



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

MINUTES OF BOARD MEETING
October 19, 2012 at 9:00 a.m.

The meeting of the Board of Examiners for Social Workers was called to order by Sandy Lowery, Board Vice President, at 9:00 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. Vice President Lowery 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 Vice President Lowery, with the following individuals present at the following location(s):

Members Present:

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

Staff Present

Kim Frakes, LCSW, Executive Director, Reno
Henna Rasul, Senior Deputy Attorney General, Reno
Lesley Clarkson, Court Reporter, Sunshine Litigation Services

Public Attendees

There was not anyone from the public present at either the Las Vegas or Reno locations.

PUBLIC COMMENT

There was not anyone from the public to offer comment at either the Las Vegas or Reno locations.

REGULAR AGENDA

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

CONSENT AGENDA

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

DISCIPLINARY MATTERS

Review, Discussion and for Possible Action, Recommendation to Dismiss: G11-01, G11-02, G11-32 and G11-35.

Kim Frakes presented a redacted account of the above cases and the rationale for dismissing these cases as noted below. Ms. Frakes brought to the Board's attention that James Bertone would be recusing himself from voting on cases G11-01 and G11-02 as he may have knowledge of the licensees involved in this matter. Following presentation of cases G11-01 and G11-02, a motion was made by Tracy Cassity and seconded by Rod Smith to dismiss these two cases. This motion was carried with Mr. Bertone abstaining from voting. Ms. Frakes then presented case G11-32. Brief discussion followed regarding competency as it pertained to

licensees. Following discussion, a motion was made by Rod Smith and seconded by Tracy Cassity to dismiss this case. This motion was carried. Ms. Frakes then presented case G11-35 to the Board. Following a brief discussion regarding this case, a motion was made by Rod Smith and seconded by James Bertone to dismiss this case. This motion was carried.

Review, Discussion and for Possible Action, Disciplinary Matters, Hearing Pertaining to Violations of Terms of Consent Decree and Board Orders pertaining to Nicholas Graham, LSW, expired, 5412-S, Disciplinary Case G11-16.

Kim Frakes noted that this hearing was scheduled to begin at 10:00 a.m. and recommended that the Board continue to address the items on the agenda until the parties pertaining to this matter arrived. Vice President Lowery agreed and the next item on the agenda was addressed.

Review and Discussion, Redacted Disciplinary Report.

Kim Frakes presented this agenda item to the Board. She noted that the number of open cases continued to hold steady and presently was at "83" cases. Sandy Lowery inquired about ongoing efforts to utilize Board members to assist in this matter. It was noted that several cases on the disciplinary list did not have accusation letters. Ms. Frakes and Henna Rasul noted that pursuant to NAC 641B.305, a Board member could not become involved until after the licensee had been notified by Board staff (Executive Director) pursuant to NAC 641B.305(4)(a). Ms. Frakes noted that James Bertone has indicated his willingness to assist in investigating disciplinary cases and would recuse himself from voting on any matter pertaining to the assigned case. Due to scheduling conflicts this past quarter, Ms. Frakes was not able to meet with Mr. Bertone regarding any assigned cases. She indicated that during the next few months, she hoped to have at least one case assigned to Mr. Bertone for investigation. Tracy Cassity inquired about whether the Board could disallow seemingly frivolous cases without an investigation. Ms. Frakes explained that pursuant to NRS and NAC 641B, the Board had a legal obligation to investigate any cases alleging violations of the Board's laws and regulations.

ASSOCIATION OF SOCIAL WORK BOARDS (ASWB).

Kim Frakes presented this agenda item to the Board. During the July 20, 2012 Board meeting, the Board voted to appoint Ms. Frakes as the Board delegate who would attend the ASWB 2012 Annual Meeting. This agenda item serves to remind the Board that Ms. Frakes will be attending this meeting and that arrangements have been made by ASWB. In the event that Ms. Frakes was unable to attend this meeting, the Board agreed that President Reinoso would select a delegate. Ms. Frakes noted that she would be out of the office Tuesday, October 30th and return on Monday, November 5th.

