



**DRAFT**

**REGULAR BOARD MEETING  
University Park Plaza  
Conference Room A – 4<sup>TH</sup> Floor  
2829 University Avenue S. E.  
Minneapolis, Minnesota 55414**

**Minutes**

**January 18, 2013**

**Members Present:** Christine Black-Hughes, LICSW, Chair  
David Hallman, LSW  
Rosemary Kassekert, Public Member  
Janna Kovach, LSW  
Kenneth Middlebrooks, Public Member  
Carol Payne, LSW, Secretary Treasurer  
Ruth Richardson, Public Member, Vice Chair  
Nicole Roiger, LSW  
David Sandry, Public Member  
Angie Stratig, LICSW

**Members Absent:** Jacqueline Johnson, LICSW  
Tamerlee Ruebke, LSW  
Beverly Ryan, LISW  
Antonia Wilcoxon, Public Member

**Staff Present:** Louis Hoffman, Director of Compliance  
Michelle Kramer-Prevost, LISW, Staff Social Worker  
Sheryl McNair, LICSW, Assistant Director  
Brenda Mammenga, Recording Secretary  
Connie Oberle, Office Manager  
Kate Zacher-Pate, LSW, Executive Director

**1. PROPOSED AGENDA [Attached]**

Chair Black-Hughes called the meeting to order at 9:05 a.m. A quorum was present and the Board unanimously approved the agenda.

**2. MINUTES FOR NOVEMBER 16, 2012 BOARD MEETING [Attached]**

The Board of Social Work (BOSW) reviewed the November 16, 2012 minutes.

***A motion was made by Roiger, and seconded by Payne, to approve the November 16, 2012 minutes. The motion carried unanimously.***

**3. CONSIDERATION OF CORRECTION TO PROVISIONAL LICENSE STATUTORY LANGUAGE: Zacher-Pate [Attached]**

Zacher-Pate made the following comments:

- Staff have identified an internal reference error in the language in MS 148D.061 "Requirements for a Provisional License" following the passage of the Revisor's bill during the 2012 session. The Revisor's intent was to correct the internal references in MS 148D.061, MS 148D.062, and MS 148D.063 to accurately reference the applicable section of MS 148E. These corrections continued the authority to grant Provisional Licenses.
- Specifically, the error is in MS 148D.061, paragraph (4) the requirements for the Licensed Independent Clinical Social Worker (LICSW) Provisional License should be aligned with the LICSW licensing requirements in MS 148E.055, subdivision 5, "Qualifications for Licensing by Examination as an LICSW". Staff believe this to be an unintended error which leads to inaccurate requirements for the LICSW Provisional License.
- The Office of the Attorney General (AG) was contacted about the discrepancy and the AG recommended the Board create a policy to reaffirm the Board and Legislative intent to grant LICSW provisional licenses and make a correction in the statute.

***A motion was made by Hallman, and seconded by Kovach, to approve an interim remedy to MS 148D.061 until a legislative correction can be made and for the Board to take action to reaffirm the Board and Legislative intent regarding the standards and requirements of the LICSW Provisional License, as enacted by the Legislature in 2007. This action would identify the correct requirements for the LICSW Provisional License as follows:***

- 1. Require the applicant comply with the requirement in MS 148D.061, clause (3): "has taken the applicable examination administered by the Association of Social Work Boards or similar examination body designated by the board", but does not require passage of the examination as required in MS 148E.055, subdivision 5, clause (4)**
- 2. Require the applicant comply with the requirements in MS 148E.055, subdivision 5, clause (3): "has practiced clinical social work as defined in section 148E.010, including both diagnosis and treatment, and has met the supervised practice requirements specified in sections 148E.100 to 148E.125;**
- 3. Require the applicant comply with the requirement in MS 148E.055, subdivision 5, clause (8): "has not engaged in conduct that was or would be in violation of the standards of practice specified in sections 148E.195 to 148E.240. If the applicant has**

engaged in conduct that was or would be in violation of the standards of practice, the board may take action according to sections 148E.255 to 148E.270."

