



STATE OF NEVADA
BOARD OF EXAMINERS FOR SOCIAL WORKERS (BESW)
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Board Minutes, Friday, May 14, 2021 9:00 AM

Call to Order and Roll. Vikki Erickson called the Board of Examiners for Social Workers Board meeting to order. **Agenda Item 1 Call to Order and Roll Call** began at 9:07 a.m. on May 14th, 2021. **Roll call:** Vikki Erickson, Board President; Jacqueline Sanders, Board Member; Abbie Klimas, Board Member; Monique Harris (after brief technical delay); Asheesh Bhalla, Board Counsel and Deputy Attorney General; Sandra Lowery, Deputy Director; Karen Oppenlander, Executive Director.

Oppenlander pulled two items from the Agenda: Item 3E (a) re: Senate Bill 44 amendment mock-up; and Item 3 E (e) the Capital Partners Legislative Session Report as they are both working on legislative items today.

Erickson moved to **Agenda Item 2: Public Comment** and hearing no public comment then moved to **Agenda Item 3: Board Operations, Item A. Review and Discuss Board Meeting Minutes for March 12th, 2021 (for possible approval).**

Jacqueline Sanders made a motion to approve the Board Meeting Minutes for March 12th, 2021; seconded by Abigail Klimas. Roll call vote: Erickson - Aye, Klimas – Aye, Sanders – Aye. Motion passed unanimously.

Next, **Erickson** introduced **Agenda Item 3B Review and Discuss Third Quarter Financials through March 31 2021. (For Possible Action).** **Oppenlander** reviewed a copy of the March 31 2021 numbers stating that at the ¾ year point (75%), income was at 70% of projection. This was our first time doing a full year of projected income based on fee increases. In terms of spending, at the ¾ year point (75%), our total expenses were only 51%. Because of the pandemic, we really cut back on what we had planned to do. Below the chart are pictorial graphs that **Lowery** created. At the bottom of the spreadsheet, we have started to accumulate monies as the legislators have asked us to do – to create reserves. This may be particularly good news as we may need those monies depending on current and future legislative decisions.

Klimas had questions about Endorsements. **Lowery** stated that we are at 90%, or 97% of what we anticipated we would get for income for Endorsements this year. She went on to say that we are getting more Endorsements than we had originally budgeted. **Klimas** clarified, “If we had been able to collect fees, then we would have had higher income in the Endorsement category”. **Lowery** verified this. **Erickson** asked for a motion.

Abigail Klimas made a motion to approve Financials through March 31 2021 (Third Quarter); Motion was seconded by Jacqueline Sanders. Roll call vote: Erickson - Aye, Klimas – Aye, Sanders – Aye. Motion passed unanimously.

Erickson moved to **Agenda Item C: Review and Discuss Financial Impact of Governor's Directive 11.** **Oppenlander** welcomed Monique Harris to the Board meeting at 9:17 a.m. after technical difficulties; she was directed to the current agenda item. The Nevada Declaration of Emergency led to Directive 11 that was put

into effect on April 1st 2020. Directive 11 has been in effect for over one year and continues to remain in effect. **Lowery** has built several graphics so that the members can how this has affected the Board's finances.

Lowery first discussed Provisional Licenses. Just before Directive 11 was introduced in April, in March 2020 (due to the pandemic) BESW was unable to acquire background checks in a timely manner, applicants could not secure ASWB exam dates, and applicants could not furnish transcripts.

Therefore, Board staff worked with Board Counsel to determine how BESW could best utilize the terms of Governor's Directive 11 with 641B to issue Provisional Licenses at no cost to applicants (as per Directive). Had we been able to ask these applicants to pay BESW for those Provisional Licenses being issued, BESW would have gained income of \$29,625. Provisional Licenses were issued for a period of up to one year. Normally, Provisional Licenses are only issued for 90 days. Next, on the graphs you can see in the first four months of 2021, BESW has issued an additional 71 Provisional Licenses. And, as Directive 11 continues to be in place, we continue to issue Provisional Licenses and forego potential income.

Next, **Lowery** discussed Waivers. Directive 11 invited licensed individuals from other states to practice in the State of Nevada without having to seek an Endorsed license. To work in concert with Directive 11, we created a simple Waiver system; Therefore, BESW has an approximation of how many (and who) were coming to practice in the State of Nevada without a Nevada license. In 2020, we issued 165 Waivers to practice in Nevada. On the graph, you will see that the blue line on the chart represents the number of Endorsements we granted. The orange line shows the number of Waivers we granted.

