

Board Packet
March 16, 2022



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

PUBLIC NOTICE OF BOARD MEETING

9:00 am on Wednesday, March 16, 2022

BESW strives to maintain government transparency and protect public safety. We are offering a virtual option for attendance via Zoom conference. Cameras will be on for the duration of the meeting. Supporting materials will be available electronically at the BESW website: <http://socwork.nv.gov/board/Mtgs/>.

*NOTE: Per Open Meeting Law, before speaking, please state your full name for the record.

Join BESW's Zoom Meeting
Time: Mar 16, 2022 09:00 AM Pacific Time (US and Canada)

Join Zoom Meeting
<https://us02web.zoom.us/j/88019052957>

Meeting ID: 880 1905 2957
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Please Note: The Board of Examiners for Social Workers may address agenda items out of sequence, combine the agenda items, pull, or remove the agenda items, to aid the efficiency or effectiveness of the meeting or to accommodate persons appearing before the Board. The Board may continue agenda items to the next meeting as needed. (NRS 241.020)

Public comment is welcomed by the Board and will be heard at the beginning of the Board meeting following the Call to Order and Roll and at the end of the agenda prior to the adjournment of the Board meeting. Public comment may be limited to three (3) minutes per person. The Board meeting Chair may allow additional time to be given a speaker as time allows and at his/ her sole discretion. Once all items on the agenda are completed the meeting will adjourn. Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment. See NRS 233B.126.

AGENDA

Items may be taken out of order; Items may be combined for consideration by the public body; Items may be pulled or removed from the agenda at any time; the public body may place reasonable restrictions on the time, place, and manner of public comments, but may not restrict comments based upon viewpoint.

Pursuant to NRS 241.030 the Board may conduct a closed session to consider the character, allegations of misconduct, professional competence, or physical and mental health of a person.

1. Call to Order, Welcome New Board Members, Roll Call, and Self-Introductions.

2. Public Comment.

Note: No vote may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020). Public comment may be limited to three (3) minutes.

3. Board Operations:

A. Review and Discuss Board Meeting Minutes for February 16, 2022. (For Possible Action).

B. Review and Discuss Board Elections and Selection of Designee for Screen Policy (for Possible Action).

C. Board Review of Voluntary Surrender Agreement Kristopher Lee Komarek, License No. 6832-C, (For Possible Action).

D. Review and Discuss Pre-Hearing Motions for Kristopher Lee Komarek, License No. 6832-C, (For Possible Action).

E. Board Review of License Renewal for Robert Diamond, License No. 7879-C (For Possible Action).

F. Review and Discuss SEI Strategic Plan Report (For Possible Action).

G. Executive Director's Report (For Discussion Only).

- i. Pending Litigation Matter in the United States District Court for the District of Nevada - Case No. 3:20-cv-571-MMD-WG; and
- ii. Future Agenda Items: 1) Understanding reserves categories; 2) Address items outlined by the auditor; 3) Strategic Plan; 4) Relinquishments; 5) Nevada Administrative Code changes; 6) Nevada Revised Statutes; and
- iii. Next Board Meeting is 9 a.m. Wednesday, April 20, 2022.

4. Public Comment.

Note: No vote may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020). Public comment will be limited to three (3) minutes.

5. Adjournment.

Please contact Karen Oppenlander, LISW at (775) 688-2555 for information regarding the meeting. Supporting materials can be accessed electronically at the BESW website: <http://socwork.nv.gov/board/Mtgs/>.

This notice has been posted at the office of the Board of Examiners for Social Workers; the Board's Web Site www.socwork.nv.gov; and the State of Nevada's Public Notice Website <http://notice.nv.gov>.

3A



STATE OF NEVADA

BOARD OF EXAMINERS FOR SOCIAL WORKERS
4600 Kietzke Lane, Suite C121, Reno, Nevada 89502

Board Minutes – February 16, 2022

Call to Order and Roll. Erickson called the meeting for the Board of Examiners for Social Workers (BESW) to order at 9:02 a.m. on February 16, 2022, followed by Roll Call: Vikki Erickson, Board President; Monique Harris, Board Vice President; Abigail Klimas, Board Member; and Jacqueline Sanders, Board Member; Karen Oppenlander, Executive Director; Sandra Lowery, Deputy Director; Harry Ward, Deputy Attorney General, Board Counsel. Guests: Lea Case, Belz Case Government Affairs; Cory Ford representing Jessica Veik along with paralegal, Sydney Klein; Jennifer Kuhlman, Chief Deputy District Attorney, Las Vegas representing Clark County Department of Family Services; Lisa Martinez, Manager with Clark County Department of Family Services; Buffy Okuma, representing Washoe County Human Services Agency; Erik Stryker representing Kristopher Komarek. Absent: Susan Nielsen, Board Member.

Following, Erickson moved to **Agenda Item 2 Public Comment.** Ward asked attendees to introduce themselves before speaking by stating their full name for the record. He added that people may submit emails for public comment. Oppenlander indicated that the Board had not received public comment via email. Erickson moved forward as there was no public comment.

Erickson next moved to **Board Operations, Agenda Item 3, Review and Discuss Board Meeting Minutes for January 19, 2022. (For Possible Action).**

A motion was made to approve Board Meeting Minutes for January 19, 2022, by Jacqueline Sanders, seconded by Abigail Klimas. Roll call vote: Erickson – Aye, Sanders - Aye, Klimas – Aye, Harris – Aye. Motion passed unanimously.

Erickson asked Oppenlander to lead **Agenda Item 3 B, Review and Discuss Request for Removal of Information from November 20, 2015, Board Minutes (for Possible Action).** After a procedural discussion Oppenlander explained the agenda item and ask the Board to structure a motion to resolve a request made by a licensee. Prior to the meeting, Board members received a redacted copy of 2015 minutes that included the portion of the minutes pertaining to the licensee on page seven of Board meeting minutes for November 20th, 2015. When Oppenlander retrieved the 2015 meeting minutes, she also retrieved the 2015 Board meeting packet that included nine additional attachments (49 pages total) that were related to the matter being heard for the licensee. In her review, she cross walked all documentation, and an error was discovered. She stated that the easiest way to resolve the matter was to strike one line out of the redacted meeting minutes. Ward suggested that Oppenlander provide the Board with the preferred language, that this would help the Board structure a motion, and then the Board would note in these minutes that we are not actually striking, but we're footnoting what should be back in 2015. In other words, we would be correcting the 2015 minutes today, but we can't physically redact those minutes. We can footnote it in the 2015 minutes that it has been changed and corrected on February 16th, 2022.

