



STATE OF NEVADA
BOARD OF EXAMINERS FOR SOCIAL WORKERS
4600 Kietzke Lane, Suite C121, Reno, Nevada 89502
775-688-2555

MINUTES OF BOARD MEETING
December 16, 2011 at 9:00 a.m.

The meeting of the Board of Examiners for Social Workers was called to order by Randy Reinoso, LSW, Board President at 9:15 a.m. The meeting was held at Mojave Adult, Child and Family Services, 745 W. Moana Lane, Suite 100, Reno, Nevada. There was a simultaneous video conference conducted at Mojave Adult, Child and Family Services, 4000 E. Charleston Blvd., Suite B-230 in Las Vegas, Nevada. President Reinoso noted that the meeting had been noticed properly and the members present constituted a quorum for the purposes of the Board meeting. Roll call was initiated by President Reinoso, with the following individuals present:

Members Present:

Randy Reinoso, LSW, President, Reno
Sandy Lowery, LCSW Vice President, Reno
James Bertone, LCSW, Secretary-Treasurer, Reno
Tracy Cassity, LCSW, Reno
Rod Smith, Public Board Member, Reno

Staff Present

Kim Frakes, LCSW, Executive Director, Reno
Henna Rasul, Senior Deputy Attorney General, Prosecution for the State
Sarah Bradley, Deputy Attorney General, Board Counsel, Reno

Public Attendees

James Smith, Esq., Attorney for Adrianna Botello, Disciplinary Case G10-43
(Mr. Smith arrived at the meeting around 9:30 a.m.)
Keith Ganey, Esq., Attorney for Adrianna Botello, Disciplinary Case G10-43

President Reinoso noted that no one from the public wished to offer public comment.

REGULAR AGENDA

A motion was made by Sandy Lowery and seconded by Tracy Cassity to approve the agenda as submitted.

In order to aid in the efficacy of this Board meeting, items were taken out of sequence from the agenda to be addressed by the Board.

BOARD OPERATIONS

Review, Discussion and for Possible Action, Election of Board members to Board offices, Pursuant to NRS 641B.120(1)(2).

This agenda item was taken out of sequence. Kim Frakes presented this agenda item to the Board. Pursuant to NRS 641B.120(1)(2), "The Board shall elect from its members a President, a Vice President and a Secretary-Treasurer, who hold their respective offices at its pleasure. An election of officers must be held annually." The annual election of officers has not occurred during 2011. In order to be in compliance with this statute, the Board should review, discuss and take action upon the election for the following offices: President, Vice President and Secretary-Treasurer. President Reinoso inquired whether the Board office had heard from the Governor's office pertaining to his re-appointment to the Board. President Reinoso indicated that if it appeared he would not be reconfirmed by the Governor's office, that this could

influence how the Board members elected the members to Board offices. Ms. Frakes indicated that to date, she has not heard from the Governor's office pertaining to his re-appointment to the Board. Pursuant to NRS 641B.110(1), President Reinoso would remain appointed to the Board until a qualified person was appointed. Since there does not appear to be anyone else who had indicated an interest to be appointed to the Board, it appears to be a matter of time before the Governor would re-appoint President Reinoso to the Board.

Following review and discussion, a motion was made by Sandy Lowery and seconded by James Bertone to appoint Randy Reinoso to the Board office of "President." This motion was carried. A motion was made by James Bertone and seconded by Tracy Cassity to appoint Sandy Lowery to the Board office of "Vice President." This motion was carried. A motion was made by Sandy Lowery and seconded by Tracy Cassity to appoint James Bertone to the Board office of "Secretary/Treasurer." This motion was carried. Tracy Cassity would remain as the Board member from rural Nevada and Rod Smith would remain as the Public Board member.

