



STATE OF NEVADA

BOARD OF EXAMINERS FOR SOCIAL WORKERS (BESW)  
4600 Kietzke Lane, Suite C121, Reno, Nevada 89502

**Board Minutes – January 19, 2022**

**Call to Order and Roll.** Erickson called the meeting for the Board of Examiners for Social Workers to order at 9:04 a.m. on January 19, 2021, followed by Roll Call: Vikki Erickson, Board President; Abigail Klimas, Board Member; Susan Nielsen, Board Member; Karen Oppenlander, Executive Director; Harry Ward, Deputy Attorney General, Board Counsel. Guests: Megan Jones, Marvin Neal, Erik Stryker, Jessica Veik, and Sydney Klein (late arrival). Absent Board Members: Monique Harris; Jacqueline Sanders.

Next, Erickson moved forward to **Agenda Item 2 Public Comment**. Ward asked attendees to introduce themselves before speaking by stating their full name for the record. He added that people may submit emails for public comment. Therefore, if the Executive Director or anyone else receives public comment, he requested that a note of that be made on the record. There was no public comment.

Erickson then moved to **Agenda Item 3 Board Operations**. She asked Ward about taking the agenda items out of sequence. She proposed that Agenda Items 3A, 3B, and 3C be temporarily set aside and the Board meeting proceed with Agenda Item 3D. Ward responded that Erickson has the authority to do this.

Erickson moved to **Agenda Item 3D Board Review of Application, Cesar Porcayo Morales (For Possible Action)** and turned to Oppenlander to introduce this item. Oppenlander indicated that she had a request from Cesar Porcayo-Morales for a Closed Session. Erickson agreed to move to Closed Session.

Erickson closed the first Open Session portion of the Board meeting at 9:07 a.m.

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Closed Session of the Board of Examiners for Social Workers from 9:08 a.m. – 9:25 a.m.  
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Erickson reconvened the Board meeting in Open Session at 9:26 a.m. For the record, Ward announced that the Board did go into Closed Session under section NRS 241.033 regarding Item 3D. Erickson then stated that the Board had just met privately and asked for a motion to approve the licensure of Cesar Porcayo-Morales.

**Abigail Klimas made a motion to approve licensure for Cesar Porcayo Morales, seconded by Susan Nielsen. Roll Call Vote: Erickson – Aye, Nielsen – Aye, Klimas – Aye. Motion passed unanimously.**

Erickson congratulated Mr. Porcayo Morales who in turn, thanked the Board members.

Next, Erickson moved to **Agenda Item 3E, Formal Administrative Hearing, Kristopher Lee Komarek, License No. 6832-C, (For Possible Action)**. Ward indicated that he would make an announcement to the Board on this matter. He added that the licensee has an attorney present at this meeting, Mr. Erik Stryker. Ward stated that this matter will not be going to a hearing today. Ward stated that he is in the process of working on a voluntary surrender of the license with opposing counsel. Both attorneys are working together on language for fines and other costs, language about when he might reapply; and when the opposing counsel and Board counsel do finish work on the voluntary surrender, it will be placed before the Board on its agenda; and, then the Board will be able to approve the voluntary surrender agreement. Ward suggested that Mr. Erik Stryker be given an opportunity to comment.

Erik Stryker appeared for the respondent and stated that the representations made by Ward are correct; and that their counteroffer has been submitted to the Attorney General's office; and we're working towards terms that are mutually agreed to.

**Ward** suggested to **Erickson** that we place on the record that this matter will not be going to a hearing and that it will be placed back on the agenda for possible action for a voluntary surrender at the next available meeting. **Erickson** agreed and clarified that the Board does not need to take a vote at this time. **Ward** confirmed that Board does not have to act on this agenda item today.

Moving on, **Erickson** asked if the Board was going to hear about this case or will have further discussion. **Ward** responded by describing how he normally presents a voluntary surrender since this is his first time representing this Board. He will give the Board the complaint or amended complaint. He will submit evidence in a package for the Board that opposing counsel has approved of as well as a voluntary surrender at the next meeting. The Board has the authority to ask myself and opposing counsel questions about the voluntary surrender. Then, the Board will take a vote whether to accept the voluntary surrender at that time; or if the voluntary surrender is rejected, then this matter will be placed on the agenda for the next available meeting for a hearing or voluntary surrender. He went into further specifics about the Board's authority and the overall process.

