For 2015 OPR bill June 24, 2014:

**TITLE TWENTY-SIX. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 61. CLINICAL SOCIAL WORKERS**

Note: many changes, so most not highlighted in yellow

**Sec. x 26 V.S.A. § 3201 is amended to read:**

26 V.S.A. § 3201. Definitions

As used in this chapter:

1. “Clinical social work” is defined as providing a service, for a consideration, which is primarily drawn from the academic discipline of social work theory, in which a special knowledge of social resources, human capabilities, and the part that motivation plays in determining behavior, is directed at helping people to achieve a more adequate, satisfying, and productive psychosocial adjustment. The application of social work theory, principles, and methods includes, but is not restricted to assessment, diagnosis, prevention and amelioration of adjustment problems and emotional and mental disorders of individuals, families and groups.

2. “Licensed Master’s Social Worker” means a person licensed under this chapter who practices social work as defined above. Psychotherapy is not within the scope of practice of a “licensed master’s social worker.”

3. “Licensed Independent Clinical Social Worker” means a person licensed under this chapter to practice independent clinical social work which includes providing social work as defined above and psychotherapy services. Licensed independent clinical social workers are qualified to use the Diagnostic and Statistical Manual of Mental Disorders (DSM), the International Classification of Diseases (I.C.D.), and other diagnostic classification systems used in diagnosis and other activities.

4. Persons granted licenses as clinical social workers before July 1, 2014 are deemed to be licensed at the level of a licensed independent social worker and may within the limits of their education, training, and experience practice all aspects of social work without restriction.

5. “Disciplinary action” or “disciplinary cases” includes any action taken by the secretary of state or an administrative law officer established by 3 V.S.A. § 129(j) against a licensed clinical social worker or applicant premised on a finding of unprofessional conduct by the licensed clinical social worker or applicant. It includes all sanctions of any kind, refusal to grant or renew a license, suspension or revocation of a license, issuing warnings and other similar sanctions.

6. “Director” means the Director of the Office of Professional Regulation.


8. “Psychotherapy” means the provision of treatment, diagnosis, evaluation or
counseling services to individuals or groups, for a consideration, for the purpose of alleviating mental disorders. “Psychotherapy” involves the application of therapeutic techniques to understand unconscious or conscious motivation, resolve emotional, relationship or attitudinal conflicts, or modify behavior which interferes with effective emotional, social or mental functioning. “Psychotherapy” follows a systematic procedure of psychotherapeutic intervention which takes place on a regular basis over a period of time, or, in the case of evaluation and brief psychotherapies, in a single or limited number of interventions. If a person is employed by or under contract with the agency of human services, this definition does not apply to persons with less than a master’s degree, to persons providing life skills training or instruction, such as learning to make friends, to handle social situations, to do laundry and to develop community awareness, or interactions of employees or contracted individuals with clients whose job description or contract specifications do not specifically mention “psychotherapy” as a job responsibility or duty.

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Sec. x 26 V.S.A. § 3202 is amended to read:
§ 3202. Prohibition, offenses
(a) No person shall practice or attempt to practice licensed independent clinical social work or licensed master’s social work, nor shall any person use in connection with the person’s name any letters, words, or insignia indicating or implying that the person is a licensed independent clinical social worker or a licensed master’s social worker unless the person is licensed in accordance with this chapter.

(b) A person who violates any of the provisions of subsection (a) of this section shall be subject to the penalties provided in 3 V.S.A. § 127(e).

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Sec. X 26 V.S.A. § 3203 is amended to read:
§ 3203. Director of the office of professional regulation; duties
(a) The director of professional regulation shall:
(1) explain appeal procedures to licensed clinical social workers licensees and applicants and complaint procedures to the public;

(2) administer fees collected under this chapter;

(3) provide general information to applicants for licensure as licensed independent clinical social workers and licensed master’s social workers;

(4) receive applications for licensing, license applicants qualified under this chapter, or renew, revoke, reinstate, and condition licenses as ordered by an administrative law officer;
(5) adopt by rule criteria for licensing independent clinical and licensed masters social workers who have five years’ licensed or certified practice experience in another jurisdiction of the United States or Canada.