DISCIPLINARY MATTERS

Review, Discussion and for Possible Action, Consent Decrees Pertaining to:

Nicholas Graham, LSW, G11-16

This agenda item was taken out of sequence on the agenda. Kim Frakes presented this agenda item to the Board. Nicholas Graham, LSW, entered into a settlement agreement with the Board, known as a "Consent Decree". Mr. Graham acknowledged that if this matter was taken to a disciplinary hearing before the Board, the allegations contained in the consent decree could be proven by substantial evidence and that by acknowledging the same, he is subject to disciplinary action by the Board. The alleged violations included: (1) NAC 641B.200(18), "...a licensee shall comply with all the provisions of the statutes and regulations governing the practice of social work..."; (2) NAC 641B.200(21)(b)(c), "...a licensee shall notify the Board in writing within 21 days after a criminal charge is filed against the licensee..."; and (3) NAC 641B.220(1), "...a licensee who violates any of the provisions of NAC 641B.200 to 641B.215, inclusive, or commits any act that constitutes a basis for refusal by the Board to issues a license pursuant to subsection 2 of NRS 641B.260 is guilty of unprofessional conduct." Following review and discussion of the Stipulated Adjudication, a motion was made by Sandy Lowery and seconded by James Bertone to accept the Consent Decree pertaining to Nicholas Graham, licensed social worker 5412-S, in the disciplinary matter of G11-16, as submitted. This motion was carried.

EXECUTIVE DIRECTOR'S REPORT

This agenda item was taken out of sequence on the agenda. Kim Frakes presented this agenda item to the Board. She indicated that she did not have anything further to add to today's Board meeting. Ms. Frakes thanked the Board member's for their attendance and participation at today's Board meeting.

DEPUTY ATTORNEY GENERAL REPORT

This agenda item was taken out of sequence on the agenda. Information only – Typically, the Senior Deputy Attorney General uses this time to bring the Board up to-date on legal issues of concerns to the Board or make recommendations for future agenda items. This time may also be used to ask questions of counsel. Henna Rasul, Senior Deputy Attorney General who was acting a Board Counsel during this portion of the meeting indicated that she did not have anything further to add to today's Board meeting.

PRESIDING OFFICER'S COMMENTS

President Reinoso informed Board members that he had conducted an on-site visit of the Board office on December 15, 2011. He reviewed the Disciplinary process with Kim Frakes and James Bertone. This was conducted by reviewing disciplinary case files that the Board had taken action upon. He felt confident that Mr. Bertone would be able to assist Ms. Frakes in reviewing current open disciplinary cases that she recommends for dismissal. This matter had been discussed and approved during the July 15, 2011 Board meeting as agenda item "5C".

DISCIPLINARY MATTERS--CONTINUED

Review, Discussion and for Possible Action, Consent Decrees Pertaining to—Continued:

Bertrand Ithurralde, LSW, G10-16

This agenda item was taken out of sequence on the agenda. Kim Frakes presented this agenda item to the Board. Bertrand Ithurralde, LSW, entered into a settlement agreement with the Board, known as a "Consent Decree". Mr. Ithurralde acknowledged that if this matter was taken to a disciplinary hearing before the Board, the allegations contained in the consent decree could be proven by substantial evidence and that by acknowledging the same, he is subject to disciplinary action by the Board. The alleged violations included: (1) NRS 641B.400(3), "...grounds for initiating disciplinary action pursuant to this chapter are unprofessional conduct and conviction of: use of fraud or deception in rendering services as a social worker; (2) NAC 641B.085(2), "...each licensee shall furnish the Board with written notice of his home and professional address within 30 days after moving; (3) NAC 641B.150(1)(a)(c), "...an applicant for licensure as a clinical social worker must complete an internship of not less than 3,000 hours supervised, postgraduate clinical social work..."; (4) NAC 641B.200(1), "...a licensee shall not use his status to support any claim, promise or guarantee of successful service..."; (5) NAC 641B.200(2), "...a licensee shall not misrepresent, directly or by implication, his own professional qualifications, competency, affiliations and licenses, or those of the institutions and organizations with which he is associated"; (6) NAC 641B.200(11), "...a licensee shall base his practice upon recognized knowledge relevant to social work"; (7) NAC 641B.200(14), "...a licensee shall prepare and maintain in a timely manner a record regarding each of his clients..."; (8) NAC 641B.200(18), "...a licensee shall comply with any state or federal law or regulation that is relevant to the practice of social work."; (9) NAC 641B.205(1), "...a licensee shall practice social work with professional skill and competence."

