



STATE OF NEVADA

BOARD OF EXAMINERS FOR SOCIAL WORKERS

4600 Kietzke Lane, Suite C121, Reno, Nevada 89502

MINUTES OF BOARD WORKSHOP JULY 30, 2019

MEETING CALLED TO ORDER and ROLL CALL:

The workshop of the Board of Examiners for Social Workers (BESW) was called to order by Vikki Erickson, Board President, at 9:07 a.m., July 30, 2019. The workshop was held at Kietzke Plaza Professional Offices, Conference Room G-160, 4600 Kietzke Lane, Reno, NV 89502. President Erickson noted that the meeting had been properly posted and that the Board members present constituted a quorum.

The roll call was initiated by President Erickson with the following individuals present:

Members Present:

Vikki Erickson, LCSW, President (**Erickson**)
Monique Harris, LCSW, Vice President (**Harris**)
Susan Nielsen, Secretary/ Treasurer (**Nielsen**)
Stefaine Maplethorpe, LCSW, Board Member (**Maplethorpe**)

Staff, Advisors Present

Michael Detmer, Esq., Board Counsel (**Detmer**)
Miranda Hoover, Capital Partners (**Hoover**)
Sandra Lowery, LCSW, LCADC, Deputy Director (**Lowery**)
Karen Oppenlander, LISW, Executive Director (**Oppenlander**)

Guests

Dr. Kathleen Bergquist, LCSW, University of Nevada, Las Vegas
Dr. Shadi Martin, University of Nevada, Reno
Rota Rosachi, LSW, Nevada Public Health Foundation

*Board members and Board staff will be identified by the above **bolded** means throughout the minutes.*

PUBLIC COMMENT:

Rota Rosachi: I just wanted the Board to know that I've been a social worker for 44 years and I've been practicing social work long before licensure, when anyone with a degree from any college could call themselves a social worker. During 1987, the legislature established educational and training standards with the ultimate objective of requiring a bachelor's degree in social work. The licensing law was sought to help professionalize the field of social work and to set standards by which social work ethics and code of conduct could be measured and evaluated.

The legislature recognized many individuals who were practicing as social workers in Nevada but did not meet the educational standard. To prevent any unfairness, they enacted a grandfather clause: the Licensed Associate in Social Work, LASW. The employers had to certify the individuals held themselves out to the public as a social worker and engaged in the “application of method, principal and techniques of case work, group work, community organization, administration, planning, consultation and/ or research to assist persons, groups and/ or communities to enhance or restore their ability to function physically, socially and economically, which comes directly from 641B.030(2) which defines social work.” In cases where the LASW was granted, the Board determined the positions, duties that constituted the practice of social work. The key was not what the individual position was called but the duties performed and whether a reasonable member of the public believed the individual was a social worker.

The social work licensing law went into effect July 1st, 1988. I applied for my social work license shortly thereafter and now carry a licensed social worker license (LSW) number 0185-S. I'm here today to represent LSWs. I brought up the history of the LASW as 31 years after licensing, it is noted that public agencies and others are short licensed social workers and are now once again using non-social-workers to do what the field identifies as social work. The Association of Social Work Board's “Model Social Work Practice Act” (Act), states that social work is a learned profession affecting public health and welfare.

The Act provides the definition of what baccalaureate social work means on page four of the Act. Under Article III, Section 306, it states a BSW is authorized to engage in independent practice (defined in Article I, Section 108 (q) after completing two years of full time supervised practice.

NAC 641B.044 conflicts with the Act: to engage in the practice of social work as a social worker under the supervision of an agency.

NRS 641B.220 grants social work and LASW licenses and it doesn't give permission on independent work but it also doesn't prohibit.

Page nine of the Act defines independent practice meaning practice of social work outside of an organized setting such as a social, medical or governmental agency in which the social worker assumes responsibility and accountability for services provided.

I've tried to represent this independent practice at prior social work Board meetings/ hearings. There are a couple of other reasons why I represent the LSW license e.g. the cost of a license. We are the lowest paid of all of the social work licenses and there's limited opportunities for us to increase our employment. Also, I'm here because there's a failure rate of social workers when taking the national social work license exam; we need to work together to help with test taking and the cost of the examination itself. And I've been hearing social workers who are leaving the State of Nevada because of their lack of ability to pass the test; or, they are not being able to be licensed at all.

I wanted to be a part of the solution, not part of the problem. I read every page of the handouts to prepare for this meeting. I also believe that the organization that I work for could apply for NAC 641B.191(2) as an approved provider of continuing education. My organization is a 501(c)(3) educational institute designated by the IRS. We possess the

ability to provide professional quality programs of continuing education as demonstrated by the years of CEU applications to the Board; it is led by a social worker with at least three years of experience. I believe this will help reduce the number of people and the time it takes for the Board to approve CEU requests.

Thank You.

Asking for further public comment and there being none, **Erickson** moved to **Agenda Item 3: Board Retreat: Review of 2018-2023 BESW Strategic Planning Process**. She referred the planning process item to **Oppenlander** who reminded the Board that almost one year ago, the BESW organization came up with its first strategic plan. To set the framework for the day, she prepared everyone by stating that we would be working in small time increments and to be efficient we would be putting a lot of things on a “parking lot”; and, we would be coming back to those items throughout the retreat or after the retreat. To be the most effective, she introduced some “ground rules” and the group also added others. The ground rules included laughter, being respectful of each other and our different opinions (any opinion is a good opinion), listening, and don’t speak when someone else is speaking. She went on to give the group a sense of the timeframe for the retreat with each day beginning at 9 a.m. with some refreshments. Today, she’d start with an educational session re: Board strategy, **Detmer** would give an overview of the NAC change process, **Erickson** would talk about the ASWB Model Practice Act, and **Harris** would discuss public feedback around fee increases. Also, that the group would be taking a one hour break for lunch.

Oppenlander reviewed how the Board came up with its strategic plan last year. She reminded Board members that they had hired Kelly Marshall from Social Entrepreneurs to create a strategic planning process to look at all the things that the organization could do to achieve its mission and then get focused on what it should do. Kelly utilized a clinical planning process that would work for a clinician to strategize (make plans) with a client. Using this process, the Board was able to equate the clinical process with the Board’s strategic planning process e.g. identifying long term goals (patient goals), what strategies would help the patient (or in the Board’s case: the organization) to move closer to their goals, how would you measure progress as a patient (or how would we measure the Board’s progress?), and what interventions are needed. To come up with this approach, Kelly first drew from an assessment that the Board completed prior to the 2018 Board Retreat to help identify its most critical areas.