(b) The director, with the advice of two licensed independent clinical social workers appointed under section 3204 of this title, may adopt rules necessary to enable the director to perform his or her duties under subsection (a) of this section.

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Sec. X, 26 V.S.A. § 3204 is amended to read:
§ 3204. Advisor appointees

(a) The secretary of state shall appoint two licensed independent clinical social workers to serve as advisors in matters relating to licensed clinical social workers. They shall be appointed as set forth in 3 V.S.A. § 129b and shall serve at the pleasure of the secretary. One of the initial appointments may be for less than a full term.

(b) Appointees shall not have less than three years experience as a licensed independent clinical social worker certified or licensed under this chapter during the period immediately preceding appointment and shall be actively engaged in the practice of clinical social work in Vermont during incumbency.

(c) The office of professional regulation shall refer complaints and disciplinary matters to an administrative law officer established under 3 V.S.A. § 129(j).

(d) The director shall seek the advice of the clinical social workers advisors appointed under this section in carrying out the provisions of this chapter. Such members shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for this purpose.

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§ 3205. Licensed Masters Social Worker Eligibility
To be eligible for licensing as a clinical licensed master’s social worker an applicant must have:

(a) received a master’s degree or doctorate degree from an accredited social work education program;

(b) within five years of applying for licensure passed the examinations designated by the director of the Office of Professional Regulation.

(c) completed 3,000 hours of supervised practice of clinical social work as defined by rule under the supervision of

a licensed physician or a licensed osteopathic physician who has completed a
(d) Persons engaged in post master’s degree supervised practice in Vermont to become licensed master’s social workers shall be entered on the roster of nonlicensed, noncertified psychotherapists register with the Office as provided by rule. 

(4) submitted the names and addresses of three persons who can attest to the applicants professional competence. Such person shall be a licensed physician or a licensed osteopathic physician who has completed a residency in psychiatry, a licensed psychologist, a licensed clinical mental health counselor, a person licensed or certified under this chapter, or a person licensed in another state or Canada in one of these professions; and

(5) passed an examination to the satisfaction of the director of the office of professional regulation.

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Sec. x 26 V.S.A. § 3205a is added to read

3205a Licensed Independent Clinical Social Worker Eligibility  To be eligible for licensure as a licensed independent clinical social worker an applicant must have:

(a) received a master’s degree or doctoral degree from an accredited social work education program;

(b) within five years of applying for licensure passed the examinations designated by the Director;

(c) completed 3,000 hours of supervised practice of independent clinical social work as defined by rule under the supervision of a

(1) licensed independent clinical social worker; or

(2) licensed independent clinical mental health counselor; or

(3) licensed psychologist; or

(4) a person licensed or certified in another state or Canada in one of these professions or their substantial equivalent.

(d) Persons not licensed as master’s social workers who engage in post masters supervised practice in Vermont toward licensure as licensed independent clinical social workers shall be entered on the roster of nonlicensed, noncertified psychotherapists.
(e) Licensed master’s social workers who engage in post masters supervised practice to become licensed independent clinical social workers must first register with the Office of Professional Regulation as set forth by rule, if the supervised practice toward licensure as an independent clinical social worker is to occur within the State of Vermont.

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Sec. x 26 V.S.A. § 3206 is amended to read: Application

A person who desires to be licensed as a clinical social worker under this chapter shall apply to the secretary in writing on a using an application form furnished by the secretary available from the Office, accompanied by payment of the specified fee.

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26 V.S.A. § 3207. Examination

(a) The director of professional regulation shall conduct examinations under this chapter at least once a year at a time and place designated by it, provided, however, that examinations need not be conducted at times when there are no applicants requesting to be examined. Examinations shall be written. Each applicant shall be designated by a number so that his or her name is not disclosed to the director until the examination has been graded. Examinations shall include questions in such theoretical and applied fields as the director deems most suitable to test an applicants knowledge and competence to engage in the practice of clinical social work. The director of professional regulation, with the advice of the clinical social workers appointed under section 3204 of this title, shall establish by rule fixed criteria for passing an examination that shall apply to all persons taking the examination:

(b) Examinations administered by the director and the procedures of administration shall be fair and reasonable and shall be designed and implemented to ensure that all applicants are granted a license if they demonstrate that they possess the minimal occupational qualifications which are consistent with the public health, safety and welfare. They shall not be designed or implemented for the purpose of limiting the number of licenses issued.

