



STATE OF NEVADA
BOARD OF EXAMINERS FOR SOCIAL WORKERS
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MINUTES OF THE PUBLIC WORKSHOP TO SOLICIT COMMENTS
PERTAINING TO TEMPORARY PROPOSED REGULATIONS
Reno, Nevada

LCB FILE NO. T001-16

August 19, 2016

The Public Workshop to Solicit Comments Pertaining to Temporary Proposed Regulations (Public Workshop) of the Board of Examiners for Social Workers (Board), LCB File Number T001-16, was called to order by Rod Smith, Board President, at 1:00 p.m. The Public Workshop was conducted at Mojave Mental Health—Reno, 745 West Moana Lane, Suite 100, Reno, Nevada. President Smith noted that the Public Workshop had been properly noticed. Roll call was initiated by President Smith, with the following Board members and Board present:

Members Present:

Rod Smith, Board President
Vikki Erickson, LCSW, Board Secretary/Treasurer

Staff Present:

Kim Frakes, Executive Director
Lesley Clarkson, Certified Court Reporter, Sunshine Litigation Services

Public Attendees

None

INTRODUCTION – OPEN WORKSHOP

President Smith presented this Public Workshop agenda item. He requested Ms. Frakes to provide an overview pertaining to the purpose of the Public Workshop and the proposed temporary regulations contained in T001-16.

Ms. Frakes indicated that the purpose of the Public Workshop pertained to temporary regulation changes. Since the proposed regulation changes would occur after August 1 of an even year (i.e. 2016), these proposed regulations are considered, "temporary". Following the anticipated adoption of these regulations, the Board would then have up to one year to determine whether to make these proposed changes permanent, or simply allow them to expire. Both of the Public Workshop locations in Reno and Las Vegas had copies of the proposed regulation changes to NAC 641B, with these proposed changes highlighted in yellow.

Ms. Frakes then summarized each proposed regulation change as follows (Agenda Item 2A):

Section 1 Provides clarification pertaining to an application for licensure or renewal being complete prior to being processed.

Given the fact that there has been vigorous discussion by legislators pertaining to when, following receipt of an initial application, a licensing board issues the applicant a license, this proposed regulation change provides clarification by indicating that an application must be, "complete" and what is required by the Board in order to for a license application to be considered, "complete".

President Smith inquired about the number of days following receipt of an application, when the Board is required to issue a license. Ms. Frakes indicated that SB 68 indicated that a board was required to issue a license within, "forty-five (45) days" following receipt of the application, or within ten (10) days following receipt of the criminal background check. The forty-five day requirement did not appear to take into account the various items required in order to process an application. In other words, based upon language in SB 68, it appears that a licensing board was required to issue the license forty-five days following the receipt of the application, period. In general, the Board attempts to issue a license within "thirty (30) days" following receipt of all information. President Smith inquired on whether the thirty day period of time was unique to our Board. Ms. Frakes indicated that she was not certain about the thirty day period as this bench mark date preceded her tenure at the Board. Ms. Frakes added her belief that this may be a general standard established by various State boards since this also appeared to be the period of time expressed by various licensing boards during the previous 2015 legislative session. Ms. Frakes added that given the fact that the language in SB 68 did not provide clarification pertaining to an application needing to be completed prior to processing, she believed that this proposed regulation change not only provided clarification, but also assists the Board in complying with the legislation.

President Smith inquired about the length of time an application remains "open" pending receipt of required information. Ms. Frakes indicated that an individual's application remains open for, "one year", following the last action. The last action could include the Board's request for additional information. As example offered by Ms. Frakes pertained to a positive criminal history on the background check. In such instances, a Board letter is sent to the applicant requesting additional information. The applicant is informed in this letter that he/she would have one year from the date of the Board letter to provide the requested information before the application would close. Ms. Frakes added that a checklist of all information still required to process an application is sent to the applicant within a couple of weeks following receipt of the application, when the application file is created. Ms. Frakes indicated that her list of to do items includes an initial letter sent to all applicants, indicating that there application has been received. This letter would also specify the additional items required to "complete" their application before it can be moved forward for processing. Ms. Frakes further explained that it is her intention to have Board staff trained to mail out this letter within the time specified in SB 68.

There was additional discussion pertaining to the risks and benefits of moving the application process online.

