ALABAMA STATE BOARD OF SOCIAL WORK EXAMINERS
ADMINISTRATIVE CODE

CHAPTER 850-X-10
DISCIPLINARY PROCEEDINGS

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850-X-10-.01 Grounds.

The Board, after a hearing, may refuse to renew, may suspend or may revoke any license or certificate issued by the Board, and may levy and collect administrative fines upon proof that a person licensed by the Board has engaged in unprofessional conduct within the last five years, including, but not limited to:

(1) Additional Grounds: In addition to the specific grounds provided by statute, the Board of Social Work Examiners is authorized by law to promulgate rules and regulations and set forth professional standards. Specific offenses for which discipline may be imposed include, but are not necessarily limited to:

(a) Committing, or aiding and abetting any cheating or an attempt to subvert the social work licensing examinations.

(b) Committing, or aiding and abetting any fraud or misrepresentation in applying for or procuring a social work license or renewal license.

(c) Being convicted of a felony or any misdemeanor involving questions of moral turpitude, whether or not resulting from such practice, or the entry of a guilty plea or plea of no contest to any such misdemeanor or felony.

(d) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.

(e) Making a false or misleading statement or statements regarding a social worker’s skills or the efficacy or value of any treatment provided or to be provided, or using any false, fraudulent or deceptive statement connected with the practice of social work, including, but not limited to, false or misleading advertising.

(f) Violating the confidentiality between social worker and client except as required or permitted by law.

(g) Failing to properly manage, maintain and preserve client records.

(h) Failing to transfer pertinent and necessary records when requested to do so by the client or by the client’s legally designated representative.

(i) Giving or receiving, directly or indirectly, any fee, commission, rebate, or other compensation for professional services not actually and personally rendered.

(j) Being found by a court of competent jurisdiction to be mentally incompetent which results in the inability to practice the profession with reasonable judgment, skill or safety.

(k) Engaging in behavior that demonstrates incapacity or incompetence to practice social work.

(l) Being found guilty or liable in any criminal or civil proceeding resulting in an adverse judgment, order, decree or award, against a licensee, whether or not such claims are settled later between the parties, related to acts or conduct which would constitute grounds for disciplinary action, or which reflect adversely on the licensee's competence or qualifications to practice social work.

(m) Engaging in any dual or multiple relationships with clients or former clients in which there is a risk of exploitation of or potential harm to the client; or violating appropriate client-social worker boundaries.

(n) Committing any act of sexual abuse, misconduct, or exploitation related to the social worker's practice.

(o) Being addicted or habituated to any chemical substance that impairs the ability to practice competently.

(p) Aiding and abetting the practice of social work by an unlicensed, incompetent or impaired individual.

(q) Allowing any person or organization to use a licensee's license to practice social work.

(r) Being disciplined in another jurisdiction based on grounds that are the same or substantially the same as those which exist under these Rules.

(s) Failing to report to the Board any adverse action taken against the social worker by another licensing jurisdiction.

(t) Failing to report to the Board the surrender of a license or authorization to practice social work in another jurisdiction.

(u) Failing to provide information requested by the Board or to cooperate with a lawful investigation conducted by the Board.

(v) Failing to comply with any stipulation or agreement with the Board involving probation or a settlement of any disciplinary matters.

(w) Aiding or abetting any persons in the filing of false reports with the Board or other applicable governmental agency.

(x) Failing to comply with mandatory reporting laws.

(y) Being found guilty of violating any of the Standards of Professional Conduct & Ethics established by the Board as provided in these rules.

Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §34-30-4 (1996 Supp.).
History: Repealed and Replaced: Filed October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.02 Complaint Procedure.

Proceedings to revoke, refuse to renew or suspend a certificate or license, or to censure, place on probation and/or fine any licensed or certified social worker may be initiated by the Board or by any person upon the filing with the Board's executive secretary of a complaint which shall contain:

(1) Name and address of the complaining party as well as the name and address of any licensed or certified social worker against whom the complaint has been filed.

(2) A plain and concise statement of the facts which together indicate that the individual licensed social worker complained against has violated Chapter 30, Title 34, ALA. CODE or rules promulgated by the Board or Standards of Professional Conduct & Ethics.

