

LCB File No. R122-06

**PROPOSED REGULATION OF THE BOARD OF
EXAMINERS FOR SOCIAL WORKERS**

**NOTICE OF INTENT TO ACT UPON A REGULATION
Notice of Hearing for the Adoption and Amendment of Regulations of the Board of
Examiners for Social Workers**

The Board of Examiners for Social Workers will hold a public hearing at 9:30 am on June 9, 2006, at the Office of the Attorney General, Grant Sawyer State Office Building, Room 4700, 555 E. Washington Boulevard, Las Vegas, Nevada. There will be a simultaneous videoconference conducted at the Office of the Attorney General, Mock Courtroom, 100 N. Carson Street, Carson City, Nevada where some members of the Board may be attending the meeting and other persons may observe the meeting and provide testimony. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of regulations that pertain to Chapter 641B of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603

The proposed regulations are needed to clarify the regulations relating to applications for licensure and continuing education requirements, to further define “unprofessional conduct” and other various housekeeping matters. The purpose of the proposed regulations is to address these needs.

Terms or substance of the proposed regulation or a description of the subjects and issues involved:

1. Add new definitions for “Cultural and Linguistically Appropriate Services” and “Interactive Continuing Education”
2. Amend NAC 641B.095 (Evidence of age, citizenship and entitlement to remain and work in the United States) to clarify that copies of legal documents verifying any name changes and a picture identification card must be submitted with the application.
3. Amend NAC 641B.112 (Provisional License) to clarify that applicant is not eligible for a provisional license if he failed the examination within the last 5 years.
4. Amend NAC 641B.126 (Licensure by reciprocity) to expand requirement that the applicant must be able to provided evidence that he has taken the examination within the last 15 years instead of 10 years.
5. Amend NAC 641B.160 (Supervisors of Interns) requiring supervisors to ensure that the services provided by the intern are culturally and linguistically appropriate.
6. Amend NAC 641B.187 (Renewal of Licensure) to clarify the definition of ethics of social work
7. Amend NAC 641B.189 (Continuing Education Acceptable Forms) to clarify and add ways that a licensee may obtain continuing education for renewal of his licensure.

8. Amend NAC 641B.190 (Continuing Education Approval) to clarify that the program must be supported by evidenced based research and add culturally and linguistically appropriate services as acceptable subject matter
9. Amend NAC 641B.200(15) (Standards of Practice) to add a section prohibiting a licensee from withholding records upon written request by a client unless otherwise specifically authorized by law
10. Amend NAC 641B.200(16) (Standards of Practice) to clarify that a licensee shall maintain client records for 10 years unless otherwise specifically authorized by law.

The estimated economic effect of the proposed regulation on the business that it is to regulate and on the public.

- A. Adverse effect: There is no known adverse effective to the public.
- B. Beneficial effect: Short and long term effect will be to protect the public health and safety by ensuring that social workers meet the minimum standards for licensure and continued practice.
- C. Short term effect: See A and B
- D. Long term effect: See A and B

There is no additional cost to the agency for enforcement of this regulation.

The Board is aware of no other state or government agency regulations that the proposed amendments duplicate.

The regulation does not increase existing fees or establish any new fees payable to the Board.

Persons wishing to comment upon the proposed action of the Board of Examiners for Social Workers may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form to the Board of Examiners for Social Workers, 4600 Kietzke Lane, #C121, Reno, NV 89502. Written submissions must be received by the Board of Examiners for Social Workers on or before May 31, 2006. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board of Examiners for Social Workers may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted will be available at Board of Examiners for Social Workers, 4600 Kietzke Lane, C121, Reno, NV 89502, on the Board's web page www.socwork.nv.gov and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada register of Administrative Regulations that is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request.