**Erickson** asked if information about the case will be available for review before the next Board meeting. **Ward** said that his intent will be to send it to the Executive Director, and she would send the information out individually to each Board member. Also, the Executive Director may utilize Dropbox to organize this information where Board members can each have access. **Ward** reminded the Board that when they do review the information beforehand, that if they have questions about the materials, please ask **Ward** directly by email; also, do not ask questions of other Board members or copy other Board members, because then it becomes a "walking quorum". We want to avoid a deliberation or a "walking quorum" concerning a matter that is before the individual Board members. Likewise, when **Ward** responds, he will only be responding to each individual Board member. He asked if there were questions on the process or procedures.

**Oppenlander** asked for clarification about the agenda for the next regularly scheduled Board meeting on Wednesday, February 16<sup>th</sup> at 9 a.m.; and for clarification about a subsequent meeting depending on how the Board proceeds. A short discussion ensued and in due course **Ward** and Mr. Stryker conferred on a "housekeeping matter". This was regarding a pre-hearing motion as well as a petition that have both been presented to the Board's office and to the AG's Office (**Ward**). Both attorneys agreed to have the Executive Director post these items to the February agenda and that they were to be listed as pre-hearing motions on the agenda. That way, they could get a decision from the Board; and it was preferable to add these items to the next Board agenda to save time (and billable hours) if it becomes necessary to prepare for a hearing later. **Erickson** asked Board members is they had further questions; and then Mr. Stryker received permission to leave the meeting.

At this time, Erickson circled back to **Agenda Item 3A Review and Discuss Board Meeting Minutes for September 10, 2021, and November 23, 2021. (For Possible Action)**. **Klimas** asked for **Ward** to clarify how the Board members might weigh in on the approval of minutes when they were not in attendance at the Board meeting. **Ward** explained the concepts and distinctions of approving minutes in "form" and in "content". Also, **Erickson** asked if Item 3A should read September 10<sup>th</sup> and this correction was noted. Following this discussion, **Erickson** asked for motion(s) for the minutes.

**Motion was made to approve Board Meeting Minutes for September 10, 2021, by Abigail Klimas, Seconded by Susan Nielsen. Roll call vote: Erickson – Aye, Klimas – Aye, Nielsen – Aye. Motion passed unanimously.**

**Motion was made to approve Board Meeting Minutes for November 23, 2021, by Abigail Klimas, Seconded by Susan Nielsen. Roll call vote: Erickson – Aye, Nielsen – Aye, Klimas - Aye. Motion passed unanimously.**

Next, **Erickson** moved to **Agenda Item 3B – Review and Discuss BESW Financials from July 1, 2021, through December 31, 2021. (For Possible Action)**. She asked **Oppenlander** to report and stated that at

the end of the second quarter of our fiscal year, BESW anticipated that we would be at 50% for income and expenses. Some of our expenses are split over the budget year each month (1/12) even though the expense may come in one installment. We do this because we don't necessarily know when the payment will hit the bank. After it does, Lowery will back and adjust the line items to no longer be one twelfth and change it to the specific month(s). Right now, this makes the monthly variance percentage look skewed. Therefore, the annual variance percentage is the most important figure, not the monthly budget variances.

Highlighting income, December itself was below our anticipated income, at 82% of the monthly budgeted income (when set as a 1/12). That said, year to date, we are ahead of our budget projections and are at 52% (vs 50% budget). Highlighting expenses, staff salaries came in at 47% which are below our budget projection of 50%. Other expenses are at 27% of budget projections. So, when staff expenses and other expenses are added, total expenses are at 38% and these are significantly under budget projections of 50% at the half-year point.

Items that were over the 50% threshold for the YTD percentages were as follows: the auditor expense was slightly over budget for the year because we had to our new auditor as agreed and additionally had to ask our prior auditor to provide information for Eide Bailey and that invoice put us over budget. Operating costs are at 58% as we spent additional money on supplies to produce new certificates for the roll up of LMSW licenses. Similarly, postage was over budget as we mailed out these certificates to over 750 licensees since July.

Continuing, the TORT Claim fund shows as 149% at the half-year point. This year we added the risk management payments for office property and office content to the TORT Claim Fund since these are all payments for liability. Record storage reflects an increase in monthly storage fees and transporting records to and from the Board office to the storage facility.

Credit card processing is over budget because the Board is receiving more monies digitally; and this leads to higher charges from the commercial bank that handles the credit card fees and pass them on directly to the Board. We continue to monitor these costs and will continue to adjust our future budgets accordingly. With internship applications being the next processing segment to go online, we may run over budget again in this line item during the remainder of this fiscal year. **Oppenlander** concluded with some initial thoughts about applying the "cash rewards" that the bank gives to the Board for credit card usage to offset fees we pay for credit card processing.