DEPUTY ATTORNEY GENERAL REPORT

Aside from reminding the Board about today's disciplinary hearing, Henna Rasul indicated that she did not have anything further to add to today's Board meeting.

Presiding Officer's Comments

Sandy Lowery noted that she did not have anything further to add to today's Board meeting.

BOARD OPERATIONS

Review, Discussion and for Possible Action, Approval of Minutes for the August 17, 2012.

Following review of the August 17, 2012, a motion was made by James Bertone and seconded by Rod Smith to approve the minutes as submitted.

Review, Discussion and for Possible Action, the Year-to-Date Board Cash Flow Statement Covering July 1, 2012 through September 30, 2012, in Comparison to the Fiscal 2012/2013 Budget.

Kim Frakes presented this agenda item to the Board. She noted that the Year-to-Date Board Cash Flow Statement covering July 1, 2012 through September 30, 2012 as well as the fiscal 2012/2013 budget was included in each Board member's Board meeting packet. She noted that figures on the cash flow sheet at or near "25%" were considered to be on target. It was noted that application fees and initial license fees were a little below the 25% target but that this was not unusual considering that application and initial license fees tend to increase significantly in May and June of each year following graduation. Legal costs were also lower this period but would more than likely increase following review of cases and possible dismissal of cases or bringing certain cases forward in the upcoming months for disciplinary action. The Board inquired about the status of the Board's recently submitted BDR which would allow the Board to move license fees and charging a nominal processing fee for continuing education applications. Ms. Frakes explained that it was her understanding that she would be made aware of the status of the BDR once the Legislative session begins in February. Following review and discussion of this agenda item, a motion was made by Rod Smith and seconded by Tracy Cassity to approve the Year-to-Date Board Cash Flow Statement Covering July 1, 2012 through September 30, 2012.

Review, Discussion and for Possible Action, Proposed Board Meeting Dates for the Remainder of 2012 and Entire 2013 Calendar Year.

Kim Frakes presented this agenda item to the Board. Pursuant to NRS 641B.120(3), the Board is required to meet at a minimum of at least one time per each quarter of the year and may meet at other times at the call of the President or a majority of its members. In general, the Board usually meets on the third (3rd) Friday of the month with "odd" numbered months reserved for "regularly scheduled" Board meetings and "even" numbered months reserved for "Board hearings" and other matters that required the Board's attention. A copy of the 2012 calendar for the remainder of the year and 2013 calendar were included in each Board member's Board meeting packet to assist them in observing which 3rd Fridays of each month may be scheduled for a Board meeting. Ms. Frakes added that if a need arose in November, the meeting would be on November 16th. She did not anticipate a Board meeting in December but would notify the Board if there was a pressing need to hold a meeting. She thanked the Board for holding the third Fridays of each month open on their schedules for possible Board meetings. Following discussion of this matter, the Board did not see a need to take action on this matter.

Review, Discussion and for Possible Action, Ratification of the Updated Accusation Form Pursuant to Board Action at the August 17, 2012 Board Meeting.

Kim Frakes presented this agenda item to the Board. She noted that during the August 17, 2012 Board meeting, it was brought to the Board's attention during the presentation of agenda Item 4A-1, that the Board's Accusation Forms appeared inconsistent with the language in NAC 641B.305, *Procedure Upon Receipt of Accusation*, as it pertains to the form being "Properly Verified". The Board had taken action to remove "Properly Verified" from NAC 641B.305(1)(a) during the next revision of Board regulations. In the interim, it was recommended by Henna Rasul and approved by vote of the Board to revise the accusation form by removing the ability to anonymously file an accusation. The revised accusation form was reviewed with Ms. Rasul and has been posted on the Board's website. In reviewing and discussing the revised accusation form, the Board may take action to approve the form as submitted or take action upon further recommended

revisions. Copies of the previous and revised Board Accusation Forms were contained in each Board member's Board meeting packet for comparison. It was noted that the revised Accusation Form appeared more "professional" and up-to-date compared to the older, previous form. Sandy Lowery noted that there appeared to be some issues pertaining to the font size in some of the boxes and offered to assist in correcting this matter. A motion was made by Rod Smith and seconded by Tracy Cassity to approve the updated form as submitted and for Ms. Lowery to address certain font size issues when she was in a position to do so. This motion was carried.

