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A STUDY OF STRATEGIES USED IN THE PURSUIT
OF LEGAL REGULATION OF SOCIAL WORK

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ABSTRACT

The debate regarding legal regulation in social work has continued for a number of years. The issues are varied, including the desirability of licensing, the lack of progress in the achievement of regulation, and the discrepancy as to the form of such regulation. The authors examined a topic area which they believe might be basic to the profession's problems with legal regulation, that being the procedure and process utilized by states in achieving such regulation.

The primary purpose of the empirical research concerned the identification and description of strategies used by state chapters of the National Association of Social Workers in seeking legal regulation.

The data collection instrument consisted of a mailed questionnaire with primarily fixed alternative items incorporating a wide variety of dimensions related to various aspects of the research problem. Questionnaires were mailed to all chapters of the National Association. Thirty-six instruments were returned for a 67 percent response rate. Both descriptive statistics and content analysis were utilized in analyzing the data.

A number of intriguing and surprising findings were revealed, shedding more light on why such a small minority of states have achieved licensing legislation. Although the profession has publically committed itself to licensing, progress has been slow, in part, due to the strategies utilized by various chapters. The National Association of Social Workers' model statute, for example, has not been utilized as a

true model in its entirety by chapters, rather "weakened" forms have been embraced. There even appears to be lack of agreement among chapter members regarding elements of a licensing bill. Furthermore, lobbyists have not been utilized extensively in the legislative process nor have coalitions of professional and lay groups. Chapters seeking licensure have not made well conceptualized utilization of either consensus or conflict strategies. A number of additional significant findings are discussed as are recommendations regarding changes in strategy used in the pursuit of legal regulation.

Over fifteen years ago a debate began within the profession regarding the issue of legal regulation of social work practice. As specific questions related to the issue apparently have been answered, an increasing number of states have passed legislation creating legal regulation in one form or another. However, a majority of the states still do not have laws governing the practice of social work and among those states that do have legal regulation there is much discrepancy as to form. One may wonder why so little progress has been made towards achieving uniform national legal regulation in view of the fact that the professional organization of social workers, the National Association of Social Workers, resolved as early as 1969 to pursue regulation in the specific form of licensing among all states.

Perhaps the first major question regarding legal regulation with which the profession grappled was whether or not legal regulation is desirable. A number of social workers have argued that public regulation of the profession is necessary in order to establish a public, legal definition of the profession; to protect consumer and clientele rights and raise standards of service competence; to establish a public accountability in the delivery of social services based on professional standards rather than inconsistent private standards; to provide a basis for the development and enhancement of the profession within the context of other social institutions and professions; or perhaps for other reasons.¹ On the other hand, opponents of regulation have argued that legal regulation tends to form elitist groups and to exclude too many from practice by creating inequitable, discriminatory examination barriers which give advantage to academic achievement over effectiveness in practice and in meeting client expectations; that regulation interferes with the laws of the marketplace--supply and demand--which would otherwise determine the quantity and quality of services which consumers want and get; that a multi-level licensing approach is impractical and would weaken professional standards; or that graduation from accredited programs or admission to a professional organization should be sufficient certificati

of one's professional ability.² However, the question of the desirability of legal regulation now seems to have been settled within the profession. For example, in 1964, the National Association of Social Workers adopted a policy statement in support of the objective of regulation of social work practice, and in 1969 this position was strengthened by a resolution passed by the National Association of Social Workers' Delegate Assembly favoring licensure rather than title protection.³ The organization has continued to emphasize the need for legal regulation and has actively worked for the passage of licensing legislation among the states.⁴

The second major question which the profession has encountered regarding legal regulation has to do with the form of regulation. Three categories of regulation can be identified--registration, certification, and licensure. Registration is simply a state's listing or registry of persons identifying themselves with the activity of social work. Certification is the warranting by the state that the persons certified have attained a specified level of knowledge and skill in social work, but it does not prohibit uncertified persons from practicing. Licensure is a form of regulation in which the state decrees that persons may not engage in social work practice except under specific conditions set forth by the authority of the state and under its regulatory powers.⁵ There has been much disagreement within the profession as to which of these three forms of regulation is best. For example, Hardcastle recently found that Puerto Rico and the eighteen states now having some type of legal regulation exhibit differing forms. He found five localities with registration, six states with weak certification (few criteria to protect the public), eight states with strong certification (more criteria to protect the public), and no states with licensure as he strictly defined it.⁶ This lack of uniformity exists in spite of the fact that the National Association of Social Workers has advocated full licensure since 1969 and has developed a model licensure statute for use by chapters seeking to enact state licensing laws. (This model, however, is considered by Hardcastle to represent "strong certification" rather than "licensure.")