Upon adoption on any regulation, the agency, if requested to do so by an interested person, both before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice has been posted at the office of the Board of Examiners for Social Workers, on the Board's web page www.socwork.nv.gov and the following locations:

Washoe County Social Services, 1001 East Ninth Street, Reno, NV 89512
Clark County Social Services, 1600 Pinto Lane, Las Vegas, NV 89106
University of Nevada, Reno, School of Social Work (090), Reno, NV 89557
University of Nevada, Las Vegas, School of Social Work, 4505 Maryland Parkway, Las Vegas, NV 89154

This notice is on file at the following county libraries:

Carson City Library, 900 N. Roop Street, Carson City, NV 89701
Churchill County Library, 553 South Maine Street, Fallon, Nevada 89406
Las Vegas Library, 833 Las Vegas Boulevard North, Las Vegas, NV 89101
Douglas County Library, Post Office Box 337, 1625 Library Lane, Minden, NV 89423
Elko County Library, 720 Court Street, Elko, Nevada 89801
Goldfield Public Library, Post Office Box 430, Fourth and Crook Street, Goldfield, NV 89013
Eureka Branch Library, Post Office Box 293, 10190 Monroe Street, Eureka, NV 89316
Humboldt County Library, 85 East 5th Street, Winnemucca, NV 89445
Lincoln County Library, Post Office Box 330, 93 Main Street, Pioche, NV 89043
Lyon County Library, 20 Nevin Way, Yerington, NV 89447
Mineral County Library, Post Office Box 1390, First & A Street, Hawthorne, NV 89415
Tonopah Public Library, Post Office Box 449, 171 Central Street, Tonopah, NV 89049
Pershing County Library, Post Office Box 781, 1125 Central Avenue, Lovelock, NV 89419
Storey County Library, Post Office Box 14, 95 South R Street, Virginia City, NV 89440
White Pine County Library, 950 Campton Street, Ely, NV 89301
Battle Mountain Branch Library, Post Box 141, Battle Mountain, NV 89820

LCB File No. R122-06

PROPOSED REGULATION OF THE BOARD OF EXAMINERS FOR SOCIAL WORKERS

Please Note: Proposed Changes are in Italics (additions) and brackets (deletions).

New Definitions

Cultural and Linguistically Appropriate Services means service or care provided by the licensee that is effective, understandable, and respectful and is provided in a reasonable manner compatible with the client's cultural beliefs, practices, preferred language and literacy within the perimeters of the resources available.

Interactive Continuing Education means two-way communication where the participant has the ability to interact in a manner which could elicit a response from the provider or other participants and can include but is not limited to discussion and/or homework. A pre-test or post-test does not meet this definition.

NAC 641B.095 Evidence of age, citizenship and entitlement to remain and work in United States. (NRS 641B.160, 641B.200)

1. Except as otherwise provided in subsection 2, for the purposes of NRS 641B.200, the Board will accept as satisfactory evidence of:

(a) The age of the applicant, a copy of his birth certificate, passport, baptismal certificate, driver's license or such other documentation regarding age satisfactory to the Board. *Copies of any legal documents verifying any name changes and a picture identification card must be submitted with the application.*

(b) The citizenship of the applicant, a copy of his birth certificate, passport, naturalization papers or such other documentation regarding citizenship satisfactory to the Board.

(c) The lawful entitlement of the applicant to remain and work in the United States, a copy of documentation from the United States Immigration and Naturalization Service evidencing the lawful entitlement of the applicant to remain and work in the United States.

2. A birth certificate issued by a hospital is not satisfactory evidence of the age or citizenship of the applicant.

NAC 641B.112 Provisional license: Evidence of enrollment; validity; disciplinary action; reinstatement or restoration prohibited under certain circumstances; supervision of holder. (NRS 641B.160, 641B.275)

1. For purposes of paragraph (b) of subsection 1 of NRS 641B.275:

(a) An applicant must cause the college or university to forward directly to the Board, the evidence of enrollment.

(b) The evidence of enrollment must include evidence, that is satisfactory to the Board, of formal admission to the program of study and of satisfactory progress toward the degree, indicating that the applicant will be able to obtain the degree in social work within 3 years.

2. A provisional license issued pursuant to paragraph (b) of subsection 1 of NRS 641B.275 is no longer valid:

(a) If, upon request of the Board, the licensee fails to cause the college or university to forward directly to the Board evidence of enrollment that complies with subsection 1.