(ea) The director of the office of professional regulation may contract with clinical social workers or with independent testing services for the preparation and administration of the examinations.

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Sec. x 26 V.S.A. § 3208 is amended to read:

§ 3208. Renewals

(a) Licenses shall be renewed every two years on a schedule determined by the Office upon payment of the required fee.

(b) An application for renewal reinstatement of a license which has lapsed expired shall be accompanied by the renewal fee in addition to the reinstatement other fees set forth in Chapter 5 of title 3. A person shall not be required to pay renewal fees for the years during which the
license was lapsed.

(c) The director may, after notice and an opportunity for hearing, revoke a person's right to renew his or her license if such license has lapsed for five years.

(d) As a condition of renewal, a licensee shall complete continuing education, approved by the director by rule, during the preceding two-year period. For purposes of this subsection, the director may require, as set forth by rule, not more than 20 hours of approved continuing education as a condition of renewal.

(d) The Director may by rule prescribe standards for persons wishing to resume practice after five years since holding an active license.

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Sec. x. 26 V.S.A. § 3209 is amended to read:

§ 3209. Licensure without examination by endorsement. The director of the office of professional regulation may, upon payment of the required fee, grant a license without examination if the applicant:

(1a) holds an active license to practice licensed master’s social work or licensed independent clinical social work in another United States or Canadian jurisdiction; and

(2b) the requirements for licensing in that jurisdiction are, in the judgment of the director, essentially substantially equivalent to the requirements of this chapter.

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Sec. x 26 V.S.A. § 3210 is amended to read:

§ 3210. Unprofessional conduct

(a) The following conduct and the conduct set forth in section 129a of Title 3 by a licensed social worker person licensed under this chapter constitutes unprofessional conduct. When that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial or discipline of a license:

(1) failing to use a correct title in professional activity;
(2) conduct which evidences unfitness to practice licensed master’s or licensed independent clinical social work;
(3) engaging in any sexual conduct with a client, or with the immediate family member of a client, with whom the licensee has had a professional relationship within the previous two years;
(4) harassing, intimidating, or abusing a client or patient;
(5) practicing outside or beyond a licensee’s clinical social workers area of education, training, experience, or competence without appropriate supervision;
(6) engaging in a conflict of interest that interferes with the exercise of the clinical social worker’s licensee’s professional responsibilities, discretion, and impartial judgment;
(7) failing to inform a client when a real or potential conflict of interest arises, and failing to take reasonable steps to resolve the issue in a manner that makes the client’s interest primary and protects the client’s interest to the greatest extent possible;
(8) taking unfair advantage of any professional relationship or exploiting others to further the clinical social workers licensee’s personal, religious, political or business interests;
(9) engaging in dual or multiple relationships with a client or former client in which there is a risk of exploitation or potential harm to the client;
(10) failing to take steps to protect a client and to set clear, appropriate and culturally sensitive boundaries, in instances where dual or multiple relationships are unavoidable;
(11) failing to clarify with all parties which individuals will be considered clients and the nature of the licensee’s clinical social workers professional obligations to the various individuals who are receiving services, when a clinical social worker licensee provides services to two or more people who have a spousal, familial or other relationship with each other;
(12) failing to clarify the clinical social worker’s licensee’s role with the parties involved and to take appropriate action to minimize any conflicts of interest, when the clinical social worker anticipates a conflict of interest among the individuals receiving services or anticipates having to perform in conflicting roles such as testifying in a child custody dispute or divorce proceedings involving clients.

(b) After hearing, and upon a finding of unprofessional conduct, an administrative hearing officer may take disciplinary action against a licensee licensed clinical social worker or applicant.