While Hardcastle's specific conclusions regarding the current status of legal regulation of social work among the states are debatable,⁷ his findings may indicate that neither of the above questions regarding licensing has been fully resolved in the profession. That is, the small number of states now having legal regulation may mean that the need for such regulation is not fully affirmed in the profession, and the discrepancy as to form of regulation among the states may mean that there is little agreement among social workers as to what form of legal regulation is desirable. On the other hand, it is possible that social

workers are largely committed to regulation and to licensing specifically, but that they have been hampered in the process of achieving licensure. Although there has been research aimed at studying the status of efforts toward achieving legal regulation among the states,⁸ there have been no studies of the actual processes engaged in by the states as they have sought legal regulation. By analyzing the strategies used by state chapters in pursuing licensing, the present study offers some suggestions as to why so few states have achieved public regulation and as to why there is so much inconsistency among those states which have developed some form of regulation.

Method

The primary purpose of the present study was to identify and describe the strategies used by state chapters of the National Association of Social Workers in seeking legal regulation.⁹ Since it appears that a wide variety of activities have been engaged in by various states in seeking legal regulation, the research also sought to identify the most popular and common strategies and methods utilized. The writers were not concerned with whether or not states had legal regulation, but with the processes which were used.

The data collection instrument consisted of a mailed questionnaire containing primarily fixed alternative items, although several open-ended items were included. The following dimensions were incorporated in the instrument: identifying data, presence of a licensure committee in the chapter, awareness of N.A.S.W. licensing committee's policy statements, possession of N.A.S.W. model statute, use of N.A.S.W. statute as a model in state chapter, plans to modify an existing licensure regulations in accordance with N.A.S.W. proposed standards, polling of membership regarding licensing, assistance or lack of assistance from other professional groups, use of a lobbyist, and groups supporting or opposing licensing.

Data collection instruments were mailed to all of the state chapters and chapters in Washington, D.C., the Virgin Islands, and Puerto Rico. This population included states with and without legal regulation. The questionnaire was mailed to the executive director of the chapter, if the position was in existence; otherwise it was sent to the chapter president. Thirty-six data collection instruments out of a possible 53 were returned for a 67 percent response rate. Descriptive statistics and content analysis were utilized in analyzing the data.

Findings

The reader is referred to Table 1 regarding discussion of various dimensions of the questionnaire.

Table 1
Selected Strategies Utilized by N.A.S.W.
State Chapters in Pursuit of
Legal Regulation

Dimension	Category	Number	Percent
Existence of a Licensing Committee	Yes	29	81
	No	7	19
Awareness of National Policy	Yes	36	100
	No	0	0
Possession of the Model Statute	Yes	35	97
	No	1	3
Model Used for Developing Statute	N.A.S.W.	30	83
	Psychology	0	0
	Medicine	0	0
	Nursing	0	0
	Other	2	6
Support of Specific Elements of Licensing	No Response	4	11
	All Elements	13	36
	Examination, multi-level, continuing education, revocation	12	33
	Examination, multi-level, revocation	1	3
	Multi-level, continuing education, revocation	1	3
	Examination, re-examination, multi-level, revocation	2	6

Table 1
(Continued)

	Examination, continuing education, revocation	2	6
	Examination, multi-level continuing education	1	3
	No Response	4	10
Membership Polled	Yes	23	64
Regarding Legal Regulation	No	12	33
	No Response	1	3
States Seeking Assistance from Other Professional Groups in Seeking Legal Regulation	Yes	24	67
	No	11	30
	No Response	1	3
Employment of a Professional Lobbyist	Yes	19	53
	No	16	44
	No Response	1	3
Drafter of the Bill	Attorney	3	8
	Social Worker	13	36
	Professional Lobbyist	0	0
	Other	5	14
	Combination	10	28
	No Bill	3	8
	No Response	2	6

