Master's level provisional license shall be effective from the date of issuance and will expire exactly one year from the date of issuance.
- IV. Examination: (Ark. Code Ann. §17-103-306(a)(1)(B))
 - A. The Board shall utilize a nationally recognized examination service to administer a licensure examination.
 - B. To be eligible to take the examination, an applicant must submit the licensure application and all required forms to the Board for approval.
 - C. When the application is approved, the applicant will be provided information regarding registering for the exam.
 - D. The passing score for the examination shall be the same as the national passing score determined by the examination service.

E. The Board adopts the rules of the nationally recognized examination service in regards to the ninety-day wait period before taking additional examinations.

F. The examination may be taken up to three (3) times per approval period.

V. Endorsement: (Ark. Code Ann. §17-103-302)

A. The Board may approve licensure through endorsement with other states, districts, territories, or Canadian provinces, whose standards are substantially equivalent to those required by Section 17-103-306 of the Arkansas Code. The Board approved examination may be waived if an applicant meets the following requirements:

1. The applicant is currently licensed to practice social work in another state, territory, district, or Canadian province;
2. The applicant has passed a social work examination approved by the licensing entity in the state, territory, district, or Canadian province the applicant is currently licensed in.
3. The applicant has a social work degree from a program accredited by the Council on Social Work Education or the Canadian Association for Social Work Education; and
4. An applicant for LCSW must provide documentation of twenty-four (24) months of supervision and four thousand (4,000) hours working in a master's level social work position while under the supervision of an LCSW. The Board may waive the supervision requirement if:
 - a. The applicant has practiced social work at the independent clinical level for the last three (3) years; and
 - b. The applicant has met the requirements to be licensed independently at the clinical level in the state they are currently licensed in.

B. The Board may issue a master's level provisional license as described in Section III, to an LCSW applicant who has met the requirements of endorsement except for passage of a social work examination.

VI. Supervision:

Supervision is a professional relationship between a supervisor and a supervisee designed

to promote responsibility, competency and accountability to the agency, clients and community.

A. Supervision for All Licensed Social Workers:

Once licensed as an LSW or LMSW, including provisional license, the LSW or LMSW must obtain supervision from a licensed social worker or other qualified professional from a related field. The supervision may be within or outside the agency.

1. The social work practice of an LCSW shall be supervised by an LMSW, an LCSW or other qualified professional from a related field on a minimum of a weekly basis.
2. The social work practice of an LMSW shall be supervised by an LMSW, an LCSW or other qualified professional from a related field on a minimum of a weekly basis.
3. While supervision of the social work practice of the LCSW is not mandatory, the LCSW should have available, as needed, consultation provided by an LCSW or other qualified professional from a related field.
4. An LSW or LMSW, including provisional licensees, working in a non-clinical position does not require direct supervision but must report to a supervisor.
5. The supervision required under this section is independent from any additional supervision requirements placed upon the licensee by his or her employer.

B. Supervision Required to Obtain LCSW Licensure:

1. In order to provide supervision, an LCSW or a social worker whom the Board determines to have the qualifications equivalent of those required of an LCSW must be fully licensed for three (3) years.
2. To obtain licensure as a Licensed Certified Social Worker (LCSW), an individual must submit documentation of twenty-four (24) months post-master's social work experience, and four thousand (4,000) hours in a supervised Master's level social work position. The supervisor may be

from inside or outside the agency where the applicant obtains their experience. For documentation requirements, please see Section C. below.

3. During this twenty-four (24) month period, the applicant must have at least one hundred (100) direct supervision hours, with no more than two (2) hours occurring in any one-week period. Group supervision is acceptable only if there is a maximum of four in a group and such supervision does not exceed one-half of the total supervisory time.
4. Social workers who use technology to facilitate supervision shall use appropriate precautions to protect the confidentiality of those communications. Precautions to protect confidentiality depend on the type of technology being used, and may include using passwords, firewalls, encryption, and antivirus software; using electronic service providers that rely on standards of security for data that are transmitted and stored; and ensuring a private setting when using their electronic devices. See National Association of Social Workers (NASW), Association of Social Work Boards (ASWB), Counsel on Social Work Education (CSWE), & Clinical Social Work Association (CSWA) Standards for Technology in Social Work Practice.
5. Supervision Guidelines

An LMSW who wishes to obtain LCSW licensure must adhere to the LCSW Supervision Guidelines published on the Board's website.

