



Our Mission

The legislature declares that, in order to safeguard the public health, safety, and welfare of the people of this state against unauthorized, unqualified and improper practice of social work, it is necessary that a proper regulatory authority be established and adequately provided for.

FALL 2017

News | Louisiana State Board of Social Work Examiners

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From The Chair

John S. Shalett, LCSW-BACS

I became Chairperson of the Board at our June 2017 meeting. Know that this is a great honor and I am committed to leading the Board with a sense of professionalism and obviously a strong and never-ending commitment to and for our profession. Two new members, Brent Villemarette, LCSW-BACS, and Dr. Ruth Weinzettle, LCSW-BACS, were appointed by the Governor's Office in late spring. They have joined the Board and add great depth and breadth to our deliberations and bring an added perspective to our work.

It is with great pleasure that I inform you that our former Board Chairperson, Judith Haspel has been selected to receive the Sunny Andrews Award for Outstanding Commitment to Social Work Regulatory Board Service by the Association of Social Work Boards. Judy will be honored at the 2017 Annual Delegate Assembly in Atlanta, Georgia. Judy will complete her Board service in December. She will be truly missed as she has been a superb board member and a mentor for each of us on the LABSWE Board.

At our August Board meeting, a request was received regarding the scope of practice for a RSW to conduct psychosocial evaluations. This prompted the Board to review this issue, both for practice in Louisiana and a review of the CSWE Educational Policy and Accreditation Standards.

Below is a synopsis of our interpretation and response to the request.

Registered Social Workers are trained to conduct psychosocial assessments.

A more detailed response may be found elsewhere in this newsletter.

Again, I am honored to serve as Chairperson. As a Board, we are here at your service. Please do not hesitate to contact us with concerns, questions and suggestions.

John Shalett, LCSW-BACS
Chairperson
New Orleans, LA

Brent Villemarette,
LCSW-BACS
Vice Chairperson
Opelousas, LA

Carla Moore, LMSW
Secretary-Treasurer
Grambling, LA

Judith Haspel,
LCSW-BACS
Board Member
New Orleans, LA

Robert Showers, RSW
Board Member
Independence, LA

Ruth Weinzettle,
LCSW-BACS
Board Member
Alexandria, LA

Vacant
Public Member

BOARD MEMBERS

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Welcome New Board Members



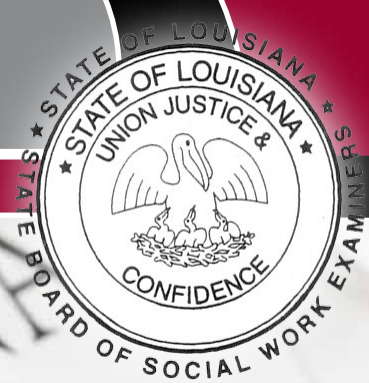
Brent A. Villemarette, MSW, LCSW-BACS holds a Bachelor of Science Degree in Social Work from Louisiana College and a Master of Social Work Degree from Louisiana State University. He is a recognized child and family advocate with vast experience in all areas of Child Welfare having served at various levels in the Louisiana Department of Children & Family Services from case worker to Deputy Secretary of the Department from where he assisted the DCFS Secretary in overseeing programmatic initiatives, federal and state legislation and regulations, and state policy and systems development related to economic stability, child support enforcement, child welfare, program integrity and child safety while overseeing DCFS's disaster response services before his retirement after 33 years of public service. While focusing his career on trauma response, he has volunteered with Critical Incident Stress Management Teams in child welfare, law enforcement, firefighting and other emergency response services as well as servicing as a disaster mental health specialist with the American Red Cross, twice having serviced at the site of the former World Trade Center in NYC after the 9-11 terrorist attacks. He makes his home in Opelousas LA where his current practice focuses on child welfare consultation and training, disaster response and home health/hospice social services.



Dr. Ruth Weinzettle, LCSW-BACS, is a Professor of Social Work at Northwestern State University. She has many years of college-teaching experience. She also has 14 years of full-time, direct practice experience, as well as many years of part-time private practice. Her current private practice focuses on consultation and supervision. She currently serves as an item writer for the Association of Social Work Boards, and as a site visitor for the Council of Social Work Education.

Message from ASWB

The Association of Social Work Boards announces minor changes to the 2018 examinations. Learn more about the changes, read the 2017 Analysis of the Practice of Social Work, and review the timeline for implementation at www.aswb.org/2018exams.