Although a majority of the state chapters which responded had a licensing committee, it was interesting to note that approximately one-fifth had not taken this important step. Every chapter was aware of N.A.S.W. policy regarding licensure. The vast majority of the chapters was in possession of the model statute established by the organization. Furthermore, a majority of the chapters claimed to have utilized the N.A.S.W. model as a guide in developing their proposals for legal regulation. Medicine, nursing, and psychology were not incorporated as

models in the development of licensing regulations even though it might be expected that the experiences of other human service professions regarding issues of licensing would be valuable. Although most chapters claimed to have used the N.A.S.W. model, they demonstrated disparity in their support of specific elements of this model. Approximately one-third of the respondent chapters supported all five elements of the N.A.S.W. model. One-third of the chapters supported four of the elements of the model statute exclusive of reexamination. The remainder of the chapters supported various combinations of the elements of the policy statute. Analysis of all possible combinations reveals that reexamination is the issue which received least support among the states.

Approximately two-thirds of the responding chapters polled their membership regarding licensure. It can be assumed that among the remainder of the chapters, leadership was not aware of membership attitude. In a related findings it was found that in those chapters that did poll their membership, 55 percent strongly supported licensing, 40 percent supported it, and none was found to oppose it.

Only approximately two-thirds of the states sought assistance from other professional groups. Such assistance included testifying before legislative committees, writing letters to congressmen, and forming coalitions. Additional data on this issue indicated that the states which did seek outside support sought this assistance primarily from psychology, medicine, nursing, education, and law. It appears that chapters have not sought any one particular group for assistance in developing licensure, rather a variety of support groups have been utilized.

A finding of considerable importance concerned utilization of a professional lobbyist. A small majority of the chapters did employ a professional lobbyist in licensure efforts. However, almost as many chapters did not utilize a lobbyist even though this practice is often crucial in the legislative process. Another interesting finding concerned the professional identification of the individual who drafted the bill. A social worker was identified as the drafter of the licensure bill more often than any other professional, while attorneys were utilized in only a few chapters. Several states used individuals other than attorneys or social workers. Nearly one-third of the respondent chapters relied on combinations of professionals in the drafting of the legal regulations.

An aspect of the licensure issue which appears to be of considerable significance is the support and opposition to social work licensure by various groups. The reader is referred to Table 2 where it should be noted that only numbers are provided since a number of combinations of groups was possible.

Table 2

Groups Supporting and Opposing
Social Work Licensure

Groups	Supporting Number	Opposing Number
Psychology	11	3
Psychiatry	3	2
Politicians and Legislative Committees	3	1
National Association of Black Social Workers	2	9
Mental Health	6	
Hospitals	3	1
Clergy	1	2
Family Service Agencies	5	
Public Agencies/Public Welfare Agencies	6	6
Public Employees	1	
Church Counselors		1
Unions		6
Medicine		2
Undergraduate Schools		2
B.S.W. Social Workers		1

Table 2
(Continued)

Insurance Companies	1
Governor	1
Paraprofessionals	2
School Guidance Counselors	2
Community Action Groups	1

Psychology was identified as the group most supportive of social work licensure, followed by mental health, public agencies/public welfare agencies, and Family Service. The largest number of states identified the National Association of Black Social Workers as opposing social work licensure while a number of state chapters identified public agencies/public welfare agencies and unions as groups in opposition to the licensing of social workers. Although these were the most frequently identified groups in support of and opposing social work licensure, the rather large and diverse nature of the groups in opposition should be noted. Groups opposing licensure are certainly greater in number and diversity than groups in support of legal regulation.

The concluding comments elicited by the data collection instrument were of interest. The state chapters were asked to make comments regarding additional problems or issues encountered in the licensure of social workers. A large number of the responding chapters indicated that they had encountered legislative resistance to the idea of licensing any professional group. The need for education of legislators and the public concerning social work was cited by several states, with several chapters stating that there is public opposition to social work licensure. A smaller number of respondent chapters cited internal conflicts within the chapter as delaying the licensure process. Finally, a number of states mentioned that too much amending of the original bill had impeded progress toward licensure. The nature of the comments seems to underscore the problems and difficulties encountered by state chapters in seeking legal regulation of social work.

