

Comments on the Draft Regulations for COMAR 10.42.01 and COMAR 10.42.08

To: The Board of Social Work Examiners
From: The Professional Standards Committee of NASW-MD
Date: Nov. 30, 2017

The Professional Standards committee of NASW Maryland, which is chaired by Dr. Carlton Munson, met on Thursday, Nov. 30th to consider the Draft Regulations which have been promulgated by the Statutes and Regulations committee of the BSWE.

We appreciate you giving us the opportunity to review and make comments on the proposed regulations. We have studied both the revisions to the SW Licensing Act which were passed in the recent legislative session, as well as the recommendations which are being made to carry out the law through regulation.

First of all, we would like to commend the Statutes and Regulations committee on its hard work. This is a very important undertaking and there were many changes to current law which were passed. We recognize the amount of thought and hard work which has gone into these regulations. We did notice a number of typos and a few places where cutting and pasting errors resulted in confusing language. Since the draft sent out was a PDF we are unable to provide an electronic copy of our corrections. We will provide a paper copy at the BSWE meeting on Friday, Dec. 8th in hopes that it will be helpful.

Comments on Draft of COMAR 10.42.01

- (1) On page 2, Line 12 Formulating diagnostic impressions has been changed to Rendering a Diagnosis. Only an LCSW-C may render a diagnosis, therefore ***we suggest that the term used here should be the term used in the statute, which is “formulate a diagnosis.” This term ideally should be used anywhere the phrase might refer to an LMSW or an LCSW who is working under the supervision of an LCSW-C.***
- (2) Our understanding is that all professional licensing laws have their definitions in Chapter One. The fact that some definitions are being struck from this chapter is concerning. ***We feel that the definition of Independent Practice on page 2, line 31, Practice Social Work on page 3, lines 13 through 27 and Supervision on page 3, lines 28 through 30 should remain in the Chapter. We understand that you may plan to put them in a new chapter or another chapter later but for consistency with other licensing regs and for ease of use, we believe they should remain in this chapter as well. Additionally, these regs can not be adopted if such definitions are removed and not replaced at the same time.***
- (3) On page 5, line 3, the reference to a rap back service is not clear. ***We suggest an explanation of what that means.***
- (4) On page 8, line 8, we agree that eliminating the requirement for 3 references makes sense and is a good idea.

Comments on Draft of COMAR 10.42.08

- (1) On page 1, lines 15-18, language was added to make it clear that an employer may require LBSW and LMSW independent practitioners to be supervised. *It is also true that*

employers may require LCSW and LCSW-C social workers to be supervised even though independent practice status is inherent in their license. We feel that for clarity and consistency this section should be changed to say “Nothing in this chapter may be construed to prohibit an employer from requiring supervision of an LBSW, LMSW, LCSW or LCSW-C who is approved to engage in independent practice.”

- (2) We think it is an important change that “electronic presence” is now included as a method of face-to-face supervision. This will be very helpful to social workers receiving or providing supervision.
- (3) On page 2, line 12-14, the definition of Independent Practice is the same as that which was included in the revised statute. *However, the term Master Social Work in this instance includes LCSWs and LCSW-Cs because they are also master trained social workers who have an Independent Practice Status. We feel that language should be added after MASTER SOCIAL WORK to say (THIS INCLUDES LCSW AND LCSW-C SOCIAL WORKERS).*
- (4) On page 3, lines 5-6 language is added which says “including supervision for social work practice, independent practice and for advanced licensure.” *The definition of supervision for independent practice and advanced licensure is within the purview of the Board of Social Work Examiners, however we feel that defining supervision for the “practice of social work” is an overreach which does impact “personnel or management practices associated with employment or contractual relationships” (as mentioned in .01 C.) We suggest that you not add this new language.*
- (5) On page 3, lines 12-14 we believe (in keeping with our comment above) instead of striking out “for advanced licensure” the words “and independent practice” should be added. Therefore, the phrase would say **“Written contract for attaining advanced licensure and independent practice’ means an agreement, on a form provided by the Board and initiated before beginning supervision, between the supervisee and BOARD APPROVED supervisor that details the scope of supervision for the purpose of licensure.”** *Requiring that every social worker in the state of Maryland who is being supervised by another social worker have a written contract with that supervisor is beyond the scope of the licensing law.*
- (6) On page 3, lines 16-18, any social worker who provides supervision for a licensed social worker would be required to be a board approved supervisor. *This requirement is beyond the scope of the statute which only requires board approved supervision for those working to attain advanced licensure and independent practice. Currently there are licensed social workers throughout the state who are supervising other licensed social workers and are not board approved supervisors because they are not providing supervision for advanced licensure and the statute does not require them to be board approved supervisors. These social workers could lose their jobs under the proposed regulations. No provision is made for these supervisors to have a certain number of years to attain the status of “board approved supervisor” while continuing to work in their current capacity. It would require at least a five year grace period for a person to continue to supervise while working toward independent practice status and then an additional 24 months before being allowed Board Approved supervisor status. Instead of*