C. Supervision Plan and Documentation:

To comply with the documentation in Section B4 above, an applicant must submit a supervision plan, that is agreed upon by the applicant and the LCSW supervisor, to the Board. The plan must be on a Board approved form and must be received in a legible form within sixty (60) days from the beginning date of the supervision. It is the responsibility of the social worker receiving supervision to verify the Board's receipt of the supervision plan.

VII. Fees: (Ark. Code Ann. §17-103-205)

- A. The fees charged in connection with social work licensing are as follows:

1. Filing of an application	\$100
2. Examination fee	*
3. Renewal fee (2 years)	\$80
4. Late Renewal fee	\$80
5. Replacement of license	\$20
6. Endorsement to another state	\$20
7. Certificate of Registration Application	\$25
8. Certificate of Registration Renewal	\$10

*The examination fee will be the same as the amount charged by the examination service.

VIII. Issuance, Renewal, Expiration and Reinstatement (Ark. Code Ann. §17-103-304)

A. Issuance:

When the Board determines that all requirements have been met, a license will be issued for a two-year period.

B. Renewal:

Renewal of a social work license requires thirty (30) hours of social work education ("SWCE") to have been completed during the renewal period. Of the thirty (30) SWCE hours, three (3) hours must be in ethics and no more than fifteen (15) may be independent study.

1. A license renewal reminder will be sent to licensees approximately two months prior to the expiration date. The social worker is responsible for submitting a completed renewal application with the required fee to the Board prior to the expiration date. Renewal applications may be submitted online or on the renewal application approved by the Board.
2. When the Board determines that the requirements for license renewal have been met, the licensee will be mailed notification of licensure for the next two-year period.
3. If the licensee fails to renew his or her license prior to the expiration date, the license will expire. Once the license has expired the individual is no longer eligible to practice social work.

4. A license that has expired for less than three (3) months may be renewed by submitting the renewal application, the required fee, a late penalty fee, an attestation form and a summary sheet certifying completion of thirty (30) hours of social work continuing education in accordance with Continuing Education Guidelines found in Rule IX below, completed during the previous-two year licensure period.
5. A license that has expired for three (3) months or longer is not renewable. The licensee shall be considered as a new applicant and will be subject to all requirements applicable at the time the new application is received.
6. Extension requests must be submitted to the Board thirty (30) days prior to the expiration date of the license. Extension requests will be reviewed by the Board on an individual basis. An extension request must include the following:
 - a. A completed renewal application packet;
 - b. The renewal fee;
 - c. Summary sheet of Social Work Continuing Education showing SWCE completed so far during the two-year renewal period;
 - d. Signed Attestation Form that he or she will not practice social work or represent himself or herself as a social worker after the expiration date unless the extension request has been granted;
 - e. A letter requesting an extension with an explanation of the extenuating circumstance which prevented the social worker from obtaining the required hours;
 - f. If the extenuating circumstance is health related, a letter from the physician should accompany the request. The physician's letter should indicate the time and circumstances under the physician's care and how this prevented the social worker from obtaining their required hours;
 - g. A work history for the renewal period showing any time not worked due to the extenuating circumstances; and

h. A plan to complete the additional hours required.

C. Expiration:

The license will be effective from the date issued and shall expire on the last day of the month exactly two years from the date of issuance or, if applicable, the last renewal date.

D. Reinstatement:

A license will be reinstated if an applicant can demonstrate all of the following requirements:

1. They were previously licensed to practice social work in Arkansas;
2. They were in good standing when the previous license expired or was not renewed;
3. Their license was not revoked for an act of bad faith nor for a violation of the laws, rules, or ethical rules that govern social workers;
4. They were not suspended or placed on probation in any state, district, territory, jurisdiction or Canadian province;
5. They are sufficiently competent in their field;
6. They pay the application fee required by law; and
7. They complete the required background check.