Review and Discussion, Executive Director's Report.

Kim Frakes presented this agenda item to the Board. Much of this report is Information only and Ms. Frakes utilizes 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. This time may also be used to ask about any issues relating to the day to day operations of the Board. Ms. Frakes indicated that she did not have anything further to add to today's meeting and thanked everyone for their attendance.

(The Board took a break from 9:45 a.m. and agreed to return around 10:00 a.m. in order to address agenda item 5B-1).

DISCIPLINARY MATTERS—CONTINUED

Review, Discussion and for Possible Action, Disciplinary Matters and Hearing Pertaining to Violations of Terms of Consent Decree and Board Orders pertaining to Nicholas Graham, LSW, expired, 5412-S, Disciplinary Case G11-16.

(This agenda item was taken out of sequence in order to aid with the efficiency or effectiveness of the meeting or to accommodate persons appearing before the Board—See NRS 241.020)

Vice President Lowery called the Board meeting to order at 10:05 a.m. It was noted that Nicholas Graham was not present for the hearing. Kim Frakes suggested that a Board member go out into the meeting site lobby and outside to the main entrance to see if Mr. Graham was present on the premises. James Bertone offered to see if Mr. Graham was in the lobby or outside the main entrance. After approximately 5 minutes, Mr. Bertone returned to the meeting. He indicated that he did not see Mr. Graham at either locations noted above. Furthermore, site staff in the reception area had not seen Mr. Graham either. Mr. Bertone requested the site staff to direct Mr. Graham to the conference room should he happen to arrive for the hearing.

Henna Rasul presented this matter to the Board as part of a disciplinary hearing pertaining to alleged violations of the terms of his consent decree and board orders as noted below. She called Ms. Frakes to testify in this matter. After being sworn in Vice President Lowery, Ms. Rasul question Ms. Frakes regarding Mr. Graham receiving proper notification of this hearing. Following Ms. Frakes reviewing the August 27, 2012 letter to Mr. Graham, which notified him of today's hearing and proof that an Investigator from the Office of the Attorney General personally hand-delivered the notification to Mr. Graham at his home on August 29, 2012, it was established by Ms. Rasul and the Board that Mr. Graham had received proper notification of today's hearing. Ms. Frakes' testimony is summarized below:

On November 22, 2011, Mr. Graham entered into a Consent Decree with the Board regarding disciplinary case G11-16 and his social work license, 5412-S, which has since expired. The Consent Decree was approved by the Board during its December 16, 2011 Board meeting. The Consent Decree was executed on December 28, 2011. On April 27, 2012, the Board conducted a hearing pertaining to Graham's alleged non-compliance with his Consent Decree and approved an Order. The Order continued portions of the Consent Decree while also

amending other portions of the Consent Decree. The Order also contained an affidavit of Board costs which Graham was required to pay. To date, Graham it appears that Graham continues to be non-compliant with the stipulations in both his Consent Decree and Board Order, including failure to maintain his license and reimburse the Board for costs associated with the Order. Ms. Frakes added that following the Board's review and discussion of this matter, a list of "Suggested Sanctions" were provided to assist the Board in their deliberating the sanctions. She emphasized that the were *recommendations only* and that the Board members were free to arrive at their recommended sanctions independently of the suggested sanctions. Ms. Frakes also noted that the following items were included in each Board members' Board meeting packet to assist them in their deliberations:

1. Copy of Consent Decree executed December 28, 2011;
2. Copy of Board Order executed April 27, 2011, including affidavit of Board costs pertaining to hearing;
3. Copy of Notification of Hearing which includes a summary of alleged violations of Consent Decree and Board Order;
4. Updated Board costs to date to prosecute this matter; and
5. List of Suggested Sanctions (*Recommendations Only*)—distributed by Board's Executive Director at the Hearing.