Oppenlander read the preferred language change into the record:

“Review, Discussion and for Possible Action, Licensed Social Worker Application, Licensed Social Worker (LSW) Application for Marvin Neal, Based Upon Results of Criminal History Conducted by the Nevada Department of Public Safety (NV DPS), Pursuant to NRS 641B.202, NRS 641B.260 and NAC 641B.090.”

Kim Frakes presented this agenda item to the Board. On May 1, 2015, the Board received Marvin Neal’s application to be licensed as a social worker (LSW application). Mr. Neal responded affirmatively to screening questions numbers 1 (Prior felony convictions) and 2 (Prior arrests and/or convictions) on his application. He provided a written explanation and additional documentation pertaining to his legal history and documents supporting his rehabilitative efforts. (Marked, “Exhibits A through M). On June 5, 2015, the Board received the results of Mr. Neal’s criminal background report from the NV DPS and FBI. On August 4, 2015, the Board received verification that Mr. Neal had passed his Bachelor’s examination. Following confirmation that Mr. Neal had passed the Bachelor’s exam, a review of the criminal history was conducted in comparison to the information provided by Mr. Neal. The findings of this review are noted in the Board’s October 26, 2015 letter to Mr. Neal. With exception to NRS 641B.202 (authorizing the Board to require fingerprints as a part of licensure), NRS 641B.260 and NAC 641B.090 are contained in Agenda Item 6A (see above). Ms. Frakes indicated that following review and discussion of this agenda item, the Board’s options for “action” are similar to those contained in Agenda Item 6A, with exception to waiting for Mr. Neal to pass the licensing exam, given that he had already passed this exam.”

Erickson asked **Ward** a procedural question re: open discussion when this individual is not present during this meeting and without a release. **Ward** answered that the licensee requested that the Board correct the minutes; and the Executive Director has indicated how the minutes should have read. All we're doing is correcting words. We're not discussing a person's character. So, we do have the authority; and I would say that you may go ahead and do it.

A motion was made by Jacqueline Sanders, seconded by Abigail Klimas to correct language in the November 20, 2015, Board Minutes as read into the record by the Executive Director*. Roll call vote: Erickson – Aye, Harris - Aye, Klimas – Aye, Sanders - Aye. Motion passed unanimously. *See text box above.

Erickson move to Agenda Item **3C. Board Review of Voluntary Surrender Agreement, Kristopher Lee Komarek, License No. 6832-C, (For Possible Action)**. For the record, Harry **Ward**, Deputy Attorney General introduced himself and Erik Stryker identified himself as the Opposing Counsel representing Respondent Komarek.

Ward stated that there is a proposed voluntary surrender agreement, as well as the initial complaint that was sent to the Board. While he was not asking for action from the Board at this meeting, he did want to address questions from the Board. That way, if there is something to be resolved or if the Board is content with what they have read, then we would proceed with a signing of the voluntary surrender agreement and present it at the next meeting.

Stryker on behalf of Respondent, Kristopher Komarek, LCSW was appearing with regards to the voluntary surrender agreement. He stated that he has been negotiating these terms for some time with **Ward** and

he thinks they are close to the finish line. He referred to a two-step process related to filing an amended complaint and to accepting the voluntary surrender.

Erickson asked for clarification re: discussing what has been received. **Ward** suggested that if the Board wishes to discuss the voluntary surrender agreement in the open meeting (which would be required), they can; if there's no discussion, then **Ward** will proceed to file or amend the complaint. Then they will have this voluntary surrender agreement with signatures available at the next Board meeting unless this Board gives Opposing Counsel other direction. At this time, Stryker stated that after the amended complaint is filed, the Respondent requests the opportunity to submit an answer to same for the record following which the proposed voluntary surrender could be entered.

Erickson asked the Board members if they have reviewed the voluntary surrender in lieu of other disciplinary action and all Board members indicated that they had. **Erickson** then stated that this looks like a voluntary surrender agreement for not less than five years; reimbursement for Board investigative costs and costs to prosecute this matter in the amount of \$5,000; and an administrative disciplinary fine of not more than \$5,000; and this is in lieu of a disciplinary hearing in front of the Board.

Erickson asked if this individual is licensed in any other state. **Ward** interjected that this Board has the option to ask simple questions such as this question to the Opposing Counsel who represents the Respondent. He also suggested that the Board not get into details of evidence that have not been submitted. Stryker agreed to find out the answer to the question about licensing in other states. **Ward** stated that in his own review of the file, it does not indicate that the Respondent is licensed in any other state and understands that he is not in the State of Nevada anymore and is now in Puerto Rico. Stryker stated that is correct. The Respondent has relocated to Puerto Rico. However, he still conducts business in the State of Nevada via teletherapy, which occurred in this case. **Erickson** asked if the Respondent is licensed in Puerto Rico. Stryker does not believe that he is licensed in Puerto Rico but will confirm. Stryker texted the Respondent and the Respondent indicated that he is not licensed elsewhere.

Erickson asked if this will be reported to the National Practitioner Data Bank. **Ward** answered that all voluntary surrenders in lieu of other disciplinary action are included in the NPDB. **Oppenlander** answered a question from **Klimas** re: an international database. She stated that BESW posts actions taken by the Board to the Public Protection Database for the Association for Social Work Boards. The ASWB PPD system is a flagging system to provide disciplinary information to member boards in both Canada and the United States.

Erickson asked if the Respondent would have to present in front of the Board if he applied for licensure again in five years. **Ward** answered that he would present to the Board during a re-application review; this would include a review of the voluntary surrender agreement to see if he has paid fines, fees and etcetera. **Erickson** asked if there is a reason that the document indicates that he can reapply in five years. **Ward** stated that put this into this agreement for five years and that this language was agreed upon with Opposing Counsel. Stryker indicated that it is his understanding that the Respondent may be retiring and thinks the language is negotiable.