E. Duty to provide accurate information:

The licensee has the responsibility to provide and update the Board with accurate information of any change in their name or address and must do so within thirty (30) days of the change.

IX. Continuing Education Guidelines: (Ark. Code Ann. §17-103-203)

A. Definition:

1. Social Work Continuing Education (SWCE) has been defined as those formalized activities that are directed at developing and enhancing an individual's social work knowledge base and service delivery skills in applicable area of planning and administration, education, research or direct service with individual, couples, families, and groups.

2. A SWCE Credit Hour represents one clock hour (60 minutes) of a SWCE activity. A credit hour represents actual time of the SWCE activity. For example, a workshop that begins at 9:00 a.m. and ends at 3:00 p.m. with one-hour lunch break would provide five (5) credit hours for the participant.
3. Credits must be a minimum of fifteen (15) minutes or more to qualify.
4. Academic Credit Hour: One academic credit hour is equivalent to fifteen (15) clock hours for the purpose of license renewal. Credit for auditing an academic course will be for the actual number of clock hours in attendance, not to exceed the academic clock hour equivalent. Academic credit hours will not apply towards license renewal until the completion of the course.

B. Basic Requirements:

1. Each licensee is required to complete thirty (30) credit hours of SWCE during each two-year licensure period. Of the thirty (30) hours, a minimum of three (3) hours must be in professional ethics with no more than fifteen (15) hours of independent study.
2. SWCE may be documented on the form for reporting continuing education supplied by the Board or any other form provided the same information is presented. A typed or computerized list of training that is kept by the social worker's employer is acceptable for documentation. The list must include the same information as the form for reporting SWCE and the employer's name, address and phone number. The licensee and the licensee's supervisor or employer must sign the list certifying that the social worker attended all the sessions listed.
3. Documentation of the SWCE must be maintained by the licensee for a period of two (2) years following the renewal date.
4. After each renewal period, the Board will, at its discretion, audit a percentage of the renewal applications to ensure that the continuing education requirements have been met. Each audited licensee will be

required to provide documentation of all the continuing education hours listed on his/her summary sheet.

5. A continuing education course will not be allowed more than once during the two-year renewal period. If the course name is the same, the social worker has the responsibility to make sure the content has changed since the last date the course was taken. The social worker may be required to provide documentation of the changes.

C. Examples of Acceptable Social Work Continuing Education (SWCE):

1. Seminars, workshops, or courses oriented to the enhancement of social work practice, values, skills and knowledge.
 - a. Cross-disciplinary offerings from medicine, law, administration, education and the behavioral sciences are acceptable if they are clearly related to the enhancement of social work practice.
 - b. Clock hour credit will be given for the actual number of hours in attendance.
 - c. In-service training provided by the employer using presenters from the staff or from outside agencies.
 - d. Training specifically related to policies and procedures of an agency may not be counted.
2. Academic social work courses or social work- related courses such as mental health, administration, health and social research, psychology, sociology, and human growth and development, child and family development, counseling and guidance taken for credit or audited. An official transcript may be used to verify courses taken for credit. One academic credit hour is equivalent to fifteen (15) clock hours for the purpose of license renewal. Credit for auditing will be for actual clock hours in attendance, not to exceed the academic the academic clock hour equivalent.