Following review of the consent decree as submitted, concerns were raised by the Board members pertaining to allegations that Mr. Ithurralde had represented himself as a Qualified Mental Health Professional when he did not appear qualified to do so and that the consequences submitted in the Consent Decree did not appropriately address the allegations contained in the consent decree. A motion was made by Tracy Cassity and seconded by Sandy Lowery to deny the consent decree pertaining to Bertrand Ithurralde, licensed social worker 5491-S, in the disciplinary matter of G10-16, as submitted as submitted. This motion was carried.

Henna Rasul, indicated that she would contact the Respondent's attorney to see how they would wish to proceed.

(Following this action, the Board took a break from 10:15 a.m. until 10:25 a.m.)

Review, Discussion and for Possible Action, Disciplinary Hearings Pertaining to:

Vickie Pope, LSW, expired, G09-28, G10-12 and G10-25

A call to order was called by President Reinoso at 10:25 a.m. He administered the oath to the Court Reporter. Following administering the oath, President Reinoso asked if the Respondent, Vickie Pope, was present at the Reno or Las Vegas Board meeting site. It was noted that Ms. Pope was not present at either meeting sites.

President Reinoso then inquired whether Ms. Pope had received proper notification regarding today's hearing. Sarah Bradley, Deputy Attorney General, serving as Board Counsel, brought the Board's attention to Exhibits 3 and 4. She indicated that based upon these exhibits, it appeared that Ms. Pope had received proper legal notice pertaining to today's hearing. A motion was made by Tracy Cassity and seconded by Sandy Lowery that Vickie Pope, social worker license number 4162-S, expired, had received proper legal notification pertaining to today's hearing regarding disciplinary cases G09-28, G10-12 and G10-25. This motion was carried.

Henna Rasul, Senior Deputy Attorney General, served as prosecution for the State. Ms. Rasul asked President Reinoso that Exhibits 1 through 19 as indicated on the Complaint and Notice of Hearing be admitted as evidence. He agreed to have Exhibits 1 through 19 admitted as evidence. Ms. Rasul proceeded to make her opening statements. It was noted that the complainant in G09-28 was not present. Ms. Rasul reviewed the accusations contained in G09-28, contained in allegation 1 through 4c of the Complaint.

She then called Maria Blake, Certified Nursing Assistant (CNA) as the first witness. Ms. Blake was the complainant in G10-12 and was employed as an employee at Mountainview Care Center (MCC) when she filed the accusation against Pope. These allegations were contained in 5a, 5b and 5c of the complaint. After being sworn in by the Court Reporter, Ms. Rasul examined Ms. Blake pertaining to the allegations in G10-12. Following her examination of this witness, the Board then examined Ms. Blake. Following their examination, Ms. Rasul thanked Ms. Blake for attending the hearing and offering her testimony. She indicated that Ms. Blake was free to leave.

Ms. Rasul then called Barbara Cavanagh, RN, as the second witness in this matter. Ms. Cavanagh was employed with the State of Nevada Bureau of Health Care Quality (Bureau) and Compliance at MCC and the complainant in G10-25. The allegations in G10-25 were contained in 6a, i through v in the complainant. After being sworn in by the Court Reporter, Ms. Rasul examined Ms. Cavanagh pertaining to the allegations in G10.25. Following her examination of this witness, the Board then examined Ms. Cavanagh. Following their examination, Ms. Rasul thanked Ms. Cavanagh for attending the hearing and offering her testimony. Although Ms. Cavanagh was free to leave, she chose to remain for the deliberations and decision on this matter.