(3) The relief sought, if known.

(4) The signature and verification of the complainant in the form prescribed by the Board.

Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §41-22-4(a)(2) (1991). **History: Repealed and Replaced:** Filed October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.03 Disciplinary Investigative Committee.

In the event a complaint is filed against a licensee, or the Board determines from other information that an investigation is necessary, the procedure for investigation shall be as follows:

(1) The complaint or other information will be reviewed by a Disciplinary Investigative Committee designated by the Board. The Disciplinary Investigative Committee will consist of:

(a) The executive secretary;

(b) The attorney for the Board; and

(c) A member of the Board who shall be selected on a rotating basis provided that if the complaint is first made to a Board member, then it shall be referred to that Board member.

(2) The Board may also employ investigators to assist in the investigation of a disciplinary complaint.

(3) In the event probable cause is determined, the Board member who participates on the Investigative Committee investigating a licensee shall not sit as a member of the Board to consider the merits of the complaint at any disciplinary hearing on the same case if a summons and complaint is issued.

Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §41-22-4(a)(2) (1991).
History: Repealed and Replaced: Filed: October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.04 Informal Disposition.

(1) After review of the complaint or other information by the Disciplinary Investigative Committee of the Board, if the Investigative Committee determines that the complaint or other information may constitute a violation of the Board's rules and/or statutes, the Investigative Committee's designee may without prejudice to its authority to initiate formal action, take such action as it deems necessary to informally contact the licensee, any complainant, or any other party or parties, in an effort to resolve or informally settle any dispute which may constitute a violation of the Board's rules and/or statutes. Such action may include, but not be limited to, issuing a request to the licensee that he or she do, or refrain from doing, such activities as the Board may prescribe, and the entering of settlement agreements and/or releases between the licensee, the Board and/or other parties setting out the terms of any resolution and settlement of the alleged violation. Informal disposition of disciplinary complaints are considered to be matters of public record.

(2) In the event that an informal settlement of any alleged violations of the Board's rules and/or statutes cannot be reached, the Board may proceed to take formal action to determine whether probable cause exists for the issuance of a summons and complaint by the Board.

Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §41-22-4(a)(2) (1991).
History: Repealed and Replaced: Filed: October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.05 Summons, Complaint And Answer.

(1) Preparation. In the event the Investigative Disciplinary Committee of the Board determines that probable cause exists for the filing of a summons and complaint, counsel for the Board shall prepare a summons and complaint.

(2) Contents. The summons and complaint shall give notice in substantial compliance with the Alabama Administrative Procedure Act, ALA. CODE § 41-22-12(b) (1991) and §34-30-5 (1991).

(3) Service. The summons and complaint shall be mailed certified mail return receipt requested to the most recent address of the respondent with the Board. A copy shall also be sent first class mail.

(4) Answer. The respondent shall within thirty (30) days of service of the summons and complaint file with the Board, and serve counsel for the Board an Answer, admitting or denying the allegations and charges set forth therein. Failure to file an Answer within the time permitted by this rule without good cause shall be construed as an admission that the factual averments contained in the complaint are true.
Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §§41-22-4(a)(2) (1991); **History: Repealed and Replaced:** Filed October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.06 Disciplinary Hearings Generally.

(1) Hearing Open to Public. Unless otherwise provided by law, the hearing shall be open to the public.

(2) Counsel. A party may be represented by counsel at his or her own expense.

(3) Quorum. A quorum for purposes of this rule shall consist of five members of the Board.

(4) Hearing Officer. The Board may, in its discretion, appoint some person to act as hearing officer at disciplinary hearings or contested cases who shall preside at the hearing and rule on all questions of evidence and procedure, notwithstanding any other provisions of these rules to the contrary. In the conduct of a hearing, a hearing officer shall have the following authority:

(a) establish a date, time and place for the hearing;

(b) maintain order;

(c) make a record of the proceedings;

(d) establish reasonable time limits for the conduct of the proceedings;

(e) rule on the admissibility of evidence which shall be in accordance with the Alabama Administrative Procedure Act, Code of Ala. §41-22-13 (1991).

