

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-603-80

NATHAN SONNHEIM,)
)
Plaintiff-Respondent,)
)
v.)
) Civil Action
THE STATE BOARD OF MARRIAGE)
COUNSELOR EXAMINERS in the Division) On Appeal From
of Professional Boards of the) Final Judgment of Superior Court,
Department of Law and Public) Law Division - Camden County
State of New Jersey , a body)
politic,)
) Sat Below:
Defendant-Appellant,)
) Hon. Mary Ellen Talbott, J.S.C.
)
and)
)
NEW JERSEY BELL TELEPHONE COMPANY,)
a corporation of the State of)
New Jersey,)
)
)
Defendant.)

BRIEF ON BEHALF OF
THE NATIONAL ASSOCIATION OF SOCIAL WORKERS, INC.
AMICUS CURIAE

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NATURE AND INTEREST OF THE
NATIONAL ASSOCIATION OF SOCIAL WORKERS, INC.
(NASW), AS AMICUS CURIAE

The National Association of Social Workers, Inc. (hereinafter 10
NASW) is a non-profit membership corporation with more than 84,000
members. It is the largest professional association of social workers
in the world, Voigt v. Commissioner, 74 T.C. No. 9 (1980), with chap-
ters in each of the 50 states, the District of Columbia and overseas.
Among its purposes as stated in its By-Laws are: 20

To promote the quality and effectiveness of social
work practice in the United States of America
through services to individuals, groups and
communities;

To further the broad objective of improving condi-
tions of life in our democratic society through
utilization of the professional knowledge and skills 30
of social work, and to expand through research the
knowledge necessary to define and attain these goals;

To provide opportunity for the social work profession
to work in unity toward maintaining and promoting
high standards of practice and of preparation for
practice and toward alleviating or preventing sources
of deprivation, distress, and strain susceptible of
being influenced by social work methods and by social
action. 40

The association shall at all times recognize and carry
on a threefold responsibility: (1) to promote activi-
ties appropriate to strengthening and unifying the
social work profession as a whole, (2) to promote the
sound and continuous development of the various areas
of social work practice whereby the profession con-
tributes to the meeting of particular aspects of
human need, and (3) to promote efforts on behalf of
human wellbeing by methods of social action. To 50
these ends the association shall formulate a program
designed to attain its several objectives, and shall
so organize and use its resources as to maintain
consistently a sound balance and integration of its
general and special activities.

To improve and extend social work practices through:	10
a. Setting standards and establishing criteria for sound practice.	
b. Conducting appropriate study and research.	
c. Improving the nature, content, and extent of professional education.	
d. Publishing experience in new and established areas of professional practice.	
To establish principles and procedures for determining and certifying competence to practice through:	20
a. Setting standards for professional organization membership.	
b. Participating in the definition of the nature of professional education and other qualifications for practice.	
c. Establishing standards for the total field and participating in programs for licensing, registration, certification, and appointment through civil service, as appropriate.	30
d. Devising ways and means by which tangible evidence, such as certificates or titles, including the use of the "ASCW" certification, may be given social work practitioners who have achieved various levels of competence in social work practice.	
To improve the administration of social work services.	40
To develop, promulgate, and enforce a Code of Ethics for social workers.	
To define the role, contribution, and place of each specialty's area of concern within the practice of social work, and to promote the sound development and integration of the several specialties.	50
To delineate the nature of new, evolving areas of social work practice, and to provide or seek opportunity for their development.	
To collaborate with other professional groups to insure cooperative effort between the social work profession and other professions and groups with which social work is or may become associated.	
To interpret to the community the contribution of the professional social worker, including basic and specialized qualifications.	60
To make studies and to take action in relation to social conditions.	

To assume responsibility for man and womanpower
planning and development for the range of personnel--
professional, technical, and supporting--needed in
the provision of social services. 10

Presently, 24 states and territories license or otherwise regulate
social work practice through legislation. NASW supports the state
regulation of social work practice and has developed a Model Licensing
Act for submission by its Chapters to state legislatures. 20

To promote the quality of service by social workers, and to help
fill the gap in state licensing and regulation, NASW publishes profes-
sional journals, provides continuing education by means of symposia,
seminars, etc., promulgates a Code of Ethics enforced by a Grievance
and Adjudication mechanism, develops peer review mechanisms, certifies 30
social workers for self-regulated practice by examination through the
Academy of Certified Social Workers and publishes a Register of
Clinical Social Workers, the criteria of which include a master's
degree or doctorate degree in social work and substantial postgraduate
supervised clinical experience. Among ten (10) areas of recognized 40
clinical social work practice specialization identified in the Register
are "Couple" and "Family".*

NASW is vitally concerned that its members be qualified to
perform the services they render. The NASW Code of Ethics which is 50
enforced through an active grievance and adjudication mechanism,
therefore provides in relevant part:

"The social worker should not participate in,
condone, or be associated with dishonesty, fraud,
deceit, or misrepresentation.