Oppenlander suggested some of the things that BESW ought to consider moving forward. On the first page of the strategic plan, it states that “by 2023, BESW would achieve at a 75% satisfaction rating from licensees”. As the Board member leading this goal just retired from the Board, we don’t have a “leader” for this section now. And in general, this would be a good time to split up the four remaining Board members so that only one member is responsible for each goal. She asked Board members to consider which goals they would like to be the leader for. **Detmer** agreed and explained why it would no longer be a good idea to assign two members to a goal as anytime we create a subcommittee with two members, we’re going to be subject to the open meeting laws. This means that every time the members would meet, it would require BESW to basically conduct it like any other standard public meeting, with clear and concise statements on the agenda, and also record and publish the minutes.

Next, **Oppenlander** moved to **3B: Factors to Consider in Updating the Strategic Plan (i) June 2019 Recommendation from State of Nevada Executive Branch Audit Committee**.

She covered the first area where an outside recommendation will likely affect BESW future strategic planning. There is a recommendation is coming from the executive branch of government audit committee (EBAC). In the Board packet in section three, there's a Boards and Commissions, Independent Occupational Professional License Boards, Governor Audit Report that was issued on June 25th of 2019. She went on to summarize from the minutes of that meeting.

Mark Richards (from EBAC) reported that the EBAC audit was conducted last year and focused on state governance and regulatory practices of the 34 independent licensing Boards. It was recommended by EBAC that the Boards be established under the Department of Business and Industry. The Office of the Attorney General determined that the Boards, even though fee funded, were subject to oversight by both the executive and legislative branches. Oversight of the Boards has been an ongoing discussion for many years. In 1992, a study of Nevada's state government structure determined that the proliferation of Boards diluted responsibility and accountability such that the Governor may not have been able to coordinate and ensure the appropriateness of Board policies and actions. The study recommended that a liaison state department provide executive oversight of the Boards. According to the 2019 EBAC report, the findings of the 1992 study are still relevant today. Each Board through its enacting legislation is granted the authority to oversee its own practices. Board members, generally appointed for their knowledge of the profession, are solely responsible for the oversight of the Board activities.

There is no executive branch agency or officials with responsibility for the coordination of oversight of all Boards. Existing oversight is exercised primarily by the legislature through the Legislative Commission Sunset Committee. Sunset's mandate is to review a minimum of 10 Boards at during each interim session.

The report went on to say: Of the executive branch departments, Business and Industry is uniquely positioned to fulfill the state liaison role contemplated by the 1992 study. In that role, Business and Industry (B&I) could ensure the coordination and appropriateness of Board practices as well as provide the benefit of support and shared services for some Boards. B&I is currently organized, staffed, and experienced in providing oversight and support for a diverse group of 23 regulatory bodies. So on page 37 of the report, there is a picture in of an umbrella; that is how B&I looks and where we would be placed under that umbrella.

While future B&I oversight structures are currently undetermined, a semi-autonomous structure may be best for balancing executive oversight with the existing autonomous structure favored by the Boards. So, as you know, you fought to stay an autonomous Board during the prior legislative session. Under a semi-autonomous structure, Boards could potentially retain their independent authority to license and establish standards for the professions and would also benefit from B&I oversight and support as appropriate. B&I oversight could also benefit the Legislature's Sunset Committee by providing coordinated information and analysis of the Boards as a group.

Also, B&I could function as a state supervisor to mitigate exposure to antitrust liability as per statements made by the Federal Trade Commission. (See page 37 re: Board members as active marketplace participants that regulate themselves).

Furthermore, B&I could be given authority to establish standards for BESW policy and procedure manuals in the future. In the BESW strategic plan, there is currently a goal to create

BESW policies and procedures. If the intent is to move BESW to B&I oversight effective in January 2022, then it makes sense to fulfill this goal in alignment with B&I's standards. In the same way, unregulated Boards are not subject to certain statutes. In the future, we would likely be subject to other changes e.g. the personnel act, budget act, and state internal controls and procedures.

B&I Director Michael Brown was at the EBAC meeting in Carson City when this report was introduced along with the Lieutenant Governor, the State Treasurer and Secretary of State. In Las Vegas was the Attorney General and Governor Sisolak. Brown was asked to speak about this proposition that was being made to his organization. Would B&I like to be the umbrella organization for all of this? Brown noted that this was initially proposed in 1963 by Governor Sawyer in attempt to bring regulatory coherence. His department was expanded in 1993 to what is shown in the umbrella picture illustrating that B&I provides accounting, purchasing and administrative services through the Director's office. The shared services effectively removed agencies from having to deal with that on an individual basis and it has yielded some economies of scale from bringing agencies on a horizontal basis. Brown has been looking at how this idea was proposed in other states. He has focused especially on Utah and Colorado models as they are both growing, western states that are approximately equal in size to Nevada with prosperous economies and having an equivalent to B&I in their states. The Deputy Director of B&I spoke about how they did not insert B&I itself into policy decisions with each of the Boards and Commissions under its current purview; but, it provides administrative review, procedural consistency that allows the Boards and Commissions to handle their day to day business in their specific areas. It also brings consistency to the open meeting laws, administrative processes within the state. The Director of B&I stated that the draft EBAC audit report on Nevada's licensing Boards identifies the many governance gaps in organizations that function within state government. He said that the current patchwork of Boards is inefficient and creates substantial financial data security, human resources and reputational risk; that they lack standardized financial, human resource and other administrative controls. There was concurrence between the EBAC recommendation, the Director of B&I's assessment of the situation and a statement by the Governor who intends to move forward with this recommendation during the next legislative session.

Dr. Kathleen Bergquist asked if this approach may be laying the groundwork for consolidating behavioral Boards. Having heard similar comments, **Oppenlander** had heard about this when the 2018 Legislative Sunset Committee was discussing this approach. During the last interim session, Sunset decided to not merge the four behavioral Boards in 2018. This newer 2019 solution is different as it is being offered by the executive branch.