**A motion was made to approve BESW Financials from July 1, 2021, through December 31, 2021, by Abigail Klimas, seconded by Susan Nielsen. Roll call vote: Erickson – Aye, Nielsen – Aye, Klimas - Aye. Motion passed unanimously.**

Following, **Erickson** turned to **Agenda Item 3C Review and Discuss Annual Board Audit through June 30, 2021. (For Possible Action)**. She asked **Oppenlander** cover this item and she reminded the Board that they had reviewed the Audit Report with the Board's new auditor at their last board meeting in November. After the meeting, the Board had an additional opportunity to review the materials as they were produced just before the meeting. The Board also was able to compare the audit with draft Board minutes from the November meeting in case they had additional questions. **Klimas** asked if there are ways to ensure that the Board internally addresses the management items outlined by the auditor during the November meeting. **Oppenlander** suggested that the Board begin to handle these items as part of its strategic planning process during the coming year. This would be an appropriate item to address strategically regarding implementing the auditor's recommendations.

**A motion was made to approve the Annual Board Audit through June 30, 2021, by Abigail Klimas, seconded by Susan Nielsen. Roll call vote: Erickson – Aye, Nielsen – Aye, Klimas - Aye. Motion passed unanimously.**

**Erickson** moved to **Agenda Item 3F Review and Discuss Request for Removal of Information from November 20, 2015, Board Minutes (for Possible Action)**. **Oppenlander** stepped in to notify **Ward** that for the record, the person that has made a request for removal of information is in attendance today; however, BESW does not have the Open Meeting Law (OML) form signed and returned to us yet. Although she and the individual have shared emails and phone calls, the transfer of the form to the Board did not get accomplished. Therefore, she is not certain how to proceed in this matter. **Ward** said that regarding Agenda Item 3F, what is on the agenda is to either remove or to change the Board minutes for November 20th, 2015. **Ward** suggested how to proceed as BESW does not have the limited OML waiver. He stated that the Board may need to go into the character of the individual to look at this request. We can place this item back on the agenda for the next available Board meeting. Also, since this was not the Board that approved the 2015 minutes, if this Board gets information that says that the November 20th, 2015, information was incorrect, then this Board would then make a motion. The Board would want to footnote the November 20th, 2015, minutes as the Board can't redact the 2015 minutes to meet the individual's request. While the Board will not be able to change prior minutes, it can make a physical footnote on those earlier minutes indicating how this Board has clarified those minutes. It was determined that the Board would not be able to act on this matter until the Board has a limited OML waiver for an upcoming agenda. The individual that is requesting removal of information asked if it was necessary for him to attend the future meeting in person. For the record, **Ward** indicated that the Executive Director would prepare the paperwork, will have completed a background review of the 2015 materials, and that **Ward** doesn't think that the Board will have to go into the character of the requestor. It is likely that the Board can look at the information and then entertain a motion that the current Board has noted that the November 20th, 2015, minutes should have read "this way" (which will be determined by the Board at the upcoming meeting). It was agreed that the requestor was not required to attend that upcoming meeting and the requestor indicated that this would be a fair resolution of the matter.

**Erickson** introduced **Agenda Item 3G Review and Discuss BESW Strategic Plan Process with Social Entrepreneurs (For Discussion Only)**. **Oppenlander** introduced Megan Jones from Social Entrepreneurs, Inc. Jones presented an overview of the upcoming strategic planning process that the board has decided to take on over the next couple of years. SEI is a social consulting firm in Reno. Jones is joined on this project by the president of the company Kelly Marschall who was also involved in the last round of strategic planning that this Board implemented 2018. We are here again and contracted to continue that process which will involve updating the current 2018-2023 BESW Strategic Plan which runs through July 2012. Then we will be facilitating a new strategic plan for 2023 and beyond. A brief overview of the process was given that began to frame a set of expectations regarding next steps. The purpose of this process is to ensure that the board understands its roles and responsibilities and is positioned to make strategic decisions. The process will follow a series of changes that have taken place since the Board adopted its last strategic plan in 2018 and has been updating annually. The updates have been done without SEI's participation due to the COVID pandemic. The intent once a new strategic plan is developed will be for the Board to use it as a living document for guidance of day-to-day activities, as well as help evaluate and adapt to changing conditions.

Jones provided more context on what a strategic plan is intended to do and will have a handout sent out after the meeting. We know that a lot has changed since 2018 when the current strategic plan was first adopted. Politically, legally, and organizationally, there have been many changes to the Board that we want to be able to account for and use to inform the future strategic planning process. The strategic plan will also identify the resources available at the Board and outline how those resources are allocated during the

strategic planning process. She talked about the data that SEI is using to help inform the process.

