



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

MINUTES OF BOARD MEETING
April 27, 2012 at 11:30 a.m.

The meeting of the Board of Examiners for Social Workers was called to order by Randy Reinoso, Board President, at 11:38 a.m. The meeting was held at Mojave Adult, Child and Family Services, 745 W. Moana Lane, Suite 100, in Reno, Nevada. There was a simultaneous video conference conducted at Mojave Adult, Child and Family Services, 4000 E. Charleston Blvd., Suite B-230, 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, Las Vegas
James Bertone, LCSW, Secretary-Treasurer, Reno
Tracy Cassity, LCSW, Board Member, Reno
Sandy Lowery, LCSW, Vice President, Reno
Rod Smith, Public Board Member, Reno

Staff Present

Kim Frakes, LCSW, Executive Director, Reno
Henna Rasul, Senior Deputy Attorney General, Reno

Public Attendees

Deborah Greco, Court Reporter (arriving around 12:30 p.m.)
Nicholas Graham, LSW, Respondent, Disciplinary Case G11-16 (arriving around 12:00 p.m.)
Bertrand Ithurralde, LSW, Respondent, Disciplinary Case G10-16 (arriving around 12:00 p.m.)
Kerry S. Doyle, Esq., Counsel for Bertrand Ithurralde (arriving around 12:00 p.m.)

PUBLIC COMMENT

None of the noted public attendees wished to offer public comment.

CONSENT AGENDA

A motion was made by Sandy Lowery and seconded by James Bertone to approve the Consent Agenda as submitted. This motion was carried.

REGULAR AGENDA

A motion was made by Sandy Lowery and seconded by James Bertone to approve the Agenda as submitted. This motion was carried.

DISCIPLINARY MATTERS

Review, Discussion and for Possible Action, Recommendation to Dismiss: G09-26, G11-18 and G11-26.

Kim Frakes presented a redacted account of the above cases and the rationale for dismissing these cases. Following Ms. Frakes' presentation and review and discussion by the Board, a motion was made by Rod Smith

and seconded by Tracy Cassity to dismiss G09-26, G11-18 and G11-26 as presented by Ms. Frakes. This motion was carried.

(Agenda item 5B was taken out of sequence as the parties pertaining to this particular agenda item were not assembled in order to proceed with this agenda item)

Review and Discussion, Redacted Disciplinary Report

Kim Frakes presented a summarized, redacted disciplinary report to the Board. She indicated that following the March 30, 2012 Board meeting, her time had been occupied in addressing the follow up to the cases that had been disciplined during this meeting, reviewing cases for possible dismissal during this Board meeting and preparing for the cases brought for disciplinary action during this Board meeting. Sandy Lowery inquired about the use of James Bertone to assist Ms. Frakes in reviewing disciplinary cases as approved by the Board during the July 15, 2011 Board meeting. Ms. Frakes indicated that she had started utilizing Mr. Bertone in reviewing certain cases being recommended for dismissal and that once he was fully trained in the process, she would begin to utilize Mr. Bertone's assistance more frequently.

ASSOCIATION OF SOCIAL WORK BOARDS (ASWB)

Review and Discussion Regarding the 2011 Pass Rate Reports for North America, Including the 2011 Pass Rates for Nevada

Kim Frakes presented this agenda item to the Board. Annually, ASWB distributes their findings pertaining to their examination pass rates for North America (United States and Canada) in comparison to the examination pass rates for each member's jurisdiction. Ms. Frakes noted that this report did not contain the pass rates for the jurisdiction by university program as ASWB distributes this report later in the year. The documentation in each Board member's packet was a copy of the 2011 ASWB Examination Pass Rates. In discussing this agenda item, it was noted that Nevada scored above average in the percentage of examination pass rates for all levels of licensing examinations. Sandy Lowery inquired if Ms. Frakes knew when the ASWB comparison of examination pass/fail rates between the two Nevada Social Work Schools would be available. Ms. Frakes indicated that this report is usually available in mid-summer or early fall. She indicated that as soon as these scores were made available, she would place it on the following regularly scheduled Board meeting agenda.