(b) If the licensee fails to renew his provisional license in a timely manner by:

(1) Submitting to the Board the application for renewal on a form supplied by the Board and the appropriate fee; and

(2) Causing the college or university to forward directly to the Board evidence of enrollment that complies with subsection 1.

(c) Three years after:

(1) The initial issuance of the license; or

(2) The licensee graduates from a program of study leading to a degree in social work, whichever occurs first.

3. *For the purposes of paragraph (a) of subsection 1 or NRS 641B.275 applicants who have failed the examination in the last five years are not eligible for a provisional license.*

~~3~~(4) A provisional license issued pursuant to paragraph (a) of subsection 1 of NRS 641B.275 is no longer valid if:

(a) The licensee fails the prescribed examination; or

(b) The provisional licensing period of 9 months expires, whichever occurs first.

4. The holder of a provisional license may be subject to disciplinary action pursuant to NRS 641B.400, including, without limitation, the revocation of his license.

5. A provisional license that has been invalidated or revoked may not be reinstated or restored. A person who has obtained a provisional license is not eligible for a second provisional license.

6. The holder of a provisional license to engage in social work, to engage in social work as a licensed independent social worker or to engage in social work as a licensed clinical social worker shall practice under the supervision of a licensed social worker who is:

(a) Licensed pursuant to chapter 641B of NRS; and

(b) Authorized pursuant to the provisions of chapter 641B of NRS to practice in the setting in which the holder of the provisional license intends to practice.

NAC 641B.126 Licensure by reciprocity. (NRS 641B.160, 641B.270)

1. An applicant who holds at least an equivalent license that is in good standing to engage in the practice of social work as described in this chapter and chapter 641B of NRS in another state may be licensed to engage in the practice of social work in this State by the Board without taking the examination prescribed by the Board if the applicant has successfully passed the appropriate licensing examination described in subsection 2 of NAC 641B.105 within the preceding ~~10~~ 15 years. Proof of the examination must be received by the Board before the Board will approve an applicant for licensure by reciprocity.

2. An applicant for licensure by reciprocity must submit to the Board:

(a) A written application on a form prescribed by the Board;

(b) The applicable fee;

(c) Except as otherwise provided in subsection 3, proof that the license issued by the other state or any other license or credential issued to the applicant by another state:

(1) Is currently valid and in good standing; and

(2) Has never been suspended, revoked or otherwise restricted for any reason; and

(d) Proof that the applicant is of good moral character as it relates to the practice of social work.

3. If an applicant has had a license or credential that was issued by another state suspended, revoked or otherwise restricted for any reason, the Board will review and consider the specific facts and circumstances surrounding the suspension, revocation or restriction and may issue or decline to issue a license to an applicant based upon its review.

NAC 641B.160 Supervisors of interns: Duties; withdrawal of approval to supervise; reapplication for approval. (NRS 641B.160)

1. A supervisor of an intern shall ensure that:

- (a) The work of the intern is conducted in an appropriate professional setting;
- (b) The work of the intern is consistent with the standards of the profession;
- (c) The intern is assisted with the development of his professional identity;
- (d) The intern has gained the skills required to manage his practice;
- (e) The intern has gained the skills required for continuing competency;
- (f) The intern has gained knowledge of the laws and regulations applicable to the practice of social work; and
- (g) The intern is familiar with the current literature concerning those areas of social work relevant to his area of practice.

(h) the services provided by the intern provides are culturally and linguistically appropriate.

2. A supervisor of an intern shall:

- (a) Meet in person with the intern on an individual basis for at least 1 hour every week, unless the Board specifically directs a different schedule or frequency for the meetings, to discuss and evaluate the performance of the intern in his practice;
- (b) Prepare and submit to the Board quarterly reports and a final report, unless the Board specifically directs a different schedule or frequency for the reports, on forms provided by the Board, concerning the progress of the intern in his practice; and
- (c) Be available to consult with the Board concerning the record, competence in practice, emotional and mental stability or professional and ethical conduct of the intern.

3. Not more than 24 hours of the supervision of the intern may be in the form of group supervision.

4. A supervisor of an intern shall analyze the performance of an intern through information obtained from:

- (a) Observation or participation in the practice of the intern; and
- (b) The notes of the intern.