Note: In December, the numbers jumped higher when the City of Reno signed a contract to allow a company called Talkspace to come into the State of Nevada. The Board contacted Talkspace to let them know that any LCSWs in their program needed to secure a Waiver from the state. That is why the numbers of Waivers in December and January climbed higher. In the long run, we do not expect that this group of individuals are going to be interested in becoming licensed in Nevada. The use of Waivers caused BESW to lose just short of \$50,000 in income in 2020. And so far in 2021, we have lost an additional \$13,000 in income. Comparatively, the State of Washington has not offered Waivers; so, anyone that was practicing in the State of Washington had to get licensed. Now, the State of California is closing down their Waiver program that they had in place earlier.

Erickson asked for clarification, "Does this continue until the Directive is lifted?" **Lowery** responded, "Until the Directive is lifted, we offer Waivers (free) instead of Endorsements (income). **Erickson** asked, "Do these things just abruptly end when the Directive ends?" **Lowery** responded, "There's a 60 day window and then the individual would not be able to practice if he were to close Directive 11." There was another question from **Erickson** about appropriately transitioning clientele therapeutically to a Nevada licensed practitioner. And a question from **Sanders** about monitoring a practitioner so that they do a quality transition of the client. **Lowery** responded that BESW does not monitor Waivered practitioners; and we don't have jurisdiction over these individuals in quite the customary manner as they are not actually licensed in our state.

Board Counsel/ DAG **Bhalla** interjected that social workers practicing in Nevada are all under the jurisdiction of the Board and that includes unlicensed activity and we would go after unlicensed activity. Otherwise people could just say, well, I'm not licensed, so I'm not in your jurisdiction, but the Board regulates the practice of social work in the jurisdiction of Nevada. So somebody who is practicing social work, even on that Waiver could be brought forth before the Board for discipline, if they violated standards of practice and care in Nevada. So

they are technically under the jurisdiction, but after those 60 days are up, then they are not. By function, the Governor's Directive is wholly separate from our statutes and regulations.

Lowery asked for clarification, "If someone from another state is practicing in the State of Nevada under a Waiver and they do something egregious, then would we file a complaint against their state license? Board Counsel **Bhalla** responded, "We file a complaint against them in Nevada because they're practicing social work in Nevada. And so they get a Waiver on their license and that's why they were waived in, but they still are required to comply with the laws of Nevada. We wouldn't have a license that we could revoke, but we could technically bring action against them".

Sanders asked for details about information gathered in the Waiver process and **Lowery** answered that BESW has the practitioners name, address, phone number, email, a copy of their license and a copy of their picture ID.

Erickson moved to **Agenda Item D: Review and Discuss BESW Data Reports**. **Lowery** shared various data points with the Board including the Occupational Boards Report, the AB457 Report, the Griswold Report, and the ASWB pass rates in Nevada.

Lowery shared about how BESW provides quarterly information through a legislative report portal for occupational licensing boards. This report provides a snapshot of data through March 31 2021. It includes the number of added licenses, removed licenses, new applications, and rejected applications (we didn't reject any). Following, there's more information showing number of licenses per licensing category, activity on a quarterly basis.

Next, we provide information for the AB457 report that requires us to provide data to the Departments of Health and Human Services and to the Subcommittee on Health. This report shows a list of the number of complaints received and also looks at applications for licensure. If we look at 2020, we received 12 complaints. We investigated 36, we dismissed/ discharged 36. We did not settle any complaints and no cases went to a hearing in 2020. Also, we had 525 applications for new licensure and 32 of those applications required additional review. And, we Endorsed 141 licenses in 2020.

Next, we biennially submit the Griswold Report that focuses on rural Nevada. This is data reported as of December 26 2020. In this report, we categorize the number of licensees per county. On this particular day, we had 3072 active licensees. This number does not include Provisional Licensees. We are looking at active licenses because that is what the Griswold report requests.

Last, we received data from ASWB regarding examination rates. We get several different kinds of data from ASWB e.g. national pass rates. Then the report compares national numbers versus the State of Nevada numbers. And then the pass rates for UNR and UNLV specifically. That information is given to chairs of each of those social work departments. **Erickson** commented that she appreciates receiving this information.

Erickson moved to **Agenda Item 3 E Review and Discuss Legislative Session**. **Oppenlander** first covered **Item 3 E (a) on Senate Bill 44 (SB44)**. She referred to a Support Letter provided to Nevada legislators from Dwight J Hymans MSW, LCSW, ACSW, and CEO of the Association of Social Work Boards.