Ms. Rasul then addressed the Board, requesting that they find Ms. Pope guilty of Counts 1 through 11, contained in the complaint. Ms. Bradley instructed the Board to deliberate. She also informed the Board, that NRS 622A, allows the Board to state that everything in the complaint has been proven based upon the fact that the Respondent (Ms. Pope) was not present to dispute the complaint. Following deliberations, the Board took the following motions on Counts 1 through 11:

Count 1, a motion was made by Sandy Lowery and seconded by Rod Smith to find Ms. Pope guilty of violating NAC 641B.200(9). This motion was carried.

Count 2, a motion was made by Sandy Lowery and seconded by James Bertone to find Ms. Pope guilty of violating NAC 641B.200(11); This motion was carried.

Count 3, a motion was made by Sandy Lowery and seconded by James Bertone to find Ms. Pope guilty of violating NAC 641B.200(15); This motion was carried.

Count 4, a motion was made by Sandy Lowery and seconded by James Bertone to find Ms. Pope guilty of violating NAC 641B.200(18); This motion was carried.

Count 5, a motion was made by Sandy Lowery and seconded by James Bertone to find Ms. Pope guilty of violating NAC 641B.205(1); This motion was carried.

Count 6, a motion was made by Sandy Lowery and seconded by James Bertone to find Ms. Pope not guilty of violating NAC 641B.205(3); This motion was carried.

Count 7, a motion was made by Sandy Lowery and seconded by James Bertone to find Ms. Pope not guilty of violating NAC 641B.205(5); This motion was carried.

Count 8, a motion was made by Sandy Lowery and seconded by Rod Smith to find Ms. Pope not guilty of violating NAC 641B.205(6); This motion was carried.

Count 9, a motion was made by Sandy Lowery and seconded by James Bertone to find Ms. Pope guilty of violating NAC 641B.205(14); This motion was carried.

Count 10, a motion was made by Sandy Lowery and seconded by James Bertone to find Ms. Pope guilty of violating NRS 641B.210(1)(a)(d); This motion was carried.

It was noted during deliberation that Ms. Pope had not submitted her fingerprints and was in violation of NRS 622.360. A motion was made by Sandy Lowery and seconded by Rod Smith to find Ms. Pope guilty of violating NRS 622.360.

Following deliberations pertaining to the Board's Decision and Order, a motion was made by Sandy Lowery and seconded by James Bertone for the following:

1. Ms. Pope's expired license number 4162-S shall be revoked for three (3) years;
2. If Ms. Pope reapplies after the suspension, she must:
 - a) Meet all the licensing requirements in effect at the time she reapplies, including but not limited to successfully passing any test or tests required of all applicants;
 - b) Come before the Board for licensure;
 - c) Provide proof to the Board from a Board approved forensic psychiatrist that she is fit to act as a social worker.
3. Ms. Pope is to pay all attorney's fees and costs incurred by the Board in prosecuting this matter, as specified in the Board Order;
4. Ms. Pope shall pay the fine specified in the Board Order.

This motion was carried. This matter was concluded at 12:50 p.m.

Adriana Botello, LCSW, G10-43

A call to order was called by President Reinoso at 1:18 p.m. He administered the oath to the Court Reporter. Sarah Bradley, Deputy Attorney General, indicated that as a matter of record, Board member Sandy Lowery is recusing herself from this matter as she had participated in some discussions prior to this hearing as an investigating Board member. It was noted that Ms. Lowery had already left the meeting. The record reflected that there are still four (4) Board members remaining and that this number constituted a quorum. Introductions were offered by each Board member, Board Executive Director, Senior Deputy Attorney General, Deputy Attorney General, Adriana Botello, and her counsel, James Smith and Keith Ganey. President Reinoso noted that Respondent, Adriana Botello was present with her counsel, Mr. Smith and Mr. Ganey.

