



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, May 18, 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.**

The Board of Examiners for Social Workers is inviting you to a scheduled Zoom meeting.

Time: May 18, 2022, 09:00 AM Pacific Time (US and Canada)

Invite Link: <https://us02web.zoom.us/j/85871274073>

Meeting ID: 858 7127 4073

One tap mobile

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Meeting ID: 858 7127 4073

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, Roll Call.

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 April 13, 2022. (For Possible Action).

B. Board Review of Hearing for Virgilio DeSio, License No. 6200-C. (For Possible Action).

C. Review and Discuss Fund Balance vs Reserve Funds with Presentation. (For Possible Action).

D. Review and Discuss Salary/ Per Diem for Board Members. (For Possible Action).

E. Review and Discuss Draft Budget – July 1, 2022, through June 30, 2022. (For Possible Action).

F. Review and Discuss Updated BESW 2022-2023 Strategic Plan. (For Possible Approval).

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

- i. ASWB Education Meeting Update; and
- ii. Emergency Directives; and
- iii. FBI Audit in June, 2022; and
- iv. Pending Litigation Matter in the United States District Court for the District of Nevada - Case No. 3:20-cv-571-MMD-WG; and
- v. Future Agenda Items: 1) Understanding reserves categories; 2) Updating reserves policy; 3) Address items outlined by the auditor; 4) Relinquishments; 5) Nevada Administrative Code changes; 6) Nevada Revised Statutes; and
- vi. Next Board Meeting is 9 a.m. Wednesday, June 15, 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>.

Board Operations:

- A. Review and Discuss Board Meeting Minutes for April 13, 2022. (For Possible Action).**



STATE OF NEVADA

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

Board Minutes – April 13, 2022

Call to Order and Roll Call. Esther Langston called the April 13th, 2022, meeting for the Board of Examiners for Social Workers (BESW) to order at 9:04 a.m. followed by Roll Call: Esther Langston, Board President; Abigail Klimas, Board Member; and Jacqueline Sanders, Board Member; Karen Oppenlander, Executive Director; Harry Ward, Deputy Attorney General, Board Counsel. Guests: Sydney Klein, Lagomasino Law paralegal representing Jessica Veik; Justin Shiroff, Wilson Elser Law representing Kristopher Komarek. Absent: Linda Holland Browne, Board Vice President; and Susan Nielsen, Board Member.

Following, Langston 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. Langston moved forward as there was no public comment.

Langston moved to **Board Operations, Agenda Item 3, Review and Discuss Board Meeting Minutes for March 16, 2022 (For Possible Action)**. The Board motioned to approved both open session and closed session minutes as submitted without changes or corrections.

A motion was made to approve Board Meeting Minutes for March 18, 2022, by Jacqueline Sanders, seconded by Abigail Klimas. Roll call vote: Langston – Aye, Sanders - Aye, Klimas – Aye. Motion passed unanimously.

Langston moved to **Review and Discuss Quarter Three Financials from January 2022 through March 2022 (For Possible Action)**. Oppenlander discussed the third quarter financials stating that BESW is at the third quarter of the fiscal year that starts on July 1st, 2021 and ends June 30th, 2022. Therefore, BESW is at the 75% mark. Income is at 80% so we are doing well. We're on target to meet our budget projections for the end of the fiscal year. In terms of volume, we received 252 applications during this quarter and issued 162 licenses and 48 internships. Our endorsement fees are at 192%, which is positive. Expenses are also doing well. At the 75% mark of the year, BESW is coming in at 58%. The salaries are at 72% and in line with projections, other expenses are mostly in line. The Tort claim fund is high because the state raised our rates and didn't notify us in time to accurately reflect this in the budget. The Tort resolves administrative claims for personal injury, property damage, or death arising from the alleged negligence of officers and employees while acting in the scope of their official duties.

Continuing, some operating costs are a little higher in part due to the volume of the applications we're receiving. It means more copy paper, more licensing jackets, and etcetera. Our records, storage fees are higher. Also, costs were higher as we sent out certificates for the roll up of the LSWs to the LMSW category. Credit card processing is over our budget projections. This is related to putting new

applications online. In other words, we're using more credit cards versus checks and money orders, and it this will continue to increase as we finish putting internship applications online.

Next, **Langston** moved 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 briefly described a roadmap of for the Board to go forward with the voluntary surrender. **Ward** stated that procedurally he has opposing counsel in attendance. Regarding Item 3C Board Review of Voluntary Surrender Agreement Kristopher Lee Komarek, License No. 6832-C, Case Number G21-002 before the Board is a voluntary surrender in lieu of other disciplinary action. There's been an agreement between the parties, that the licensee Mr. Komarek who now lives in Puerto Rico does not have to be present at this meeting. He is represented by counsel. After **Ward** gives information to the Board and knowing that the Board has received the voluntary surrender before the meeting, as well as the public records, **Ward** will be available for any questions from the Board as will opposing counsel. If this Board does approve the voluntary surrender, Madam President will sign it as well as the Executive Director. It does not matter if we have two or three signature pages and late last night, **Ward** got the signature from the licensee. So, we can have his signature attached with the Executive Director who might be in one location, as well as Madam President who might be in another location. If this matter is approved i.e., the voluntary surrender by the Board, **Ward** will then draft an Order consistent with the voluntary surrender. And **Ward** will submit that to Madam President, so this does not have to be done during the open session. It is a formality of doing an Order consistent as to what was contained in the voluntary surrender. At this time, **Ward** asked for opposing counsel to make an appearance on the record.