5. The Board will, if it deems it appropriate, withdraw its approval of a person to supervise a particular intern or any intern if the supervisor:

- (a) Fails to supervise an intern adequately;
- (b) Fails to comply with each applicable provision of a statute or regulation;
- (c) Fails to submit acceptable reports as required in paragraph (b) of subsection 2 regarding the progress of each intern under his supervision;
- (d) Fails to complete the training required by the Board pursuant to subsection 1 of NAC 641B.155; or
- (e) Becomes subject to an order issued by the Board for disciplinary action.

6. A person whose approval to supervise an intern has been withdrawn by the Board because he is subject to an order issued by the Board for disciplinary action may reapply for approval to supervise an intern after he has satisfactorily completed the requirements of the order.

7. If the Board withdraws its approval of the person supervising an intern, the intern may apply to the Board for the:

- (a) Assignment of another approved supervisor; and
- (b) Approval of a new internship agreement and plan of supervision.

NAC 641B.187 Requirements for renewal of license; grounds for disciplinary action. (NRS 641B.160, 641B.280)

1. Except as otherwise provided in subsections 2 and 3, to renew his license, a licensee must complete at least 30 continuing education hours every 2 years, of which 2 hours must be ~~on the issues of ethics or confidentiality in the practice of social work~~ *in the ethics of social work practice, including such issues as boundaries, confidentiality, and dual relationships*. The continuing education hours must be completed in programs of continuing education approved by the Board that maintain, improve or enhance the knowledge and competency of a licensee in the practice of social work.

2. The Board may renew the license of a licensee who fails to complete 30 continuing education hours during a 2-year period if it finds good cause to do so.

3. The Board will renew the license of a licensee during the period in which he is enrolled in a program leading to:

(a) A baccalaureate or master's degree in social work from a college or university that is accredited by or is a candidate for accreditation by the Council on Social Work Education; or

(b) A doctoral degree in social work, and for two renewal periods after graduation from the program. Before renewing the license, proof of enrollment or graduation within the past 2 years must be submitted to the Board by the licensee.

4. If the Board renews the license of a licensee pursuant to subsection 2, it may require the licensee to complete not more than 30 additional continuing education hours during the next 2-year period.

5. A licensee may not take a program of continuing education which presents the same material he took during the previous 2-year period.

6. A licensee is subject to disciplinary action if he:

(a) Within 30 days after receiving a request from the Board, fails to provide to the Board information of his participation in a program of continuing education; or

(b) Submits to the Board false or inaccurate information regarding his participation in a program of continuing education.

NAC 641B.189 Approval required; acceptable forms of program; unacceptable courses and programs. (NRS 641B.160, 641B.280)

1. A program of continuing education that demonstrates the knowledge and competency of a licensee must be approved by the Board. To obtain the approval of the Board, a continuing education program must be limited in time, be interactive and provide independent verification that the licensee has successfully completed the program. Such a program of continuing education may be in the form of:

(a) Workshops or conferences, including, without limitation, teleconferences;

(b) Distance learning courses;

(c) Home study;

(d) A self-directed learning program which has been approved by the Board before the licensee begins the program;

(e) First publication of journal articles in refereed journals and chapters authored by licensee;

(f) Presentation by the applicant for the first time of an academic course, in-service training workshop or seminar;

(g) Regionally accredited university or college academic courses;

(h) Attendance at board regulatory workshop or public hearing; or

~~(i)~~ (i) Any other kind of program or course if the Board has, at the request of the licensee wishing to take the program or course as continuing education, approved the program or course as a program of continuing education.

2. A licensee may apply for not more than 7.5 hours of continuing education credit for distance learning courses, home study and self-directed learning programs during a 2-year period, except that the Board may approve additional hours of such continuing education if the licensee can demonstrate good cause for the approval of the additional hours.

3. A licensee may apply for not more than 2.0 hours of continuing education towards the ethics requirement for time spent serving on institutional ethics committees or review boards.

~~3~~(4.) The following courses and programs will be deemed unacceptable as a program of continuing education:

(a) An orientation program for new employees.