Based on the above data, it is possible to develop a profile of the responding N.A.S.W. chapters with regard to the methods and strategies

they have used in pursuing legal regulation. The state chapters were aware of national policy regarding licensure; they were in possession of the model statute; and they had a licensing committee. The model used by the state chapters is the N.A.S.W. statute but evidently the chapters did not support all elements of the model. The chapters supported various combinations of elements of licensure, and most often the elements of examination, multi-level examination, continuing education and revocation. The chapters most often did not support reexamination as an element of licensure. The membership was polled regarding legal regulation, and little opposition towards licensing was found. Only two-thirds of the state chapters sought assistance from other professional groups including psychology, medicine, nursing, education, law and social work. State chapters were almost evenly divided regarding employment of professional lobbyists. Few state chapters employed an attorney to draft their bills and most chapters used a social worker or occasionally a combination of professionals for this purpose. Opposition to social work licensure is broad and a wider variety of groups oppose licensing than support it. Finally, state chapters experienced a rather negative climate regarding legal regulation which was manifested in legislative resistance and public concern regarding the licensing of social workers.

Conclusions

The findings offer several suggestions as to why so few states have achieved legal regulation. Since an overwhelming majority of the respondent chapters have used the N.A.S.W. model statute in drafting legislation, one may wonder if the model is inadequate for legislative purposes. Perhaps the models of other professions which long ago struggled with and resolved various issues concerning licensing would have been more effective. However, few chapters have used these "proven" models.

On the other hand, the poor success of the chapters in achieving legal regulation may be attributable to the differential use that has been made of the model. Although 83 percent of the respondent chapters used the N.A.S.W. model, only 36 percent supported all elements of the model. While the unsupported elements differed from chapter to chapter, the element of reexamination received the least support. These various "weakened" forms of legislative proposals for licensing may have militated against passage of bills. Relatedly, the lack of agreement among social workers themselves may have hampered legislative efforts. Sixty-four percent of the respondent chapters in this study polled their membership regarding issues of legal regulation, and ninety-five percent

of those members polled supported regulation in the form of licensing. It may be assumed that the form of legislative proposal developed by each of these chapters represented the will of the chapter membership. If this assumption is correct, it would appear that, while a majority of the N.A.S.W. members favor licensing, they disagree on the elements of licensing. In fact, it will be recalled that a number of the respondent chapters mentioned that such disagreement among members had inhibited progress towards legislation.

The fact that only 53 percent of the respondent chapters utilized professional lobbyists in their legislative efforts may also explain why so few chapters have achieved legal regulation. Certainly the importance of the lobbyist's role in the legislative process has long been recognized by the social work profession.¹⁰ The National Association has emphasized the need for chapters seeking licensing legislation to engage in a well organized lobbying campaign and to employ a professional lobbyist.¹¹ Similarly, a large percentage of the chapters failed to utilize the services of professionals in the process of drafting the legislative proposal. In 36 percent of the chapters, this work was done by a social worker! Both tasks--lobbying and drafting legislative proposals--require the efforts of persons who are highly trained and experienced. One may only speculate as to the reasons why professional help was not sought in these two crucial phases of the legislative process. Regardless of the reasons, this failure might well have impeded progress toward legal regulation.

The fact that almost one-third of the responding chapters failed to seek assistance from other professional groups in the legislative process suggests a possible crucial strategic error on the part of these chapters. Throughout its history, social work has emphasized the need for assessing the positions of other professional and lay groups and planning appropriate strategies in the social planning and legislative processes. One key consensus strategy involves seeking the active support of other groups in order to present a united front to the legislative or social planning body. The need for this type of effort has been emphasized specifically in relation to the seeking of legal regulation of social work practice.¹² The fact that so many chapters failed to utilize this strategy may partly explain the slow progress towards licensing legislation among the states.