Attorney Justin Shiroff for respondent and licensee Kristopher Lee Komarek agreed that **Ward's** presentation was consistent with his understanding of what was happening in this matter. And that he was appearing today as a courtesy to his partner, Eric Striker who is traveling and unavoidably detained. Having no further comment, he yielded the floor.

Klimas asked for clarification about a following agenda item that refers to Komarek's pre-hearing motions. **Ward** indicated that the following agenda item will not be heard today as it was Mr. Striker's motion who would want to be present in the event this matter goes to a hearing. The reason we put this on this agenda was as a fallback in case this matter goes to a full-fledged hearing; then, opposing counsel would have the right to his pre-hearing motions.

Langston prompted the Board members for discussion. **Klimas** wanted to know if the Board can discuss the settlement agreement without a closed meeting. **Ward** responded that the Board could discuss, ask questions of opposing counsel, or Board counsel and etcetera. The only things that can be commented on would be the matters that are before the Board e.g., the voluntary surrender, the public records that were received, the complaint, and so forth. The Board can ask us questions and we can respond accordingly. **Klimas** then asked, "How was \$5,000 determined as the fee for this case?" **Ward** referred the Board to paragraph three that says: Without conceding, any of the allegations contained in the complaint, I wish to voluntary surrender my license for no less than five years. **Ward** continued: In other words, he's going to voluntarily surrender his license and agrees to reimburse the Board for investigative costs and costs to prosecute this matter in an amount up to \$5,000. **Ward** will be

submitting and has worked up an affidavit as far as his billable hours to this Board to date and it has already exceeded \$5,000 without including today's charges. The reason why we do that is because this Board is billed on a billable hour by the AGs office and this Board does not receive money from the state general fund. Putting this into the agreement reduces the costs for the Board having to come out of pocket. So, this is normal for the Board to get reimbursed. In addition to the agreement to reimburse the Board for investigative costs to prosecute this matter up to \$5,000, there is also an agreement to an administrative disciplinary fine of no more than \$5,000, the later fine payable only if the license is reinstated. This fine goes to the State of Nevada general fund. This Board does not see any of that money. There is a statute that says that fines may be up to \$5,000. Ward continued stating that in this case, if the licensee does decide to come back and reapply for his license after five years, then he would be required to pay the fine to the state. So in other words, it's a suspension of the fine. If he does decide to come back and reapply, he's going to have to pay that \$5,000. This Board would also be able to review the voluntary settlement. It is my understanding that the licensee will not want to reapply in five years as he ready for retirement.

Abigail Klimas motioned to approve Voluntary Surrender in Lieu of other Disciplinary Actions from Kristopher Lee Komarek, License No. 6832-C as stated in the voluntary surrender agreement; and the motion was seconded by Jacqueline Sanders. Roll call vote: Klimas – Aye, Sanders – Aye, Langston – Aye. Motion approved unanimously.

Ward stated that he would submit an Order for the President's signature and that the Executive Director would place that into the case file. Also, **Ward** will update the affidavit in regard to time spent in this matter and will submit this to opposing counsel to demonstrate the investigative costs and costs to prosecute this matter that have exceeded \$5,000. And regarding **Agenda Item 3D, Review and Discuss Pre-Hearing Motions for Kristopher Lee Komarek, License No. 6832-C**, this matter has been resolved by the Board as part of Agenda Item 3C.

Next, **Langston** moved to **Agenda Item 3E Review and Discuss Association of Social Work Boards (ASWB) Update(s) (For Possible Action)**. **Oppenlander** indicated that the Board would be hearing a report from member **Sanders** shortly about new member ASWB board training. Also, we recently learned from ASWB that is holding a special board meeting in August and they have requested a BESW Board delegate to participate. The topic is about the release of exam performance data. **Oppenlander** asked **Langston** to discuss this further. **Langston** said that she was an item writer for ASWB for over 10 years. In addition, as the Department Chair and Director of the School of Social Work at UNLV, we had to collect, do performance data every year as part of our reports to the university and every seven years as a part of our accreditation standards. **Langston** has interest, experience, and knowledge about how the release of exam performance data process works but felt that other Board members might want to attend to gain understanding. She asked for more specific information about how ASWB workshops are budgeted for. **Oppenlander** responded that ASWB budgets for one BESW Board member to attend per event. If BESW decides to send additional members, it would come from the BESW budget. If BESW is mindful about spacing attendance so that everybody gets a chance to go to an ASWB event, it seems to be the best way for reducing impact on the BESW budget. A brief discussion led to a motion.

A motion was made to select Esther Langston as the primary BESW delegate for the ASWB special meeting to be held August 4, 2022, and for Abigail Klimas to be the alternate BESW delegate. Roll call vote: Klimas – Aye, Sanders – Aye, Langston – Aye. Motion passed unanimously.

Langston then asked **Sanders** to give a report about the March ASWB New Board Member Training held in San Diego, California. **Sanders** summarized her experiences. Her early arrival allowed for informal, but highly educational interactions with ASWB exam writer committee members. The ASWB managerial (executive) staff was present, interactive, and personable. They led the Board Training simultaneously with the annual conference for exam question writers. That group was formally introduced later to those attending the New Board Member Training. They learned about the committee members' varying backgrounds and the roles they play in ensuring testing that clarifies whether the applicant has achieved a standard level of education suited for the practice of social work as well as the implementation of a fair/unbiased exam process.

The overall New Board Member Training provided: 1) clarity of the ASWB's history and ongoing role to support each state's (districts, provinces) social work board; 2) We learned about how to better "regulate" our practices within our own boards e.g., (a) assess methods of communication (for private and public meetings), (b) board sizes and make-up, (c) they dissected the ASWB Model Social Work Practice Act to understand and better address legal challenges, (d) the decision-making ability of boards (limitations and responsibilities); and 3) trainees were prompted to re-think the practice of regulation in changing times.