*The motion carried unanimously.*

*A motion was made by Hallman, and seconded by Middlebrooks, giving the Executive Committee the ability to negotiate on matters on behalf of the Board during the current Legislative session and reporting the Committee's actions to the Board. The motion carried unanimously.*

**4. EXECUTIVE DIRECTOR'S REPORT: Zacher-Pate [Attached]**

Zacher-Pate welcomed the guests to the meeting and commented on the following:  
**2013-2014 Grandfathering (GF) for City, State, and Private Nonprofit Nontribal Agencies**

- Appreciation was extended to staff including Grace Rhee for IT support; Jessica Schultz for work on the website; and McNair, Kramer-Prevost, and Oberle for countless tasks related to the project.
- There is a new icon on the website "2013-2014 Grandfathering" that went live on January 1, 2013 with detailed information, online GF application services, and a dedicated email to assist in the GF process.
- Approximately 1500 agencies received memos, public information leaflets, and "FAQs" via email.
- Zacher-Pate and McNair met a week ago with the State of Minnesota Enterprise Human Resource Division at Minnesota Management and Budget (MMB) with representatives from Corrections, Health, and Human Services to discuss the GF requirements, interpretation, and impact. There was, for example, discussion on the interpretation of "newly employed".
- In addition, there are questions about which agency personnel qualify for GF with the "private, nonprofit nontribal agency" status.

**BOSW Transition Period Exception MN 148E.0556 and MN 148E.0557**

- During the 2012 Legislative Session two separate provisions related to GF were enacted. These two sections of Statute provide the opportunity beginning January 1, 2013 through December 31, 2017 for individuals:
  - who are currently licensed as Licensed Graduate Social Workers (LGSWs) or Licensed Independent Social Workers (LISWs) and
  - who obtained the license through a GF period prior to July 1, 1996, or between January 1, 2013 through December 31, 2014
  - to apply for either the Licensed Independent Social Worker (LISW) license or the Licensed Independent Clinical Social Worker (LICSW) license with a non-social work degree.
- These individuals must meet all other licensing requirements through examination, specified in MS 148E.055, with the "exception" of having a Council on Social Work Education (CSWE) bachelor or graduate degree in social work.
- There are approximately 110 currently licensed individuals who may meet the "transition period exception" and will receive notification of the transition period exception.

- Three new leaflets were made available for the Board to distribute in their communities including "Do You Know When Social Workers Must Be Licensed?", "You Have The Right To Competent Social Work Services", and "Who Qualifies For The 2013-2014 Social Work Grandfathering?"

#### **Other Business**

- A former temporary, part-time 24 hour per week (.06) administrative support position to provide administrative support to staff through 6/30/13 has been posted externally.
- The Governor's Office has received 24 applications for Board member vacancies, and Zacher-Pate will meet with the Governor's Office staff next week to discuss which applicants would meet the Board's statutory requirements.
- The Health Licensing Board's (HLB's) Executive Directors (EDs) met with several Legislators. The Board has no policy bills this year, but there are budget bills. At Senator Lourey's request the EDs briefly testified before the Senate Finance Committee yesterday to provide a preliminary budget overview and information about the work of the HLBs as regulatory boards.
- The 2013 session leadership who serve on committees providing HLB oversight include Senator Lourey, Chair of the Senate Finance Committee; Senator Rosen, Minority Leader of the Senate Finance Committee; Senator Sheran, Chair of the Senate Policy Committee; Representative Liebling, Chair of the House Policy Committee; and Representative Huntley, Chair of the House Finance Committee.

*[Sandry arrived at 9:35 a.m.]*

#### **5. LICENSING UNIT REPORT: McNair, Kramer-Prevost**

McNair reported the following:

- The Board has received 13 online and 4 paper GF applications since January 1. There are 3 new forms in the application packet which include the following:
  - The "2013-2014 Grandfathering Employment Verification Form for City and State Agency Applicants" and the "2013-2014 Grandfathering Employment Verification Form for Private Nonprofit, Nontribal Agency Applicants". On these forms the applicant must attest to their employment, or employment and ethnicity, and the agency director must verify the employment and attest to the accuracy of an attached position description for the applicant. In addition, private nonprofit, nontribal applicants must verify that at least 51% of clients served by their agency or program are members of ethnic minority populations and certify their agency's private nonprofit status.
  - The "2013-2014 Grandfathering Verification of License for LICSW Applicants" form must be completed by non-MSW LICSW applicants. The applicant must document the basis for their Mental Health Professional designation, such as psychiatrist, psychologist, marriage and family therapist, licensed professional clinical counselor, or psychiatric nurse, and the licensing or credentialing agency must verify their credentials.
  - 107 currently licensed LGSWs and LISWs who do not hold CSWE accredited degrees in social work and obtained their licenses through a previous GF period

may apply for licensure through the Transition Period Exception that is in effect from January 1, 2013 – December 31, 2017. The licensees will receive notification of this opportunity.