Sanders asked about including counseling for the Respondent as part of the voluntary surrender agreement to be sure that it is being addressed. **Ward** indicated that in general, that can be addressed if that were the norm of what this Board would request. **Ward** did put in "fitness of duty" if the Respondent would reapply because we want to protect the public and that is a duty of this Board. If the Board is leaning towards adding to the agreement, then that's one of the reasons why we're having this discussion

right now. That way, we can go back and renegotiate, he can let his client know, and then we can come back to the Board. **Sanders** thanked **Ward**.

Klimas asked for an explanation of amending the complaint and why that is happening. **Ward** explained that he did not draft the complaint and that was done by another deputy attorney general. It had about six different causes of action. Generally, it is easier to amend a complaint rather than go back to put more information into the voluntary surrender. He continued by describing a typical process. **Stryker** agreed and said if the Board is interested in reasons the agreement is structured the way it is, he would refer the Board to a motion made to dismiss duplicative charges. He continued by stating that the motion is geared towards bringing the complaint down to the very essence of what is alleged to be misconduct, which is strongly denied by his client. However, for purposes of a negotiated resolution, DAG **Ward** and I have come to terms on an amended complaint that sets forth a charge that we feel is more tailored to the facts of the case. This is with the understanding that the Respondent will file an answer, denying those charges, and then we'll move forward to a resolution of the matter with the voluntary surrender agreement.

Ward suggested that **Oppenlander** put the voluntary surrender agreement back on next month's agenda. A brief procedural discussion ensued about coming to an amicable agreement. **Stryker** added that if for some reason, a resolution cannot be accomplished, we may consider it appropriate to have a two-step process. Step one would be a hearing of the Respondent's pre-hearing motion and petition so that DAG **Ward**, the Board, and the Respondent would know what evidence is admissible at a formal hearing and what is not. And then later, setting a calendar item for the actual hearing itself. So, on behalf of the Respondent, **Stryker** requested that the agenda items be the voluntary surrender for the March meeting, as well as any pre-hearing motions. If the voluntary surrender is not accepted and that the formal hearing be pushed to a reasonable period after a decision has been made on the pending pre-hearing motion and pre-hearing petition because by statute or regulation, the pre-hearing petition requires the Board to take additional steps with regards to the advisory opinion. Again, the Respondent does not want to generate legal fees on behalf of the State of Nevada undertaking a formal response to the petition for an advisory opinion, if we can reach an agreement. For those reasons, we're happy to have essentially the same items placed on the March agenda with the understanding that a formal hearing will not go forward in March, because there needs to be a decision on the pre-hearing motions; and, that the formal hearing would take place later. **Ward** agreed that it would be a good modification to add any pre-hearing motions if the voluntary surrender agreement has not been reached.

On behalf of the Respondent, **Stryker** clarified that the Respondent's personal appearance was waived for February and requests the same at the next meeting in March when the voluntary surrender agreement will be scheduled. And if this matter goes to a full hearing, the Respondent will attend and defend his actions. **Ward** stated that it is not unusual during a case for the Respondent to not be in attendance as they have their counsel there to represent them.

In response to a request from **Erickson**, **Oppenlander** agreed to place this item on the agenda once again for the next Board meeting at 9 a.m. on Wednesday, March 16th. And if this item is continued, the following Board meeting is scheduled for 9 a.m. on Wednesday, April 20th.

Next, **Erickson** turned to Agenda Item 3D, **Association of Social Work Boards Update(s) (For Discussion Only)**. **Oppenlander** congratulated **Vikki Erickson** who was elected at the ASWB national meeting to sit on the ASWB Nominating Committee. The Nominating Committee consists of five members who are elected by ASWB delegates. The committee's primary responsibility is to compile an election slate for the

Board of Directors and the Nominating Committee. 2022 members include: Kenya Anderson (TN), Sonia Bilkhu (BC), Vikki Erickson (NV), Erin Michel (OH), and Stephan Viehweg (IN).

Erickson said that related to this new role, she has registered to attend the education meeting in Chicago as a member of the nominating committee that takes place from April 28-30. She plans to attend the board member forum as well as a member of the nominating committee and can also go as a board member. She also suggested that **Oppenlander** attend the education meeting as the Board's Administrator. She plans to attend via an online platform as ASWB will offer the meeting to administrators in a "hybrid" format.

Continuing, **Erickson** shared that ASWB contacted BESW to invite our newest Board members to attend an in-person New Board Member Training session to be held in person March 24-26, 2022, at the Hyatt Mission Bay in San Diego, California. The invite was sent to **Klimas** and **Sanders** who have not attended in-person meetings yet. ASWB was reaching out as the upcoming March training in California requires less travel time than the other in-person trainings later this year. **Sanders** was able to schedule this opportunity and will be attending.

Then **Erickson** added that on May 11, 2022, there is a "Get involved: Leadership opportunities with ASWB" online training. This is designed to deepen knowledge of the ASWB leadership and governance structure. This training will help attendees learn more about elected positions and the role of committees. ASWB will explore the duties, time commitment, and election process for positions on the Nominating Committee and Board of Directors.

Following, **Erickson** moved to **Agenda Item 3 E Issue Regarding Out-of-State Video Relinquishments (For Discussion Only)**. **Erickson** thanked everyone for joining the Board today for this discussion. **Oppenlander** reintroduced an item that had previously been discussed by the Board in January. The request for discussion of Out-of-State Video Relinquishments was made by Jennifer Kuhlman, Chief Deputy District Attorney, Juvenile Division, Clark County. Kuhlman offered to answer questions or have the county's Adoptions Manager explain their issues/ concerns. They had stated that all child welfare agencies across the state are struggling with the issue, and it has become more evident in the COVID age. Simultaneously, BESW Deputy Director Sandra **Lowery** was also contacted by Washoe County about this matter.