"The social worker should not misrepresent pro-
fessional qualifications, education, experience or 60
affiliations.

* Other areas of specialization are: "children", "adolescents", "adults",
geriatrics", "individual", "group", "consultation", and "supervision".

"The social worker should provide clients with accurate and complete information regarding the extent and nature of the services available to them.

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"The social worker should make no misrepresentation in advertising as to qualifications, competence, service, or results to be achieved."

As the size of its membership and its purposes suggest, NASW is in a position to advise the Court of the accepted standards of the social work profession with respect to the practice of marriage and family counseling.

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THE ROLE OF SOCIAL WORKERS
IN THE PRACTICE OF MARRIAGE
AND FAMILY COUNSELING

As stated by Professor Max Siporin:

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"MARRIAGE THERAPY AND FAMILY THERAPY are traditional and basic social work services. Social workers have provided these services as part of the core of social work practice since the beginning of the profession. In addition, marriage and family therapy content has long been taught in schools of social work as part of the core educational curriculum of preparation for social work practice.

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* * *

"Until recently, social workers were recognized by the general public and other helping professionals as being expert in and having almost exclusive domain in marital and family practice. Thus, in mental health settings, individuals were treated by psychologists and psychiatrists, but family groups and spouses were automatically assigned to social workers. This pattern and its recognition of the social work domain have declined precipitously in recent years. Major factors contributing to this decline have been the aggressive competition from other helping human service professions and the passive responses to such competition by social workers."

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Siporin, Marriage and Family Therapy in Social Work, in Social Case Work: The Journal of Contemporary Social Work, January 1980, pp. 11, 14. The number of social workers who practice marital counseling privately has been growing in the past decade. Many of such social workers have already abandoned the title of "social workers", preferring the title "marital and family counselor" which the public more readily understands. (Encyclopedia of Social Work, 17th edition, 1977, at pp. 442, 447). The exclusion of a qualified person from the practice of marriage and family counseling because that person is a social worker would be irrational and not reasonably necessary to

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accomplish New Jersey's interest in protecting the public. See, 10
Schware v. Board of Bar Examiners of New Mexico, 353 U.S. 232, 77 S.
Ct. 752, 1 L.Ed.2d 796 (1957), and Exxon Corporation v. Governor of
Maryland, 437 U.S. 117, 98 S.Ct. 2207, 57 L.Ed.2d 91 (1978).

A prohibition against truthful advertising by a qualified social
worker would not be justified as a restriction upon false, deceptive 20
or misleading commercial speech. See, Friedman v. Rogers, 440 U.S.
1 at 13-16, 99 S.Ct. 887, at 896-897, 59 L.Ed.2d 100 at 112-114 (1979),
reh. den'd, 441 U.S. 917, 99 S.Ct. 2018, 60 L.Ed.2d 389 (1979). A
state cannot prohibit truthful advertising relating to the provision
of health care. Bolton v. Kansas State Board of Healing Arts, 473 30
F.Supp. 728, at 736 (D. Kan. 1979) (professional ability); Wall and
Ochs, Inc. v. Hicks, 469 F.Supp. 873, at 876, 880 (EDNC 1979) (sale
of health aid). The advertising of a speciality by a professional
such as a social worker "is information which is valuable to the
consumer" and, as such, protected by the First Amendment. See Durham 40
v. Brock, 498 F.Supp. 213 at 225 (M.D. Tenn. 1980) (attorney). While
a New Jersey social worker who has not received a license from the
State Board of Marriage Counselor Examiners could be prohibited from
using words such as "licensed", "authorized", "certified", or "regis-
tered" in connection with advertising that he or she is a marriage 50
or family counselor, the state cannot give a monopoly on the use of
the words "Marriage and Family Counselor" to those who are so licensed.
See Comprehensive Accounting Service Company v. The Maryland State
Board of Public Accountancy, 284 Md. 474, 397 A.2d 1019 (1979) (deal-
ing with the word "accountant"). 60

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the National Association of Social Workers, Inc. be permitted as an amicus curiae and file the within brief as such in this matter.

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Respectfully submitted,

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