3. Presentation for the first time of an academic social work course, in-service training, workshop or seminar, or other professional seminar. A copy of the course syllabus and verification that the course, workshop or seminar was presented may be used as documentation. The actual number of hours of presentation plus an equal number of hours for preparation will be allowed. The total number of clock hours for both preparation and presentation of all first-time courses shall not exceed ten (10) hours per renewal period.
 4. Preparation for the first publication of a professional social work paper that has been published in a recognized professional journal. A copy of the paper and verification of publication must be submitted to the Board for evaluation and certification of the number of hours of credit to be allowed. A maximum of ten (10) clock hours will be allowed during each two-year licensure period.
 5. Independent home studies/online courses which provide credit directed at developing and enhancing the licensee's knowledge base and service delivery skills in the applicable areas of social planning, administration, education, research or direct service with individuals, couples, families and groups. A maximum of fifteen (15) clock hours will be allowed during each two-year licensure period.
 6. To be considered as face-to-face hours for credit, webinars must be both live and interactive. If audited, the licensee must submit sufficient documentation to show that the webinar was live and interactive.
- D. The Board does not pre-approve continuing education workshops. It is the licensee's responsibility, using his/her professional judgement, to determine the workshops that are applicable and appropriate to his/her professional development as a social worker and that they meet the definition of SWCE. If a licensee submits documentation for training that is not clearly identifiable as SWCE, the Board will request a written description of the training and how it applies to the individual's professional development as a social worker. If the Board determines

that the training cannot be considered SWCE, the individual will be given three (3) months to replace the disallowed hours. Those hours will be considered replacement hours and cannot be counted during the next licensure period.

- E. If credit is not given for the SWCE submitted, the licensee may request a hearing before the Board.
- F. Extenuating circumstances that prevent licensees from completing the continuing education requirement will be reviewed on an individual basis. Extension requests must be made prior to expiration in accordance with Rule VIII (B) (6).

X. Code of Ethics/Standards of Practice: (Ark. Code Ann. §17-103-203)

The Arkansas Social Work Licensing Board sets forth this documentation as a Code of Ethics/Standards for Practice for all social workers within the State of Arkansas pursuant to Ark. Code Ann. §17-103-203. Social workers licensed by the Arkansas Social Work Licensing Board must observe and comply with the following standards. Violations shall be grounds for disciplinary action pursuant to Ark. Code Ann. §17-103-305.

Standard A: Confidentiality:

In providing services, a social worker must safeguard information given by clients.

Except when required by law or judicial order or for the purpose of professional supervision and/or consultation, a social worker must obtain the client's informed written consent before releasing confidential information.

Standard B: Responsibility:

A social worker must provide a clear written description of what the client may expect in regards to services, reports, fees, billing and schedules, when applicable.

Standard C: Research:

A social worker must obtain the client's or legal guardian's informed written consent when a client is to be involved in any research project. A social worker must explain the research, including any risk or potential consequences, and the subject's right to withdraw from the study at any time.

Standard D: Misrepresentation:

A social worker must not misrepresent his/her qualifications, training, experience, or

professional affiliations. If a social worker engages in advertising, his/her education, training and expertise must be presented factually.

Standard E: Competence:

1. A social worker may not practice beyond his/her competence. A social worker must make appropriate and timely referrals when the client's needs exceed the social worker's competency level.
2. A social worker must not provide social work services while under the influence of alcohol, other mind-altering or mood-altering drugs, or physical or psychological illness, which impairs delivery of such services.

Standard F: Fee Splitting:

A social worker must not divide a fee with a referral source. A social worker must not accept the division of a fee as compensation for a referral. This provision is intended to assure that referrals are always based solely on the best interest of the client.

Standard G: Client Relationships:

1. Relationships with clients, former clients, students and supervisees must not be exploited by the social worker for personal gain.
2. A social worker must not violate such positions of trust and dependency by committing any act detrimental to a client, former client, student or supervisee.
3. A social worker must not engage in an inappropriate relationship and/or sexual activity with a client or with a former client within two years after termination of the professional relationship.

4. Dual Relationships:

a. In many communities it may not be possible for social workers to avoid social or other nonprofessional contacts with clients, students or supervisees. A social worker must always be sensitive to the potential harmful effects of social or non-professional contacts on his/her work and on those persons with whom they interact. A social worker must refrain from either entering into or promising a relationship with such persons if it appears the relationship might impair the social worker's objectivity or his/her ability to effectively perform social work functions. A social worker must also

refrain from either entering into or promising a relationship with such persons if it appears that the relationship might harm or exploit the other party.

b. Likewise, whenever possible, a social worker must refrain from taking on professional obligations when preexisting relationships would create a risk of such harm.

c. If a social worker finds that, due to unforeseen factors, a potentially harmful dual relationship has arisen, the social worker must attempt to resolve it with due regard for the best interest of the affected person and maximum compliance with the Code of Ethics.