Erickson agreed and hearing about this different type of option to let the Board do what the Board does best and take the burden of a lot of the other issues off the table. She asked about the structure and **Oppenlander** answered that the Colorado and Utah models referred to by Director Brown are shown on page 37 of the handout.

Nielsen said: Having worked for the federal government, we had a lot of stages, approvals, and briefings when we were doing something like this; I think of the middleman in the process. **Harris** wondered about how this would all be paid for. **Oppenlander** stated that the report suggests that B&I would be able to access general fund monies to do some of the oversight required. This oversight would include various tasks including: smaller Boards would have to go to B&I to get their budget reviewed before the Board approved them; that executive directors

would have job descriptions provided by B&I; that B&I would assist the Boards with the executive director interview process; would help the Boards with leases, etc. **Oppenlander** stated that if this recommendation is legislated, the plan is to put this in place in January 2022.

Harris asked if this is a good time to talk about fee increases with such uncertainty.

Oppenlander stated that we have to consider fee increases now as we have mandates that we can't meet without fee increases.

Nielsen aired her concerns about statements made in the document saying that the Federal Trade Commission suggested that active supervision would be provided by the executive branch administrator agency or by an official that oversees regulatory Boards; also, that oversight would be given for making personnel decisions as a hiring agency for the Boards.

Maplethorpe mentioned that the Board hired the executive director and did the interviewing; and in the future, B&I would be involved in the process. **Oppenlander** agreed that B&I could be part of the process to help with vetting for needed experience, helping to create job descriptions that are appropriate for running licensing Boards and so on.

Hoover: Regarding this process and this issue, I have been in contact with Director Brown and his office. Because of a bill that passed during the last legislative session our Board already has a seat at the table in this discussion. We are very active with the Governor's office and the person in charge of Boards and Commissions and others. They have reached out multiple times to ask us about where the BESW weighs in on various issues. And while BESW didn't necessarily take a stance, we continue to participate and have a seat at the table. I think that B&I, the Governor's office and the rest of the executive branch will want to give the state and the Boards at least a full year to figure out how to implement these measures and make certain that the transition is as smooth as possible. **Oppenlander:** She closed this portion of the presentation by referring the group to page 37 where there is a timeframe established by the executive branch. Also, regarding the BESW strategic plan, we have a solid strategic plan, but external things continue to happen after you put your plan on the table. So we will need to weave these external matters into our plan.

Oppenlander moved forward to Item **3B (ii): June 2019 – Senate Concurrent Resolution 6 (SCR6) Assigned to Legislative Counsel Bureau for Oversight during the Interim Session.** 2019 SCR6 directs the Sunset Subcommittee of the Legislative Commission to conduct an interim study concerning professional and occupational licensing Boards. During the last interim, Sunset Committee legislators identified problems in twelve significant areas. In a summary of the areas of concern, we see that not all Board members and staff (referring to all Boards) participated in the training being offered by the attorney general; that operating reserves vary widely among Boards and many had no policy regarding reasonable reserves; that some Board practices allow funds to be retained, creating a potential conflict of interest; that fee structures among Boards are not uniform; that many Boards utilize outside counsel instead of the Office of Attorney General; that Boards hire lobbyists leading to increased expenditures; that not all Boards provide electronic access to documents, payments and fees; with no centralized coordination there are duplications in providing support for compensation, information technology, legal fees, lobbying expenses, office overhead, etc.; there were several instances of embezzlement and/ or financial irregularities reviewed.

The identification of these issues led to the passage of SCR6. I wanted to bring this to your attention because we are (along with other Boards) going to continue to be subject to additional

scrutiny as part of the Sunset Committee process during the interim. The information gathered will be taken to the next legislative session.

Next, **3B (iii), Review of Initial Goals, Accountability Framework and Accomplishments for 2018-2019**. After tying these outside factors back to the Board's strategic plan, we will also need to include ideas that may come from the results that Hoover will bring to us from our satisfaction survey results. Other strategic plan updates will include successful implementation of our online renewal process; projections of when the online applications will be available as well as disciplinary software online. Also, after **Oppenlander** attended the state archives and retention workshop in April 2019, she realized that BESW will need to handle digital documents differently and that our staff is going to need to attend this training too.

She continued stating that there is a goal to reduce 75% of the backlog disciplinary cases in those that were on the books prior to January 1st, 2018. Of these 62 backlogged cases, 31 of them were cleared by June, 2019. So to hit our goal by the end of the year, we have to clear a minimum of 16 more backlogged cases. **Detmer** stated that as far as discharging cases, it is no small task. It's a very involved process that requires a lot of document review and thought.

Maplethorpe: It's very tedious work and getting rid of the backlog is incredible. **Nielsen** stated that this really gets to be the "guts" of our protection responsibilities and deserves a lot of attention. She was concerned when she read the B&I report as it did discuss the possibility of the disciplinary actions being taken from the Boards; she added that this is something we want to keep an eye on because the practice situations and scopes are so unique. **Oppenlander** agreed and she is not inclined to want to wordsmith the NACs when this proposed B&I recommendation is being considered. If B&I could try to standardize the backend of the disciplinary processes, there might be some wordsmithing that's done across all Boards by B&I to get them more uniform. That does not necessarily mean that we'd be handing over disciplinary activities to somebody else although she admitted that she wasn't sure how that would work. She added that the Board's protection responsibilities must be addressed as we have 92 cases open right now. We have backlogged cases since 2009 and that is not okay. So when we discuss fee increases, we need to pay for a full time investigator and we need enough money to pay for the attorney fees to complete these cases.