Section 2 Allows for the issue of a provisional, one-year license to an applicant for endorsement of a similar out-of-state license, contingent upon initial receipt of specified information and the provision of the remaining required information within the one-year period of provisional licensure.

Ms. Frakes indicated that the Board currently has two (2) types of provisional licenses. One type of license is for an individual who already has his/her bachelor's or master's degree in social work. These individuals only need to take and pass the appropriate level of exam to be licensed. The second type of provisional license offered by the Board pertains to an individual who has a bachelor's or master's degree in a related field and are actively enrolled in a CSWE (Council on Social Work Education) approved social work program and are pursuing either a bachelor's or master's degree in social work. Contingent upon this individual having completed core classes within the related field and courses in the social work program, and remaining actively enrolled in pursuing a social work degree, this individual would be eligible for this particular type of provisional license for up to three (3) years. Typically, this type of individual would have a bachelor's degree in a related field, such as psychology, and would be pursuing a master's degree in social work. Upon successfully taking and passing the exam and posting of the social work degree, the provisional license then becomes a regular social work license.

Ms. Frakes indicated that the proposed, new provisional license pertains only to individuals who are requesting Board licensure via endorsement of a similar, out-of-state license. The Board, following receipt of preliminary information, would issue the provisional license. Ms. Frakes indicated that information pertaining to verification of the out-of-state license and disciplinary information, is easily obtainable online. The applicant would be issued the provisional license if he/she holds a valid and unrestricted license to engage in social work in the U. S. or a U. S. territory. Ms. Frakes also reviewed the additional, preliminary documents required which established proper identification of the applicant and return of the completed finger print cards for processing by the NV DPS. The applicant would also be required to sign a notarized affidavit indicating that all submitted information throughout the application process is or would be true and correct. Once the preliminary required information and documents are received, the applicant would be issued a "one-year" provisional license. During this period of time the applicant would continue to submit the additional required information to the Board. Contingent upon receipt of the additional required information, the Board would then issue the applicant a regular, corresponding license. For applicants who have yet to submit all required information and documents, the Board would periodically send the applicant an updated checklist pertaining to any additional information required, with the last and final checklist sent out by the 10th month of the provisional license. This checklist would also inform the applicant that he/she has the remaining two (2) months to either submit the required information, or appropriately close and/or transfer his/her cases, as the provisional license, issued for only one (1) year, will expire without further notification. Ms. Frakes added that this type of provisional license, as with all provisional licenses, would be restricted to an agency setting only. Ms. Frakes was also hopeful that providing an applicant this one-year option to submit required information and documents, there would be less pressure placed upon Board staff by applicants desiring a license in an expeditious fashion, while also affording these applicants the ability to work. Ms. Frakes indicated that the only minor identified concern pertained to out-of-state clinical social workers who have been licensed less than five (5) years, pursuant to SB 68, and who may not have substantially equivalent postgraduate supervised experience for an LCSW license. She added that since this proposed regulation change is a temporary one, the Board has the option to modify this regulation to better match the current substantially equivalency standards, including the option of allowing this type of provisional license not to move forward after the one-year period. Ms. Frakes added that currently, the Board's fee for this type of license would remain the same as the fee for the other two provisional licenses.

Vikki Erickson asked about whether applicants for endorsement would be required to ever retake their licensing exam. Ms. Frakes indicated that if an applicant for endorsement has an active license, pursuant to conditions in SB 68 and this proposed regulation change, an examination would not be required.

Section 3 Pertains to fees the Board shall charge and collect for applicants via endorsement pursuant to NRS 641B.271 and NRS 641B.272.

Ms. Frakes indicated that this proposed regulation change pertained to SB 68. NRS 641B.300 was updated following the passage of SB 68 during the 2015 legislative session, to reflect that any licensing board may not modify their current fee schedules for individuals applying for endorsement. This is now reflected in NRS 641B.271. The second piece pertains to individuals applying for licensure endorsement, pursuant to NRS 641B.272. Ms. Frakes indicated that this pertains to individuals applying for licensure endorsement who are active duty, spouses of active duty, veterans, or veteran's surviving spouse, with definition of "veteran" contained in NRS 417.005. Applicants for endorsement who fall under this legislation would be assessed "one-half" of the initial application fee. Ms. Frakes suggested that proper verification of applicable individuals would more than likely be a, "DD 214" form or current military identification card. The other fees routinely charged, such as the endorsement fees and renewal fees would remain the same.