In January, the Board referred to a handout: Specific Issues and Concerns - Out-of-State Video Relinquishments and read the information on the handout into the Board meeting minutes. **Oppenlander** added that in preparing the item for the Board, the following questions/ statements were made by BESW staff: 1) What is the current agency policy regarding relinquishments? 2) Is the process different or the same in each county? 3) What is the role of the social worker, i.e., are they providing an explanation of the documents, answering questions, providing information about the child, etc.? This is important to know as those things would be considered "practicing". 4) Are ICPC's in place (Interstate Compact on the Placement of Children) in these cases? If so, a child welfare professional is already involved. 5) What is the agency policy about the role of the social worker in the other state(s)? 6) Is simply "witnessing" considered practice (i.e., not answering questions)? 7) BESW has not been contacted by the other 15 Nevada counties yet. Additionally, Board member **Klimas** added another question, "Is the social worker representing the child living in our state, or representing the parent that is out-of-state? Wrapping up in January, **Ward** commented that the Board would not have to give a formal opinion and hasn't been asked to change the law. Board members agreed to invite the Clark County representatives to the February Board meeting to continue this discussion.

Jennifer Kuhlman (Clark County) went through the questions starting with 1) What is the current agency policy regarding relinquishments? She answered that the Nevada Statutes as well as the Nevada Administrative Code provides certain requirements to do a relinquishment. We have practices in place on how that is effectuated, and the agency will prepare certain legal documents to facilitate the relinquishment and then there's the practice of how that occurs. Kuhlman asked if BESW could clarify what information the Board is seeking? **Lowery** said that the intent of that question is to better understand what you are currently doing; and learn more about why there is a need to do something different.

Kuhlman replied that when a parent wants to relinquish their parental rights, the agency is tasked with facilitating that process. If the parent is located here in Nevada, it's a non-issue unless the Indian Child Welfare Act applies. What occurs is the agency will facilitate preparation of the documents, schedule either an in-person or a virtual meeting with the parent and /or their attorney, along with the social worker and another disinterested witness, as well as a notary. Where the challenge comes is when a parent resides outside of the State of Nevada which could occur for a variety of reasons; either they've always lived outside of Nevada; or they weren't the custodial parent; or they have since the inception of the child welfare case relocated outside of the State of Nevada; and then it becomes a challenge of how we facilitate that.

What's currently occurring is the agency then gets tasked with doing research and tries to locate the local child welfare agency to see whether they're willing to assist. If we're unable to locate a public agency, then we start contacting private agencies or contractors that are willing to assist and essentially do the same thing that we would do here in Nevada when the parent resides here; and then we would provide them with the necessary paperwork. That process can be quite cumbersome, and it can take sometimes 6 - 12 months to locate those individuals, depending on the various laws in the state in which the parent resides. Some states do not require a licensed social worker; for example, the State of Arizona does not even recognize parental relinquishment, so they are unwilling to assist at all. Other states allow attorneys to facilitate the relinquishment process. The requirement in Nevada is to have a social worker witness and accept that relinquishment. The result of the process is that we have children in foster care that are waiting to be adopted and they are in the system unnecessarily for a significant length of time. Originally when the NAC and NRS was enacted, most child welfare agency employees were social workers. That is no longer the case. We're seeking a change to prevent children from languishing in the system. In Clark County, all adoption personnel are in a separate unit. They are all licensed social workers, and we're bringing this discussion to the Board today because our licensed social workers want to be sure that if we implement this practice change, that they're not going to be subject to discipline by this Board.

Buffy Okuma (Washoe County) stated that one of the other issues that they have in Washoe County is that we have a lot of parents in Arizona. We've had to, in some cases, fly parents to Nevada because we have been unable to facilitate a relinquishment in their state for reasons that Ms. Kuhlman already spoke about. We've had cases where a parent couldn't leave that state. For example, one parent was incarcerated in Arizona and because Arizona doesn't recognize relinquishment and none of their social workers can facilitate relinquishment, she had to terminate his parental rights. This was a very unfortunate circumstance as he was willing to relinquish whereas a termination may have future impacts for him.

Also, to answer Ms. **Lowery** more fully, on a limited basis in Washoe County we will do a virtual relinquishment but only as part of the Nevada court proceeding to tie that nexus into Nevada. This is because we have parents all over the country and they are represented by attorneys in our Nevada proceeding. But that's the only time that we're able to do it. And we would prefer to get away from it;

and the court would also prefer to get away from it as a standard relinquishment doesn't require a court proceeding.

Kuhlman added that Clark County (if this Board were to issue an opinion and permit this practice to go forward) would prefer that it would not be a part of a court proceeding. Our volume in Clark County is such that our courts are not supportive of taking up limited court time to facilitate a relinquishment.

Next, Kuhlman moved to the second question re: Is the process the same or different in each county? She expects that the processes are slightly different from county to county. There are some variances, but this is a common problem for all. We meet regularly (the attorneys) monthly trying to work towards more consistent practices. And this was one of the issues that we had identified in our monthly meetings that we need to address.

Okuma added that besides Washoe and Clark Counties, DCFS is a third agency in Nevada. They have three deputy attorneys general who represent them. So as mentioned, we all have this conversation and everybody's having the same issue. In terms of differences, in Washoe County the licensed social worker who comes in to witness the relinquishment isn't necessarily the worker who's on the case. If we are to do a relinquishment, an email gets sent out that asks if there is a licensed social worker who can come on this day, at this time, and witness this relinquishment and it could be someone involved in the case, or someone who's not involved in the case. In the smaller jurisdictions, it may be the person who's involved in the case, but that is not a requirement.

Kuhlman said that they have a separate adoptions unit and the social worker, as well as the third-party witness, are not involved in the case. They are not assigned; they are not providing services necessarily to the child or to the parent. They have a case manager that is responsible for those functions. Where the adoption worker comes in is that once the case is referred to adoptions, an adoption worker is assigned to facilitate the adoption process. We now have one or two people who are doing all the relinquishments and they are not even assigned adoptions cases per se and there's not a social work aspect to it. It's more of a facilitating of the relinquishment process. There's no counseling or rendering of opinions. It really a meeting where everybody comes together, there's a discussion about the paperwork, there's a brief conversation regarding it, they are provided other forms e.g., being put on the adoption registry for your child to locate you once they become an adult if they want to; things like that. So there's an explanation of the forms. There's observation of the parents' demeanor to ensure that they are not under duress or under the influence of any substance, i.e., things of that nature. Okuma stated that the observation though is done by both a licensed social worker, as well as the other witness; both witnesses must attest to the same thing. So, there's no distinction because one of them is a licensed social worker. With that, Kuhlman believed that they had answered questions two and three.