Dr. Kathleen Bergquist: Is there a possibility that the Board can share information, historical information regarding licensing problems, the complaints that come to the Board (statistically)? This would be helpful as the universities prepare the students. She teaches the legal and ethical class for the UNLV School of Social Work. **Lowery** responded that there are different types of complaints and described the general nature of the complaints the Board receives. There are the complaints that come in that we refer to as "he said, she said" or the complaints e.g. "I don't like the social worker because she didn't get me housing". And there is another type of complaint that rises to the level of warranting an investigation. There is another type of data that would come after the investigation e.g. complaints that are resolved by a consent decree, etc. And I think we could figure out a way to capture that generally, anecdotally. **Detmer** commented that the Board has a fairly broad confidentiality statute as far as what can and cannot be released to the public. Any efforts that would be made for some kind of a data distribution would have to keep the statute in mind for any kind of dissemination. **Detmer** stated the he will have to review the statute carefully before anything gets disseminated, but I thought there might be something that can be worked out. **Lowery** added that the Board has historically looked at the biggest trends we're seeing and given out the top five categories without a lot of specificity. Dr. Kathleen Bergquist added that it can be really valuable in schools of social work as we look at curriculum and how we address some of these issues. Dr. Shadi Martin agreed with Bergquist, stating that the schools

of social work need to know the nature of complaints and use this to learn how to do well in the classrooms, do our job better. Hopefully it would mean that the Board would receive fewer complaints if we can get ahead of it and in that way address a lot of those issues. But not knowing what complaints are coming in creates a sort of a deficit in our knowledge in terms of what things need be in the curriculum. She stated that there's a lot that could be done and that it will be mutually beneficial; so, any information that could be provided would be very helpful. **Maplethorpe** added that she was grateful to have both schools of social work represented at the table.

Next, **Oppenlander** discussed the strategic plan's financial positioning about how BESW converted to a hybrid reporting system. After much discussion with both the executive and legislative branches of government, BESW moved from cash based budgeting to a hybrid cash/accruals based budget. At this point, we have created a Board presentation of our financials that is clear and easy-to-understand. As an aside, **Oppenlander** mentioned that the Board ended up the year (June 30 2019) with approximately \$90,000 and that this amount could help to create a starting place for its mandated operating reserves. For the group's general knowledge, she stated that earlier this year, the BESW bank balance was close to the razors edge and we were deemed at one point to be bankrupt. The Board formulated its strategic plan last year with an intent to have 5 months of operating reserves set aside by 2023. During the 2019 legislative session, the senator chairing the Labor and Commerce committee, stated that the Board should have eight to 12 months in reserves. Besides reserves, the Board will need to increase its fees so that it can meet various legislative mandates. Beyond the already discussed items of backlogged cases; online software applications, we also need to obtain Windows 10 compatible computers.

To wrap up this portion of the agenda, **3B (iv) Executive Director Recommendations for 2019-2020**, **Oppenlander** asked Board members to review the sections of the strategic plan and choose a section to each wants to assume the leadership of during this fiscal year.

In Item **3B (v) Discussion, Questions and Next Steps**, Board members agreed to think about these next steps.

After the group took a fifteen minute break, **Erickson** introduced Agenda Item **C: Legal Nuts and Bolts: Potpourri, Roadmap of Process for NAC Changes (Administrative Rulemaking)** turning the item over to **Detmer**. He began by asking, "What does a government agency do"? **Maplethorpe** answered: regulate and add safety. Another person answered: policies and procedures. **Detmer** added: issues licenses, denies licenses, administrative hearings for contested cases. These are all things that an administrative agency does that a private company can't necessarily do within the authority of the law. So the answer to the question is: It protects the public through administering regulations in its jurisdiction. One of the core thing we do is the creation of regulations and any enforcement of those regulations. A regulation is basically a rule of general applicability that facilitates the effect of execution of our government. We create the regulations through the administrative rule making process. **Detmer** referred the group to review the flow chart within the Board packet.

The administrative rule making process starts with a discussion to better serve the public through the creation, adoption, the amendment of regulations. Once you have an idea of what kind of regulations you want to create, the next step is going to be the small business impact analysis. This stage of the process is a concerted effort to determine whether or not there is going to be a significant economic burden or restriction on the formation, expansion, operation

of small businesses under 50 employees. If it is determined that there will be a burden or restriction, as precluded by statute, there's going need to be more of an analysis. This analysis will involve consulting with those effected, analyzing the potential impact, and trying to discern methods of mitigation to prevent that impact. All of this would go into what's called a small business impact statement which can be fairly involved. If it is determined that small businesses are not impacted adversely, then this statement is much less involved and it's largely just the declaration of the manner and method in which you come to that conclusion.

Along with the small business impact survey are public workshops. The workshops are an opportunity for interested parties to have discussion with the agency about these regulations. That input is to going be considered and incorporated as appropriate.

Next in the process is that we go to the Legislative Counsel Bureau (LCB). The LCB is going to make sure that the regulations that are proposed are clear, concise, and suitable for incorporation into the NACs – the Nevada Administrative Code. If it's not suitable, they will suggest changes to make. The important thing is that when BESW gets the regulations back from LCB that they still meet the intent of the draft regulation when it was submitted to the LCB.

Detmer continued with additional steps in administrative rulemaking: When the regulation goes to the legislative commission, it also goes through the subcommittee that reviews regulations. What they do is make certain that the regulations are suitable, viable, and that the administrative rulemaking process has been observed throughout. If they object, we will have to go through some more modifications, rewrites. And then we have notice requirements. There is notice of 15 days for a workshop; it's 30 days for the notice of intent of the adoption, etc. We have some additional requirements when it comes to regulations with notices to the Department of Behavioral Health and the Legislative Council on Health Care. Both can make objections and this can slow down the process. It's not an easy process and it's not a hard process either. It is an involved process and we wouldn't expect this to happen fast as it is a serious and important matter. **Maplethorpe** said that her first experience with posted notices was with the suicide prevention CEU requirements; it was interesting to learn about the process of the workshop e.g. how many people will show up to give public comment in the north vs the south.

Detmer continued saying that the draft as proposed would become effective once it's filed with the Secretary of State. But if the regulations aren't approved, then they won't be effective until everything is done correctly in accordance with the statutes.

For clarification, **Oppenlander** asked **Detmer** to describe the difference between NACs and the NRS. **Detmer** stated that the regulations are a way to facilitate the institution of our chapter's Nevada Revised Statute NRS 641B. Regulations are pursuant to the statute; so there can be not be a regulation that is not backed up by statute. When I looked at what is being suggested for NAC changes, they are amendments to existing regulations; and these are going to reference at least one, possibly two statutes that's enabling the creation and enforcement of that regulation.