5. A social worker must not violate client-therapist boundaries.

Standard H: Records:

A social worker will create and maintain records of services provided to a client. At a minimum, the records will contain a consent form signed and dated by the client; documentation of the assessment or diagnosis; documentation of a plan; documentation of any revision of the assessment or diagnosis or of a plan; any fees charged and other billing information; copies of all client authorization for release of information and any legal forms pertaining to the client. The records will be maintained by the licensee or agency employing the licensee at least for a period of seven years after the last date of service, or for the time period required by federal or state law, if longer.

XI. Definition of Unprofessional Conduct: (Ark. Code Ann. §17-103-203)

Unprofessional conduct in the practice of social work shall include, but shall not be limited to the following:

- A. Violations of The Social Work Licensing Act or the Rules published by the Board.
- B. Negligence in the practice of social work or practicing fraudulently or incompetently.
- C. Refusing to provide professional services to a person on the basis of race, religion, creed, color, gender, disability, age, or national origin.

- D. Permitting, aiding, or abetting an unlicensed person to perform activities requiring a license.
- E. Misrepresenting type or status of education, training, expertise, licensure, or professional affiliations.
- F. Impersonation of another by any licensee or applicant for a license, or, in the case of a license, allowing any other person to use his or her license.
- G. Intentionally or recklessly causing physical or emotional harm to any client or former client.
- H. Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.
- I. Failing to keep proper records and documentation of services.
- J. Ordering or providing excessive or unnecessary tests or services.
- K. Neglecting or abandoning a client, including failure to provide sufficient termination of services.
- L. Violating the Code of Ethics adopted by the Board.
- M. Giving or receiving, directly or indirectly, any fee, commission, rebate or other compensation for professional services not actually and personally rendered.
- N. Being disciplined in another jurisdiction based on grounds that are the same or substantially the same as those which exist under the Arkansas Social Work Licensing Act.
- O. Failing to report to the Board any adverse action taken against the social worker by another licensing jurisdiction or failing to report to the Board the surrender of a license or authorization to practice social work in another jurisdiction.
- P. Failing to comply with any stipulation or agreement with the Board involving probation or a settlement of any disciplinary matters.
- Q. Failing to comply with mandatory reporting laws.

- R. Failing to terminate the professional relationship when it is apparent that the service no longer serves the needs of the client.
- S. Offering medication, prescription or otherwise, controlled substances or alcoholic beverages to a client. or accepting these substances from a client.
- T. Providing and/or recommending any form of treatment via telemedicine without first establishing a proper social worker/client relationship as defined in Rule XIV.

XII. Disciplinary Procedures: (Ark. Code Ann. §17-103-305)

A. Complaint:

- 1. The Board is authorized to receive complaints against licensees or applicants from any person. Signed complaints must be submitted in writing to the Board's office. A complaint form may be obtained from the Board's website or office.
- 2. The Board may on its own motion, in the absence of a written complaint, initiate its own complaint and conduct an investigation of a suspected violation if reasonable cause exists to believe a violation has occurred.

B. Investigation:

- 1. The Board shall investigate a complaint if the complaint states prima facie violations of the Social Work Licensing Law or Rules. One or more Board members will be appointed to investigate the complaint.
- 2. A copy of the complaint will be sent by certified mail and standard postal mail to the social worker named in the complaint. The social worker shall submit a written response to the complaint within a reasonable time as provided by the Board's instruction. The Board may hire an outside investigator to assist in the investigation of any complaint.
- 3. The Board investigator(s) will review the response to the complaint. Further investigation will be conducted if deemed appropriate.
- 4. Upon completion of the investigation and upon the recommendation of the Board investigator(s), the Board will determine whether to conduct a

hearing, dismiss the complaint, or take other appropriate action. All interested parties will be notified of the Board's decision.