President Reinoso asked if there were any preliminary matters that needed to be addressed. Sarah Bradley, Board Counsel, indicated that there were two (2) motions pending and these motions were already reviewed by President Reinoso. The first motion pertained to a motion made by Respondent and her counsel to dismiss this matter for failure to state facts forming sufficient grounds for discipline. President Reinoso, following thorough discussion and review with Ms. Bradley, denied this motion. Mr. Ganey stated his objection to this

denial for the record. The second motion pertained to Respondent and her counsel for a more definitive statement. President Reinoso indicated that following thorough discussion and review of this motion with Ms. Bradley, he would be denying this motion as well. Mr. Ganey requested that his objection be a matter of record. Ms. Bradley indicated that given the denial of both motions made by Respondent and her counsel, the Board should proceed with the full complaint as written.

It was noted that all witness for the Board and Respondent were present and that all witnesses were excluded from the hearing until called. Furthermore, the witnesses were instructed not to discuss the matter among themselves while waiting to testify. The exception was the Board's Executive Director, Kim Frakes, who remained with the prosecuting counsel, even though she would also serve as the witness. Ms. Botello was also allowed to remain. Although the witnesses were not supervised while waiting to testify, Mr. Ganey indicated that he was not particularly concerned about this matter so long as there were as few "variances from the stated record as possible." Ms. Rasul indicated that she would reiterate to the witnesses not to discuss this matter while waiting to testify.

President Reinoso noted that a complaint had been filed with the Board. He then reviewed the outline of the administrative hearing process. Henna Rasul, Senior Deputy Attorney General, prosecution for the State, offered her opening statement. She provided an overview of the Amended Complaint and Second Notice of Hearing, noting that there were 12 counts of alleged violations of NRS and NAC 641B pending against Ms. Botello. Ms. Rasul noted that the Board would not be pursuing Count 12 as Ms. Botello submitted her fingerprints. She added that Ms. Botello and her counsel, James Smith, were properly noticed of this hearing via regular and certified letter on October 5, 2011 and a second notification of hearing on November 8, 2011.

Mr. Smith then addressed the Board. He reviewed Ms. Botello's career as a social worker and that the apparent impairments were the result of an automobile accident involving Ms. Botello on June 29, 2010. He concluded that the period of time for Ms. Botello following this accident proved to be a challenging time for her. Mr. Smith noted that her professional conduct should be the Board's focus in this matter. Following Mr. Smith's opening remarks, Ms. Rasul agreed to allow Suzanne Aberasturi, PhD., witness for the Respondent, to appear as a witness.

The Court Reporter administered the oath to Dr. Aberasturi. Dr. Aberasturi provided a psychological/neuropsychological evaluation she conducted on Ms. Botello in January 2011. Dr. Aberasturi provided her findings of this evaluation during her examination by Mr. Smith. Dr. Aberasturi was then cross-examined by Ms. Rasul. Following this, redirect examination was provided by Mr. Ganey. Recross examination was then conducted by Ms. Rasul followed by redirect examination by Mr. Smith. Further recross examination was conducted by Ms. Rasul. Mr. Smith then invited President Reinoso and Board members to examine Dr. Aberasturi. Examination by Board members was conducted by Tracy Cassity. Following examination by Board members, Dr. Aberasturi was thanked for her time. A short break was taken from 2:20 p.m. until 2:30 p.m.

After everyone had returned and the meeting resumed, Rod Smith, Public Board Member, disclosed that he had, in the past, worked with Dr. Aberasturi on numerous occasions in his capacity as a public educator. Mr. Smith indicated that he did not believe that this would influence his ability to be objective in this matter. Respondent's counsel, James Smith, indicated that he did not have any objection to Rod Smith having known Dr. Aberasturi.