Oppenlander asked what we are we going to do within the Roadmap for Administrative Rulemaking when we find there isn't a statute for the recommended NAC change? How do we manage that? Will we need to parking lot every NRS change that we will need to be making in 2021? **Detmer** responded that the Board's enabling statute 641B.160(a) states that the Board shall adopt such regulations as are necessary or desirable to enable it to carry out the provisions on this chapter. Provided that the regulation fits within that definition, we may be

able to enact the regulation based on that particular subsection of that particular statute. Or if there is not another statute that authorizes it, then we may have to do a statute change.

After a brief discussion about summary suspension, **Lowery** commented that part of what comes out of the NAC change process may be a list of potential NRS changes to bring forward during the next legislative session.

Detmer then discussed the process to get the regulation posted (codified) and our need to be patient as we proceed. **Lowery** added that codification means that all of the changes are contained in one document; that this process can sometimes take several years. **Detmer** also answered a question from **Harris** re: AB457 and stated that our Board needs to add several steps to the rulemaking process. **Lowery** added that AB457 started as a bill to merge the four Nevada behavioral boards. It ended up with a requirement for regulation changes to go through additional layers of review.

Next, **Erickson** stated that the workshop go into a lunch recess at 11:40 p.m. with an intent to return at about 1 p.m.

Erickson called the meeting back to order at 1:11 p.m. and turned to Item **3D: Review of Model Social Work Practice Act (Model)**. For several years, **Erickson** stated that she was on the Regulations and Standards Committee for the Association of Social Work Boards (ASWB). This ASWB committee was made of people from around the country and Canada who review the practice act sections together. Then the group potentially overhauls the sections if appropriate.

For example, each state has its own licensure process. Reciprocity is big topic so that a licensee can go from state to state. To work through the differences among the jurisdictions, ASWB gathers examples. There is a Model in your retreat binder for you to refer to. The Model is helpful if a jurisdiction wants to redesign how it might run its board as the Model gives an outline of how to do it. Then you can insert your own state and nuance into it, if you will. There's an attorney involved in the ASWB committee process. So it is similar to going through a NAC change process.

ASWB helps the boards in North America collaborate and work together through training.

Maplethorpe added that ASWB governs the national exam for licensees. **Erickson** agreed that ASWB oversees the items that go into the exams. They make an effort to bring representation from all over the US and Canada to standardize the process for writing questions as much as possible.

Erickson moved into **3D (i) Importance of Terminology in our NACs** stating that ASWB goes through a similar process to what the Board is doing with the NAC change process that was outlined this morning. We work with the verbiage, making sure that it gets drafted/ amended, is reviewed again, and then we verify that it ends up saying what we wanted it to say. Then the amendment goes to the delegate assembly for a vote in November. The delegates from each state and from the provinces in Canada vote on whether or not to accept the amended Model. The delegate assembly has opportunities to ask questions and sometimes the amendments are sent back to committee to be restructured.

Dr. Shadi Martin asked about the ASWB exam process on behalf of a student that spoke English as a second language. **Erickson** spoke about the committee process for writing exam

questions. **Lowery** added that every eight to 10 years ASWB does a national survey of licensing categories of individuals at two years post the level of licensing: two years post bachelors; two years post masters; two years post clinical. The survey covers every U.S. state, as well as the District of Columbia, the U.S. Virgin Islands, and the Canadian provinces of Alberta, British Columbia, and Manitoba. They use this information to inform the KSAs: the discrete knowledge components for each exam (knowledge, skills and abilities). The committee develops the questions. Those questions have to be supported with evidence based information. Those questions are then put into a vetting process, reliability and validity testing process. So out of 170 questions that are actually being used, only 150 are graded, the other 20 are being tested for validity and reliability. A question is only accepted once it passes all of those benchmarks. **Maplethorpe** let the group know about a current lawsuit in Nevada about study materials that mimic ASWB study materials.

Dr. Shadi Martin said that it would be important to make sure that our website is providing students with information about where they should go and what things they should avoid. **Nielsen** added that there was an education bill in the last session that acknowledged that children who have learned English as a second language (even when they communicate in English) are getting lower scores because they really can't translate in same way to take examinations.

At this juncture, **Detmer** asked to confirm that the group was continuing to be on the agenda and was speaking about the Social Work Model Practices Act. To continue with the discussion about the Model, **Erickson** said that the practice act is an outline of a method that could potentially be utilized as we go through NAC changes and suggested that the group review the Model as it is relatively easy to decipher. **Erickson** continued by describing the format of the Model that has language with suggested regulations, rules, and bylaws. The Model provides standardized language that some boards consider.

Dr. Kathleen Bergquist asked questions about investigations and the issue of oversight that was raised earlier in the morning. There was a brief discussion about how other states and provinces complete their investigations with some jurisdictions using the board members to handle their caseloads.

Moving to Item **3D (ii) Title Protection and Practice Protection in NRS and NACs**, **Erickson** went on to briefly discuss Title Protection and Practice Protection. Simply stated Title Protection means that you can only call yourself a social worker in Nevada if you have a social work license in this state. Practice Protection refers to when a board has the legal authority to determine whether a specific position is engaged in social work and therefore must be licensed. In Nevada we have built some exceptions into NRS 641B.040 which would require legislative changes during a future session if we were to have both Title Protection and Practice Protection for social workers. We find that it would be best to have both.

For example, the Board was contacted by the Las Vegas press about a situation that happened earlier this year when an "alleged social worker was accused of inappropriate contact with students". The media questioned why BESW did not have jurisdiction over this person. As a result, we went to ASWB to try to better understand Title and Practice Protection. Media was reporting that the alleged attacker had been hired by the Clark County School District as a "school social worker". This person was contracted by the school district and was going through an online MSW program out of California. The school district had stated that the alleged crime

was committed by a social worker working to be a licensed school social worker. Later, a retraction from the school district was printed by one of the numerous media sources in which it said that the person hired by the school district was a “Safe School Professional”. By then the damage to the reputation of social workers in Nevada was already done. **Oppenlander** referred to this situation so that the Board would better understand why it would want to remove exceptions from NRS 641B.040; and as a result the Board might want to begin to plan for 641B NRS changes in addition to 641B NAC changes it would be making during the retreat. As in this example, various situations can arise when the public is confused about what it means (title and practice) to be a social worker. That’s why ASWB recommends that we look at this as a Board. Perhaps during a future retreat, we can invite ASWB to join the Board to guide us through this discussion.