Klimas asked for additional information about the role of the social worker being limited to the assessment. Kuhlman clarified that it's not really an assessment; it's more of an observation. For example, the parties that would be present would be the parent who's relinquishing, the social worker, the secondary witness, and the parent's attorney. And sometimes the child's attorney is present. If they observe that the parent appears to be high or under the influence, the relinquishment will stop and it will get rescheduled for another day; so, it's more of an observation and there's not a formal assessment. Okuma stated that there are some occasions where a parent might not be represented e.g., someone who was located late in the case doesn't want to be involved; and they may say I just want to relinquish; I don't have a relationship with the child anyway. And if someone starts asking questions, we generally say that they need to have their lawyer answer those questions.

Sanders asked if what we're doing is removing social workers from the process of adoption. Kuhlman doesn't know that they are removing social workers from the process of the adoption. She thinks that at

the time when the law was written, all the employees of the agencies were social workers. The statute and the NAC are somewhat antiquated and need to be updated. And that's a separate issue that's being worked on. I don't think that there's really a need for a social worker as part of the relinquishment process itself.

Sanders emphasized that when social workers are talking about an observation, we don't just observe. We are assessing, and that's critical when you're trying to assess the emotions, the needs, the thought process of clients, patients. We are assessing their ability to understand, or to express their understanding of what's going on as a lot of people lack this. I think to remove the social workers would be a major concern. We have a lot of people already in mental health facilities, the prisons, the foster care system, and etcetera. And that's because their thought process, their feelings and etcetera were never addressed. At what point are we looking at benefiting them and not just completing a task?

Kuhlman stated that at the point when a parent is relinquishing their parental rights, this isn't a situation where a parent or a child meets the child welfare system and then we are taking a relinquishment a week later. This is unlike child placing agencies where many times a parent may choose to relinquish shortly after birth. Often in child welfare cases, the agency has been involved with the court and with the family for more than a year before we're at the point where we're considering relinquishment of parental rights. So, the parent has already been provided a case plan for services, they've been to treatment providers. If there's any concerns about their cognitive ability or their ability to understand, or even their legal competency, these issues would've normally been identified during the case that led up to the point where it was necessary to seek termination of parental rights. So, you would already have one or more treatment providers doing formal psychological or neuropsychic assessment or whatever other assessment might have been appropriate; as well as review by the judge and the attorney to see whether the parent's cognitive ability was such that they need guardian ad litem appointed to assist them or to make decisions on their behalf. If you are getting to the point where you're sitting down in your meeting and the parent has indicated that they want to relinquish their parental rights, that process has already been gone through.

Harris asked about the shortage of professionals in other areas that were mentioned and that a child or a parent may have slipped underneath the radar or gone untreated. Then at a particular hearing or setting another professional may need to be in the room to observe or be a part of the relinquishing process.

Kuhlman indicated that this is a very broad question. She went on to say that our social workers are not clinical social workers. There's no clinical assessment being done at the time of relinquishment; that would've been done beforehand. There are shortages in the community and in the State of Nevada; our mental health services are lacking. There are various entities and agencies and government representatives trying to address those issues. But this isn't a clinical social work function at this point. It's really a formal process in which to execute a legal process of relinquishment of the parental rights. So, there's no service being provided by the social worker during the relinquishment process.

Harris said that her concern is not from a clinical lens, it's from a training lens. We are trained not just in the clinical aspect, but also in the social aspect of family systems and systems in general. So, my concern is that social workers may be removed from a process when there is a need for social workers to be present.

Okuma stated that they can't remove the licensed social worker because it's in the statute. She went on to explain different requirements for the witness if the person is consenting to an adoption for somebody

who is a family member. She also added that there are very limited questions being asked during the relinquishment by witness, lawyers, staff, case workers and etcetera.

Lowery wanted to clarify that there are no circumstances in which a licensed social worker would be providing information to somebody who's outside of the State of Nevada. It sounds like that is already taken care of prior to the relinquishment meeting and the only purpose of that relinquishment meeting is for the individuals there to sign off; but not to provide information.

Kuhlman stated that is also her understanding. There are some other miscellaneous questions that are asked, certain statutory requirements are met e.g., an inquiry about whether there's any Native American heritage in the parent's family as there are different requirements for relinquishment under the Indian Child Welfare Act laws; and asking whether they're under the influence; and are you signing these documents freely and voluntarily; but there isn't information provided about the child or about the case. As Ms. Okuma stated, this is about facilitating the process and not about casework, or providing services, or assessment.

Lisa Martinez (Clark County) spoke next and stated that she is a licensed social worker that oversees the Clark County Adoption Program. She was previously an employee of the Division of Child and Family Services before the child welfare bifurcation. At that time, we were all social workers for the State of Nevada, and everything was handled by social workers. In 2004, that all changed in Nevada. Today is not intended to discount or eliminate social workers from the process that is required by statute. Our ask today is to be able to expand our services and serve our clients given the challenges with COVID. The actual signing of the relinquishment is more of a formality because these are not private adoptions, they are not counseling birth parents, we're not helping birth parents make selections of who's going to adopt their child. These are cases that have played out in the child welfare system for a year if not longer about who is adopting the child. All those things have already been decided. It is really reviewing the document, making sure they understand that it's an irrevocable document, that they're not signing under duress, that nothing else was promised to them. There is no information discussed about their child, who is adopting their child. They all know who their child is and much of the time, they know who's adopting their child e.g., relatives or foster parent(s). It's really about the formal signing of the document. If the child is Native American that's a whole other process that plays out in court. If there are any concerns or hesitation, the signing of the document does not happen. On my staff, we have about 15 social workers. This has been a huge issue during COVID when we can't get the assistance of out-of-state child welfare agencies or child placement agencies to assist us, we go to the extreme of paying agencies when we need to find someone to assist us. It's really delaying children being able to exit foster care and go on with their lives and it can be a disservice to our client and to the social workers.