Responding to SUBPOENAS

George M. Papale, Attorney at Law | May 2017

Social workers often have asked the Board questions about how to respond when they are subpoenaed to appear at a trial or deposition or to make their records available. This article is provided as general information related to those questions and is not intended to be a substitute for legal advice to social workers who have specific legal and ethical questions related their response to subpoenas.

Generally, any person subpoenaed to give testimony or produce documents is required to provide relevant information concerning matters within his or her knowledge. For certain individuals there are countervailing ethical and legal considerations which may impose constraints on the disclosure of the subpoenaed information because it was obtained in the course of a professional relationship which imposes a duty of confidentiality.

In Louisiana, as in other states, there is a Social Worker-Client privilege that enables a client, under certain circumstances to prevent a Social Worker, who treated him or her, from testifying or producing records about his or her confidential information. A social worker's ethical duty to maintain client confidentiality is also a legal requirement, imposed by the Social Work Practice Act §2718 (B), which states: "No social worker may disclose any information he may have acquired from persons, consulting

him and his professional capacity that was necessary to enable him to render services to those persons except:". The Practice Act, §2718 (B) and (C) then lists the well-known exceptions to this legal duty of confidentiality and §2718 (A) extends to social workers the testimonial privileges and exceptions to those privileges found in the Louisiana Code of Evidence.

Under the Evidence Code, Article 510, social workers, as healthcare providers, are governed by the "Healthcare provider-patient privilege" and also are afforded the exceptions to the privilege specified in the article. Rule §115 of the Rules Standards and Procedures, provides a reference to Article §510 and gives a summary of the exceptions covered by the Article. Generally, unless one of the noted exceptions is applicable, the client may invoke the legally enforceable privilege to prevent the social worker, who treated him or her, from testifying or providing records containing confidential information obtained in the course of the provision of social work services.

Social workers are aware that disclosing confidential client information under circumstances where none of the exceptions to the client's privilege exists or where neither the client nor the client's authorized representative has consented to the release of the information, is a breach of client confidentiality, exposing the social

worker to potential professional and legal consequences. In many instances, at the time the social worker receives the subpoena, there has been no legal or judicial determination or even a consideration of the claims of privilege or confidentiality (or exceptions thereto), which could alter the social workers general obligation to provide the subpoenaed information. Until those legal issues are properly resolved, a social worker is well advised to take whatever steps are necessary (including seeking legal advice) to protect the interest of his or her client against the unauthorized disclosure of confidential information.

There is a law in place which can protect healthcare providers (social workers) against such unauthorized disclosures prior to any judicial determinations of testimonial privilege or the exceptions. Furthermore, when a social worker receives a subpoena duces tecum (a court document commanding the witness to bring designated documents and things to a deposition, hearing or trial) concerning his or her client's records, it is likely that the client is a party involved in civil, or occasionally criminal, litigation.

Often, the social worker, through discussions with their client, will be aware of this litigation and the client's need for the records before receiving the subpoena.

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Is it within the scope of practice for a Registered Social Worker (RSW) to conduct a psychosocial?

In Louisiana, the RSW is the registration for Bachelor of Social Work (BSW) graduates of Council on Social Work Education (CSWE) accredited social work programs. As such, an RSW is trained to conduct psychosocial assessments. In preparing BSW graduates for social work practice, assessment skills have long been one primary focus. Whether a social work program utilizes the Generalist Intervention Model as developed by Kirst-Ashman and Hull, the Planned Change Process language, or any other model, assessment is a key component in the practicing of social work.

The Council on Social Work Education develops the Educational Policy and Accreditation Standards (EPAS). In the most recent iteration, required competencies for graduates of social work programs include the competency of Assessment.

Competency 7: Assess Individuals, Families, Groups, Organizations, and Communities

Social workers understand that assessment is an ongoing component of the dynamic and interactive process of social work practice with, and on behalf of, diverse individuals, families, groups, organizations, and communities. Social workers understand theories of human behavior and the social environment, and critically evaluate and apply this knowledge in the assessment of diverse clients and constituencies, including individuals, families, groups, organizations, and communities. Social workers understand methods of assessment with diverse clients and constituencies to advance practice effectiveness. Social workers recognize the implications of the larger practice context in the assessment process and value the importance of inter-professional collaboration in this process. Social workers understand how their personal experiences and affective reactions may affect their assessment and decision-making.