- Staff has been trained regarding the new GF requirements, and there has been an increase in telephone calls and walk-ins regarding the requirements.
- An applicant may have a current application for licensure through examination in process and have also submitted an application through GF. Some individuals who hold provisional licenses would like to apply for a license through GF. Staff is trying to accommodate these special situations.
- The Alternate Supervisor law changed on August 1, 2012, and to date 16 alternate supervisors have been approved – 13 Licensed Psychologists and 3 Licensed Marriage and Family Therapists who will be providing supervision to 13 LGSWs, 1 LISW, and 2 LSWs.
- Kramer-Prevost and McNair have been providing licensure presentations to students in BSW and MSW programs who will be graduating this spring.
- Hoffman, Kramer-Prevost, and McNair will be presenting a workshop at the upcoming Minnesota Social Service Association (MSSA) Conference on March 13 titled "Supervision Defined: Being a Supervisor, Ethical Responsibilities, and Board of Social Work Supervised Practice Requirements".

6. **COMPLIANCE COMMITTEE:** Hallman, Hoffman [Attached - some documents non-public] [Executive Session – portion closed to the public]

*Executive Session-Closed to the Public: 10:00 a.m. – 10:10 a.m.*

**A motion was made by Compliance Panel C to approve the Stipulation and Order in the Matter of John D. Dietzen, LGSW #20508. The motion carried unanimously.**

**A motion was made by Compliance Panel C to approve the Stipulation and Order in the Matter of Jennifer A. Manthey, LSW #10804. The motion carried unanimously.**

Hoffman reported the compliance statistics have not substantially changed since the last Board meeting. Two months ago there were 30 staff reviewed unlicensed practice cases in the 9-12 month category and 12 of them have moved into the 15+ month category. There is an increase in the Agreement for Corrective Action/Stipulation and Order category and an increased number of cases in the Notice of Hearing category due to one licensee having duplicate complaints.

TRAINING SESSION: BOSW Compliance Process

Hoffman made the following comments:

- The Board's website has complete information on the compliance process including two documents that were distributed: "An Overview of the Standards of Practice under the Social Work Practice Act, Minnesota Statutes chapter 148E" and "Compliance Process". The website also has a compliance video.
- Approximately 85% of the complaints filed with the Board are resolved by dismissal or Agreements for Corrective Action and never come before the Board.

- All government data is governed by the Government Data Practices Act under Minnesota Statutes Chapter 13. Therefore, compliance matters should not be discussed with a complainant, a licensee, or a third party and the following are the types of data included in the statute:
  - Active investigative data (open complaints) is confidential data accessible to no one outside of Board staff, Compliance Panels, Board Members as appropriate, and AG staff.
  - Closed investigative data (dismissed complaints) is private data accessible only to the subject, or generally the licensee, of the data.
  - Corrective and disciplinary data (Agreements for Corrective Action and all other orders) are public data available on the Board website.
- There are two main categories of cases that do not come to the Board:
  - Under Minnesota Statutes Chapter 214, a panel of two Board Members, after investigation and review, may dismiss complaints.
  - Agreements for Corrective Action are public but non-disciplinary resolutions to complaints between an applicant or licensee and a Compliance Panel do not require Board approval.
- There are four main categories of the cases that do come to the Board:
  - Stipulations and Orders are the Board's approval of a voluntary, negotiated agreement between an applicant or a licensee and a Compliance Panel for disciplinary action. Stipulations and Orders can impose disciplinary action including revocation, suspension, limitations or restrictions, conditions, reprimands, and administrative costs and civil penalties
  - When a licensee has successfully practiced under the Stipulation and Order and is ready to practice independently, he or she will petition the Board to remove the limitations, restrictions, or conditions which will result in either an Amended Stipulation and Order or an Order Granting Unconditional License.
  - When an applicant or a licensee and a Compliance Panel cannot voluntarily settle a case, or the applicant or licensee chooses not to respond to the Board's letters of inquiry or Notice of Conference, the Compliance Panel asks the Attorney General to start a contested case hearing with the Office of Administrative Hearings (OAH). The OAH is an independent state agency and an Administrative Law Judge (ALJ) is appointed by the Governor to hear administrative cases. After a full hearing or on a default basis if the applicant or licensee doesn't appear, the ALJ issues a Findings of Fact, Conclusions, and Recommendation.
  - Compliance Panels may issue a unilateral Order of Reprimand which is final public disciplinary action. The applicant or licensee can appeal to the Board which "stays" the finality of the Order until the Board acts.
- The four categories listed above are heard in executive session without the Compliance Panel's attorney and Board staff that participated in the Compliance Panel's review of the case. In the last two categories, the Board, minus the Compliance Panel Members, has a separate AG to advise and provide instructions on the case and the Board confers and makes the final decision on the matter.
- Considering consistency, precedent and whether an act was intentional or not, may be used in determining cases.