Lowery added further clarification by stating that you cannot call yourself a social worker in the State of Nevada unless you are licensed to do so. But what we don’t have is any ability to go after individuals that are representing themselves as social workers that aren’t. And that’s an NRS change by adding practice protection. This would tighten down some of the job components; the components that we see as unique to social work. We all know that statewide, there aren’t enough social workers. What agencies do is they change the title of the individual, keep the job descriptions the same, and then hire people who don’t use the title of social worker. When we can have both title protection and practice protection together, we may then have a greater ability to deal with those who skirting around the edges of regulatory authority.

Erickson added that we have to be careful about saying that social workers are the only professional that can do something e.g. case management.

Dr. Kathleen Bergquist asked a clarifying question about agency workers. **Lowery** responded and informed the group about ‘social workers’ (those working in professions that referred to them as social workers before there was licensing in Nevada) that were grandfathered in initially between 1988 and 1995. There are currently 65 in the State of Nevada. Many of the LASWs went on to become LSWs. Bergquist suggested that if the press wants to call individuals social workers, we may need to respond with a different narrative to address these inaccuracies.

A short discussion ensued about title and practice protection. Rota Rosachi pointed out that public agencies and some of the nonprofits are letting us know loud and clear that they don’t have enough licensed social workers in the State of Nevada to meet their needs. So, they are skirting around us in order to get their needs met. We need to balance those staffing needs in many areas e.g. school social workers, child welfare, aging services and so forth. **Maplethorpe** added that money is also an issue. The different agencies are hiring people that cost less to do the work when they are not licensed. **Erickson** wrapped up this part of the workshop and moved forward to the next section.

Next, **Harris** moved to Item **3E Brief Review of Community Feedback Received During Passage of SB502 re: Fee Ceiling Increases and Fee Increases**. She discussed a review of the community feedback that BESW has received during the passage of Senate Bill 502 regarding fee ceiling increases and fee increases. Overall, we know that our role in the community is public safety and oversight. To accomplish this, we support the three E’s: Education, Experience and Examination. As we are now moving into the NAC change process, this section is specifically listed under “Licensing and Supervision”. As you know, we went

through the process of making changes to our fee ceilings for licensees, which was passed into law. I'd like to thank everyone involved during the session very much.

Harris continued: At this point we're looking at How do we proceed?; How do we move forward with making that happen?; because, fee increases are something that we know is inevitable. We have to increase our fees in order for us to remain solvent. With that being said, there was a lot of discussion that occurred during the legislative session, a lot of pushback. From going through that process, most of the pushback came from a lack of understanding. From my experience in communicating with the National Association of Social Workers (both NASW national and the Nevada Chapter) and speaking with the Nevada Chapter of Association off Black Social Workers (ABSW), our challenge is to explain what we mean when we say that we are increasing fees. She went on to state that she is pleased that both of the universities are represented and can help with this discussion. We know that speaking with the students and getting the students on board, as well as other associations, will be very important to move this forward. We want to make sure that we communicate this and unroll this properly in the community so that students understand how, what this process looks like.

Based on her understanding of today's presentation about administrative rulemaking guidelines, it will be continue to be a process, a process that will occur in stages. To summarize, most of the feedback we've received to date has been about what people don't want i.e. they don't want fee increases at all. Or, if they are not against fee increases, they want to make sure that we put caps on how we roll out those fee increases. Also, there have been discussions about how to raise fees e.g. \$25 or 25% per category. **Harris** indicated that the discussion moving forward needs to be how do we want to proceed given the feedback? What is the best course of action for the Board so that we can make sure that we fair and empathetic to students as well as professionals as we make these types of changes.

A discussion followed about the fee ceilings and how they came about during the legislative discussions. **Oppenlander** said there was expressed fear that the Board might choose to immediately utilize the entire new fee cap rather than move incrementally towards the new fee cap over a number of years. As a result, legislators decided to reduce the Board's suggestions for fee ceilings. Also, one group of students tried to convince the bill sponsor to rewrite our bill and legislate their suggested limitations. The bill sponsor disagreed with putting their language into statute. However, Board staff ran the numbers and found their suggestion to choose a limit of a 25% increase in each category to be a palatable solution. As the Board was not able to make ends meet at 10%, 15%, or 20% we discovered that we could meet our unfunded mandates by 2023 if we chose the 25% recommendation. She openly pondered: How do we go public?; How do we make sure it's going to be palatable?; How do we get this public conversation to happen in the time we needed it to happen so that fee increases are instituted?

Dr. Shadi Martin spoke about reservations from the students about the Board so that there is mutual understanding. Social work students take on a disproportionate burden of student debt for a couple of reasons. One, because the majority are women and they go into the job market making less, much less money. Therefore it takes them much longer to pay their student debt. Many of them are women of color, they make less money. Therefore they take on a disproportionate debt. Also, they go into the profession of social work where they don't make a lot of money. So, women take on two thirds of the student loans when looking at all the loans nationally. It's very upsetting. We are one of the few professions where when we go into our field practicums, we pay to work. In engineering and medicine, many of them are paid to do their

field practicums but social workers actually pay because they're paying for the credits to go and then work. So again, they are taking a disproportionate burden just to become helpers. She continued saying she understands the argument from the Board's viewpoint as it's been made very well. The Board needs the money, the funding; as it can't do all of the mandates without the fee increases. There is a perceived disconnect for the students. There is a need for the investigations and all of the good work of this Board; but, the students are taking on so much already. So, that when they show up to advocate for themselves, they're basically trying to say that they cannot give any more. They just don't have any more to give so that they can simply to go out there and help other people. If they drowning in debt themselves, how do we expect them to be helping suicidal teenagers? She went on to say that we need to look more closely at why they so upset about every little fee. It's because they really do have it hard. So the Board needs to think more creatively. In Canada, students are having a huge movement in favor of paid internships. And why shouldn't they be paid to do an internship? Maybe the least we could do is have the internship sites pay for their license. Maybe there are other creative ways to pass on the expense somewhere else rather than just put it back on them.