*attempting to go down this road, which again is beyond the scope of the statute, we feel it would be best to retitle this section on line 15 to say **REQUIREMENTS FOR SOCIAL WORK SUPERVISION FOR ADVANCED LICENSURE AND INDEPENDENT PRACTICE**. And strike lines 16-18.*

- (7) On page 5, line 21 *we suggest that the word “rendering” be changed to “formulating” in keeping with the statute.*
- (8) On page 5, line 29-30, *we suggest striking the words “on or after January 1, 2008” While a person licensed before Jan. 1, 2008 may choose to apply to be grandfathered for Independent Status, there is no requirement that a person licensed before that date MUST apply to be grandfathered for Independent Status. A social worker licensed prior to 2008 who chooses to go through the three year process laid out in these regulations should have the option of doing so. This language leads one to believe that option does not exist.*
- (9) On page 6, line 13-14 addresses the grandfathering provision. The addition of the language “under social work supervision” was not included in the statute. A grandfathering provision is traditionally more lenient than the new regulations and in this case was intended by the bill sponsors to allow well-seasoned social workers who have no current encumbrances on their license to be rid of the onerous requirement of “forever supervision.” A copy of the form which will be prescribed by the board was not provided to allay concerns about supervision requirements which might be imposed in this endeavor. **We suggest that the words “under social work supervision,” be struck from this section.**
- (10) On page 6, lines 21 through 23, **we suggest that these lines should be struck.** The statute clearly and deliberately sets forward only two requirements in the grandfathering section: that the social worker be licensed by the board as an LBSW or an LGSW on or before Jan. 1, 2008 and that the social worker have actively practiced bachelor social work or master social work for at least 10 years. This language was very specific on the part of the bill sponsors and in the legislative discussions. As mentioned above, the intent was for seasoned social workers who have been working without complaints lodged with the BSWE to be allowed Independent status.
- (11) On page 8, lines 11-12, require that an Independent licensed Master social worker must have 24 months of social work experience in that status before obtaining the supervisor status. *We believe the process should be the same as for an LCSW or an LCSW-C, and should require only 18 months of experience as an Independent practitioner. We suggest that the language in line 11 be changed to 18 months. All three are master’s level social workers who have attained an Independent practice status. In fact, the LMSW has at least 3 years of supervised practice experience while the LCSW and LCSW-C may have only two years of supervised practice experience. There is no obvious, legitimate reason for the discrepancy.*
- (12) On page 8, lines 16-17 **we suggest that these lines should not be struck, instead the words “and independent practice” should be added after advanced licensure. Per #6 above.**

- (13) On page 8, line 24 *we suggest that the words “for advanced licensure” should remain and the words “and Independent Practice” should be added. The reasons for this were explained in #6 above. We feel this should be done everywhere that advanced licensure has been removed in the regs.*
- (14) On page 10, lines 23-24, *the words “working toward advanced licensure or Independent Practice” should be added to the end of the sentence. As explained previously.*
- (15) On page 11, lines 3-4 we appreciate the change for hours of supervision from 3 hours a month to 1 hour for every 40 hours worked. This takes into account those who work part-time.

Thank you again for this opportunity to express our appreciation and our significant concerns.

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