Martinez summarized the purpose of the meeting: We want to be able to witness these relinquishments, but we don't want to jeopardize our social work licenses. We want to be clear that we are not asking for the social worker to step out. What we don't know is if this is considered practicing social work in another state. We want clarification as no one wants to jeopardize their license.

Lowery shared that the crux of the issue is that the Board is being asked to decide is if answering a question from a parent who is in another state would be considered practicing social work.

Kuhlman referenced how this is handled when the parent in another state is appointed a Nevada attorney i.e., when this parent lives out of state, they're having conversations with their attorney either via zoom or by telephone or by email. It's not considered practicing law across state lines because the client moved

or resides out of state. So, I'm not sure why it would be considered that a social worker is practicing across state lines if we conduct these relinquishments by video using a Nevada social worker to meet the statutory requirement by witnessing by video and have a notary in the other state notarize the documents. The entire nexus of the case is within Nevada: you have a Nevada case, in a Nevada court, with a child who's under the court's jurisdiction, with Nevada attorneys, a Nevada judge, a Nevada case manager, and now an adoption social worker, and everything is tied to Nevada. The only thing that is occurring is that you are on a video screen executing these documents over video rather than in person.

Lowery said that it is the position of the social work board as a behavioral board that covers all scopes of social work that you must be licensed in whatever state your client is in; and to practice outside of the state of Nevada is to put one's license at risk.

Kuhlman responded and would agree if there was a client relationship. She does not believe that in the context of a relinquishment, that there is a client relationship between the adoption social worker and the relinquishing parent.

Harris asked if there was a referral component in the process e.g., a need to know the community. **Martinez** answered by stating that there is not a community referral made during the relinquishment process. They are not providing a service. They're not providing counseling, they're not providing any type of clinical assessment, they're not rendering advice in that manner. There isn't a client relationship between the adoption social worker and the relinquishing parent. The only interaction the adoption social worker has with the parent is the actual relinquishment process. Generally, in the out-of-state relinquishment, the relinquishment is set up by somebody else and the relationship is literally that one meeting.

Erickson circled back to a question posed earlier by **Klimas** in January wanting to understand if the social worker is representing the child in the State of Nevada or representing the parent that is out-of-state during the relinquishment, i.e., who is the actual client. Kuhlman answered on behalf of the adoption social worker: During the facilitation of the relinquishment process, the adoption social worker has no client. **Martinez** agreed that in Clark County, she has adoption workers assigned to the adoptive parents and the child that's going to be adopted. The social workers facilitating relinquishments are a completely disinterested party. In her department, the social workers that are witnessing relinquishments do not have any adoption cases of their own. As the statute is written for consents and relinquishments to be signed by a licensed social worker, that's why they are handling it this way in that department. The statute requires that the witnesses be disinterested.

Klimas added that she appreciates how complicated this is and appreciates everyone coming today to answer all these questions and taking time to go over this with us. It is important for us to make sure that we are protecting the practice of social work for public health, as well as protecting our social workers. She doesn't want to speak for anyone else, but it does seem that they are not practicing out of state, and they are a disinterested party. But I don't know how we could regulate that they are not answering questions and that they are more of a witness/participant and not an evaluator or anything else like that. And this speaks to a greater issue that we are having to address now with COVID and telehealth and public protection and protection of the licensees. I want to be able to support these kids going through the process and make it more seamless for everyone as well. So, **DAG Ward**, how would we even proceed? **Ward** responded that his suggestion would be to change the law to protect the licensee. **Klimas** asked about the process. **Ward** said that he can send a manual that is over 50 pages that describes how to change the law to facilitate the adoption process. And we'd have to determine if we need to change the NRS (Nevada Revised Statute) or change the NAC (Nevada Administrative Code).

Ward proceeded to give an example of how difficult it would be to prosecute a case that is in a 'gray area' of the law meaning in an area of legislation that still must be clarified. **Klimas** asked for additional

information about whether the Board can even decide to allow this on its own. If she is following the conversation accurately, then the Board would have to partner with the adoption group next February to change the relevant statute or provide support going through the NAC change process to update the administrative code. Is that correct?

Ward answered **Klimas** stating that she was correct; and he gave her an alternative option to ask for an Attorney General's opinion and that may take about 5 to 6 months and would be billed between \$6000-\$7000. Or, if something did come to the Board's Compliance Unit in the meantime, the investigation staff could explain that we are working to change the law at this time. An AG's opinion would not be a timely process and it would be expensive. **Klimas** thanked **Ward**.

Kuhlman commented about the NRS and the NAC. The NRS has a requirement for the social worker for a consent for adoption not for relinquishment. The NAC has a requirement for the relinquishment. In Washoe County they mostly take consents and not relinquishment. So, it would likely have to change both. The problem would primarily be in the way the NRS law is written and it separates the differences between a child welfare agency (such as the agencies presenting today) and a child placing agency which are the private adoption agencies.

*Notes: *The NRS in question is from Chapter 127 – Adoption of Children and Adults; and **the NAC in question is from Chapter 127 (Adoption of Children). Neither is a part of Chapter 641B – Social Workers. Please see underlined excerpts below.*

***NRS 127.053 Consent to adoption: Requisites.** *No consent to a specific adoption executed in this State, or executed outside this State for use in this State, is valid unless it:*

1. *Identifies the child to be adopted by name, if any, sex and date of birth.*
2. *Is in writing and signed by the person consenting to the adoption as required in this chapter.*
3. *Is acknowledged by the person consenting and signing the consent to adoption in the manner and form required for conveyances of real property.*
4. *Contains, at the time of execution, the name of the person or persons to whom consent to adopt the child is given.*
5. *Is attested by at least two competent, disinterested witnesses who subscribe their names to the consent in the presence of the person consenting. If neither the petitioner nor the spouse of a petitioner is related to the child within the third degree of consanguinity, then one of the witnesses must be a social worker employed by:*

- (a) *An agency which provides child welfare services;*
- (b) *An agency licensed in this state to place children for adoption;*
- (c) *A comparable state or county agency of another state; or*
- (d) *An agency authorized under the laws of another state to place children for adoption, if the natural parent resides in that state.*

(Added to NRS by 1961, 736; A 1973, 1588; 1987, 2050; 1991, 948; 1993, 204, 2681, 2731; 2001 Special Session, 3)

****NAC 127.260 Relinquishment of child for adoption. (NRS 127.230)**

1. *Before a child-placing agency accepts from biological parents a relinquishment of a child for adoption, the agency shall comply with the requirements of NAC 127.245 and, if the agency determines that the child is not an Indian child:*

- (a) *Discuss with the parents the alternatives for keeping the child, and determine that the parents are prepared to relinquish their rights and responsibilities regarding the child.*

(b) Assist the parents in reaching a decision regarding the most favorable plan of action for both the parents and the child, and determine the services necessary to carry out that plan.