Hoover made a comment about how the Clark County Public Defender's office pays for their social worker's renewal fees. She had met with stakeholders that came to the table in opposition to SB502 – in this case -- the lobbyist for the county public defender's office. During the discussion, he believed that they were the only county that was doing this. **Lowery** added that Washoe County and Clark County Protective Services pay their licensees' fees. **Maplethorpe** added that some other places also do this. For her, as a clinical supervisor, she teaches students that this is part of the negotiation for their salaries and other things that agencies give them. Going back to what **Erickson** was saying, you have to have title protection. You have to have an actual protection to do your job. Nurses have the exact same thing and take on a lot of liability. So how do social workers come together as a collective group? I think that's why we're all here. How do we figure this out? How do we get social work students into that paid field practicum and also be able to negotiate a paid internship?

Dr. Shadi Martin asked how to streamline, simplify licensing so that students can actually see the benefits. I don't think we've done a good job. **Maplethorpe** suggested that university students come to Board meetings be part of collectively coming up with the great ideas, be part of that. **Oppenlander** let the group know that we will be expecting a student (field practicum) to join us this meeting tomorrow morning. When she spoke with the student, she asked if students are getting paid for their field practicum as part of the MSW concentration year; the student agreed to ask around and she'd let us know.

Dr. Kathleen Bergquist detailed that there are two ways that students get connected to policy: through their classes which is evidenced by the fact that professionals brought them in and coached them through their process; or, through student organizations. She said she could go back to her faculty and look at curriculum and build this in as part of the requirement. Students could engage with the Board as all of the students are taking policy classes. And when they're analyzing policy, they can be looking at making recommendations. The university also has smart classrooms so they could always connect by video as it's an important educational experience for our students.

Harris added that one of the things that stands out through this discussion is the educational aspect of teaching our students the business aspect of being a business. So we promote

frequently that this is a helping profession and we're supposed to be poor or we're supposed to expect not to ever have it. But that's not true. If we promote advocacy for self, and advocacy for the profession, then when they go to those sites they can negotiate. As a former executive director in a nonprofit, we had money or could build in money to be able to support those things. Teaching the students that you can advocate for yourself, you can ask those things. When you go to work for large companies, you can make sure you that you incorporate that in your package. As those discussions are not taking place, when they get into the community, they're fearful of not being able to make ends meet. And so I'm wondering if there's opportunity for us to move forward in all of these directions at the same time because for us to be out there working as social workers and not have a Board to support us, back us up to protect the community, we're shooting ourselves in the foot. How can we support what the student's concerns are?; and support what the student's challenges are? She said that she hopes that the Board and the universities can move forward along with the associations to address all of these issues, especially with people of color.

Dr. Shadi Martin agreed and thought that if the students feel this group is fighting the same battle, then they won't feel like they're coming up against something. We have to show them that we are fighting for them as well.

Harris: Because we want to support students, social workers while the Board also needs to remain solvent, how do we move that communication forward so that it is understood that we are all working together? Dr. Shadi Martin said that the university can do better. One of her commitments is that we will do better.

Hoover asked if the university goes over the social work statutes. Dr. Kathleen Bergquist responded that she teaches legal and ethical social work, so her students have the NRS and the NAC printed out and they have to know where to go to find regulations. It is part of a required course at the master's level.

Detmer added that in the rulemaking process, students would have an opportunity to provide their input at workshops, at adoption hearings. They will have that opportunity to participate when the regulations are being drafted and ultimately adopted. When a question came up about student representation on the Board, **Detmer** stated that the statute actually designates who is allowed to be part of the Board. If they meet requirements and they are appointed by the Governor then yes, they could be on the Board. **Lowery** added more information: One thing is that the student would have to be a licensee. The terms are three years and they are not likely to be students for the entire three year of appointment. Right now the Legislature has dictated that the makeup of the Board is a mixture of licensees and one public member. Where **Lowery** sees a lot of the student involvement is with NASW because they've got student representatives both from the north and the south. But to be on our Board you have to be licensed, which means you have to have graduated.

Dr. Kathleen Bergquist: Students are saying they're too busy but she also doesn't see any professionals here. And that is -in general- a problem, not just in our field. She went on to suggest that one of the things that we can do as universities is teach our students how to pay it forward to their interns and to their social work students. She lets her students know that she's a clinical supervisor and always an outside supervisor as she doesn't work at an agency. And she tells them that she will not take a student unless the agency agrees to pay her fees because

she will not burden students with those fees. So it's important to model the behavior that we want and expect out of the field. That is a type of paying it forward and really modeling what should be part of our culture. Soon, when they are going to be hiring and supervising, they can remember what was like as a student.

Maplethorpe agreed stating that she is a clinical supervisor and never takes money from the individual and only contracts with the agency. Similarly, that's what was given to her and that what she's given back.

Erickson reflected on her experience at the Legislature. She had expressed that she too is a social worker when she met with students. As she mentioned to the students, when there is a fee increase that she has to pay too. She encouraged the students she met with to consider coming to Board meetings and to consider looking into their own professional organizations as well. She also realized that they were set on getting their goals met and that they were pressed for time. They were graduating and so there's that sense of urgency. When I could step away from it and debrief a little bit, we discussed that it was good for them to advocate for something that they're passionate about. This is an excellent learning experience and again, a learning experience for us too, so that we can do better job communicating as well. And she hopes that it is known that we do try to consider all circumstances; that we protect the public and we don't want to hurt anybody and that includes our profession that we license and regulate. Our goal is not to put anybody over a financial edge. We have to remember in all aspects of our life is that we need to communicate. Hopefully we are better able to build a relationship with the schools and that students do not necessarily fear the Board; that we can have respect for each other. And that we do value new social workers coming into the field because we need them so desperately.

After a short break, the group began again at 3:50 p.m. **Erickson** turned to **Oppenlander** to provide **Item 3F: A Brief Review of Regulations in Social Work**. **Oppenlander** referred to the presentation slides. At the end of 2018, there were over a half million (533,491) regulated social workers in North America. On the BESW brochure, you can see the upward trend line in the total number of regulated social workers in Nevada over the past 10 years and this mirrors the upwards trend line of the total number of regulated social workers in North America.

Earlier, we talked about what the Board (government) does: Government creates rules so that everyone has to comply with them. And now we ask, "Why is government involved in the regulation of social work?" And that answer is: Because it provides consumers with an assurance of the qualifications of licensees along with a means of enforcement for the benefit of the public. So, this is about regulated social work: title protection (who can call themselves what); and, scope of practice (who can do what); and, their requirements to obtain and maintain a license; and, the exemptions we were talking about earlier; and, then overlapping scopes of practice with other professions.