She then gave an abbreviated timeline of SB44: The Rural Regional Behavioral Health Policy Board (RRBHPB) chose Behavioral Health Licensure for its 2021 bill and led statewide stakeholder groups that worked together to develop concepts. RRBHPB developed and submitted a bill draft request (BDR). They then worked with the stakeholder group and others that gave RRBHPB feedback for the BDR. The RRBHPB approved amendment concepts on February 24 2021 and these were introduced to the Senate Committee on Commerce and Labor. SB 44 moved forward with an "Amend, do pass" from Senate Commerce and Labor April 7 2021. The new Amendment 407 contained controversial sections. After negotiation, SB 44 was voted unanimously through the Senate without this amendment on April 20 2021. A mock-up of a new amendment to SB 44 as well as an Overview of the Bill Development Process and a History SB 44 was then heard in the Assembly Committee on Commerce and Labor for the first time on May 5 2021. With a mock-up amendment to review, the Assembly Committee members had several questions about background checks, and barrier crimes to licensure. Then, RRBHPB worked with the Chair of Assembly Committee on Commerce and Labor. SB44 will go to Work Session today – May 14 2021. RRBHPB have made some minor changes but none to the LMSW portion of SB44. The Chair is confident that the bill will pass out of the work session with no problem. The major pieces of the bill will remain unaffected: changes to licensure by Endorsement language, remote supervision, and addition of the LMSW licensure type. Some changes may be made: Removal of the requirement of licensing boards to list disqualifying crimes; Removal of exception of active duty service members from submitting fingerprints for a background check; Putting back in the requirement of the licensing boards to record and report licensure by Endorsement application, approval, and denial data; and moving licensure by Endorsement language in the first line back to "may" from "shall" as it stands in the amendment.

Following, **Oppenlander** moved to **Item 3 E (b) on Senate Bill 151**. Board staff determined on the drop of a dime, to agree to support a conceptual amendment for School Social Workers continuing education requirements; the supportive language clarified that the Board of Examiners for Social Workers would prescribe the CEU requirements for school social workers rather than the State Board of Education's Commission on Professional Standards.

Oppenlander covered Item 3 E (c) on Senate Bill 326 (SB326). If SB326 is enacted, it will change BESW budget projections considerably and require staff to bring a revised budget back to the Board. It would affect numerous Boards (including Osteopathic Medicine, Dental Examiners, Chiropractic Physicians, Nursing, Oriental Medicine, Podiatry, Dispensing Opticians, Optometry, Pharmacy, Physical Therapy, Occupational Therapy, Psychological Examiners, Athletic Trainers, Social Workers, Marriage and Family Therapists and Clinical Professional Counselors, Alcohol Drug and Gambling Counselors, Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board, and Medical Examiners); and therefore, this Exempt bill is currently sitting in the Finance Committee. SB326 is a one year telehealth bill introduced to allow all telehealth practitioners to practice in Nevada without fees. BESW estimated that one year of free telehealth registration may cost the Board approximately \$120,196 if the bill is enacted. More specifically, we would have to purchase a registration module to track participants; since current staff is already working at full strength, BESW would have to hire part time temporary staff to handle the processing at a cost of \$22,298; and we would lose potential revenue of approximately \$90,398. Our fiscal note assumptions were based on our experience during the past year after the Nevada Declaration of Emergency Directive 011 was implemented.

- We made calculations based on the 200+ Waivers issued during the first year of Directive 11 as well as the numbers of provisional licenses issued during the period.

- If we offer out-of-state licensees the invitation to participate in a one year "free" telehealth registration period, we won't be able to utilize a simplified "Waiver" process like we did when we invited social workers to work in Nevada during the emergency pandemic.
- A registration process would be required and BESW would need to add a registration tracking module to our database and a corresponding payment to our database vendor.
- The 0.50 FTE in temporary office staff to manage the registrations costs were based on an estimate from Manpower with a cost to the Board of \$22,297.60 (16.00/hr. plus 34% markup x 1040 hours).

Following, **Oppenlander** covered **Item 3 E (d) on Senate Bill 335 (SB335)**. If this bill is enacted, the State of Nevada will create a Division of Occupational Licensing which has fiscal impact for BESW and will require staff to bring a revised budget back to the Board. We estimate that it would reduce board revenue for the first year for only six months because of when the bill would be signed into law. It would cost about \$12,469 for the first year (half year). The first full year of revenue reduction would be during fiscal year 2022-2023. That would cost the Board \$24,940 and annually thereafter. We calculated this 5% outlay of funds as per section 14 of the proposed SB335 legislation. Five percent of fees have been calculated by BESW with intent for the funds to be placed in the Occupational Licensing Account of Business and Industry beginning on January 1st, 2022 as per the legislation. Calculations were based on the average of total fees collected in calendar year 2019 and calendar year 2020, because those years were audited and are also public information. The specific types of fees that we based this 5% on include the fees that we collect which are defined as Application Fees, Initial License Fees, Renewal Fees, Endorsement Fees, Provisional Fees, Restoration Fees, and Late Fees.