Social workers: • collect and organize data, and apply critical thinking to interpret information from clients and

constituencies; • apply knowledge of human behavior and the social environment, person-in-environment, and other multidisciplinary theoretical frameworks in the analysis of assessment data from clients and constituencies; • develop mutually agreed-on intervention goals and objectives based on the critical assessment of strengths, needs, and challenges within clients and constituencies; and • select appropriate intervention strategies based on the assessment, research knowledge, and values and preferences of clients and constituencies. (2015 EPAS, p.9)

The term “psychosocial” is most often cited in the professional literature as an adjective, as in “psychosocial assessment” or “psychosocial framework.” However, common practice in the field is to use the term as a noun, i.e. ...complete a “psychosocial”. In agency practice, many different terms are utilized to define the collecting of information from and about a client system. Terms such as intake, assessment, psychosocial are commonly used to describe the data collection process. This assessment process includes the gathering of data and the process of critical thinking to determine impressions of clients’ needs, problems areas, and strengths.

Oftentimes, in agency or organizational settings, the creating of a “psychosocial” may involve a team effort – a social worker, a nurse, a psychiatrist, a psychologist, etc. - each making important contributions. Sometimes a psychosocial may include an official diagnosis according to the DSM or ICD-10. According to the Louisiana Social Work Practice Act, an RSW is not qualified to issue a diagnosis. However, an RSW is qualified to make psychosocial assessment implications and conclusions under the auspices of agency work and the supervision inherent in the same.

References:

Council on Social Work Education (2015). Educational policy and accreditation standards (EPAS). <https://www.cswe.org/getattachment/Accreditation/Standards-and-Policies/2015-EPAS/2015EPASandGlossary.pdf.aspx>

LOUISIANA STATE BOARD OF SOCIAL WORK EXAMINERS



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RESPONDING TO SUBPOENAS

*George M. Papale, Attorney at Law
May 2017*

A written release from the client may be in the social workers file or may accompany this subpoena. On other occasions, the client may not be a party involved in the litigation and the receipt of the subpoena may be a surprise to the social worker. However, if the laws regulating the issuance of the subpoena are followed, the service of the subpoena should not be a surprise to the client.

The law, La. R.S. 13:3715.1, imposes advanced client notice, affidavit, and time delay requirements on the party or the party's attorney (requesting party) who request the clerk of court to issue the subpoena in any litigation (civil, criminal, Worker's Compensation or other proceedings). If the client is a party to the litigation, the requesting party must present an affidavit to the clerk of court with the subpoena request, that asserts that the client is a party and the fact that notice of the subpoena has been mailed by registered or certified mail to the client or client's attorney at least seven days prior to the issuance of the subpoena. Also, the date in the subpoena for the social worker to make the disclosure of the records must be set enough in advance to allow an additional seven days between the service of the subpoena on the social worker and the disclosure date. If the requesting party is the client, then the affidavit shall so state and further state that the client authorizes the release of the records pursuant to the subpoena. If the requesting party fails to submit a request for a subpoena along with

one of the two described affidavits, the clerk should not issue the subpoena.

If the subpoena request is for a deposition, as opposed to a trial or hearing, the clerk should require a deposition notice be presented before issuing a subpoena duces tecum for the social worker to appear at a deposition. Sometimes the requesting party is only interested in the records and will signify that the "deposition" is for "records only" or a "records deposition" and further specify that the witnesses is excused from appearing if he or she provides the true copies of the records and a certificate by the due date. Even in this circumstance, all of the above notice an affidavit requirements still apply to the issuance of the subpoena.

Following the issuance of the subpoena, the law requires additional checks on the disclosure of records by requiring the affidavit also to be served on the social worker along with the subpoena, and by requiring that the social worker not receive (between service of the subpoena and the disclosure date), a legal document, (such as a motion to quash) indicating that the client has taken legal action to restrain the release of the records.

If the social worker's client is not a party to the litigation, the client's records are not subject to the subpoena process. In such a case, the release of the records is only appropriate with either a valid written authorization from the client or by a court order, following a contradictory hearing, with the client or client's attorney (or with the client's lawful representative, should the non-party client be deceased).

At the hearing, the court is to make a finding that the release of the requested information is proper before ordering the social worker to produce the client's records.