Review and Discussion, Senior Deputy Attorney General Report

Henna Rasul presented this agenda item to the Board. Typically, the Senior Deputy Attorney General uses this time to bring the Board up-to-date on legal issues of concern to the Board or make recommendations for future agenda items. This time may be used to ask questions of counsel. Ms. Rasul indicated that she did not have anything to present to the Board at this time. The Board also did not have any questions for Ms. Rasul.

Review and Discussion, Presiding Officer's Comments

President Reinoso presented this agenda item to the Board. Typically, President Reinoso or presiding officer will use this time to bring the Board up-to-date on items of concern (items of interest that do not require action or do not need a full agenda position) or to make recommendations for future agenda items. President Reinoso asked Kim Frakes if she has heard from the Governor's office pertaining to his reappointment. Ms. Frakes indicated that to date, she has not heard from the Governor's assigned State board liaison. President Reinoso expressed concerns that it has been almost a year since his appointment has expired. Ms. Frakes validated President Reinoso's concerns and indicated that the State board liaison had informed her a few

months ago that board appointments and re-appointments were being confirmed in order of need for each state board, with State boards that were unable to meet due to a lack of quorum having priority in board member confirmation. Sandy Lowery and James Bertone, whose Board confirmations would be expiring soon, expressed concerns that their confirmations could take equally as long.

BOARD OPERATIONS

Review, Discussion and for Possible Action, Approval of Minutes for the February 17, 2012 and March 30, 2012 Board Meetings.

Kim Frakes presented this agenda item to the Board. The meeting minutes for the February 17, 2012 and March 30, 2012 Board meetings were prepared by Ms. Frakes and submitted in their Board meeting packets for their review, discussion and possible action to approve these minutes. Pursuant to the State's Open Meeting Law, these minutes were posted on the Board's website in "DRAFT" form. Following final approval by the Board, a final version of these minutes will be posted on the Board's website. A motion was made by Sandy Lowery and seconded by James Bertone to approve the February 17, 2012 and March 30, 2012 Board meetings as submitted. This motion was carried.

Review, Discussion and for Possible Action, the Year-to-Date Board Cash Flow Statement Covering July 1, 2011 through March 31, 2012, in Comparison to the Fiscal 2011/2012 Budget.

Kim Frakes presented this agenda item to the Board. This agenda item served to update the Board regarding the Board's cash flow and expenditures for the first nine (9) months of fiscal year 2011/2012 (i.e. July 1, 2011 through March 31, 2012), in comparison to the actual budgeted cash flow and expenditures for the 2011/2012 fiscal year. As indicated on the cash flow statement, budgeted cash flow and expenditures at or near **75.00 %** were considered to be "on target" for the year-to-date budget projections. A copy of the 2011/2012 Cash Flow Statement was included in each Board member's packet for their review. Ms. Frakes noted that overall, the Board was on target with expenditures versus in coming monies generated by licensing and renewal fees. Ms. Frakes noted, however, that the Board's overall legal costs have continued to increase. This was attributed to the increasing costs paid to the State Attorney General's Office for representation pertaining to disciplinary cases as well as ongoing legal support. Ms. Frakes suggested that the Board to possible consider placing on the agenda for the next regularly scheduled Board meeting, review, discussion and possible action the Board may consider in order to better capturing uncollected monies utilized in staff time and Board resources in the daily operations of the Board. This could include, but not be limited to, the time Board staff spends on approving continuing education courses. Sandy Lowery noted that the Board's initial application fee of \$40.00 appeared to be significantly lower than the application fees charged by other similar Boards. A motion was made by Sandy Lowery and seconded by Rod Smith to approve the 2011/2012 year-to-date cash flow statement as submitted. This motion was carried. It was noted that the following regularly scheduled Board meeting agenda would include review, discussion and for possible action, consideration of methods to better capture uncollected monies utilized in Board staff time and resources. It was noted that this may require changes in the Board's statutes (NRS 641B) and regulations (NAC 641B).

Review and Discussion, Executive Director's Report.

Kim Frakes presented this agenda item to the Board. This time is routinely used to bring the Board up-to-date on items of concern (items of interest that do not require action or do not need a full agenda position) or to make recommendations for future agenda items. This time may also be used to ask about any issues relating to the day to day operations of the Board. Ms. Frakes reviewed with the Board possible future Board meeting dates. It was determined that May 25, 2012, would be the next tentative regularly scheduled meeting date. It

was further determined that if a date was required in June, the best available date for all Board members may be June 29, 2012.