Erickson asked about the submission of Fiscal Notes by the Board. **Oppenlander** responded that the Board is required to provide an estimate of the dollar amount of effect that a bill will have. A fiscal note is required if the bill affects a state agency by increasing expenditures or reducing revenues by more than \$2,000. These fiscal notes are submitted to LCB by **Oppenlander** on behalf of the Board and after they are reviewed are made available to the legislature and to the public.

Sanders asked about making modifications to an enacted bill. **Lowery** responded that the legislation will most likely dictate the information that BESW must gather. Then we would have to build the new module for our database based on the parameters that we are given.

Erickson thanked Capitol Partners for the really good job they've done. She gave her appreciation to them, as well as **Lowery** and **Oppenlander** for the work being done during this legislative session.

Next, **Erickson** moved to **Agenda Item F, Review and Discuss Status of Data Migration Plan**. **Oppenlander** stated that BESW is continuing to work on a Data Migration Plan between EITS (Enterprise IT Services) and BESW. They have estimated costs for our budget from July 1- June 30 2022. This estimate is based on the approved current fiscal year rates which are subject to change and legislative approval. They have worked to complete an inter-local agreement which will be completed by the Administrative Services Division. Then we will execute the agreement. It is possible that this may be delayed as we are waiting for the rates to be approved/ finalized by the legislature.

Erickson moved to **Agenda Item G, Review and Approval of the 2021-2022 Budget**. **Oppenlander** stated that this Item is for 'Possible Action'. The premises that we have brought to you in this budget are based on the

conversation we had during the March Board meeting along with our intent to fulfill legislative mandates that have been in place since 2015. For example, we want to complete the implementation of our online application module for internships. So even though our main applications module is 'live' and going quite well, we also intend to finish the internship application section. We also intend to add the Board approved and contract approved compliance unit software module. We want to cover costs of additional investigations so that we can reduce our compliance unit backlog. We have budgeted to continue to work our Board approved and contract approved lobbyist to successfully get through upcoming interim sessions. We built in 3% raises for our team. And we also put in monies to cover Nevada Administrative Code changes. We are asking for approval of this budget with a start date of July 1st. However, if any of the legislation discussed today is enacted, we would bring back a revised budget to the July 9th Board meeting. If for some reason, an interim session occurs and some of these changes happen in July/ August, then we'd have to bring a revised budget back to the September Board meeting.

Lowery realized that a \$15,000 amount inadvertently remained in the Board packet for the Budget handout in line item 63000. It was supposed to have been removed after staff's last budget revision before the Board meeting. This amount should have been zeroed out and the \$15,000 should have been added to the Net Income for a total of \$269,516.

In summary, **Oppenlander** asked the Board for a motion to accept the Budget as presented with the correction of line item 63000 to \$0, and the increase of the Net Income to \$269,516. With the Board's approval, BESW can get started on July 1st 2021 with a budget in hand and move forward. As the projected net income will be over a quarter of a million dollars, we believe that we will have enough money to build reserves as requested by legislators and/ or have enough money to cover potential legislative actions. **Erickson** asked for a motion.

Abigail Klimas motioned to approve the 2021-2022 Budget with an adjustment of line item 63000 by removing the \$15,000 and adding that amount into the Net Income bringing that to \$269,516; Motion was seconded by Jacqueline Sanders. Roll call vote: Erickson - Aye, Klimas – Aye, Sanders – Aye, Harris – Aye. Motion passed unanimously.

Following, **Erickson** moved on to **Agenda Item H, Review and Discuss ASWB Training**. **Sanders** reported on **Agenda Item H (a) New Board Member Training** stating that it was very informative. The training encouraged her to think about the changing environment and the growth in Nevada. She also starting comparing about how other boards function and sent emails to Karen during the training in reference to this. For example, one of the presentations referred to how many disciplinary actions are handled in a month and in a year. She recalled that we've talked about our backlog and about how to address things in a more timely way. The ASWB presenter talked about how his board handles their disciplinary actions. They have seven+ board members. He stated that they had formed subcommittees to help to address matters. So I've been reading about how a board can have subcommittees. **Sanders** gave another example of how the ASWB training gave her another idea so that our Board can work to be even more effective. **Oppenlander** mentioned that a similar conversation took place during a strategic planning meeting/ workshop in 2018 with DAG Greg Ott. We discussed the Open Meeting Law and how subcommittees are formed in relationship to OML. BESW has been open to these ideas and has tried to tie them to strategic guidance from the Board.