And they learned about Interstate Compacts; and many members talked about the make-up of composite boards e.g., those in Arizona and Florida. This training was more in depth than the online training that is offered especially the in-depth coverage of legal aspects that covered various policies and scenarios.

At this juncture, **Langston** let the Board know that she has signed up for the ASWB New Member Board Training in the fall. **Sanders** spoke about other trainings that are coming up e.g., in Chicago and her desire to attend online to keep up with all the changes that are occurring. **Oppenlander** reminded members (previously discussed) that she will attend online the April 2022 ASWB Educational Conference.

Following, **Langston** moved to **Agenda Item 3F Executive Director's Report (Discussion only)**. **Oppenlander** first covered **Item 3F (i) Recap of First 4 Years as BESW's Executive Director**. **Oppenlander** took an opportunity to recap her first four years on the job following a one-page summary sent to the Board prior to the meeting. In summary, all Board members have gone through an in-house training on the basics. Also, all Board members have attended a training from the Attorney General's office or are in process of accessing online links to the AGs state training modules. And as we've already discussed today, all Board members are getting regular updates from the Association of Social Work Boards about additional North American training opportunities.

At some point, we have learned that BESW was legislated into existence in 1987. So, this is our 35th year in operation. She stated that she would not be covering all 35 years, although she has been licensed with the Board for 32 of those years primarily serving as an LISW in the nonprofit sector after initially becoming an LSW in 1990. She graduated from the first graduating class from UNR's master's program and subsequently completed 3000 hours of postgraduate internship and examination. As an LISW, she has been a community organizer and developer for most of her adult life.

The Board is established with five members. They're appointed by the Governor to provide for licensing, discipline, and fees for social workers. To the five Board members, **Oppenlander** addressed her experience stepping out of the nonprofit sector into the government sector four years ago in April of 2018. She shared some accomplishments of the Board during the 4-year period that she is most familiar with.

Board members created their first plan. It sets out specific prioritized strategies. Previously, there was not a strategic plan, a business plan, or an operational plan in place. The four pillars of the strategic plan that was created in 2018 include 1) BESW will improve relationships with licensees, external partners, and other stakeholders, and be perceived as responsive, easy to work with collaborative and fair; 2) BESW operations will be streamlined efficient, and user friendly; 3) BESW will ensure appropriate timely processing of disciplinary complaints against licensees; 4) BESW needs to strengthen accounting practices and ensure financial stability.

Oppenlander spoke about communications and public relations. From her perspective, there has been a compassionate, cultural shift taking place on subtle levels in the office that she refers to as balancing kindness with upholding standards. The staff has worked towards becoming more outward facing. BESW has successfully surveyed the licensing community for feedback with satisfaction survey results, indicating satisfaction of 75% of respondents that strongly agree or agree on three questions that were asked by a Board work group. The work group decided to add a survey to the last page of a new online licensing renewal process. The stated goal was to achieve a good satisfaction survey rating, and BESW achieved its goal. In April, BESW reengaged a work group member that was part of that survey process based on a conversation brought up during the prior Board meeting three weeks ago. The work group member previously conducted the last survey for BESW and is interested in helping with the next stage in the Board's outreach process.

Additionally, BESW conducted a required listening tour, if you will, for Nevada Administrative Code (NAC) changes. BESW is now moving into the process of preparing to connect with Nevadans again to discuss its next set of NAC changes that correspond with legislation passed in 2021 (Senate Bill 44). So, we reengaged that same work group member to help us move forward with the NAC change process.

We have had numerous legislator focused conversations, outreach, and testimony, which has led to the first fee cap increases by this Board since 1995; and approval of additional LMSW category that had been mandated by ASWB. Furthermore, BESW staff has served on social work advisory committees for both UNR and UNLV.

BESW also responds to consumer inquiries regarding social work services. We have 13 categories of queries that we respond to. We have continuously provided live in person telephone responses and drop-in office hours, Monday through Thursday, nine to four, over the four-year period; The was even during a period when many state offices were closed due to COVID.

Moving to the next strategic plan category of Board Operations, immediately after starting in 2018, there was a benefits payout of two personnel packages. First, a payout was made for the Director of Social Work Practice who left in May of 2018. Following this payout, in June of 2018, there was another payout for a Program Assistant who retired. Staffing levels were reduced after this due to budgetary concerns. At that point, the average annual salary had been \$38,122 and the median salary was \$42,700. The Board of Examiners for Social Workers average salary was 19% lower than the United States average and median salary was 2% lower than the United States meeting similar class specifications. At the same time as staffing was reduced, **Oppenlander's** view was that BESW needed to maintain its licensee base and

increase its licensee base to attain agency stability and success. And we have been successful. In 2020 BESW surpassed 3000 licensees, and in 2021 surpassed 4,000 licensees.

To achieve this, BESW operations have been streamlined, become more efficient and user friendly, striving to minimize procedural barriers. In 2018, we began accepting credit cards to renew or acquire a license, in addition to continued acceptance of checks and money orders (but no longer received cash). In 2019, we implemented an easy-to-use 24/7 online license renewal system with real time license verification and multiple features to assist social workers.

In 2021, the Board was able to help secure passage of SB 44 to provide for the issuance of a license as a master social worker. Besides fulfilling an ASWB mandate to add this category, from a workforce development and career path viewpoint, offering the LMSW license category is attractive. From the staffing side, this change required rolling up over 850 LSW licensees to LMSW licensees which was labor intensive. Yet, staff continued to handle its increased workload based on licensing trends with fewer staff.

