**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL SERVICES**

**416 BOARD OF SOCIAL WORKER LICENSURE**

**Chapter 16: CODE OF ETHICS AND GROUNDS FOR DISCIPLINE**

**Summary:** This chapter sets forth the board’s interpretation of certain grounds for discipline contained in 10 M.R.S. §8003(5-A)(A).

1. **Board Interpretation of Certain Grounds for Discipline**

 The statutory grounds for discipline set forth in this subsection shall have the following meanings:

 1. **Practice of Fraud or Deceit**

 A. The practice of fraud or deceit in obtaining a license includes, but is not limited to:

 (1) Falsification or misrepresentation of education or experience of an applicant;

 (2) Falsification or misrepresentation of a recommendation from a consultant or peer;

 (3) Cheating on a licensure examination;

 (4) Intentionally withholding or misrepresenting any information requested on the application, including any information regarding criminal or disciplinary action taken by any state against an applicant; or

 (5) Impersonating another applicant.

 B. The practice of fraud or deceit in connection with services rendered as a social worker includes, but is not limited to:

 (1) Intentionally practicing or attempting to practice, or aiding another to practice, beyond the scope of the license held;

 (2) Intentionally misrepresenting the type or status of license held or qualifications to practice;

 (3) Committing or aiding another to commit fraud, deceit or corruption in billing, payment or insurance reimbursement procedures;

 (4) Intentionally false, misleading, or deceptive advertising; or

 (5) Impersonating another licensee.

 2. **Aiding or Abetting Unlicensed Practice**

 Aiding or abetting a person not duly licensed as a social worker or other licensed health care practitioner to represent themself as licensed includes, but is not limited to:

 A. Assisting another to perform duties beyond the scope of the person's license or to perform duties that require licensure without a license;

 B. Knowingly supervising or providing consultation to an unlicensed person representing themself as licensed, or to a licensed person practicing beyond the scope of the license; or

 C. Knowingly making referrals to an unlicensed person representing themself as licensed, or to a licensed person practicing beyond the scope of the license.

 3. **Misconduct**

 Misconduct in the practice of professional social work includes, but is not limited to:

 A. Intentionally or recklessly causing physical or emotional harm to a client;

 B. Failing to maintain the confidentiality of client information, except as otherwise required by law;

 C. Practicing social work when physical or mental ability to practice is impaired by physical, psychological or mental impediment;

 D. Practicing social work when physical or mental ability to practice is impaired by substances;

 E. Use of alcohol or drugs, including but not limited to the recreational or medical use of marijuana or recreational use of tobacco, with a client;

 F. Failure of a social worker to adequately supervise a supervisee, intern, student, or other person over whom the social worker has supervisory responsibilities;

 G. Failure of a consultant social worker to adequately perform the obligations of the consultancy or clinical internship;

 H. Failure of a social worker with consulting, monitoring or supervisory responsibilities in connection with a board order or consent agreement to adequately perform the obligations of the engagement;

 I. Failure of a licensed social worker conditional or a licensed social worker to receive the consultation required by Chapter 13 of the board’s rules;

 J. Practicing or attempting to practice beyond the scope of licensure;

 K. Abandoning or neglecting a client in need of social work assistance;

 L. Advertising in a false, misleading or deceptive manner;

 M. Paying, accepting, or soliciting any payment or consideration for the referral of a client;

 N. Falsifying or inaccurately recording client records;

 O. Exercising undue influence on a client, including the promotion for sale of goods, services or drugs, so as to exploit the client for the financial gain of the social worker; or

 P. Failure to report incidences of child or adult abuse or neglect as mandated by state law.

 4. **Applicable Code of Ethics**

 The Board incorporates by reference the Code of Ethics adopted by the National Association of Social Workers (NASW), approved by the 1996 NASW Delegate Assembly and revised by the NASW Delegate Assembly in 2020, © 2021. The NASW Code of Ethics may be obtained from:

 National Association of Social Workers

 750 First Street, NE, Suite 800

 Washington, DC 20002-4241

 <http://www.socialworkers.org>

 800-742-4089

 In the event of any conflict or inconsistency between the NASW Code of Ethics and this chapter, the provisions of this chapter shall govern.

 Any violation of the NASW Code of Ethics is a ground for discipline pursuant to 10 M.R.S. §8003(5-A)(A)(2).

 5. **Sexual Misconduct**

 Misconduct in the practice of professional social work includes, but is not limited to:

 A. Engaging in sexual misconduct with a client;

 B. Engaging in sexual misconduct with a former client;

 C. Engaging in sexual misconduct with a family member, including but not limited to a parent, grandparent, stepparent, sibling, stepsibling, child or stepchild, of a client or former client the client status of whom is known to the social worker at the time of the sexual misconduct;

 D. Engaging in sexual misconduct with a current or former spouse or significant other of a client or former client, the client status of whom is known to the social worker at the time of the sexual misconduct;

 E. Engaging in sexual misconduct with a current or former social work client who is receiving or has received services from the immediate agency or office where the social worker works in a professional capacity, the client status of whom is known to the social worker at the time of the sexual misconduct; or

 F. Engaging in sexual misconduct with a supervisee of the social worker.

 It is an affirmative defense to the violations described in paragraphs (B) - (F) of this subsection -

 - that the client or former client has not been exploited, coerced, or intentionally or unintentionally manipulated by the social worker; and

 - that the emotional stability and mental health of the client or former client has not been jeopardized or adversely affected by the violation.

 The social worker bears the full burden of proving all elements of this affirmative defense. This affirmative defense is not available to excuse violations of paragraph (A) of this subsection, *i.e.*, engaging in sexual misconduct with a client.

STATUTORY AUTHORITY: 32 M.R.S. §§ 7030(2) and 7059

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