C. Hearings:

1. The Board is authorized to conduct hearings on complaints in which the investigation reveals evidence that a violation has occurred. Hearings will be conducted in accordance with the Arkansas Administrative Procedure Act.
2. Everyone testifying before the Board at any of its hearings will be first placed under oath. All testimony given or statements made to or before the Board will be reported and made a part of the record in such case.
3. Unless the Board finds exceptional circumstances exist, twenty (20) days' notice will be given to any licensee or other interested party to appear before the Board at a hearing. The notice will be mailed by certified mail to the most current address on file in the Board office and will constitute notice of the hearing. If the Board finds that exceptional circumstances exist in which public health, safety or welfare requires more timely action, the Board can give notice, reasonable under the circumstances, or can enter an emergency order pursuant to Section 25-12-210(c) of the Administrative Procedure Act.
4. The notice will contain the place and time of the hearing, a brief and concise statement of the facts forming the basis of the complaint, the provision of the law or the Rules involved therein, and will be executed for the Board by its Chairperson, Board Secretary or Director, dated and sealed with the official seal of the Board.
5. At every hearing of the Board, after being duly called to order, the Chair or Vice-Chair will then turn the matter over to the hearing officer presiding over the hearing. The hearing officer will inquire of the parties present as to whether each is prepared to proceed, and thereafter the hearing will proceed with the presentation of evidence.

6. Either oral or written argument of the issues raised may be presented at the discretion of the Board.
7. A written order setting forth the Board's findings of facts and conclusions of law will be prepared after each hearing. The written order will be signed by a representative designated by the Board.
8. The Board will receive into evidence all affidavits, depositions, certified copies of documents, copies of official records and exhibits therewith introduced, together with such other evidence as may be admissible by the Arkansas Administrative Procedure Act. The Board will give to such evidence weight, as the Board determines just and proper.
9. Every pleading, motion or other document, and every request to the Board must be filed with the Social Work Licensing Board office in writing, signed and dated.
10. Upon the licensee's written request, subpoenas will be issued for the attendance of witnesses and the production of documents. Preparation and service of the subpoenas will be the responsibility of the licensee and will be in the manner provided by statute or rule for the service of subpoenas in civil cases.
11. Appeals from Board hearings will be made in accordance with the Arkansas Administrative Procedure Act.

D. Hearing Officer:

1. Powers and Duties:

If a matter is set for a formal hearing before the Board, a hearing officer will preside over the hearing and conduct any other business in accordance with the Board's Rules. The hearing officer will have the following powers and duties:

- a. Administer oaths and affirmations;
- b. Issue subpoenas in order to

(1) Ensure the presence of witnesses at a hearing;

(2) Ensure the presence of books, records or other documents properly related to the administrative proceedings:

- c. Rule upon motions and other evidentiary matters;
- d. Question all parties and witnesses for the clarification of issues for the record;
- e. Maintain order;
- f. Rule on all questions arising during the course of the hearing;
- g. Hold conferences for the settlement or simplification of the issues;
- h. Recommend decisions to the Board;
- i. Generally, to regulate and guide the course of the proceedings.

2. Disqualifications of Hearing Officer:

The hearing officer will conduct himself/herself in an impartial manner and may withdraw if he/she deems himself/herself disqualified. Any party may file an affidavit of personal bias or disqualification against the hearing officer which will be ruled upon by the Board and granted if it is timely, sufficient, and filed in good faith.

XIII. Certificates of Registration for Professional Social Work Corporations:

A. Certificates of Registration:

- 1. Pursuant to the Arkansas Professional Corporation Act, Ark. Code Ann. § 4-29-201 et seq., one or more persons duly licensed by the laws of the State of Arkansas to render the same type of professional services, such as social work services, may form a corporation to own, operate, and maintain a professional corporation and to engage in the professional services authorized by that license.
- 2. In order for a corporation to open, operate, or maintain an establishment to engage in social work services, the corporation must obtain a Certificate of Registration from the Arkansas Social Work Licensing Board (the "Board").