Next, Jones discussed goal setting with the Board. There are two pieces to this portion of the project. The first is updating the current strategic plan for adoption in the final year of its implementation. And then beginning later this year, we'll begin to do the planning for a new strategic plan that will be adopted during the summer of next year. The Board will be setting priority focus areas and identifying goals within those priority areas. We will use a process of developing what are called S M A R T I E goals. You may be familiar with SMART goals, which are specific, measurable, achievable, realistic, and timely, or timebound and what that acronym typically stands for. At SEI, we utilize the addition of an I and an E to that acronym, which stands for inclusive and equitable. We take an equity lens to what we provide with insight into equitable strategic planning. That will be something that the Board can look forward to hearing more about as we begin the process of developing goals and strategies to move the board forward to achieving its mission.

To wrap up, Jones shared more about the project approach taken by SEI. There are a couple of pieces involved including document review and primary data collection. The document review has already been started with help from **Oppenlander**. SEI has been looking at previous Board meeting minutes, financial information as applicable to the Board strategies, as well as other materials. Perhaps we can determine to include things that have come up during the audit process that we heard about earlier in this meeting to track and monitor, to inform future planning. SEI is also looking at the Interstate Compact information as well as the Legislative Council Bureau, Occupational License Reports and information that's being generated by the Administrative Collaborative. And we will look at two pieces of primary data that we will be collecting. We rely on Board engagement and data from other key stakeholders. Therefore, we're going to be publishing a survey to the Board that will be published and distributed to you directly from Megan Jones. This survey will be used to inform potential strategies and focus areas, get firsthand information from the current board members about the current strategic plan and other feedback from individual Board members about their roles and responsibilities and etcetera. The second piece of primary data that SEI will be collecting is through key informant interviews to further add to the qualitative information that we receive from the Board. The purpose of the interviews is to collect more information and get further insight on priority areas and longer-term goals that the Board has or should consider in the strategic planning process. We've identified the individuals that will most likely be engaged from ASWB, UNLV, and UNR. **Oppenlander** will continue this strategic planning discussion in February with the annual update to the 2021 Strategic Plan document and Jones will join the Board again in March and every other month thereafter until project completion.

**Erickson** moved to **Item 3G Issue Regarding Out-of-State Video Relinquishments (For Discussion Only)**. **Oppenlander** introduced the item that had been placed on the agenda based on a request from Clark County. The Out-of-State Video Relinquishments request was made by Jennie Kuhlman, Chief Deputy District Attorney, Juvenile Division, Clark County. She offered to answer questions or have the county's Adoptions Manager explain their issues/ concerns. They stated that all child welfare agencies across the state are struggling with the following issue, and it has become more evident in the COVID age. Simultaneously, BESW Deputy Director Sandra **Lowery** was contacted by Washoe County about this matter. The Board referred to handout: Specific Issues and Concerns - Out-of-State Video Relinquishments. BESW has learned that Clark County has numerous cases where a child is in the custody of a child welfare agency and the case gets to the point where termination of parental rights and adoption has been determined to be in the best interest of the child. For a variety of reasons, a parent may now be residing outside of Nevada. The parent may or may not be incarcerated. The parent will express their desire to relinquish parental rights.

The child welfare agency is then tasked with trying to locate a licensed social worker, witness, and notary in another state to facilitate the relinquishment process (on behalf of Clark County). Many states do not require licensed social workers to facilitate relinquishment under their laws and some even have attorneys facilitate relinquishments. This process can become quite time consuming and take 6-9 months to locate a

licensed social worker that is willing to assist from another state. There have been several cases when the agency has been unable to locate someone to assist. Since the inception of COVID, it has become even more difficult to find social workers to assist. There are also struggles with accessing parents when they are incarcerated as many prison facilities do not allow in-person visitations due to pandemic restrictions. Prison personnel may be unwilling to assist as they do not want to become witnesses or take on liability. According to information from Kuhlman, several child welfare agencies have come up with the idea of doing the relinquishments via a secured video link whereby a Nevada licensed social worker and a disinterested third-party witness here in NV would facilitate the relinquishment. 1) This could occur as part of a court hearing or not; Most would not likely be part of a hearing. 2) The parent and their Nevada attorney, if they have one, would be on the video and have been provided the necessary paperwork ahead of time. 3) If the parent is in custody a notary is not required under Nevada statute. 4) If the parent is not in custody, the agency would have planned for a notary to be present with the parent in their home state on video.