With intent to use a modernized data capture system, in 2018 the Board approved a process to move forward with the implementation of Big Picture Software's E-licensing software product to replace the Board's former access database/ excel based system. The Board implemented management software to allow for the processing of online license renewals in 2019, along with other online services e.g., licensee look up and verification, which is good for licenses and the public. The Board implemented online applications in 2021 and is currently finishing up online applications for internships in 2022.

According to **Oppenlander**, the most important change that has taken place over the past 4 years was that BESW moved from paper to computers and from computers to the clouds. When she walked into the BESW office in April 2018, staff were generally using pen, paper, and stamps. She said that two people had email access and while they had access to it, they weren't given permission to utilize it. The switch to utilizing available tools has helped to create a stronger and more viable organization.

Lastly, in the category of Board Operations, BESW was offered an opportunity and began to participate in an Administrative Collaborative with other boards with similar interests.

Next, **Oppenlander** discussed the Disciplinary Function of the Board. Beginning in June 2018, she took over a considerable backlog without sufficient training for this. There was a 68-case backlog ranging back to 2009 that was contained in a disorganized fashion in the BESW 1,250 square foot office space. Over time, staff has managed to contain and control the paperwork and make headway in reducing the backlog while continuing to receive new complaints made against licensees.

Later in 2018, the Executive Director was sent to CLEAR training to learn about the basics of the disciplinary process. Prior to this, BESW was assigning case numbers to every complaint although some complaints were eventually discharged as they were not able to be verified. Of note, BESW also experienced a change of deputy attorney generals monthly. BESW eventually was assigned DAG Detmer who help the Executive Director with trying to sort out what was left behind for the BESW staff. The backlog was essentially made up of time-consuming 'cold cases' that current staff had no familiarity with. With help from the DAG, and a kind trainer from CLEAR, the Board was able to develop an appropriate prioritization process to allow BESW to take care of its new cases while attempting to simultaneously relieve the backlog of cases by using an appropriate Board-approved matrix.

By June 30th, 2019, BESW had 92 cases. The BESW Compliance Unit was able to reduce the case load to 55 cases by June 30th, 2020, and to 53 cases by June 30th, 2021. The Board's strategic goal of clearing 75% of pre-2018 cases was accomplished in 2021. At that time, backlogged cases from 2009, 2010, 2011, 2012, 2013, and 2014 were thoroughly reviewed and cleared through discharge or through actions taken. And now, as of the last Board meeting, we're in the process of clearing 100% of the pre-2018 cases by year end 2022.

Last, in terms of strategic planning, I want to move to BESW Financial Positioning. Our organization's finances are stabilized now. Before the Board decided to increase its fee caps through successful legislation in 2019, it came to realize that fee caps had not been raised since 1995. It was determined that the Board was bankrupt via several sources including the LCB audit team who called **Oppenlander** to Carson City to let her know that the Board was bankrupt. On the other hand, she was also told by the EBAC Auditor that the Board was not bankrupt. On one hand, the executive branch said BESW wasn't bankrupt, and the legislative branch said that BESW was bankrupt. As **Oppenlander** was in her first few months on the job in 2018, she found this both interesting and confusing. Then-President Vikki Erickson joined the Executive Director to dig into the numbers on the weekend. Vikki was a true asset as before she was a social worker, she was in the accounting field. The President and Executive Director searched through BESW accounts and audits to figure things out. Simultaneously, BESW hired Capital Partners; and principal Mendy Elliott who had been the former Chief of Staff for Governor Jim Gibbons and a senior vice president at Wells Fargo for decades, did a 'run rate' at a Board meeting; and she illustrated why the Board was bankrupt; and she explained what would happen if the Board did not raise its fee ceilings through legislative changes. What we learned was that the BESW budget had not been set up to make ends meet and that we weren't charging enough fees each year for financial stability. What was happening is that the Board was operating on a cash basis. As fees came in monthly, the Board was given the impression that they could spend the income; however, the Board had not set aside monies for various obligations.

Before fee increases went into effect in 2020, the first BESW Strategic Plan had a goal to set aside a reserve for five months. That was based on two statements. One is that EBAC said that we needed four months set aside, and LCB said that we needed to set aside six months. So, the Board averaged those two for lack of a better number. The goal recently came to fruition in our current budget year from July 1st, 2021, through June 30th, 2022. And, currently the Board is maintaining approximately nine months operating revenue in its fund balance. As the Board creates its new three-year strategic plan, the Executive Director will be requesting a goal revision for its Board Reserves Policy and for the Board to create investment policies. Now that BESW has monies that it can set aside, and we have money that the board is able to set aside, it is desirable to have a secure, balanced financial portfolio. As we started to discuss in March, an increase in Board Reserves to 12 months is now considered more appropriate than five months. The Executive Director became aware of this while testifying at a Senate Committee hearing when Senator Spearman explained to the Executive Director that five months was insufficient and that her understanding is that a Board needs 12-month reserves.

More recently, the same recommendation was made by several other boards that participate in the Administrative Collaborative. To continue this conversation, an expert from the collaborative will come to the next Board meeting in May to offer some background for the Board's consideration.

In the meantime, BESW has endeavored to create financial statements that identify, explain variances between actual results and/ or projected budget, and BESW now uses a hybrid accrual/ cash method of reporting. To conclude, BESW had an annual audit conducted by a new firm that was generated and

submitted timely for its December 1st, 2021, state deadline. The new BESW auditor made recommendations that can be strategically implemented by the Board in its new strategic plan.