B. Application, Issuance and Denial:

1. Application for a Certificate of Registration will be made to the Board in writing on a Board approved application form. The application must be accompanied by a non-refundable registration fee of \$25.
2. Upon receipt of an application, the Board will investigate the corporation to determine whether the incorporators, officers, directors, and shareholders are each licensed by the Board and whether any disciplinary action is pending before the Board against any of them.
3. If the Board determines that all incorporators, officers, directors, and shareholders are licensed by the Board, with no disciplinary action pending against any of them, and that the corporation will be conducted in compliance with the Arkansas Professional Corporation Act and the Rules of the Board, the Board will issue a Certificate of Registration to the corporation.
4. If the Board determines that the applicant does not meet the requirements established above, the Board will deny the Certificate of Registration.
5. Once issued, the Certificate of Registration will be non-assignable and must be conspicuously posed on the premises of the corporations.
6. The Certificate of Registration will remain effective until January 1 following the date of issuance of the Certificate.

C. Change in Location:

The corporation must notify the Board of any change of location.

D. Renewal:

The Certificate of Registration must be renewed annually. If the Board determines that the corporation has complied with applicable laws and Board Rules, it will renew the Certificate of Registration upon written application by the holder of the Certificate. The application for renewal will be made on the form prescribed by the Board and must be accompanied by a non-refundable fee of \$10.

E. Suspension and Revocation:

1. The Board may suspend or revoke the Certificate after giving written notice to the holder and allowing for a public hearing in accordance with the Arkansas Administrative Procedure Act. The Certificate may be suspended or revoked for any of the following reasons:
 - a. The revocation or suspension of the license to practice social work of any officer, director, shareholder or employee not promptly removed or discharged by the corporation;
 - b. Unprofessional conduct, as defined by the Rules of the Board, on the part of any officer, director, shareholder or employee not promptly removed or discharged by the corporation;
 - c. The death of the last remaining shareholder; or
 - d. Upon finding the holder of the Certificate has failed to comply with the Arkansas Professional Corporations Act, the Arkansas Social Work Licensing Act or the Rules of the Board.

F. Appeal:

Any corporation whose application for a Certificate has been denied or whose Certificate of Registration has been suspended or revoked may, within thirty (30) days after notice of the action by the Board, appeal the decision to the Circuit Court of Pulaski County. The appeal will be in accordance with the Arkansas Administrative Procedure Act.

XIV. Telemedicine (Ark. Code Ann. §17-103-309)

A. Definitions:

1. "Distant site" means the location of the healthcare professional delivering services through telemedicine at the time the services are provided. Ark. Code Ann. §17-80-402(1).
2. "Originating site" means a site at which a patient is located at the time healthcare services are provided to him or her by means of telemedicine. Ark. Code Ann. §17-80-402(2).

3. "Remote patient monitoring" means the use of synchronous or asynchronous electronic information and communication technology to collect personal health information and medical data from a patient at an originating site that is transmitted to a healthcare professional at a distant site for use in the treatment and management of medical conditions that require frequent monitoring. Ark. Code Ann. §17-80-402(5).
4. "Store-and-forward technology" means the asynchronous transmission of a patient's medical information from a healthcare professional at an originating site to a healthcare professional at a distant site. Ark. Code Ann. § 17-80-402(6).
5. "Telemedicine" means the use of electronic information and communication technology to deliver healthcare services, including without limitation the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient. Telemedicine includes store-and-forward technology and remote patient monitoring. Ark. Code Ann. § 17-80-402(7).

B. Establishing a Social Worker/Client Relationship:

A social worker/client relationship must be established in accordance with Ark. Code Ann. §§17-80-402 & 403 and Rule XIV before the delivery of services via telemedicine. A client completing a psychosocial history online and forwarding it to a social worker is not sufficient to establish the relationship, nor does it qualify as store-and-forward technology. A social worker exhibits gross negligence if he or she provides and/or recommends any form of treatment via telemedicine without first establishing a proper social worker/client relationship.