Ms. Rasul reviewed the history which resulted in Mr. Graham initially to entering into a Consent Decree with the Board. Ms. Frakes explained that Mr. Graham had failed to notify the Board following initial licensure of an arrest related to disturbing the peace and public intoxication. He also failed to correctly respond to screening questions on his renewal application pertaining to "arrests and convictions" and questions related to "impairments" related to drugs and or alcohol. This resulted in Mr. Graham entering into a Consent Decree on December 28, 2011. Although Mr. Graham was compliant in reimbursing the Board for legal costs affiliated with the Consent Decree, he appeared to be in violation of other stipulations pertaining to properly notifying the Board within 72 hours following any arrests or convictions and abiding all state and local laws. His violation pertaining to these stipulations occurred when he was arrested while under the Consent Decree for a DUI. Mr. Graham failed to notify the Board within 72 hours and notified the Board well after twenty one (21) days. Furthermore, a DUI was deemed a violation of his stipulations pertaining to abide by all state, federal and local laws. On April 27, 2011, the Board conducted a hearing pertaining to Mr. Graham's alleged violations of his Consent Decree. It was determined that while he had met certain stipulations, he was in violation of other stipulations. During deliberations the Board approved an Order which continued some of the items from the Consent Decree, modified other items in the Consent Decree, eliminated items which were completed in the Consent Decree, and approved him to reimburse the Board for legal costs pertaining this matter. The final costs would be submitted to Graham following an itemized statement of costs and an affidavit signed by Ms. Frakes indicating that the costs were true and correct to the best of her knowledge.

Ms. Rasul recommended that the Board deliberate first on whether Mr. Graham had violated any stipulations in the Consent Decree and the Order. Following deliberations on both items, the Board could then move forward to vote on sanctions. She noted the Ms. Frakes had handed out recommended sanctions to assist the Board with their deliberation regarding this matter. Ms. Rasul also noted that the Board had to authority to address these matters as stipulated on page 5 of the Order. Following review and discussion of the December 28, 2011 Consent Decree, it was determined that Mr. Graham had violated the following pertaining the Consent Decree:

1. Maintaining his social worker license, number 5412-S during his one year probationary period;

2. Meeting with his LCSW Board approved mentor/supervisor with frequency of meetings and topics of discussion stipulated in the Order;
3. Notifying the Board within seventy-two (72) hours following any change in social work employment;
4. Receiving credit for time serve during probation will be based upon time employed in this State as a licensed social worker; and
5. Being financially responsible for the costs of all requirements pertaining his Consent Decree and Order.

Following review and discussion of Mr. Graham's April 27, 2012 Board Order, it was determined that Mr. Graham had violated the following stipulations:

1. (a) Reimburse the Board for legal and investigative fees in the amount of \$1,019.56; and (b) Mr. Graham would contact the Board to establish payment arrangements pertaining these costs;
2. Mr. Graham shall provide monthly, written updates pertaining his January 28, 2012 DUI arrest and ongoing court case; and
3. Mr. Graham shall provide proof of attending six (6) continuing education hours from a continuing education course pre-approved by the Board pertaining to practitioner impairment and risk to clients.

Following a review of the alleged violations of the December 28, 2011 Consent Decree and April 27, 2012 Board Order, a motion was made by Tracy Cassity and seconded by James Bertone that the alleged violations noted in the Consent Decree and Order above were confirmed. This motion was carried.