Moving on from the strategic plan and successful outcomes, **Oppenlander** wanted to wrap up her report by giving the Board some sense of what's going on in terms of some of the changes taking place that member **Sanders** mentioned in her report. She spoke about licensing barriers noting important considerations. She wanted the Board to be aware that occupational licensing is widely recognized as one most important labor market issues in the United States and that some say that occupational licensing (put simply) is government permission to work for pay in a particular occupation. Securing a license may require education and/ or experience, exams, fees, and more. This means licensing may compose a major barrier to entry for aspiring workers because states require licensing for many occupations. The percentage of the United States jobs that require licensure has increased from less than 5% in the 1950s to between 25 and 30% today. And in 2015, Nevada had the highest percentage of the licensed workers in the United States at 30.7%.

To continue to bring everyone up to date, during the July 2019 Board Workshop, we let the Board know about the executive branch audit committee's meetings with the Governor. Their meetings were set to discuss the establishment of Executive Branch oversight of boards under the Department of Business and Industry. This move would reportedly establish standards for regulatory, financial, and administrative operations. Stated reasons to go in this direction included that Boards would be made up of subject and experts and public members, and administration would be centralized and consistent. It would promote occupational career information and licensing, including how to get an online license. The value of the license investigations would be consolidated, and standardized financials would be standardized. Legal issues would be handled all through the Attorney General's office. And this structure would address various issues ranging from consumer protection to its structures.

Also, all boards including BESW are asked to facilitate licensing that reduces worker mobility issues or increases worker mobility options between states when requirements are different among those states. An example is to help those who have barriers e.g., the example of a trailing military spouse who must move quickly with military spouse who has been redeployed. Becoming licensed in a new locale might be impracticable. These discussions have led to a national move towards Interstate Compacts, which ASWB took a staff lead on in May 2021. We can look to ASWB for updates on progress of this effort.

In the meantime, during every meeting that I go to e.g., as last week's interim finance committee meeting, the prior week's interim sunset committee meeting, and etcetera, we are learning that the Governor is going to continue to pursue the movement towards bringing boards like ours under an umbrella such as Business and Industry. There was proposed in legislation in 2021 that didn't pass, and there is another plan being developed to bring this idea back to the table in 2023. **Oppenlander** wanted to make certain that the newest Board members have heard about this as it's something BESW will need to follow very closely.

That completed **Oppenlander's** four-year snapshot of her main impressions since starting in the position. **Langston** thanked her for the comprehensive report. At that time, the Board asked various questions for clarification. And there were questions that led to ideas that might end up being incorporated into the upcoming 3-year strategic plan process. **Klimas** briefly brought up a need for a lobbyist again during the 2023 legislative session. **Oppenlander** will potentially look at a smaller contract than we had before when BESW was introducing NRS changes if that's where the Board wants to go. **Klimas** added that at this point, bills might have an impact on our Board and how we regulate; so, it might be helpful to have somebody

tracking bills and etcetera. **Oppenlander** answered that she would push this part of the discussion into future agenda items to stay within this agenda item.

Next, **Oppenlander** moved to **Agenda Item 3F (ii) Pending Litigation Matter in the United States District Court for the District of Nevada - Case No. 3:20-cv-571-MMD-WG**. This item has not been resolved and DAG Bhalla will update the Board as soon as the status changes. **Langston** asked for 'Cliff Notes' on this matter and **Oppenlander** said that four rural licensees (respondents) were not sanctioned by the social work board after a complaint was made against them. The complainants then filed a suit against the four licensees and the Executive Director. Litigation is currently with Judge Miranda Du, at the United States District Court, District of Nevada. BESW's previous DAG caught this case, along with colleague caught the same case for the 4 social workers working for child protective services for State of Nevada DHHS. The two DAGs hope that litigation will be wrapped up soon but at this time, it's an ongoing process.

Oppenlander moved to **Agenda Item 3F (iii) Future Agenda Items: 1) Understanding reserves categories; 2) Updating reserves policy; 3) Address items outlined by the auditor; 4) Relinquishments; 5) Nevada Administrative Code changes; 6) Nevada Revised Statutes**. And potentially, we might add another item for a contract for a lobbying firm based on today's comments. Lastly, in **Agenda Item 3F (iv)**, the next Board meeting is scheduled for 9:00 AM, Wednesday, May 18th, 2022. And that completes the Executive Director's Report.

Langston moved to **Agenda Item 4 - Public Comment**. **Oppenlander** indicated that there was no public comment in the email today. Hearing no public comment, **Langston** moved to **Agenda Item 5** and adjourned the meeting until May at 10:38 a.m.

Respectfully submitted by Karen Oppenlander.

Board Operations:

- B. Board Review of Hearing for Virgilio DeSio, License No. 6200-C. (For Possible Action).**

Board Operations:

- c. Review and Discuss Fund Balance vs Reserve Funds with Presentation. (For Possible Action).**

Loretta L. Ponton
Background

Executive Director - Board of Occupational Therapy since 2006

Executive Director - Board of Environmental Health Specialists

Facilitator - Professional and Occupational Licensing Boards Administrative Collaborative

Prior History of Board Administration and Public Service

- Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board, Executive Director
 - Nevada Board of Physical Therapy, Interim Executive Director
 - Nevadaworks, Director of Operations
 - Northern Nevada Local Workforce Development Board
- Job Opportunities in Nevada, Finance & Compliance Manager
 - Northern Nevada Non-Profit Workforce Services Agency
- State of Nevada – 30 Years Public Administration at Various Agencies

Volunteer Services – Administrative Consulting

Professional & Occupational Licensing Boards Administrative Collaborative

Thirteen (13) Licensing Boards

FUND BALANCE VS. RESERVE FUNDS

What is Fund Balance?