C. Minimum Requirements for a Social Worker/Client Relationship:

For the purpose of this Rule, a proper social worker/client relationship, at a minimum requires that:

1. The social worker performs an "in person" psychosocial assessment of the client adequate to establish a diagnosis and develop a treatment plan. OR

2. The social worker performs a face to face psychosocial assessment using real time audio and visual telemedicine technology that provides information at least equal to such information as would have been obtained by an in-person psychosocial assessment. OR
3. The social worker knows the client and the client's general psychosocial issues through a previously established professional relationship; AND
4. Appropriate follow-up be provided or arranged, when necessary.

D. When a Social Worker/Client Relationship is Deemed to Exist:

For the purpose of this Rule, a proper social worker/client relationship is deemed to exist in the following situations:

1. When treatment is provided in consultation with, or upon referral by, another provider or treatment team who has an ongoing relationship with the client, and who has agreed to supervise the client's treatment, including follow up care.
2. On-call or cross-coverage situations arranged by the client's treating provider or treatment team.

E. Exceptions:

Recognizing a social worker's duty to adhere to the applicable standard of care and to comply with mandatory reporting laws, the following situations are excluded from the requirement of this rule by Ark. Code Ann. §17-80-403(a)(2):

1. Emergency situations where the life or health of the client is in danger or imminent danger.
2. Simply providing information of a generic nature not meant to be specific to an individual client.

F. Professional Relationship Exceptions:

Under Ark. Code Ann. §17-80-403(c), "Professional relationship" does not include a relationship between a social worker and a client established only by the following:

1. An internet questionnaire;
2. An email message;

3. Patient-generated medical history;
4. Audio-only communication, including without limitation interactive audio;
5. Text messaging;
6. A facsimile machine; or
7. Any combination thereof.

G. Requirements for Services Provided Via Telemedicine:

The following requirements apply to all services provided by social workers using telemedicine:

1. The practice of counseling via telemedicine shall be held to the same standards of care as traditional in-person encounters.
2. The social worker must obtain a detailed explanation of the client's complaint from the client or the client's treating provider or treatment team.
3. If a decision is made to provide treatment, the social worker must agree to accept responsibility for the care of the client.
4. If follow-up care is indicated, the social worker must agree to provide or arrange for such follow-up care.
5. The social worker must keep a documented treatment record, including, but not limited to psychosocial history.
6. At the client's request, the social worker must make available to the client an electronic or hardcopy version of the client's treatment record documenting the encounter. Additionally, unless the client declines to consent, the social worker must forward a copy of the record of the encounter to the client's regular treating provider or treatment team if that provider or treatment team is not the same social worker delivering the service via telemedicine.
7. Services must be delivered in a transparent manner, including providing access to information identifying the social worker's licensure and other

relevant certifications, as well as client financial responsibilities, in advance of the encounter.

8. If the client, at the recommendation of the social worker, needs to be seen in person, the social worker must arrange to see the client in person or direct the client to their regular treating provider or treatment team or other appropriate provider if the client does not have a treating provider or treatment team. Such recommendation shall be documented in the client's treatment record.
9. Social workers who deliver services through telemedicine must establish protocols for referrals for emergency services.

H. Scope of Practice:

Social workers may practice social work via telemedicine within the definitions found in Ark. Code Ann. §17-103-103.

I. Confidentiality:

Social workers who use technology to facilitate supervision, consultation, or other confidential meetings shall use appropriate precautions to protect the confidentiality of those communications. Precautions to protect confidentiality depend on the type of technology being used, and may include using passwords, firewalls, encryption, and antivirus software; using electronic service providers that rely on standards of security for data that are transmitted and stored; and ensuring a private setting when using their electronic devices. See NASW, ASWB, CSWE, & CSWA Standards for Technology in Social Work Practice.