

State of Nevada
BOARD OF EXAMINERS FOR SOCIAL WORKERS

Advisory Opinion
No. 6 - Dual
Roles (pdf)

ADVISORY OPINION NO. 6

(Amended and Approved January 12, 2001)

INTRODUCTION

In 1995, the Board of Examiners for Social Workers became aware of a social worker employed by a skilled nursing facility to provide social services to its residents who also operated a business in which he provided other services to these clients. He would assist the resident/client with his/her financial matters pursuant to a power of attorney, guardianship or other means and he would receive additional payment for these services. The Board adopted an advisory opinion on January 12, 1995 and requested an attorney general opinion which was issued on March 6, 1996. See Attorney General Opinion No. 96-03. Because of the importance of this issue and revisions in the regulations, the Board has amended this advisory opinion.

QUESTION

May a social worker who is providing social services to a client refer that client to another agency for additional services in which that same social worker assumes the role of attorney-in-fact, guardian or representative payee for the client?

ANALYSIS

To understand the legal responsibility of the roles of “attorney-in-fact” guardian, or representative payee, see AG Opinion No. 96-03. The role of a social worker who provides social services to a resident in a skilled nursing facility are governed by NAC 641B.200 and 205 as well as applicable state and federal regulations. NRS 641B.030(2) defines social work and states that the goal is to restore the client’s ability to function physically, socially and economically. If the social worker assumes the role of attorney-in-fact (or guardian or representative payee) for financial or health care decisions, he is authorized to act without the consultation of the client. This is inconsistent with the social worker’s primary goal of improving the client’s ability to function in society. If a client is in need of assistance with financial or health care decisions, the proper course of conduct is for the social worker to help the client locate a different person to accept the role of attorney-in-fact, guardian or representative payee.

Since the social worker is primarily motivated by theories of accessing resources, stepping in as a guardian (attorney-in-fact or representative payee) and deciding all crucial matters of person’s life is clearly inconsistent with the actual purpose of a social worker. Therefore, provision of such services falls outside the scope of social work.

If a social worker provides such services, he has created a dual relationship that may be in violation of NAC 641B.205(13). The regulation provides that a social worker “shall not solicit or enter into a dual relationship with a client . . . if it is foreseeable that such a relationship would harm or exploit the client . . . within 2 years after termination

of the professional relationship” Since the goals of the social worker and the guardian are sometimes inconsistent, it is foreseeable that the dual relationship may harm the client.

NAC 641B.200(4) states that a licensee shall not use his relationship with a client to further his own personal, religious, political or business interests. Clearly, receiving payment for a service as attorney-in-fact is furtherance of one’s business interest. If the original relationship was that of social worker/client, then the compensated business relationship of attorney-in-fact and social worker was the result of a client /social worker relationship which is a direct violation of NAC 641B.200(4).

NAC 641B.205(11) states that a licensee shall not influence or attempt to influence a client in any manner which could reasonably be anticipated to result in the licensee deriving benefits of an unprofessional nature from a client during the time the client is receiving professional services and for 2 years after the termination of such services. As discussed above, exercising the role of attorney-in-fact, guardian or representative payee falls outside the scope of social work as defined in NRS 641B.030(2). Therefore, a social worker who has a current or has had a prior social worker/client relationship may be in violation of NAC 641B.205(11) if he assumes the role of an attorney-in-fact, guardian or representative payee.

If the social worker does not have a prior social worker/client relationship with the individual, then he may assume a role as attorney-in-fact or guardian, however, he must be sure to comply with NAC 641B.200(1). NAC 641B.200(1) provides that “if a licensee is providing services that are not social work services, the licensee must disclose to the client orally and in writing the type of service that he is providing and that the service is not within the scope of the practice of social work.

CONCLUSION

A social worker who is providing social services to a client must not assume the role of attorney-in-fact, guardian or representative payee until at least two years after the termination of the social worker/client relationship.

STATE OF NEVADA BOARD OF EXAMINERS FOR SOCIAL WORKERS

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