(c) If appropriate, inform the parents that rights of visitation may be granted to certain relatives pursuant to NRS 125C.050.

(d) Ensure that the parents have had ample time and received ample counseling to consider all the implications of their decision. A child-placing agency shall not accept such a relinquishment within 72 hours after the birth of the child.

(e) Ensure that the relinquishment is:

(1) Executed in the presence of and acknowledged before a notary public or other person authorized to administer oaths in this state; and

(2) **Attested by at least two competent and disinterested witnesses, including at least one social worker employed by a child-placing agency or an agency which provides child welfare services, who subscribe their names to the relinquishment in the presence of the relinquishing parent.**

(f) The child-placing agency shall arrange, if necessary, for the provision of:

(1) Except as otherwise provided in this subparagraph, living accommodations until no later than 3 months after the birth of the child. The child-placing agency may arrange for the provision of living accommodations until no later than 5 months after the birth of the child if the biological parent has extenuating medical needs.

(2) Financial assistance, such as for food, clothing, rent and utilities, until no later than 3 months after the birth of the child.

(3) Medical care, including prenatal, obstetrical, hospital and dental care.

(4) Psychiatric and psychological services.

(5) Legal assistance.

2. A child-placing agency shall provide a relinquishing parent with a copy of his or her relinquishment of a child for adoption.

(Added to NAC by Div. of Child & Fam. Services, eff. 11-23-93; A 5-14-96; 8-30-96; R056-02, 7-30-2002)

Kuhlman continued and talked about looking at the NRS and NAC when it is detailed out. The first portion of the statute (NRS) concerns the child placing agencies. The second part of the statute concerns the child welfare agencies. The NAC is not broken out like that. So, when you look at changing the law and the requirements for relinquishments, the private adoptions would be impacted; and I don't know that we would want to be doing that. The Board might choose to not address it in that manner; instead, the Board may choose to issue an opinion that child welfare agencies may do the relinquishment by video because we don't have clients; and this would not affect child placing agencies. Otherwise, Kuhlman suggested that changing the law may create more problems than it solves.

Next, Okuma spoke of an alternative to getting a formal AGs opinion as she had no idea that it costs so much money. If we have some comfort level in the discussion that the social workers don't have a client, that they aren't giving advice or doing assessments, that they are doing the things that would be categorized as social work, I think that we're hoping to get to a look at how this matter would be viewed and regulated. We would follow the statute which says they're not a party and they have to be disinterested and all they are is a witness. To me that's saying that is what their role is and that's been our position on it. I think that's why we were hoping to come here to discuss this. Our adoptions statutes are antiquated and it's because changing the law in Nevada, often doesn't get us what we were intending.

Lowery asked **Ward** if the Board can issue an opinion over a statute that the Board doesn't have authority over (Chapter 127) and can the Board do this through the venue of a meeting? **Ward** stated that he'd have to look into it; but his strong suggestion was to not render any kind of an opinion or "say so" by the Board on a statute or a regulation for which they may or may not have authority.

Kuhlman stated that they aren't asking the Board to render an opinion on Nevada statute and that would be reserved for the Nevada Supreme Court and the Judiciary. What we are asking this Board to do is to advise our social workers whether they would be subject to discipline by this Board for witnessing a relinquishment by video for parents that are incarcerated or otherwise are not able to be in the State of Nevada.

Lowery asked **Ward** for clarification. **Ward** reiterated that his suggestion to the Board is that they do not render an opinion or anything in an open meeting. What you would do is maybe discuss this matter like we are doing right now, talk to investigators that may get a complaint like this from someone. As Ms. **Lowery** stated, it could go deeper. What if the social worker is sued individually in a civil matter? Do they have Errors and Omissions or are they going to blame the Board because the Board gave them the "authority" to practice out of the state? So those are some of many, many obstacles. My suggestion is that the Board does not render anything or decide that we're not going to pursue these cases. What the Board can do is say that is if it comes up, we'll take it on a case-by-case basis. And then we will decide whether we're going to pursue the case against the licensee or not.

Oppenlander shared that as the Executive Director, she will at some point look at all complaints that are received by the Board. Most complaints come from the public; typically, staff doesn't generate complaints. We receive complaints from the family members of children that arise as the result of a family dispute. It might be a complaint from a parent in a divorce, it could be a complaint from an extended family member, it could be a complaint from any number of people that consider themselves "related" to a child e.g., a grandparent, an aunt. Some complaints arise because a complainant is not happy with an outcome, and they blame a social worker because a proceeding didn't go the way they wanted it to.

So let's just imagine that in some state, in some county a complainant says that payments need to be made for child support by the parent that lives there; and the complainant is basing this on a law that doesn't exist in Nevada but does exist in that state and/or in that county; and the complainant files a complaint with the Board because they believe child support is deserved after the relinquishment process is done; and they file the complaint against the social worker that was at the relinquishment process. Our investigator would have to understand how relinquishment process(es) in Nevada might be very different than how the process is in a different state, a different county. And the complainant will tend to believe that the law where they come from, the law that they know best, is the "right way" of doing things. Then the complaint will go on to say to state in the complaint that the adoption process in that state is solid and that the adoption process in Nevada is incorrect and not as good as the process in that state. So, the complaint against the social worker comes to us and we have sort through all of this to verify the complaint being made against the social worker. And we must look all complaints that come in. I realize that somebody here today might wish that we can say that a complaint like that won't jeopardize the license of a Nevada social worker. It might not, but we will still need to understand the complainant's concerns, especially if the complainant has a grave concern, and we will need to review each situation, case-by-case. I don't see how this Board can decide about this matter during this meeting.