Ms. Rasul called in the first witness for the Board. Kevin McMillin is an officer with the Reno Police Department, Traffic Division. He responded to the scene of the June 29, 2010 accident involving Ms. Botello. The oath was administered by the Court Reporter. Ms. Rasul examined Officer McMillin. Officer McMillin was cross-examined by Respondent's counsel, Mr. Smith followed by redirect examination by Ms. Rasul. Recross examination was conducted by Mr. Ganey. President Reinoso then asked if any of the Board members had

questions for Officer McMillin. Since there were not any questions, Officer McMillin was thanked for his time and allowed to leave.

Ms. Rasul then called in the Board's next witness, Officer George Carranza. The oath was administered to Officer Carranza by the Court Reporter. Officer Carranza was the arresting officer during the October 21, 2010 Burglary and Grand Larceny incident involving Ms. Botello. Officer Carranza was cross-examined by Respondent's counsel, James Smith followed by redirect examination by Ms. Rasul. Mr. Smith, Respondent's counsel, then provided recross examination. President Reinoso then inquired as to whether any of the Board members had questions for Officer Carranza. Since the Board did not have any questions for Officer Carranza, he was thanked for his time and dismissed.

Following Officer Carranza's testimony, Respondent's counsel, Mr. Smith requested a short break to determine if one of his witnesses had arrived. Upon resuming the hearing, Patrick Schiller, LSW, was called as a witness for the Board. Mr. Schiller was issued the oath by the Court Reporter. Mr. Schiller is the Director for the Washoe County Department of Social Services (Social Services). He was the Director during the period of time Ms. Botello was employed at Social Services. He was then examined by Ms. Rasul. During Ms. Rasul's examination of Mr. Schiller, objections were raised regarding questions that pre-dated the period of time submitted by Ms. Rasul's complaint. This required a short break so that President Reinoso could review with Ms. Bradley, NAC 641B.310 and NRS 233B and their applicability to this situation. Upon resuming, President Reinoso determined that the objection raised by Respondent's counselors, Mr. Smith and Mr. Ganey, was sustained.

In order to assist in the examination process, Ms. Bradley suggested that both parties request that their exhibits be submitted prior to continuing. Ms. Rasul indicated that she did not have any objections to Respondent and her counselors admitting their exhibits "A thorough Y" as evidence. Respondent counselors stipulated to the Board's exhibits 1 through 28 and 32 being admitted. Ms. Bradley indicated that when it comes time for the Board to submit exhibits 29, 30 and 31, foundation can be determined at that time whether to accept admitting these items as evidence. Cross examination was conducted by Respondent's counselors, Mr. Smith and Mr. Ganey, followed by redirect examination by Ms. Rasul. Respondent's counsel, Mr. Smith did not have any further questions at the time and President Reinoso asked the Board if they had any questions. Mr. Cassity examined Mr. Schiller. Following examination by the Board, a brief break was taken.

Upon resuming, the Board called David Turner, MFT, as its next witness. Following administering the oath, Ms. Rasul examined Mr. Turner. Mr. Turner served as Ms. Botello's direct supervisor from November 2002 through June 2011, during his employment at Social Services. Following examination of Mr. Turner, it was determined that there did not appear to be enough time for Respondent's counselors to cross examine Mr. Turner during this scheduled Board hearing. A motion was made by James Bertone and seconded by Tracy Cassity to reconvene the Board meeting on Friday, January 27, 2012 at 9:00 a.m. This motion was carried.

PUBLIC COMMENT

Pursuant to NRS 241.020, the notice of meeting must include: *A period devoted to comment by the general public, if any, and discussion of those comments.* It was noted that no one from the general public attending this meeting wished to offer public comment.

ADJOURNEMENT

A motion was made by James Bertone and seconded by Tracy Cassity to adjourn the Board meeting at 4:58 p.m. This motion was carried unanimously.

Respectfully Submitted,

Board of Examiners for Social Workers
December 16, 2011 Board Meeting
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Kim Frakes, LCSW
Executive Director