*[Richardson arrived at 10:55 a.m.]*

**7. HLB REPORTS REQUIRED BY MINNESOTA SUNSET ACT:** Zacher-Pate [Attached]

Zacher-Pate reported the following:

- The 2012 Minnesota Sunset Act required the HLBs and other agencies to implement new provisions and to submit reports to the Legislature. The EDs developed a plan and work groups in May 2012 to comply with the legislative deadlines.
- Ms. Tiernee Murphy, Law Office of T. Murphy, PA, was acknowledged for her work on the project. Murphy was hired on a short-term contract to research, analyze, gather data, draft the reports, and service the workgroups.
- The following is a summary of the sections related to the HLBs:

**Section 24. [214.072] HEALTH-RELATED LICENSING BOARDS; WEBSITE** requires the HLBs to "(a) post on its public Web site the name and business address of each regulated individual who has: (1) a conviction of a felony or gross misdemeanor occurring on or after July 1, 2013, in any state or jurisdiction; (2) a malpractice judgment occurring on or after July 1, 2013, against the regulated individual in any state or jurisdiction. Information describing judgments shall be developed by the boards and the commissioner, shall be stated in plain English, and shall ensure the public understands the context of actions involving licensees; or (3) any disciplinary or corrective action or restriction of privileges taken against the individual's license by the commissioner or a state licensing board in this state or in any other state or jurisdiction. The Web site shall identify the basis for disciplinary action, the type of disciplinary action taken, and whether the action was taken by the commissioner or a licensing board in this or another state or the federal government. This clause shall not include any action or restriction imposed through an agreement with a regulated individual and the health professionals services program under sections 214.31 to 214.37.

(b) The information described in this section shall be posted for new licensees issued a license on or after July 1, 2013, and for current licensees upon license renewal occurring on or after July 1, 2013."

**Section 25. [214.073] HEALTH-RELATED LICENSING BOARDS; AUTHORITY** "... require[s] an applicant on or after August 1, 2012, to provide the individual's primary business address at the time of initial application and all subsequent renewals."

**Section 26. REPORT; HEALTH-RELATED LICENSING BOARD AND COMMISSIONER OF HEALTH BACKGROUND CHECKS** requires "the HLBs and the commissioner of health to jointly study and make recommendations for establishing uniform criminal history background check requirements applicable to applicants and regulated individuals under their jurisdiction. The study must include procedures for conducting background checks, payment of costs, circumstances under which federal background checks are to be conducted, and the standard to be applied to determine whether a criminal record may disqualify an individual from licensure or a regulated occupation. By January 15, 2013, the boards and the commissioner shall submit a report and draft legislation to the chair and ranking minority member of the senate and house of representatives committees with jurisdiction over health and human services and data practices issues."

