

State of Nevada  
BOARD OF EXAMINERS FOR SOCIAL WORKERS

**Advisory Opinion No. 5**  
(Introduced May 3, 1990)  
(Approved January 12, 2001)

**INTRODUCTION**

The State of Nevada Board of Examiners for Social Workers (BOARD) has learned of a number of cases where employers, after certifying that an employee in a designated position was practicing social work, have subsequently hired unlicensed individuals to fill those positions. To clarify the BOARD'S position regarding this practice, the following advisory opinion is issued.

**QUESTION**

Once a position is designated by an employer as a social work position, does an unlicensed person violate the provisions of NRS 641.B500 by accepting employment in that position?

**ANALYSIS**

Until 1987, Nevada had no law requiring the licensure of social workers. However, in 1987 legislation was enacted mandating licensure effective July 1, 1988. The legislature established educational and training standards with the ultimate objective of requiring a bachelor's degree in social work as a minimum requirement for licensure.

However, the legislature recognized that many individuals who were currently practicing in Nevada as social workers could not meet this educational standard. To prevent any unfairness to these individuals, the legislature enacted a "grandfather clause". NRS 641.210 provided that any applicant who "is employed as a social worker, a supervisor of social work or administrator of social work on July 1, 1988, and who met the required age and citizenship requirements would be granted a license as an Associate in Social Work (LASW).

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In order to implement this legislative directive, the BOARD required applicants for a LASW license to submit a form verifying the applicant is position title and job description. A copy of the verification of Social Work Employment Form (Form) is attached hereto. The Form states that the employer certifies that the applicant has held himself out to the public as a social worker and has engaged in "the application of methods, principles and techniques of case work, group work, community organization, administration, planning, consultation and/or research to assist persons, groups and/or communities to enhance or restore their ability to function physically, socially and economically". This language came straight from NRS 641B.030(2) which defines social work.

The Form included space for a position title and a description of the duties of that position. Finally, the Form required the employer to certify before a notary public that the information contained on the Form was true and correct to the best of the employer's knowledge.

The BOARD relied on the employer to fully and adequately complete the Form. The BOARD very carefully analyzed the description of duties to determine if they satisfied the definition set forth in NRS 641B.030(2). It should be noted that job title was not the key to this analysis. Frequently, the BOARD was faced with job titles that appeared to be completely unrelated to the practice of social work. Therefore, the BOARD was required to rely on the duties as set forth by the employer. On a number of occasions, the BOARD rejected licensure applications on the grounds that the position did not require the applicant to practice social work, only to have the employer insist that the applicant was, in fact, employed as a social worker.

In those cases where licensure was granted, the BOARD determined that the position duties instituted the practice of social work. This determination was made irrespective of the title the employer assigned to the position. As set forth in ADVISORY OPINION NO. 2, the key is not what the individual calls himself, but the duties he performs which are the determinant in deciding whether a reasonable member of the public would believe that an individual is a social worker. The BOARD believes that an individual performing functions that would cause a reasonable member of the public to assume that he is a social worker is holding himself out of the public as a social worker. See ADVISORY OPINION NO. 2.

Similarly, once an employer certifies that an individual performing specific duties is practicing social work, the BOARD believes that any other individual with the same job title, performing the same duties is practicing social work. An unlicensed individual in this situation would be holding himself out to the public as a social worker in violation of NRS 641B.500.

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**CONCLUSION**

An unlicensed individual who accepts employment in a position previously designated by an employer as a social work position and performs duties previously certified by an employer as a social work duties holds himself out to the public as a social worker in violation of NRS 641B.500.


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