Next, **Oppenlander** moved forward to **Item 3G: Sections of 641B NACs to be Reviewed**. There are five sections in 641B NACs: General Provisions, Licensing and Supervision, Continuing Education, Standards of Practice, and Practice Before the Board of Examiners for Social Workers (Disciplinary). If you were online, you would be looking at the NACs as of 2015. You are looking at a manually updated version that was created for you by **Lowery** and **Detmer** that includes the 2017 NAC changes as well as approved changes that took place in 2018. At this point, **Lowery** showed a marked copy of the NACs to the group to give everyone a sense of

how much red/ blue lining there is to work through during the retreat. She explained that staff and Board members individually reviewed select sections of the NACs and then recommended various changes. **Lowery** has captured all of that feedback received. Now we have a document that has all of the recommended changes as a place for the group to start. In her opinion, 85% of the changes are simple housekeeping changes e.g. changing the word “in” to “on” and so forth. After a brief discussion, it was decided that the group would take a preview look at the NAC changes in general to see everything that will have to be completed during the two day workshop. Then, we would go through all of the NAC changes as a group, potentially get a vote from the Board about everything including fee increases, and then we would go forward with public meetings and the rest of the process that was covered earlier. The group went through a brief exercise while copies of the NACs changes were being made and distributed.

Lowery showed the group the first section of 641B NACs which is General Provisions. When you see something highlighted in yellow, that means that there was a suggestion for a change in that particular NAC. In the first section are most of our definitions. Next, in Licensing and Supervision are the provisions that cover licensing, renewals, endorsements, fees, internships, and supervision. It also deals with expired licenses and restoring a license. The third section is Continuing Education i.e. what counts for CEUs or doesn't count, what providers have to do in terms of maintaining records, including the requirements for each level of licensure. The fourth section is Standards of Practice which is essentially the code of ethics. We chose to incorporate the NASW code of ethics and have placed them into this section. The last section is what we broadly call disciplinary and it covers how we do hearings and other items related to compliance.

Oppenlander requested that everyone would agree to continue to look at a general overview of the changes that are being proposed with intent to come back and tackle each item individually.

The group reviewed many of the proposed changes including:

First, **Lowery** went to page six and discussed two NACs that are highlighted in green. She explained that those are a part of the discussion about title protection in anticipation that we might want to revise the NRS in this area in 2021.

Next, she covered some possible changes on page 9 where it was suggested that we keep an application open for six months instead of one year. On page 10, we're are looking at a change to the acceptable time to keep applications for endorsement open.

At this time, there was a brief discussion re: certified legal holds. There are 17 LCSWs in the State of Nevada that have been willing to take this on.

Lowery let the group know that ASWB has stated that it will no longer be supporting a master's level person being able to take the bachelors level exam. So, BESW is planning to make the same change in our NACs to reflect their decision about the examination. If the changes are approved, an MSW will not have the ability to take the bachelors level exam; they would have to take the masters level exam.

Next, **Lowery** covered a recommendation to change the restoration of licenses downwards to two years.

Following, she discussed changes to NACs for the two kinds of provisional licenses. Provisional B is the license that can be obtained by an individual who is in their master's

program and has a degree in a related field. The policy was that we told people they had to wait a year into the master's program. These people are not in advanced standing. These are people in a two to three year program. The BESW policy was they had to complete their first year, have some social work classes completed before applying for a provisional B license. So, we have a policy but we didn't have language in our NACs to actually enforce it. The recommendation is that they have to complete their first 30 units and then they can get their Provisional B license and then that license expires on the date of graduation. There's a mechanism for the student to pass their exam while they are still in school so that they can actually go from a Provisional B license right into a regular license. During this period, you are an LSW-P. If they pass their exam and they graduate, the LSW-P becomes an LSW. At this point, the group asked **Lowery** a number of questions about how to go about getting licensed in the most cost effective way. Then, **Lowery** spoke about the Provisional A license that only permits 75 days to take the exam which is not recommended as it is difficult to get a seat at a Pearson examination testing center.

The next section that will be a significant discussion for the group (as **Harris** referred to earlier) is the need to determine the amount for a fees increase.

Another recommended change is for the Board to get out of the business of accepting coin or currency as most of the larger licensing boards do not accept cash.

Next, we took out language in the area of licensure by endorsement re: proof of good moral character as we don't know how to define that, let alone measure it.

With internships where people will start their hours in one state and then come to Nevada to complete their hours, there was once a time when we would evaluate those hours coming from another state. The recommendation is to accept hours that another state has already verified.

We're also looking at changing the number of interns a supervisor can carry from three to four.

And we're looking at making reporting changes from quarterly reports to making them due twice a year. We will come up with a mechanism for the timing of those so that they are staggered. This recommendation is based on an ASWB national survey. Some states require no report and six states (including Nevada) currently require a quarterly report. Dr. Kathleen Bergquist suggested that the Board use the intern's birth date to stagger the reports.

The next area is intended to clarify that a retired social worker would be able to keep their license and be exempted from continuing education units except for suicide prevention. As this is a State of Nevada requirement, the Board has no ability to change this.

Lowery discussed 641B.205 (11),(12), calling out an example of where the 641B NACs are different than the NASW Code of Ethics. This area of the NACs can be opened for discussion but there currently are no recommendations at this time to change the language about dual relationships.

Detmer explained a recommendation to add a paragraph stating that: The Board has the discretion to use as a disciplinary action, a violation of a state or federal law.

On a related topic, **Hoover** let the Board know about a legislative question has been worked on now for the last three sessions where if you have someone that's interested in becoming a social worker, they can apply to the Board before they ever even start education or apply for the license. The Board will let the individual know whether or not they're eligible to actually get their license approved based on criminal convictions.

PUBLIC COMMENT:

To close, **Erickson** asked for Item **4: Public Comment**. No Public Comment.

ADJOURNMENT:

Erickson then asked for a motion for **Item 5: Adjournment**.

Maplethorpe made a motion for adjournment, Nielsen seconded. Maplethorpe, Nielsen, Harris, and Erickson voted aye. The meeting was adjourned at 4:47 p.m.

Meeting Minutes Respectfully Submitted by Karen Oppenlander, LISW, Executive Director.