(b) An on-the-job training program presented by an agency whose primary purpose is to disseminate information on the policy or procedure of the agency.

(c) A home study course that includes audio or video tapes which is not interactive, which is not limited by time and for which there is no independent verification of successful completion.

(d) A program for self-improvement.

(e) A distance learning course which is not interactive, which is not limited by time and for which there is no independent verification of successful completion.

(f) A self-directed learning program:

(1) Which is not interactive, which is not limited by time and for which there is no independent verification of successful completion; or

(2) Which covers the same material as a previous program approved for the licensee for self-directed learning or which is not preapproved by the Board.

NAC 641B.190 Approval: General requirements. (NRS 641B.160, 641B.280)

1. Before the Board approves a course or program, the Board must be satisfied that the course or program:

(a) Will be taught by a competent instructor as demonstrated by his educational, professional and teaching experience, unless the course or program is proposed by a licensee pursuant to subsection 2 of NAC 641B.192 and does not include the use of an instructor;

(b) Contains current and relevant educational material concerning social work, is applicable to the practice of social work, and will enhance the knowledge and competency of a licensee in the practice of social work;

(c) Is of professional quality;

(d) Is appropriately designed for instructional purposes;

(e) Is supported by evidenced based research ; and

~~(f)~~ (f) Includes a written evaluation of the content and presentation of the course or program and its relevance to the practice of social work for each licensee to complete.

2. A course or program presented in the form of lectures, seminars, workshops, academic courses at an institution of higher education, correspondence courses through *an accredited* college or university which do not lead to a degree, and on-the-job training programs offered by an agency shall be deemed “appropriately designed for instructional purposes,” as that term is used in subsection 1. The provider is responsible for the format and presentation of the courses or programs and may restrict the format in which the material is presented unless otherwise required by the Board.

3. The subject matter of a course or program which addresses one or more of the following areas:

- (a) Theories or concepts of human behavior and the social environment;
- (b) Social work methods of intervention and delivery of services;
- (c) Social work research, including, without limitation, the evaluation of programs or practices;
- (d) Management, administration or social policy;
- (e) Social work ethics;
- (f) *culturally and linguistically appropriate services*; or
- (g) ~~the~~ the areas directly related to the field of practice of the licensee shall be deemed to reflect “current and relevant educational material concerning social work” and be “applicable to the practice of social work,” as those terms are used in subsection 1.

NAC 641B.200 Professional responsibility. (NRS 641B.160)

1. The status of a licensee must not be used to support any claim, promise or guarantee of successful service, nor may the license be used to imply that the licensee has competence in another profession.

2. A licensee shall not misrepresent, directly or by implication, his own professional qualifications, competency, affiliations and licenses, or those of the institutions and organizations with which he is associated. A licensee shall provide accurate information concerning his credentials, education, training and experience upon request from a client or potential client.

3. If a licensee holds more than one occupational license, he shall disclose to his client orally and in writing the type of practice of social work in which the licensee is engaged and which of the licenses apply to the practice of social work the licensee is providing to that client. If a licensee is engaged in a practice that is not the practice of social work, the licensee shall disclose to the client orally and in writing the type of practice in which the licensee is engaged and that the practice is not within the scope of the practice of social work. If the licensee fails to disclose to the client that the practice in which the licensee is engaged is a practice other than the practice of social work, the Board, in evaluating whether the licensee is in compliance with the standards of professional responsibility, will presume that the practice in which the licensee was engaged was intended to be the practice of social work.

4. A licensee shall not engage in the practice of social work while:

- (a) The licensee is impaired by alcohol, drugs or any other chemical; or
- (b) The licensee is impaired by a mental or physical condition that prevents him from practicing safely.

5. A licensee shall not use his relationship with a:

- (a) Client;
- (b) Person with significant personal ties to a client, whether or not related by blood; or

(c) Legal representative of the client, to further his own personal, religious, political or business interests.

6. A licensee is responsible for setting and maintaining professional boundaries with:

- (a) Each client;
- (b) Each person with significant personal ties to a client, whether or not related by blood;
- (c) The legal representative of the client;
- (d) Each intern; and
- (e) Persons who are supervised by the licensee.