Section 4 Establishes criteria under which a Clinical Social Worker, licensed by the Board, may engage in the certification and decertification process of individuals under an involuntary hold, under NRS 641B.160(2), Chapter 433A of NRS, pursuant to SB 7.

Ms. Frakes indicated that NAC 641B.200 pertains to, "Professional Responsibility", of social workers. It was determined during Board discussion during the 2015 Board retreat that this would be the appropriate section to address the certification and decertification process. As discussed, the certification and de-certification process would be conducted by licensed clinical social workers (LCSW'S) who have met preliminary criteria (addressed in the temporary regulation change) and who have also completed Board approved training. Ms. Frakes further added that this Board approved training would be provided by the Board in a fashion similar to the training provided to Board approved clinical intern supervisors. She added that interest has been expressed by various hospitals to have Board approved LCSW'S engage in the certification/decertification process. Currently, Sandy Lowery has been assigned the task of developing the curriculum and training program. Ms. Frakes added that given the burden of public protection being placed upon the LCSW who engages in this practice, the program design would need to more than the three (3) hours currently provided for supervisor training. Furthermore, this LCSW would be required to carry professional insurance, if insurance is not afforded to the practicing LCSW by the hospital or facility. There is already a similar requirement for APN'S (Applied Practical Nurses), so it appears that a similar requirement in the proposed regulation appears prudent.

Ms. Frakes read the current language contained in NAC 641B.200(10), which indicates that, "*A licensee shall not attempt to diagnose, prescribe, treat or advised on any problem outside his or her filed of competence*". Vikki Erickson wondered about the term, "prescribe", and whether this referred to the prescribing of medication. Ms. Frakes indicated that this is the language already in existence and that "prescribe" has been interpreted as prescribing a plan of treatment, reflecting the licensee's plan of interventions. This has not included the prescribing

of medications. Ms. Frakes then reviewed the proposed regulation change which indicated the terms and conditions pertaining to when an LCSW would be deemed, "Board approved", to engage in the certification and decertification process described in NRS 641B.160(2) and NRS 433A. The proposed regulation change includes the LCSW not having any lapse in licensure or practice for a minimum of five (5) years, is not practicing under any professional license which is under a disciplinary action, suspension or revocation. Further, the LCSW'S experience includes, to the Board's satisfaction, a minimum of three (3) years post clinical social work licensure of current direct practice, or current supervision of practice in a mental health setting. The proposed regulation change addresses the need for Board approved training and refresher training.

Ms. Erickson inquired about the training process. Ms. Frakes indicated that she is gathering resources pertaining to well-established, evidence-based training which appears to be in existence. She cited a recent two-day training submitted for Board continuing education approval. Ms. Frakes indicated that perhaps she and Ms. Lowery could pull the various resources together and develop a training from these various courses. Ms. Erickson indicated the ability for LCSW'S to certify and decertify legal holds may place LCSW'S in an uncomfortable predicament of being pressured to provide these services for certain employers who are hospitals or mental health facilities. Ms. Frakes agreed and indicated that the course developed and approved by the Board would be comprehensive and hopefully be thorough enough to assist the LCSW'S in feeling relatively comfortable in providing these services.

The final area of discussion pertained to a requirement for liability insurance. Ms. Frakes and Ms. Erickson acknowledged that there are resources, such as NASW (National Association for Social Workers) who have agreements with certain low-cost insurance providers and that the offering of the insurance is a benefit offered at a reasonable cost to their members.

Section 5 Indicated that Sections 1 through 4 become effective upon filing with the Nevada Office of the Secretary of State.

Ms. Frakes indicated that at Sections 1 through 4 would become effective upon filing with the Nevada Office of the Secretary of State. Ms. Erickson requested further clarification pertaining to Section 4, and wondered information would be disseminated to the public pertaining to which LCSW'S were Board approved and which ones were not. Ms. Frakes indicated that this information would require additional Board discussion. She added that an up-to-date list may be posted on the Board's website or would be available to anyone upon request. Ms. Frakes also reviewed how these proposed temporary regulation would become permanent within the one-year period of Board adoption.

PUBLIC COMMENT (Agenda Item 3)

President Smith noted that there was no one available to offer public comment. This meeting adjourned at 2:00 p.m.

Respectfully Submitted,

Kim Frakes

Kim Frakes
Executive Director