The concern/ question being raised is whether the Board of Examiners for Social Workers would consider this to be practicing social work outside of Nevada subjecting them to disciplinary action? To recap, there is a request from Clark County for a written communication from the Board asking if this practice is or is not permissible. In the Clark County cases, these same parents are appointed Nevada attorneys by the court. The attorney contacts their client by video and phone and proffers legal advice. This has not been considered practicing law across state lines.

**Oppenlander** added that in preparing this item for the Board, the following questions/ *statements (in italics)* were made by BESW staff: 1) What is the current agency policy regarding relinquishments? 2) Is the process different or the same in each county? 3) What is the role of the social worker, i.e., are they providing an explanation of the documents, answering questions, providing information about the child, etc.? *This is important to know as those things would be considered "practicing".* 4) Are ICPC's in place (Interstate Compact on the Placement of Children) in these cases? *If so, a child welfare professional is already involved.* 5) What is the agency policy about the role of the social worker in the other state(s)? 6) Is simply "witnessing" considered practice (*i.e., not answering questions*)? 7) *BESW has not been contacted by the other 15 counties yet.*

**Klimas** added another question, "Is the social worker representing the child living in our state, or representing the parent that is out-of-state? Wrapping up, **Ward** commented that the Board would not have to give a formal opinion and hasn't been asked to change the law. Board members agreed to invite the Clark County representatives to the next Board meeting to continue this discussion.

Last on the Board agenda, **Erickson** moved to **Agenda Item 3I, Executive Director's Report (For Discussion Only)**. **Oppenlander** first gave an Update on Data Migration Plan; BESW was officially moved over to EITS on 11/30/21. The goal of this project was to transition the support of the BESW information technology assets from the Department of Business and Industry (B&I) to the Enterprise IT Services Division (EITS). The scope of this project consisted of: 1) A connection to the State Silver Net network through a BESW owned device has been established; 2) A BESW domain was created on the State network; 3) All BESW equipment has been re-imaged by EITS and all previously installed software are operating as they should; 4) BESW staff identities have been created and the O365 client was installed and operating as it should; 5) All active BESW email boxes – staff and shared – have been migrated to O365 and to the cloud; 6) A file share environment has been created for BESW and BESW identified files and data have been transferred and are accessible to BESW staff; 7) and, the last element that is not yet finalized are the Interlocal Agreement and Service Level Agreement (SLA) that are going to be executed between BESW and EITS. The MOU to establish these agreements and move forward on the project was approved by DAG **Ward** and signed off by BESW and EITS before the project began last year.

Next, the Board turned to a discussion of a Pending Litigation Matter in the United States District Court for the District of Nevada - Case No. 3:20-cv-571-MMD-WG. **Oppenlander** spoke with Deputy Attorney General Asheesh Bhalla yesterday and he shared an order from the US District Court – State of Nevada as follows:

“ORDERED that Defendant Karen **Oppenlander**'s motion to dismiss (ECF No. [29]) is granted. It was further ordered that the other 4 Defendants motion to dismiss (ECF No. [30]) is granted. It was further ordered that Plaintiffs' Complaint (ECF No. [1]) is dismissed, in its entirety, without prejudice and with leave to amend. It is further ordered that, if Plaintiffs choose to file an amended complaint curing the deficiencies discussed in this order, they must file it by February 17, 2022. It was further ordered that, if Plaintiffs do not file an amended complaint by February 17, 2022, the Court will dismiss this case with prejudice for failure to state a claim”.

To close her report, **Oppenlander** asked if the Board had additional future Board meeting ideas beyond those captured: 1) Understanding the reserves categories; 2) Revisit out-of-state video relinquishments; 3) Revisiting today's agenda item re: a voluntary surrender in February; 4) Revisiting today's agenda item of correcting meeting minutes from 2015. And, then she reminded the Board that the next Board meeting will be on Wednesday, February 16<sup>th</sup> at 9 a.m.

**Erickson** moved to **Item 4 Public Comment**. She asked for public comment at this time. Board Counsel/ Deputy Attorney General Harry **Ward** took a few moments to commend the Board and thanked them as today was his first full Board meeting to go through an agenda together with the Board where he had some input. He closed by saying, “Once again ... you did a great job and I look forward to representing you”. **Erickson** thanked **Ward** and thanked him for joining us. **Erickson** asked for additional public comment. Hearing none, she moved to **Agenda Item 5 – Adjournment**.

**Abigail Klimas made a motion to adjourn the meeting, seconded by Susan Nielsen. Roll Call Vote: Erickson – Aye, Nielsen – Aye, Klimas – Aye. Motion passed unanimously.**

**The meeting was adjourned at 10:27 a.m.**