7. A licensee shall not give or receive, directly or indirectly, a fee, commission, rebate or other compensation for professional services that the licensee has not actually and personally rendered.

8. A licensee shall not knowingly offer service to a client who is receiving treatment from another licensee without prior consultation between the client and the other licensee.

9. Except as otherwise provided in subsection 13, a licensee shall not disparage the qualifications of any colleague.

10. A licensee shall not attempt to diagnose, prescribe for, treat or advise on any problem outside his field of competence. Except as otherwise provided in this subsection, a licensee shall not assume duties and responsibilities within the practice of social work if he cannot perform the services competently. A licensee may assume duties and responsibilities within the practice of social work for which he cannot currently perform the services competently if he prepares a reasonable written plan demonstrating the manner in which he will acquire the competence necessary to perform the services competently. Such a plan must be completed under the supervision of a licensee who is competent to perform the services competently or under the supervision of another professionally qualified person who is licensed to practice in this State and is competent to perform the services competently. A copy of a plan prepared pursuant to this subsection must be provided to the Board upon request by the Board.

11. A licensee shall base his practice upon recognized knowledge relevant to social work.

12. A licensee shall critically examine and keep current with emerging knowledge relevant to social work.

13. A licensee shall report to the Board any unlicensed, unauthorized, unqualified or unethical practice of social work.

14. Based upon recognized knowledge and standards of practice for social work, a licensee shall prepare and maintain in a timely manner a record regarding each of his clients which:

- (a) Sets forth his assessment of the problems, issues or concerns of the client and the scope of the licensee's services to that client; and
- (b) Includes, without limitation, copies of:
 - (1) All documents relating to the informed consent of the client;
 - (2) All documents relating to the release of information regarding the client; and
 - (3) All other legal documents regarding the client.

15. A licensee shall not:

(a) Inaccurately record, falsify or otherwise alter or destroy any client's records unless specifically authorized by law.

(b) Falsify billing records.

(c) fail to release records upon written request by client unless otherwise specifically authorized by law.

16. A licensee shall maintain client records for 10 years unless otherwise specifically authorized by law.

17 ~~[16.]~~ A licensee shall adequately complete and submit to the Board any reports required pursuant to chapter 641B of NRS, any regulations adopted pursuant to that chapter and any order, rule or instruction of a court of competent jurisdiction in a timely manner.

18 ~~[17.]~~ A licensee shall comply with all the provisions of the statutes and regulations governing the practice of social work that are set forth in this chapter and chapter 641B of NRS. A licensee shall comply with any state or federal law or regulation that is relevant to the practice of social work.

19 ~~[18.]~~ A licensee shall not authorize a person under the supervision of the licensee to perform services outside of the level of licensure, training or experience of the person who is supervised or allow that person to hold himself out as having expertise in a field in which he is not qualified.

20 ~~[19.]~~ A licensee shall not order or knowingly allow a person under the supervision of the licensee to engage in any illegal or unethical act related to social work.

21 ~~[20.]~~ A licensee shall notify the Board in writing within 10 days after:

(a) An action is taken against a license, certification, registration or credential of the licensee issued by any state or territory of the United States;

(b) A criminal charge is filed against the licensee;

(c) The licensee is convicted of a criminal offense, other than a misdemeanor traffic offense;

(d) A civil action, including, without limitation, an action for malpractice, is filed against the licensee for any act relating to the practice of social work; or

(e) A settlement or judgment in a civil action, including, without limitation, an action for malpractice, is filed against the licensee for any act relating to the practice of social work.

22 ~~[21.]~~ A licensee shall not supervise any person who engages in the practice of social work if that person has not satisfied the appropriate requirements for licensure pursuant to this chapter and chapter 641B of NRS.

23 ~~[22.]~~ A licensee shall not provide any services, including, without limitation, any diagnosis, therapeutic counseling, therapy or other clinical services, to an intern or other person over whom the licensee has administrative, educational or supervisory authority.

24 ~~[23.]~~ A licensee shall not knowingly obstruct an investigation conducted by the Board.