(f) hold a prehearing conference, if necessary, to clarify the matters in dispute; establish the order of presentation; allow and establish time limits for the exchange of exhibits and names of witnesses;

(g) discovery orders related to relevant matters, and protective orders in accordance with the Alabama Administrative Procedure Act, subject to the reasonable costs of issuance of the subpoenas as may be set from time to time by the Executive Secretary; and

(h) enter any order on any other matter which will effectuate the conduct of the hearing and promote the administration of justice.

Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §§34-30-5 (1991); **History: Repealed and Replaced:** Filed October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.07 Prehearing Discovery.

(1) Permitted. Prehearing discovery shall be permitted in accordance with this rule to the extent necessary to prevent fraud, conserve the Board's time, prevent undue surprise at hearing and facilitate the carriage of justice.

(2) Extent Allowed. The attorney for the Board or the respondent may upon application to the hearing officer, obtain discovery regarding any matter not privileged which is relevant to the subject matter of the complaint, whether it relates to the charge of the Board or the defense of the respondent.

(3) Methods of Discovery.

(a) Upon written application to the hearing officer the following discovery shall be allowed or ordered:

1. Deposition upon oral examination of any expert witness;

2. Interrogatories to or deposition upon oral examination of the respondent;

3. Order for production and copying of documents and things and entry upon land for inspection and other purposes, against any person;

4. Discovery as may otherwise be agreed upon between the parties.

(b) The hearing officer may impose such terms and conditions as are just upon discovery in order to protect a person from annoyance, embarrassment, oppression or undue burden or expense.

Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §41-22-12(c) (1996 Supp.).
History: Repealed and Replaced: Filed October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.08 Conflict And Bias.

(1) No Board member shall deliberate or vote on the merits of any disciplinary matter if the Board member is personally biased against the respondent or when such voting would violate the provisions of the Alabama Administrative Procedure Act, Code of Ala. 1975, §41-22-18(a) (1991).

(2) A party to any formal action or contested case, or respondent in a disciplinary action, who intends to assert bias or conflict on the part of any hearing officer or Board member must do so by filing, at least three days before the scheduled hearing and received in the headquarters of the Board, an affidavit and suggestion of disqualification together with the underlying factual basis for the assertion. In the absence of actual or constructive bias or prejudice, the failure to timely file an affidavit and suggestion of disqualification shall be deemed a waiver of such grounds as error in any appeal.

(3) The hearing officer or Board member to whom a suggestion of disqualification is directed shall consider the assertion of disqualification on the record as a preliminary matter at the hearing before any other question is decided.

Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §41-22-18 (1991).
History: Repealed and Replaced: Filed October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.09 Conduct Of Disciplinary Hearings.

(1) Plea. The respondent shall plead either "guilty" or "not guilty" to the charges set forth in the complaint.

(2) Opening Statement. Each side shall be permitted to make a short opening statement.

(3) Presentation of Evidence. The Investigative Committee for the Board shall present its evidence, followed by the respondent, followed by rebuttal by the Committee. Witnesses will generally be called and examined in the following order:

1. Direct examination;

2. Cross examination;

3. Examination by the Board;

4. Re-direct examination;

5. Re-cross examination;

6. Re-examination by the Board.

(4) Evidence. Evidence shall be allowed in accordance with the Alabama Administrative Procedure Act, Code of Ala. §41-22-13 (1991). Documentary evidence and testimony which is otherwise admissible in a contested case shall not be rendered inadmissible because of any claim of privilege between social worker and client. All testimony regarding the medical or psychological condition of individuals and all patient or client records produced during the course of the contested case shall be considered confidential and shall not be released to persons who are not parties or participants in the contested case.

(5) Closing Argument. Each side shall be permitted to make a short closing statement summarizing the evidence presented and urging the application of relevant law to the evidence presented.

(6) Oral proceedings shall be recorded either by mechanized means or by a qualified court reporter. The record of oral proceedings shall be maintained for five (5) years from the date of entry of the final order.

Author: Alabama State Board of Social Work Examiners 41-22-13 (1991); 34-30-5 (1991).

Statutory Authority: Code of Ala. 1975, §§41-22-12 (1996 Supp.); 41-22-13 (1991); 34-30-5 (1991).

History: Repealed and Replaced: Filed October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.10 Settlement And Informal Disposition.