(Following discussion of this agenda item, the Board took a break from 12:30 p.m. until 12:50 p.m.)

DISCIPLINARY MATTERS—CONTINUED

Review, Discussion, and for Possible Action, Disciplinary Matters

Hearing Pertaining to Violations of Terms of Consent Decree, Nicholas Graham, LSW, 5412-S, Disciplinary Case G11-16.

Henna Rasul and Kim Frakes presented this agenda item to the Board alleging violations of the Consent Decree, in the matter of G11-16, entered into by Nicholas Graham, LSW, and approved by the Board during the December 16, 2011 Board meeting. Following the presentation by Ms. Rasul and Ms. Frakes, the Board may wish to examine Graham as part of their discussion in this matter. Following review and discussion of this matter, the Board may take action by approving the consequences that would be stipulated in a Board order if it is determined that Graham violated any of the items stipulated in his Consent Decree pertaining to disciplinary case G11-16.

President Reinoso administered the oath to the Court Reporter, Deborah Greco. He was informed that Nicholas Graham, Respondent, in the matter of G11-16 was present. President Reinoso then administered the oath to Mr. Graham. Copies of the Consent Decree pertaining to G11-26 executed on December 28, 2011, substance abuse evaluation that was stipulated in the consent decree, and the notification of hearing was distributed during the break to each Board member. Mr. Graham indicated that he did not have any additional documentation to distribute to the Board during the hearing. Ms. Frakes noted that although the Consent Decree pertaining to G11-26 was deemed a public document, copies of the substance abuse evaluation being reviewed by the Board would be deemed "confidential" and will not be considered part of the Board packet for public review within the limitations of NRS and NAC 641B.

In presenting this case to the Board, Ms. Rasul noted that following the execution of his Consent Decree on December 28, 2011, Mr. Graham had been arrested for a DUI (Driving Under the Influence) on or around January 28, 2012. Although Mr. Graham appeared to comply with most of the stipulations contained in his Consent Decree, he appeared to be in violation of Item 6, found on page 6 of his Consent Decree. This stipulation reads: "GRAHAM shall obey all federal, state and local laws, insurance company policies or contracts and orders of the BOARD, which are not inconsistent with this Consent Decree, pertaining to the practice of social work in this State. Any and all violations shall be reported by GRAHAM to the BOARD in writing within seventy-two (72) hours." Accordingly, it appeared that Mr. Graham was in violation of not obeying all "...federal, state and local laws..." when he was arrested for the DUI. Furthermore, it appeared that he was in violation of his Consent Decree when he failed to report this incident until almost two weeks following this arrest.

In presenting his explanation to the Board, Mr. Graham noted that he had been in compliance with other stipulations in the Consent Decree and that he had obtained a substance abuse evaluation. He acknowledged that the substance abuse evaluation, for the most part, was an accurate evaluation. He had been meeting with a CADIC for individual and group counseling and planned to remain in the recommended program for the minimum six (6) months stated in the evaluation. Given his legal situation, Mr. Graham acknowledged that he would continue to adhere to any ongoing recommendations made by the court, including any ongoing substance abuse treatment. He declined, however, to participate in the ongoing 12 Step that was recommended in the substance abuse evaluation as he did not particularly find this beneficial. Mr. Graham had

also been compliantly meeting with the Board approved LCSW mentor as stipulated in the Consent Decree. He expressed that he did not understand the stipulations contained in item 6, page 6 of his Consent Decree. Mr. Graham admitted to the Board that following the execution and receipt of his Consent Decree, he had neglected to review it further in order to assure his compliance in this matter. In discussion of this matter, Tracy Cassity asked Mr. Graham his objective in completing this Consent Decree. Mr. Graham expressed his frustration of having to meet with the Board following his DUI arrest. Although expressing a degree of empathy, members of the Board expressed concerns that although there did not appear to be any present direct harm to clients pertaining to alleged substance abuse issues, the burden of their concerns pertained to the increased harm to clients. The members of the Board reminded Mr. Graham that their primary objective was the protection of the public from impaired practitioners to include the increased harm to clients and the public that resulted from practitioner impairment. Following review, recommendations made by Sandy Lowery, and discussion by the Board, a motion was made by Sandy Lowery and seconded by James Bertone to approve the following Board Orders pertaining to the Consent Decree approved by the Board on December 16, 2011 and executed on December 28, 2011:

The following items stipulated in his Consent Decree would remain in full effect and enforcement:

- Nicholas Graham (GRAHAM) was found to be in violation of his Consent Decree;
- GRAHAM will continue his one (1) year probation against his social worker license, effective December 28, 2011;
- GRAHAM shall maintain his social worker license;
- GRAHAM shall continue to meet with his Board approved LCSW mentor/consultant;
- GRAHAM is required to notify the Board in writing within seventy-two (72) hours after any changes in social work employment;
- GRAHAM shall receive credit towards his probation only while employed as a LSW in the State of Nevada;
- GRAHAM shall notify all current and potential employers of any term or condition of the Consent Decree as stipulated;
- GRAHAM will be financially responsible for all requirements of the Consent Decree and Order.

The following items would be an amendment to the Consent Decree as addressed in the Order:

- Within forty-five (45) days following the approval and execution of this Order, GRAHAM agrees to:
 - Reimburse the BOARD for all costs in legal and investigative fees as indicated in the affidavit attached to the Order;
 - The BOARD may consider a payment arrangement providing the arrangement is submitted and approved within forty-five (45) days following the execution of this Order.
- Within fourteen (14) days following the execution of this Order, GRAHAM shall provide the Board with a list of practitioners and sign all applicable releases of information;
- As recommended in the Consent Decree, GRAHAM shall adhere to the recommendations of the substance abuse evaluation by continuing his treatment;
- GRAHAM shall provide written updates as stipulated in this Order pertaining to his ongoing legal situation;
- GRAHAM shall notify the Board in writing within ten (10) days following any relapse or discharge from any treatment programs;
- GRAHAM shall obey all federal, state and local laws and shall report in writing within ten (10) days any violations;
- GRAHAM shall attend six (6) continuing education hours pertaining to practitioner impairment and submit a written report to the Board pertaining to this continuing education course(s);
- At the conclusion of his one (1) year of probation, GRAHAM may submit a written request for termination of his probation and full reinstatement of his social worker license, as stipulated in the Order.

Violation of the terms and conditions of the Consent Decree and Order during the period of probation will result in an immediate and automatic suspension of GRAHAM'S license until members of the Board, the Board's Executive Director and Board Counsel are able to convene a hearing to determine whether there has in fact been a violation of the terms and conditions of the Consent Decree and/or Order. Until such hearing is convened, GRAHAM'S social worker license would be suspended and he would not be allowed to practice as a social worker.

This motion was carried. The Board expressed to Mr. Graham that his length of time his social worker license was on probation was not increased as he would continue to be under fairly stringent court orders and that he appeared sincerely invested in fulfilling his obligations to the court. It was noted, however, that should he return to the Board for any additional violations, the Board would more than likely be inclined to pursue more severe sanctions, including the suspension or revocation of his social worker license. Mr. Graham agreed to contact Ms. Frakes on Monday, April 30, 2012, in order to establish payment arrangements with the Board. *(Anyone desiring a copy of either the Consent Decree and/or Board Order may request a copy of either document, which is deemed a public document, by submitting a written request to the Board. Please reference case number G11-16 when requesting either document).*

(Following conclusion of this agenda item, the Board took a ten (10) minute break in order to allow Ms. Greco to conclude her services as court reporter. She left the Board meeting shortly after).

Consideration of Consent Decree, Bertrand Ithurrealde, LSW, 5491-S, G10-16

Henna Rasul and Kim Frakes presented this agenda item to the Board. During the December 16, 2011 Board Meeting, the Board reviewed and denied a proposed Consent Decree pertaining to disciplinary case G10-16. All parties being mutually desirous to resolve this matter had been working diligently to revise the Consent Decree in order to propose it to the Board during this Board meeting. Mr. Ithurrealde and his attorney, Kerry S. Doyle, requested to be present during the Board meeting to answer any questions the Board may have pertaining to this matter. Ms. Doyle expressed that she and Mr. Ithurrealde wanted to be present during the December 16, 2011 Board meeting to answer any Board questions, but believed that such an appearance was not required. Ms. Frakes further clarified that in the Board's remote history, certain Board members had questioned respondents pertaining their consent decrees in an investigative manner versus utilizing the questioning to provide clarification regarding items in the consent decree. Since the basis of a consent decree was a settlement that was negotiated prior to a Board meeting between the respondent, and on behalf of the Board by the Executive Director and Board Counsel, such an investigative form of questioning proved to be counter productive in reconciling a disciplinary case during the Board meeting.