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§ 3211 repealed

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Sec. x. 26 V.S.A. § 3212 is amended to read:
§ 3212. Exemptions

(a) The provisions of this chapter shall not apply to persons while engaged in the course of their customary duties as clergy, licensed physicians, nurses, osteopaths, optometrists, dentists, lawyers, psychologists, mental health counselors, certified marriage and family therapists and psychoanalysts, rostered psychotherapists or licensed educators when performing their duties consistent with the accepted standards of their respective professions; provided, however, that they do not describe themselves to the public by any other title or description stating or implying that they are licensed master’s social workers or licensed independent clinical social workers or are licensed to practice clinical social work under this chapter.

(b) The provisions of this chapter shall not apply to persons while engaged in the course of their customary duties:
(1) In the practice of a religious ministry.
(2) In employment or rehabilitation counseling.
(3) As an employee of or under contract with the agency of human services, provided the person does not practice psychotherapy as defined in section 3201 of this title.
(4) As a mediator.
(5) In an official evaluation for court purposes.
(6) As a member of a self-help group, such as Alcoholics Anonymous, peer counseling or domestic violence groups, whether or not the person is serving for a consideration.
(7) As a respite caregiver, foster care worker or hospice worker.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the provisions of this chapter shall apply to any person licensed as a clinical social worker under this chapter.

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Sec. x. 26 V.S.A. § 3213 is amended to read:
§ 3213. Disclosure of information
(a) The office of professional regulation Director, in consultation with the advisor appointees, shall adopt rules requiring licensed independent clinical social workers to disclose to each client the licensed independent clinical social worker’s professional qualifications and experience, those actions that constitute unprofessional conduct, the method for filing a complaint or making a consumer inquiry, and provisions relating to the manner in which the information shall be displayed and signed by both the licensed independent clinical social worker and the client. The rules may include provisions for applying or modifying these requirements in cases involving institutionalized clients, minors and adults under the supervision of a guardian.

(b) The Director, in consultation with the advisor appointees, shall adopt rules requiring licensed masters social workers to disclose to each client the licensed master’s clinical social worker’s professional qualifications and experience, those actions that constitute unprofessional conduct, the method for filing a complaint or making a consumer inquiry, and provisions relating to the manner in which the information shall be displayed and signed by both the licensed masters social worker and the client. The rules may include provisions for applying or modifying these requirements in cases involving institutionalized clients, minors and adults under the supervision of a guardian.

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Marriage and Family Therapists

re write 4037 so that permitted supervisors are licensed in the state where the supervision occurs.

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Clinical Mental Health Counselors

Sec. x. 26 V.S.A. § 3262a is amended to read:
§ 3262a. Board of allied mental health practitioners

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A board of allied mental health practitioners is established. The board shall consist of six 
members appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004. Two members shall 
be licensed clinical mental health counselors, one member shall be a certified licensed 
and family therapist, one member shall be a nonlicensed and noncertified psychotherapist entered on the roster, and two members shall be public 
members. The public members shall have no direct financial interest personally or through a 
spouse, parent, child, brother, or sister in clinical mental health counseling, marriage and family 
therapy, or psychotherapy. The professional members of the board shall have at least three years 
of professional experience as a clinical mental health counselor, marriage and family therapist, or 
psychotherapist during the period immediately preceding appointment and. The professional 
members shall be actively engaged in the practice of clinical mental health counseling, marriage 
and family therapy, or psychotherapy in one of these professions during incumbency. A majority 
of the members of the board shall constitute a quorum for transacting business, and all action 
shall be taken upon a majority vote of the members present and voting.

Rationale: It has been very difficult to find nonlicensed, noncertified psychotherapists to serve 
on the Board. Approximately 65-70 percent of those on the roster move on to full licensure as 
clinical mental health counselors or marriage and family therapists. So, when a rostered 
psychotherapist is appointed to the board, he or she frequently becomes a member of another 
profession long before the term of office ends. These changes will permit someone who is 
appointed to the psychotherapist position to complete a term even if the person leaves the roster 
and becomes licensed as a clinical mental health counselor or marriage and family therapist. 
That person will not be eligible for reappointment to a second term. Another psychotherapist 
would be his or her successor.