Following deliberations of sanctions, a motion was made by Rod Smith and seconded by Tracy Cassity to approve the following sanctions against Nicholas Graham in the matter of Disciplinary Case Number: G11-16, pertaining his expired social worker license number, 5412-S:

1. The Board will revoke Graham's expired social worker license number, 5412-S. He shall not be eligible to apply for licensure for a minimum of three (3) years following the execution of this Order;
2. Within forty-five days (45) following the execution and approval of this Order, Graham shall
 - a. Reimburse the Board for all in legal and investigative fess in the amount of three thousand four hundred twenty-four dollars and 57/100 cents (\$3,424.57) as indicated in an "Affidavit of Costs" attached to the Order; and
 - b. Pay a fine of one thousand dollars (\$1,000).
 - c. The Board may consider a reasonable payment plan for payment provided Graham contacts the Board's Executive Director and submits a written request for a payment plan within forty-five (45) days from the execution of the Order.
 - d. Full payment must be received in full before the Board will consider any future applications for licensure submitted to the Board by Graham.
3. After a minimum of three (3) years following the execution of the Order, Graham shall be eligible to apply for a new social worker license. Should Graham apply to be licensed by the Board, he shall stipulate to the following:
 - a. Graham shall be required to take any examination in place at the time of licensure, including any licensing examination pursuant to NRS 641B.250;
 - b. Graham shall not be eligible to apply for endorsement or consideration of any out-of-state social worker license, pursuant to NRS 641B.270. Furthermore, he shall not be eligible for a provisional license pursuant to NRS 641B.275.

- c. Graham shall submit to fingerprinting pursuant to NRS 641B.202. Should the criminal background report reveal positive criminal history, Graham shall provide:
 - i. A full explanation of each event and furnish, to the Board's satisfaction, certified court documents pertaining to each event including proof that he has fully complied with any court orders or stipulations regarding each event.
 - ii. Any event not fully disclosed by Graham on his application for licensure including arrests, convictions, suspension of professional certifications or licenses and/or professional civil court proceedings, shall be cause to deny Graham's application for social work licensure for a specified period of time. This shall include any act considered to be a violation of the practice of social work or violation of NRS 641B or NAC 641B
- d. Upon receipt of Graham's completed application for a new social worker license, criminal background report following submission of fingerprinting pursuant to NRS 641B.202, full disclosure and submission of information, related to any arrests and convictions and successful completion and passing of any examination(s), including examination(s) required for licensure, Graham shall appear before the Board for a hearing related to consideration of his application for licensure, pursuant to NRS 641B.260.
- e. During Graham's personal appearance before the Board for consideration of a newly issued social worker license, he shall be examined by the Board in order to determine his fitness for duty as a social worker. The Board may request presentation of evidence of his rehabilitation and maintenance of wellness pursuant to NRS 641B.206(1).
- f. During the hearing stipulated above as 4d, the Board may request additional proof of Graham's rehabilitation and wellness, including but not limited to a forensic or fitness for duty assessment, and/or a substance abuse evaluation. Any assessment or evaluation recommended by the Board during this hearing shall be conducted by a Board approved licensed mental health practitioner in the State. Should the Board deny licensing Graham, he shall not reapply to the Board for licensure for a specified period of time not to exceed three (3) years.
- g. During Graham's appearance before the Board, the Board may place specific restrictions and/or stipulations upon his social worker license, including but not limited to:
 - i. Ongoing supervision/mentoring by a Board approved supervisor, occurring at a frequency and duration determined by the Board;
 - ii. Topics to be addressed during supervision/mentoring between Graham and the Board approved supervisor;
 - iii. Written reports pertaining to the specified supervision/mentoring meetings; and
 - iv. Continuing education courses which may be in addition to the number of continuing education courses required to maintain his license.
5. If stipulations are placed upon Graham's new social worker license, he shall be financially responsible for all costs in satisfying these stipulations.
6. Failure to abide by any stipulations/restrictions placed upon Graham's new social worker license shall be cause for the Board to take disciplinary action against Graham's new license.

This motion was carried. The disciplinary hearing pertaining to Nicholas Graham, in the matter of disciplinary case G11-16 and concluded at 10:48 a.m.

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. No action may be taken upon a matter raised under this*

item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken....)

There was not anyone from the public to offer comment.

ADJOURNMENT

A motion was made by Tracy Cassity and seconded by Rod Smith to adjourn the Board meeting. This motion was carried with the meeting adjourned at 10:55 a.m.

Respectfully submitted,

Kim Frakes, LCSW
Executive Director

DRAFT