Social workers providing social work services in the fields of substance or alcohol abuse which are conducted, regulated or directly or indirectly assisted by any department or agency of the United States, including any alcohol or substance abuse clinic operated by the Louisiana Department of Health, should be mindful of the subpoena restrictions imposed by Federal Regulations found in La. R.S. 13:3715.1 (B) (6).

Social workers may take some comfort in knowing that compliance with the requirements of this law provides them with significant legal protections. La. R.S. 13:3715.1 (C) states: No healthcare provider, employee, or agent thereof shall be held civilly or criminally liable for disclosure of the records of the patient pursuant to the procedures set forth in this Section, R.S. 12 99.96, or Code of Evidence Article 510, provided that the healthcare provider has not received a copy of the petition or motion indicating that legal action has been taken to restrain the release of the records."

Subpoenas issued by federal courts in cases where Louisiana's substantive law applies (such as diversity of citizenship and Federal Tort Claims Act cases) will apply Louisiana's law of privilege.

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Public Member Position is Currently Vacant!

If you know of someone interested in serving as the public member on the Board, please ask them to submit a letter stating their interest, along with a current resume to one of the following organizations:

Myra Hidalgo, LCSW-BACS
President, Louisiana Association
of Clinical Social Workers
1407 Louisiana Avenue | New Orleans, LA 70115

Louisiana Chapter of National Association
of Social Workers
700 North 10th Street, Suite 200 | Baton Rouge, LA 70802

Louisiana Council on Social Work Education
Attn: Traci Lilley, LCSW
LSU School of Social Work
311 Huey P. Long Fieldhouse | Baton Rouge, LA 70803

La. R.S. 37:2704(C) mandates that no public member shall be currently an elected official, and no public member shall be or have been any of the following:

- (1) Actively engaged in the practice of social work or be the spouse of a social worker.
- (2) Engaged in the practice of psychology, psychiatry, or a member of a mental health profession, or the spouse of a member of a mental health profession.
- (3) Employed or own an agency or business entity that provides social, health, or mental health care or substance abuse services.

Questions concerning the board's activities and the time commitment required of board members, should be directed to the Board's Administrator, Emily DeAngelo at edeangelo@labswe.org.

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RESPONDING TO SUBPOENAS

George M. Papale, Attorney at Law May 2017

A Federal District Court has included La. R.S. 13:3715.1 as part of the law relating to privilege under Federal Rule 501 and quashed a subpoena duces tecum for the medical records of non-parties who had received no notice or opportunity to object, and determined that a court hearing was required under the statute. However, another Federal Court took the position that the statute referred only to proper procedures for obtaining the records, not the law of privilege and did not apply the Louisiana subpoena statute.

Subpoenas can also be issued from Coroners and their deputies, acting in official capacities, (physical or mental examination or cause/manner of death investigations). These subpoenas are exempt from the notice or affidavit requirements. Subpoenas from the Office of Workers' Compensation in the Department of Labor are given the same dignity as a court subpoena for the purpose of authorized disclosures. Subpoenas issued by the Louisiana State Board of Social Work Examiners relating to an investigation of a social worker are exempt from the requirements, provided the subpoena clearly states that no notice or affidavit is required. Board subpoenas are enforceable without regard to whether the client is a complainant against the social worker and notwithstanding any privilege of confidentiality recognized by law because the Board is required to alter the records of transcripts to prevent disclosure of client identity.

Good client communications are recommended regarding the social worker's receipt of the subpoena, as well as any client opposition. Should the social worker receive notice of the client's legal opposition to the subpoena or order, the social worker should request notice of any court hearings, decisions or further orders indicating a judicial resolution of the client's opposition prior to making the disclosure. Social workers should seek legal advice for additional protections as deemed necessary.

LOUISIANA STATE BOARD OF SOCIAL WORK EXAMINERS



Supervision

Reminders

- ✓ BACS must submit documentation of completing 3 hours of continuing education in the area of clinical supervision within the time period July 1, 2016 – June 30, 2018 by August 31, 2018.
- ✓ CSWs and LMSWs providing clinical social work services must be supervised by a LCSW in accordance with Rule 505. Supervision information will be required on next renewal.
- ✓ A LMSW is eligible to apply for online for LCSW once he/she is finished required supervision and work experience. Upon receiving notice that an application has been filed, board staff completes a review of the LMSW's file. Anything missing will be noted on the applicant's dashboard.

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