The need for the use of both consensus and conflict strategies in efforts towards licensing legislation is confirmed by the diversity of groups supporting and opposing social work licensure. Some of the

same groups that supported social work licensure in some states opposed it in other states. This mixed response suggests that campaign strategies might be successful in converting these groups from opponents to proponents in those states in which they do oppose licensure. In those states in which these groups are already supportive of social work licensure, cooperation strategies would seem appropriate. With those groups which consistently opposed social work licensure, campaign or perhaps contest strategies may be needed.¹³ The fact that several of the respondent chapters indicated a need to educate legislators and the public of the importance of social work licensure suggests that chapters may now be aware of the need for better strategies. Again, it is not known why such strategies have not been used.

The findings of this research have thus indicated several reasons why so few states have been successful in achieving licensing legislation. It appears that members of the profession have largely answered the old questions and have decided in favor of legal regulation in the form of licensing, although there is still disagreement as to the elements that a licensing law should contain. However, in spite of the profession's commitment to licensing, progress in this direction seems to have been retarded as a result of the strategies used by N.A.S.W. chapters in seeking legislation. Several strategic changes which may enhance the success of legislative efforts towards licensure are suggested by the findings of this research: greater educational efforts within chapters to encourage broad membership support of a strong form of licensing; employment of professional lobbyists during the legislative process; and planning and implementing appropriate change strategies in relation to other professional and lay groups, including cooperation, campaign, and contest. Such strategies are not new to social workers, and it is now time for us to utilize them in our pursuit of the goal of legal regulation.

FOOTNOTES

¹"The 1975 N.A.S.W. Delegate Assembly Actions: Professional Issues; Legal Regulation of Social Work Practice Policies for a Continuing Effort," NASW News 20 (July 1975): 15.

²Ibid., p. 16, and "NASW Celebrates 20th Anniversary; Assembly Passes Reorganization Plan," NASW News 20 (July 1975): 10.

³"New Policy Statement of Licensing Issued," NASW News 19 (September 1974): 12.

⁴See, for example, Legal Regulation of Social Work Practice (Washington, D.C.: National Association of Social Workers, 1973); "The 1975 NASW Delegate Assembly Actions: Professional Issues; Legal Regulation," pp. 15-17; "Proposed Policy Would Standardize Licensing Effort at State Level," NASW News, 21 (November 1976): 9; "Licensing--Anchor for the Profession," NASW News, 22 (January 1977): 4; and Standards for the Regulation of Social Work Practice, NASW Policy Statement No. 5, (Washington, D.C.: National Association of Social Workers, 1977).

⁵For further explanation see Frank B. Raymond, "Contemporary Issues in Social Work Policy in the U.S.: The Age of Accountability," Medical Bulletin, Journal of the U.S. Army, Europe, 32 (October 1975): 283-289; and David A. Hardcastle, "Public Regulation of Social Work," Social Work, 22 (January 1977): 15-16.

⁶Hardcastle, "Public Regulation of Social Work," pp. 17-18.

⁷For debate of Hardcastle's conclusions see Myles Johnson, "Missing the Point of Licensure," Social Work, 22 (March 1977): 87, 140; and David A. Hardcastle, "Playing the Dozens," Social Work, 22 (July 1977): 313.

⁸Hardcastle, "Public Regulation of Social Work," Legislative Moves Toward Licensure Continue Unabated," NASW News, 20 (September 1975): 12; "Licensing Movement for Social Workers Growing in Both Size and Complexity," NASW News, 21 (January 1976): 8; and "Licensing Battles Fought in the States," NASW News, 22 (April 1977): 9.

⁹See Steven Goehring and Susannah Lufler, "The Process of Licensure in Social Work" (unpublished Masters Thesis, University of South Carolina, 1977).

¹⁰Maryann Mahaffey, "Lobbying and Social Work," Social Work, 17 (January 1972): 7-11.

¹¹Licensing--Anchor for the Profession, p. 4.

¹²Ibid.; R. E. Arne, "Protection of the Public Through Licensing of Social Workers," Social Work Journal 33 (October 1952): 188.

¹³For discussion of these strategies see Roland L. Warren, Social Changes and Human Purpose: Toward Understanding and Action (Chicago: Rand McNally College Publishing Co., 1977), pp. 123-125.