Board Counsel/ DAG **Bhalla** thanked Board member **Sanders** for her comments. He added that a subcommittee is subject to the OML in the same way that a regular Board meeting is. So the Board has to decide about

whether it's actually more effective to set up a subcommittee, as opposed to setting up agenda items at Board meetings for conversations. **Bhalla** offered to set up a one-on-one meeting to discuss the subcommittee process.

Also, **Bhalla** said that the disciplinary process is a standard process starting with taking in a complaint, conducting an investigation, and then presenting a formal complaint. There are various issues that go into whether and when we can present something to the Board. But, there is a general process in place. He really wouldn't suggest a subcommittee to be doing discipline because you're going to have to notice an agenda as we do for OML in other meetings. With a small Board, that may not be more effective. But it would be worthwhile to have a conversation about how the Board feels about discipline. Then the Board can talk about whether there are statutes or regulations that need to be proposed or made inactive and look into the underlying authority for how we process complaints in general. Then we can look at what the Board's authority is to take action e.g. whether it's suspension, revocation, education, or some sort of public reprimand. Even now, he said that he wants to be sure that we are sticking on this agenda because that's the whole point of the open meeting. So, we can go step by step, place this idea on a future agenda and/ or have a one-on-one conversation to provide an overview about what the complaint process is. **Sanders** thanked **Bhalla** for this information. **Sanders** shared her enthusiasm with **Erickson** about the ASWB training and summarized the importance of being an effective, participating member. **Erickson** agreed and launched into **Agenda Item H (b) re: the ASWB Education meeting**. She spoke about participating in a virtual platform a couple of weekends ago on Friday and Saturday. The topics were in relation to regulatory issues, about the pandemic, ethics, and telehealth, about if the things that were enacted during emergency times be things that become permanent changes. Some topics could be included as future agenda items e.g. creating a succession plan as we don't have to wait for an emergency to prepare. And there were sections on diversity, equity, inclusion, racism, privilege and social justice. **Erickson** recommended that Board members try to participate when ASWB offers trainings. She finds it very enlightening and interesting to hear what people do across the country and in Canada.

Next, **Erickson** moved to **Agenda Item I, Executive Director's Report**. **Oppenlander** first discussed a benefit from the Administrative Collaborative that has shared a useful summarized version of the State of Nevada retention schedule.

Next, she drew the Board's attention to a hotlink on the agenda that leads to a kickoff on May 20th for the Interstate Licensure Compact process. The social work profession is one of five selected professions for interstate licensure, compact development by the Council of State Governments in partnership with the Department of Defense.

The next item she shared was an update on HR133 – a federal piece of legislation dealing with telehealth that says that if you're going to furnish telehealth service, you have to see the patient at some point during the last six months i.e. a physician or practitioner has to furnish an item or service in person without the use of telehealth for which payment is made within the six month period prior to the first telehealth service.

Next, **Bhalla** updated the Board on Pending Litigation Matter in the United States District Court for the District of Nevada - Case No. 3:20-cv-571-MMD-WG that was filed last year in Idaho. We originally filed a motion to dismiss in this matter. And the judge in Idaho transferred the case to Nevada. Earlier this year, we filed a joint status report as requested by the court. And then there was essentially no action for about three months. In March, there was a subpoena sent by the plaintiffs. We objected to the subpoena and a motion to compel was filed by the plaintiffs in federal district court. The court then denied the motion to compel the subpoena and then issued a minute order, which is an order from the chambers without hearing and requested that both sides file new motions by May 28th.

Following, **Oppenlander** discussed future agenda items and ideas. She was pleased to report that because of budget passage today, staff will begin to plan a strategic planning meeting/ workshop with intent to have this be a face-to-face meeting for the Board and other attendees. Some ideas for topics came up today e.g. understanding and improving the disciplinary process, pros and cons of forming subcommittees, to add to earlier ideas e.g. NAC changes, workshop on how the state looks at reserves, and more.

Last, **Oppenlander** announced that the next board meeting is at 9:00 a.m. on Friday, July 9th. We are resuming normal open meeting law requirements and will be meeting in person in Las Vegas and simultaneously in person in Reno.

Erickson turned to **Agenda Item 4 Public Comment**. Hearing no public comment, she asked for a motion for **Agenda Item 5 Adjournment**.

Jacqueline Sanders Motioned to Adjourn the Meeting. Motion was seconded by Abigail Klimas. Roll Call Vote was Passed Unanimously.

The meeting was adjourned at 10:46 a.m.

Minutes Respectfully Submitted by Karen Oppenlander