Fund Balance is an accounting term to describe the difference between a Board's assets and liabilities in a governmental fund. All Boards are governmental entities.

The Fund Balance represents the cumulative profit and loss over the life of the Board. When revenue exceeds expenses the fund balance increases; when expenses exceed revenue the fund balance decreases.

Boards should consider their financial viability by regularly reviewing the status of the fund balance and establish policy on the use of funds through a Reserve Funds Policy which can create target points for consideration of increasing or decreasing licensing fees and/or expenses.

Fund Balance is not Cash Balance. Fund balance includes adjustments for assets, liabilities and accrued expenses not yet paid.

What are Reserve Funds?

The terms "reserves" and "fund balance" are often used interchangeably, which can be confusing. Reserve Funds could be defined as a subset or breakout of the total "Fund Balance".

For example; a distinction can be made when establishing a Reserve Funds Policy to define "reserve funds" as a "general operating reserve" or simply "general operating fund balance".

What types of reserves should be included within the "Fund Balance"? It is important to define the problem or potential problem that could trigger a fiscal crisis. The objective of reserve funds policy is to minimize the potential financial crisis as well as provide financial stability.

Factors to consider in determining the "funds available for general operating reserves" include pending litigation costs, contractual obligations and potential costs which are not reflected in the current financial statements. The Board may want to "set-aside" or "reserve" funds to address future obligations, establish a minimum operating cash balance sufficient to ensure operations during crisis, emergency or unexpected loss of revenue. Common reserves or set-asides are:

- Contingency Reserves (wish list, contingent upon sufficient funds)
- Operating Reserves (general operating costs for a specific period of time)
- Emergency Reserves (crisis management and operations)
- Current and Future Capital Needs Reserve (equipment, facilities, data systems)
- Liability Reserves (compensated absences, pension, post-employment benefits, unemployment)

Example:

Fund Balance	\$ 100,000
Operating Reserves	(\$ 50,000) = 1 year expenses
Liability Reserves	(\$ 40,000) = accrued leave, PERS, PEBS, unemployment
Contingency Reserves	(\$ 10,000) = software upgrades

What are Fund Balance Classifications for Financial Statement Reporting?

Fund Balance Classifications are established through GASB Statement No. 54 for financial reporting in the **Boards' Financial Audit Report**.

Funds Classifications are not directly related to "Reserve Funds" but should be considered when establishing Reserve Fund Policy as they may identify liabilities and restrictions on the use of Board funds.

In the governmental fund financial statement, fund balances are classified as follows:

Nonspendable – represents amount that are not spendable. Most common are inventory, pre-paid expenses and deposits on hand but not yet deposited.

Restricted – represents amounts that can only be spent for a specific purpose due to laws or externally imposed conditions. For example, a federal contract or grant awarded for a specific purpose. Most Boards do not have restricted funds as they are funded through licensing / regulatory fees set in amounts to cover the costs of operations.

Committed – represents amounts which can be used only for a specific purpose determined by the Board through formal action. Any funds set-aside "reserved" by action of the Board may be reported under this category in the financial statements.

Assigned – represents amount intended by the Board for specific purposes but do not require formal action by the Board. For example, the provision of a seminar which is included as a budget line item. Most Boards do not have designated assigned funds.

Unassigned – represents all amounts not included in the above spendable classifications. Most Boards' funds balance are designated as unassigned.

FINANCIAL STATEMENT REPORTING

Fund Balance Classifications for Financial Statement Reporting	
Unassigned	Most Boards' Fund Balance NRS* designation – fees cover operations
Non-spendable	Inventory, Pre-paid Expense, Cash not deposited
Restricted	By law or funding source – federal funds / grants
Committed	By Board approved Actions Only
Assigned	Specific Purpose not requiring Board action

Simple Example of Rolling Fund Balance

Beginning Fund Balance – Fiscal Year A		\$ 500,000
FY A – Net Profit or Loss	\$ 10,000	
FY B – Net Profit or Loss	\$ (20,000)	
FY C – Net Profit or Loss	\$ 5,000	
FY D – Net Profit or Loss	\$ 15,000	
Ending Fund Balance FY D		\$ 510,000

RESERVE FUNDS BALANCE

Ending Fund Balance		\$ 510,000
Reserve Funds Policy - Allocations of Fund Balance		
Operating Funds	\$ 255,000	50.0%
Liabilities Reserve	\$ 100,000	19.6%
Legal Reserve	\$ 100,000	19.6%
Capital Needs Reserve	\$ 20,000	3.9%
Emergency Reserve	\$ 30,000	5.9%
Contingency Reserve	\$ 5,000	1.0%

Simple Example of Reserve Funds Policy Designations

Operating Funds	Fiscal Year Budget for Operations
Liabilities – Set Aside	Long Term – future liabilities
Legal - Set Aside	Long Term – future costs of potential litigation
Capital – Set Aside	Long Term – projections
Emergency – Set Aside	Loss of Revenue – Emergency Operations
Contingent	Balance available for miscellaneous initiatives

Simplified Example of Board Reserve Funds Policy

NRS 641B.150 Payment of expenses; deposit of money; delegation of authority to hearing officer or panel; claim for attorney's fees or costs of investigation.

1. Except as otherwise provided in subsection 4, all reasonable expenses incurred by the Board in carrying out the provisions of this chapter must be paid from the money which it receives. No part of the salaries or expenses of the Board may be paid out of the State General Fund.