Subject to final approval by the Board, informal dispositions may be made of any matter set for hearing by stipulation, agreed settlement, consent order or default or by another method agreed upon by the parties. An informal disposition shall be reduced to writing, signed by the parties, and made a part of the applicant's or licensee's file. Informal dispositions are considered to be public record.
Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §§34-30-5 (1991); 41-22-4(a)(2) (1991).
History: Repealed and Replaced: Filed: October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.11 Hearing Officer's Decision And Recommendation.

(1) Upon completion of a hearing, the hearing officer shall prepare a written decision and recommendation. The decision shall contain a statement of facts found by the hearing officer, a recitation of the application of the facts found to the applicable statutes, rules, regulations, policies, and procedures, and a proposed recommendation as to the merits of the matters presented for review including recommended discipline if appropriate.

(2) The hearing officer may request one or both sides to prepare for the hearing officer's consideration a proposed order of the Board including findings of fact, official notice and conclusions of law. Underlying facts of record which support the findings should be cited.

(3) The hearing officer's decision and recommendation along with the record shall be submitted to the executive secretary of the Board within forty-five (45) calendar days after the hearing is concluded. The hearing officer's decision and recommendation shall be communicated by the Board in person or by certified mail.
Author: Alabama State Board of Social Work Examiners 41-22-15 (1991).
Statutory Authority: Code of Ala. 1975, §§41-22-12 (1996 Supp.); 41-22-15 (1991).
History: Repealed and Replaced: Filed October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed August 15, 2014; effective September 19, 2014; operative

October 4, 2014. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.12 Final Order Of The Board.

(1) Final Order. A quorum for purposes of rendering a final decision and order pursuant to this rule shall consist of five members of the Board. The Board shall issue a final order within forty-five (45) days of the date of receipt of the hearing officer's decision and recommendation. The final decision and order shall include findings and grounds therefore. If the Board does not enter a separate written final decision and order within the time frames stated above, unless otherwise extended by agreement of the parties in writing, the decision and recommendation of the hearing officer shall be deemed the final order of the Board by operation of law.

(2) The Board may affirm in whole or in part, reject or modify the recommendation of the hearing officer; provided, however, the Board may reject or modify a recommendation of the hearing officer that supports the position of the respondent only if it is clearly established that the hearing officer's findings, inferences, conclusions or decisions are:

(a) in violation of constitutional or statutory provisions;

(b) in excess of the statutory authority;

(c) in violation of the state plan, or a department or program rule;

(d) made upon unlawful procedure;

(e) affected by other error of law;

(f) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(g) unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

(3) The respondent or other interested party shall be delivered a copy of the final order by first class mail, and a copy shall be mailed first class to each attorney of record.

(4) The time limits set forth in this rule may be waived or extended by written agreement of the parties.
Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §§34-30-5 (1991); 41-22-15 (1991); 41-22-16 (1991).

History: Repealed and Replaced: Filed October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed August 15, 2014; effective September 19, 2014; operative October 4, 2014. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.13 Imposition Of Discipline.

(1) Upon a finding that the respondent has violated any of the enumerated provisions of Code of Ala. 1975, §34-30-4 (1991), or any rule established by the Board, including the Standards of Professional Conduct & Ethics, the Board may impose any or all of the disciplinary penalties set forth in ALA. CODE §34-30-4 (1991) including refusing to renew a license or certification, suspension or revocation of a license or certification, imposition of a private or public censure, probation, and the levy of administrative fines of not more than $500.00 for each violation.

(2) Consideration. In determining whether a license or certification should be revoked or suspended, and whether execution of the order should be stayed, and upon what conditions; and whether to levy an administrative fine; or impose a public or private censure; the Board shall consider all relevant factors, including, but not limited to the following:

(a) the severity of the offense;

(b) the danger to the public;

(c) the number of repetitions of the offense;

(d) the length of time since the date of violation;

(e) the number of complaints filed against the respondent;

(f) the length of time the respondent has practiced;

(g) the actual damage to the complainant and/or the public;

(h) the deterrent effect of the penalty imposed;

(i) the effect of the penalty upon the respondent's livelihood;

(j) any efforts or rehabilitation; and

(k) any other mitigating or aggravating circumstances.

Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §34-30-4 (1996 Supp.).

History: Repealed and Replaced: Filed October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.14 Stay Of Execution Of Order.

The Board may, in its discretion, stay the execution of its order to censure, place on probation, fine, revoke or suspend a license or certification. The stay may be conditioned on any provision the Board deems appropriate under the circumstances of any particular case. The filing of an application for rehearing or notice of appeal does not itself stay enforcement of the Board's decision.
Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §§34-30-5 (1991); 41-22-17 (1991).
History: Repealed and Replaced: Filed: October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.15 Rehearing, Appeal And Judicial Review.

(1) A respondent in a disciplinary or other contested case proceeding who is aggrieved by a final order of the Board may within 15 days after entry of said order file an application for rehearing as provided in ALA. CODE §41-22-17 (1991). If the Board does not grant the application by the next regularly scheduled Board meeting following 30 days from filing, and unless otherwise extended by agreement of the parties in writing, the application for rehearing shall be deemed denied by operation of law. While encouraged, the filing of an application for rehearing is not a prerequisite to judicial review.

(2) A respondent in a disciplinary or other contested case proceeding who is aggrieved by a final order of the Board or denial of an application for rehearing may seek judicial review within 30 days after entry of the order or denial by filing a notice of appeal and a cost bond with the Board to cover the reasonable costs of preparing the transcript of the proceeding under review as provided in Code of Ala. 1975, §41-22-20 (1991) and §34-30-5 (1991).
Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §§34-30-5 (1991); 41-22-20 (1996 Supp.).
History: Repealed and Replaced: Filed October 31, 1997; Operative December 5, 1997, effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.16 Record Of Proceedings.

The record of a hearing shall include:

(1) all pleadings, motions, and intermediate rulings;

(2) all evidence received during the hearing;

(3) a statement of all matters officially noticed;

(4) the record of oral proceedings;

(5) all questions and offers of proof, objects and rulings thereon;

(6) the written decision and recommendation of the hearing officer; and

(7) the decision and final order of the Board.

(8) Oral proceedings shall be transcribed at the request of any party with the expense of the transcript charged to the requesting party.

Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §§34-30-5 (1991); 41-22-12 (1996 Supp.).
History: Repealed and Replaced: Filed October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.17 Reinstatement Of License Or Certification After Revocation.

(1) Application for Reinstatement. Reinstatement is a matter of discretion, and not of right. Any person whose license or certification has been revoked may not apply to the Board for reinstatement of the license or certification until two years have elapsed since the revocation, except in the case of a person convicted of a crime of moral turpitude in which case five years shall have elapsed since said conviction and the person's civil rights shall have been restored. In the application for reinstatement, the applicant should state why the license or certification should be reinstated and should specifically set forth any changed circumstances which would justify reinstatement. An applicant must include in the application evidence that the current requirements for licensure and certification have been met.

(2) Board Action. Upon receipt of an application for reinstatement the Board may in its discretion grant an applicant a hearing on reinstatement, at which time the applicant may appeal to the Board to reinstate his/her license or certification.

(3) Burden of Proof. In any application for reinstatement, the applicant shall have the burden of establishing to the reasonable satisfaction of the Board that the applicant is entitled to the specific relief requested.

(4) Terms and Conditions. In the event an application for reinstatement is granted, the Board may impose such probationary terms and conditions as are necessary in its judgment to protect the public.
Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §§34-30-5 (1991); 41-22-12 (1996 Supp.).
History: **Repealed and Replaced:** Filed October 31, 1997; Operative December 5, 1997; effective January 1, 1998. **Amended:** Filed September 15, 2015; effective October 30, 2016.

850-X-10-.18 Reinstatement Of Expired License (Repealed 9/30/19).

(REPEALED)
Author: Alabama State Board of Social Work Examiners
Statutory Authority: Code of Ala. 1975, §§34-30-23; 34-30-57(1); 34-30-57(4).
History: **New Rule:** Filed August 15, 2014; effective September 19, 2014; operative October 4, 2014. **Amended:** Filed September 15, 2015; effective October 30, 2016. **Repealed:** Filed August 16, 2019; effective September 30, 2019.