The Board members reviewed the revised Consent Decree pertaining to G10-16 following distribution by Ms. Frakes. James Bertone expressed that the contents of the revised Consent Decree address the concerns in the previous consent decree presented during the December 16, 2011 Board meeting. He and the Board expressed their approval of the revised Consent Decree. Bertrand Ithurrealde utilized the opportunity to address the Board regarding the proposed consent decree. Mr. Ithurrealde indicated that his intentions were not malicious and although he disagrees with certain allegations regarding his performance at the Complainant's agency, he was anxious to resolve this issue which has been a lengthy process for him. Mr. Ithurrealde indicated his desire to achieve his primary objective by obtaining his clinical social work licensure with the Board. He indicated that it was his intention to work in the spirit of cooperation with the Board in achieving his primary goal and that his agreeing to settle with the Board via the Consent Decree was his attempt to demonstrate his willingness to resolve this matter.

The Stipulated Adjudication in the Consent Decree pertaining to Disciplinary Case G10-16 includes the following:

- Bertrand Ithurralde's (ITHURRALDE) social worker license will be suspended for one (1) year. The suspension will be stayed after three (3) months and his license will be on probation for the remaining nine (9) months;
- ITHURRALDE will reimburse the Board for investigative and legal costs stipulated in the Consent Decree;
- ITHURRALDE will not represent himself as a "social worker" during the period of time that his license is suspended. He will correct his selected taxonomy code during his license suspension;
- ITHURRALDE will furthermore refrain from representing himself as a social worker in any private enterprise until appropriately licensed to engage in independent practice;
- During his probation, ITHURRALDE agrees to the following:
 - He will maintain his social worker license;
 - His previous internship program, IC-577 shall be closed and the hours forfeited;
 - He shall obey all federal, state and local laws. Any violations shall be reported in writing within seventy-two (72) hours to the Board;
 - He shall notify the Board in writing within seventy-two (72) hours following any changes in employment;
 - He shall receive credit towards his probation only while employed or volunteering as a social worker in the State of Nevada;
 - He shall notify any current and potential employers of any term or condition which will affect his employment;
 - He will be financially responsible for all terms and conditions of this Consent Decree.
- ITHURRALDE will not be eligible to enter into a Board approved internship program until the three (3) months of suspension have been terminated and only under the terms and conditions stipulated in the Consent Decree;
- ITHURRALDE'S Board approved internship program supervisor shall be a different LCSW from the mentor/consultant stipulated below, and as stipulated in the Consent Decree;
- The LCSW internship program supervisor and LCSW mentor/supervisor shall meet as stipulated in the Consent Decree;
- ITHURRALDE shall choose a different LCSW who will serve in the capacity of a mentor/consultant upon reinstatement of his social worker license. He shall meet with the LCSW mentor/consultant as stipulated in the Consent Decree.
- ITHURRALDE shall attend six (6) hours of continuing education as stipulated in his Consent Decree;
- At the conclusion of his nine (9) month period of probation, ITHURRALDE shall submit a written request for termination of his probation as stipulated in the Consent Decree.

Following review and discussion of the presented Consent Decree, a motion was made by Sandy Lowery and seconded by Rod Smith to approve the Consent Decree pertaining to Disciplinary Case G10-16. This motion was carried. Upon conclusion of this matter, Mr. Ithurralde and Ms. Doyle excused themselves from the remainder of this Board meeting. *(Anyone desiring a copy of either the Consent Decree may request a copy of this document, which is deemed a public document, by submitting a written request to the Board. Please reference case number G10-16 when requesting this document).*

PUBLIC COMMENT

No one was available from the public to offer comment.

ADJOURNEMENT

A motion was made by Tracy Cassity and seconded by Rod Smith to adjourn the Board meeting at 2:55 p.m. This motion was carried unanimously.

Respectfully Submitted,

Kim Frakes, LCSW
Executive Director

DRAFT