The purpose of this policy is to establish guidelines to ensure the Board has sufficient resources to meet current and future expenses of the Board.

Reserve Funds

The Board shall review the financial position of the Board at least annually to determine if sufficient funding is available to cover current and future expenses of the Board. Future expenses shall be budgeted annually and projected for a two-year period.

The definition of "reserve funds" as used in this policy shall be calculated as the unadjusted fund balance as delineated on the Board balance sheet at fiscal year end. Projections for a two-year period shall take into account deferred revenue received but not recognized at a specific period; adjusted for prepaid expenses, accrued liabilities, and budgeted and/or authorized expenses not yet obligated.

Set-Asides: The Board shall determine annually the amount of funds to be set-aside for non-current expenses. Non-current expenses may include, but are not limited to, legal costs associated with law and regulatory compliance, disciplinary cases, and investigations; long-term liabilities, legislative actions; and state initiated emergency actions which may affect revenue, administrative costs and associated expenses.

Set-Asides shall reduce balance sheet Fund Balance to determine the available funds for Board operations. The Board shall maintain a minimum of one year (1) and a maximum of two (2) years operating reserve for payment of Board operations.

The calculation and analysis of Reserve Funds shall be based upon the financial statement Balance Sheet for the immediately preceding fiscal year, ending June 30th.

If Operating Reserve Funds balance as of June 30th falls below two (2) years projected expenses, the Board will take immediate action to initiate cost savings and seek an increase in fees, if determined necessary for the continued operation of the Board.

If Operating Reserve Funds balance as of June 30th exceeds two (2) years' operating expenses, the Board will consider a reduction in fees assessed licensees, in order to bring the operating reserve balance within acceptable levels.

Board Operations:

**D. Review and Discuss Salary/ Per Diem for Board Members.
(For Possible Action).**

Good afternoon!

Please see below request and respond with your Board's policy on Board compensation and whether the compensation is considered salary (W-2) or other compensation (1099).

Thank you!

I am interested in learning if other Administrative Collaborative Boards are paying a salary to their members. While our Board has not paid for member's salaries and/or per diem in the past, they will be looking at this on their upcoming agenda. Our Board has only paid for travel expenses previously.

I saw that the NRS was changed in 2007 for a total of 34 agencies (just like our NRS below).

NRS 641B.140 Salary of members; per diem allowance and travel expenses for members and employees.

1. Each member of the Board is entitled to receive:

(a) A salary of not more than \$150 per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

(Added to NRS by 1987, 1117; A 1989, 1703; 2007, 2956)

[Board of Examiners for Social Workers](#)

1. Per statute below, we pay Board members who attend board meetings, the \$150 per diem per member, per meeting they attend. They are not considered "employees" and are issued 1099s at the end of the year. They do not typically travel to the meetings- typically only local members attend in person, those living in the Reno area call in to the meeting. But all are paid if they attend either way. [Nevada State Board Osteopathic Medicine](#)
2. Yes, our Board members receive compensation not really salary. Attached is our policy. We update periodically as items come up to be addressed. For additional clarification Board Members receive W-2's and are covered under workers' compensation as employees not as independent contractors.



NEVADA STATE BOARD OF MASSAGE THERAPY POLICY AND PROCEDURE

Subject:	Policy No.	8.1.1	
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Board Compensation	Issued By: Board	Distribution: Nevada State Board of Massage Therapy Members and Employees
	Amends/Supersedes	
Reference(s): NRS: 640C.170, 640C.160	Effective Date: 9/5/2018 Updated: 3/27/2019 Updated: 3/30/2022	

I. PURPOSE

To establish per diem and salary for board members of the Nevada State Board of Massage Therapy (NSBMT).

II. POLICY

The Board of Massage Therapy consists of nine (9) board members and one (1) non-voting advisory member. The voting members of the Board will receive salary, travel expenses and per diem when applicable. The non-voting member receives travel expenses when applicable.

III. SCOPE

This policy shall apply to all members of the Board.

IV. RESPONSIBILITY

- A. Board members are responsible for complying with the requirements of this policy.
- B. The Executive Director shall be responsible for providing assistance to board members in the interpretation and explanation of this policy.

V. PROCEDURE

- A. Salary and Per Diem: Voting board members may receive \$18.75 per hour capped at \$150 per day for performing tasks considered to be business of the Board.
 - 1. Items qualifying as business of the Board for voting board members:
 - a. Board meeting
 - b. Board meeting preparation: Capped at \$150.00 per meeting for meetings with a Board Packet requiring review prior to the meeting.
 - c. Training provided by CLEAR, FARB, FSMTB, the Office of the Attorney General, or other organizations relevant to the business of the Board.

- d. Travel for meetings, trainings, or other Board business. Board members may combine business travel with personal travel; however, the choice to combine business and personal travel may not increase the costs to the Board (see Policy 1.5.1 for additional clarification).