It's rare that a child welfare issue comes to us that is a win-win deal and it's almost always a win-lose situation; and the person who's losing is upset and sends a complaint to anybody they can; and we happen to be one of the places that receives complaints. And we look at the complaints seriously and we try to get to the heart of each one and it can be difficult and time consuming. We do not want to jeopardize

anyone's license. We know that social workers go through a lot of time and expense to get their license. We treat each license as important; on the other hand, we treat each complaint that we receive as important. I appreciate that attorneys that are here today have their way of looking at things, that case workers that are not licensed social workers have their ways of doing things, that disinterested parties have their ways of doing things, and that social workers have their ways of doing things and all of this would have to be taken into consideration. Getting this legislated would be a tour de force that might take several legislative sessions to accomplish. There are many angles to consider and **Oppenlander** thought this needs to be handled on a case-by-case basis. She went on to assure everyone that we are not looking to meddle with the relinquishment process. Still, we are obligated to look at complaints and she doesn't see that this will change suddenly.

She continued along a related topic to bring up that the telehealth picture is changing rapidly. New laws will be coming in that aren't here yet. Everything in telehealth is moving at the speed of light. As member **Klimas** referred earlier to the "slippery slope", we see that there are plenty of them around e.g., HIPAA, telehealth and more.

And lastly, she recognizes that as Nevada social workers, it's hard for us to cross state lines right now. That is why we are part of looking at Interstate Compacts along with the Association of Social Work Boards. We are trying to figure out in the next few years how to make these types of processes easier for everyone. We are not certain how many years it will take to form an Interstate Compact. We want to see this happen and this is an example of why it needs to happen. **Oppenlander** appreciated that everyone is taking so much time to seriously look at what it's like to deal with these types of matters.

Erickson appreciated hearing from Board staff as they are the ones that first receive the complaints and must work through them. She then addressed **Ward** as she was needing direction about if the Board needs to have further discussion or is this something that the attorneys can continue to discuss outside of this meeting. **Ward** responded stating that this item has been on the agenda for a discussion today and there has been some great discussion. Second, the Board cannot take any action on this agenda item, but we can give some direction to the Executive Director e.g., maybe we can determine if we can change the NAC to permit use of a virtual platform to witness; maybe we can put this item back on the agenda for further discussion to see what's possible now that we know the potential fixes, the gray areas, and etcetera.

Kuhlman asked about what a social worker is supposed to do if the court in a situation like this, where parents are out-of-state, and the court orders us at the agency to take the parent's relinquishment by video. **Erickson** thanked Ms. Kuhlman for the question but said that she doesn't have an answer for that. Kuhlman asked if a social worker would potentially be subject to discipline by this board for following a court order? **Erickson** said that she doesn't know how to answer that unless we receive a complaint.

Okuma answered some questions that had been posed in January to be addressed at this meeting in February. One question was about when there is an ICPC in place. It appears that there was a misunderstanding about the relinquishment process; an ICPC has nothing to do with relinquishment. ICPCs are for children that are to be placed in other states and the ICPC has nothing to do with the biological parents. Next, Okuma said that she finds it difficult to understand the line between a case worker and a licensed social worker when the licensed social worker is doing work that doesn't require them to be a licensed social worker. This is gray area for her when providing information to her agency re: disciplinary actions. She reiterated that the relinquishment is a step towards adoption that requires a licensed social worker, but that it's not part of the adoption worker's assignment in child welfare which is

completely different than in private adoptions. To close, she said that she and Kuhlman will have to go forward from here to determine how we're going to advise our clients. Erickson appreciated the complex discussion and thanked everyone for joining the call.

Erickson then moved to Agenda Item 3F - Review and Discuss BESW Strategic Plan Report – December 31, 2021 (For Discussion Only). Oppenlander discussed a handout that recaps what the Board has been accomplishing since we entered the Strategic Plan in 2018. We're in the middle of a 5-year plan that continues through 2023. Every year, we try to wrap up what occurred in the previous calendar year based on our plan developed in 2018. We developed the plan over two days of face-to-face meetings.

In 2018, this Board did not have a strategic plan. In late 2018 and 2019, we started to implement the new plan. In 2019, we had made some progress, we met in person to discuss it, and then in 2020 - along came COVID and we didn't meet in person after that. It was good to be able to refer to the plan during this past 2-year period.

This handout is my view on 12/31/21 without input from the full Board. Now as we enter year three of the pandemic, and we have adapted to working on Zoom, we came up with the idea of finishing out the 2022-23 portion of the plan together online and then working together to create the next five-year plan.

We intend to have regular strategic sessions. And that would be with everyone on the Board being able to be involved. You will all be co-determining how we finish out the plan we're in the middle of. And we will also be working together to come up with a new plan.

Please read this handout at your leisure and send me your questions. You will see a lot of things like "TBD" meaning to be determined, and revise goals, and etcetera because had we have not been able to meet in person over the last two years. Now we will meet regularly and will start revising this.

And BESW has brought back the same group (Social Entrepreneurs Inc) that helped us form the original 2018 plan. And they're going to work with us over the next two years to get this plan completed and start the next five-year plan. They will be back in March to keep the ball rolling with the strategic planning process. And to close, I ask that you please fill out the survey that they've sent out as best you can. Thank you.

Erickson moved to Agenda Item 3G Executive Director's Report (For Discussion Only). Oppenlander briefly referred to item i. Pending Litigation Matter in the United States District Court for the District of Nevada - Case No. 3:20-cv-571-MMD-WG. She asked the Board to refer to the January 2022 Board minutes and that a further update may be available tomorrow or later; and then briefly covered item ii. Future Agenda Items including 1) Understanding reserves categories; 2) Address items outlined by the auditor; 3) Ongoing Strategic Planning and asked the Board if they had additional items to add; they did not add new items, so she reminded everyone that the next Board meeting is at 9 a.m. on Wednesday, March 16, 2022.

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

Jacqueline Sanders made a motion to adjourn the meeting, seconded by Abigail Klimas. Roll Call Vote: Erickson – Aye, Harris – Aye, Klimas – Aye, Sanders – Aye. Motion passed unanimously.

The meeting was adjourned at 11:20 a.m.

Minutes respectfully submitted by Karen Oppenlander, Executive Director.