- i. Each member and employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the General Services Administration (GSA). The rate must not exceed the rate provided for officers and employees of this State generally.
 - e. School visits are considered service to the Board at no cost to the Board.
 - f. Attending public meetings without a request from the Board is considered service to the Board with no compensation and at no cost to the Board.
 - g. Testifying at legal proceedings or cooperating with investigations.
 - h. Attending ABMP or AMTA meetings at the request of the Board.
 - i. Attending public meetings at the request of the Board.
 - j. Responding to requests from the Executive Director or the Board.
 - k. CLEAR training online: \$18.75 per hour, capped at \$150.00.
 - l. Items not qualifying as work of the Board include: reviewing public meetings and researching topics.
 - 2. Duties of Board Officers: \$18.75 per hour capped at 3 days (24 hours) per month. If the amount exceeds 24 hours the Board Officer would present at the following Board meeting for additional hours.
 - 3. Non-Voting Advisory Board Member:
 - a. Serves without salary or compensation.
 - b. Is entitled to receive the per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for officers and employees of this State generally.
1. Pay for Voting Board Members
- 1. Board salaries are paid through the last day of the month and by the 4th business day of the following month.
 - 2. Voting board members are paid for any days during the month that they performed work for the Board including but not limited to meetings, preparation for Board meetings, conferences or trainings.
 - 3. Monthly, board members will complete a time log reflecting hours for compensation by the last day of the month. Time Logs received after the 1st business day of the following month will be processed with the subsequent months' time logs.
 - 4. Failure to submit a Time Log within 60-days will result in forfeiture of the compensation.
 - 5. For the month of June all Time Logs must be submitted no later than June 30th due to the end of the fiscal year.

VI. POLICY EXCEPTION

On occasion there are special circumstances that may require an exception to this policy be granted. Exceptions, while not common, require the approval of the Executive Director.

VII. POLICY COMMUNICATION

All supervisors and managers of the NSBMT will provide their employees with a copy of this policy. Employees needing clarification should contact the Executive Director for assistance.

This policy is not a substitute for relevant law or regulation nor does it establish additional rights beyond those provided in law and regulation. This policy is intended to be used in conjunction with federal regulations and State law.

3. PT Board members are not considered employees; however, they receive 1099's for all board-related compensation (\$150 per day for board meetings and meeting prep days, per diem, and travel expenses). [Nevada Physical Therapy Board](#)
4. We have always issued 1099's, but only if the amount exceeds \$600. [Funeral and Cemetery Services Board](#)
5. It's not a policy because we do not withhold taxes from our Board members, so they are defined as 1099 workers. If we did withhold taxes or issued payroll, then we would issue w2s. Any independent contractor (responsible for their own taxes) are 1099 employees which also includes our Board counsel and lobbyist. [State of Nevada Board of Veterinary Medical Examiners](#)
6. Pursuant to NRS 656.070, we pay each Board member a \$80.00 per diem for each Board meeting and any out-of-pocket expense for travel. Board members are not considered employees and issued a 1099 each year. [Court Reporting](#)
7. The Board of Accountancy pays its board members based on the NRS statutory language of \$150 per day with the same language as outlined.
8. We pay our Board members \$100 per meeting that they attend, and they receive a 1099. [OM Board](#)
9. We do pay Board members the per diem rate of \$150.00 per day pursuant to NRS 641A.200. We have also paid for travel expenses for the Board President to travel from Reno to Las Vegas for meetings with the office staff in the past. We did issue 1099s last year to our Board members for that compensation. [Marriage Family Therapists & Clinical Professional Counselors](#)
10. As per NRS623A our board members are paid \$150 per meeting. They are not considered employees, given a 1099 for income tax filing. [Landscape Architecture](#)
11. Pursuant to NRS 634.025 the Chiropractic Physicians' Board pays its Board members \$150.00 per day and issue 1099's if their compensation exceeds \$600.00 during the year. With respect to per diem the Board uses the GSA website rates pursuant to SAM.

12. Our Board members do not receive a salary; however, they can receive a per diem when traveling for Board business. The only example I have seen is when a Board member travels to an annual regulatory conference. [Athletic Trainers](#)
13. Our board members are paid as contractors/1099 form. They received \$150 per day for board activities. [Nevada ABA Board](#)
14. \$150 per day honorarium plus State per diem reimbursements for travel as needed. [Board of Optometry](#)

Board Operations:

- E. Review and Discuss Draft Budget – July 1, 2022, through June 30, 2022. (For Possible Action).**

	Budget 2021 / 2022		Budget 2022 / 2023	
Income				
Fund Balance	\$	352,321.37		Pending 06/30/2022
40000 · RENEWAL FEES		505,125.00		505,125.00
41000 · APPLICATION FEE		27,600.00		35,000.00
42000 · INITIAL LICENSE FEE		69,000.00		75,000.00
43000 · ENDORSEMENT FEE		12,500.00		18,000.00
44000 · PROVISIONAL LICENSE FEES		2,000.00		1,000.00
45000 · RENEWAL LATE FEE		2,000.00		3,500.00
46000 · RESTORATION OF LICENSE		0.00		600.00
47000 · DISCIPLINARY COSTS		2,000.00		2,000.00
48000 · MISCELLANEOUS				
48050 · Copies				
48100 · Lists-Labels				
48150 · Returned Check Fee				
48200 · Wallet Card / Wall Certificate				
48250 · Workshop Fee				
48000 · MISCELLANEOUS - Other				
Total 48000 · MISCELLANEOUS		10,000.00		7,500.00
49000 · INTEREST		10.50		10.50
Total Income	\$	630,235.50	\$	647,735.50
	\$	982,556.87	\$	647,735.50

67000 · Training

68000 · Office Equipment

68050 · Furniture

68100 · Computers

68000 · Office Equipment - Other

Total 68000 · Office Equipment

Total Expense

Net Income Net Income

10,000.00

1,500.00

\$ 10,000.00 \$ 1,500.00

\$ 611,597.00 \$ 618,502.00

\$ 370,959.87 \$ 29,233.50

Board Operations:

- F. Review and Discuss Updated BESW 2022-2023 Strategic Plan. (For Possible Approval).**

Board Operations:

- g. Executive Director's Report (For Discussion Only).**