**Section 27: HEALTH-RELATED LICENSING BOARDS REPORTING OBLIGATIONS.**

"By January 15, 2013, the health-related boards and the commissioner of health, as the regulator for occupational therapy practitioners, speech-language pathologists, audiologists, and hearing instrument dispensers, shall jointly study and submit draft legislation to the Sunset Commission and the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services developing consistent reporting requirements that require institutions, professional societies, other licensed professionals, courts, insurers, and other entities to report conduct constituting grounds for disciplinary action to the respective regulatory entity. The study and draft legislation shall include a self-reporting requirement that requires the licensed individual to report to the respective regulatory entity any action that would require a report to be filed by another specified entity. The study and draft legislation shall also include penalties that may be imposed for failure to report. (b) Health-related boards with existing statutory reporting obligations shall participate to ensure that the existing reporting requirements are consistent with the recommended requirements and draft legislation."

**Section 28: SUNSET ADVISORY COMMISSION; DEPARTMENT OF HEALTH REVIEW**

"The Sunset Advisory Commission review of the Department of Health in 2013 and 2014 must include an analysis of the extent to which health occupations should be licensed by the Department of Health, and which occupations should be licensed by licensing boards."

**Section 29: REPORT; INVESTIGATIONS FOR HEALTH-RELATED LICENSING BOARDS.**

"The health-related licensing boards and the attorney general shall review and make recommendations to the legislature by January 15, 2013, on the respective roles of the boards and the attorney general in conducting investigations of licensees of the health-related licensing boards."

**Section 30: REPORT; INFORMATION SYSTEMS FOR LICENSING BOARDS.**

"The commissioner of administration, in conjunction with the health-related licensing boards identified in Minnesota Statutes, section 214.01, and the Office of Enterprise Technology utilizing business rules from the health licensing boards shall report to the legislature by January 15, 2013, the best system for providing electronic licensing, disciplinary, regulatory, and investigative services for the health-related licensing boards. Any costs incurred in preparing this report must be paid from surcharges collected under Minnesota Statutes, section 16E.22."

**Section 31: REPORT; HEALTH-RELATED LICENSING BOARD FEES.**

"Each health-related licensing board, as defined in section 214.01, subdivision 2, and the commissioner of health, as the regulator for occupational therapy practitioners, speech-language pathologists, audiologists, and hearing instrument dispensers, shall report to the chair and lead minority member of the senate and house of representatives committees with jurisdiction over health and human services finance by January 15, 2013, on the degree to which fees imposed comply with Minnesota Statutes, sections 214.055 and 214.06, for the health-related licensing boards or Minnesota Statutes, section 144.122, for the commissioner of health. If a board determines that its fees are expected to produce more revenue than needed to recover expenditures during a five-year period, the board must propose reductions in those fees according to section 16A.1283."

**Section 32: REPORTS; ADMINISTRATIVE SUPPORT SERVICES.**

"(a) The commissioner of administration shall report to the legislature by January 15, 2013, on use of the SMART program by executive branch agencies.

(b) The administrative services unit of health-related licensing boards shall report to the legislature by January 15, 2013, evaluating use of the units' services by health-related licensing boards."

Zacher-Pate thanked the EDs and Ms. Murphy for their work in preparing the Sunset Act reports.

**LUNCH** [11:30 a.m. to 12:15 p.m.]

**8. PRESENTATION BY AMERICAN INDIAN MENTAL HEALTH ADVISORY COUNCIL:**

AIMHAC Members

Black-Hughes welcomed the guests and asked the Board members to introduce themselves and Stratig introduced the AIMHAC members as follows: Gertrude Buckanaga, Minneapolis Urban Representative of the Council, Executive Director of the Upper Midwest American Indian Center, an enrollee of White Earth, and a licensee of the Board; Jeanne Nelson, Duluth Urban Representative; Bunny Jaakola, Council Chair and the Fond du Lac Representative; and Crystal Weckert, LSW, Mille Lacs Reservation. Representatives from DHS included Vern LaPlante, Director of the Office of Indian Policy; Glenace Edwall, Director of the Children's Mental Health Division; and Dave Hartford, Assistant Commissioner, Chemical and Mental Health Services Administration.

Buckanaga, Weckert, Jaakola, and Nelson offered the following comments from the Council's position statement, and thanked the Board for inviting the Council today to discuss GF and Angie Stratig for her work in setting up the meeting.

- The issue being discussed today is the GF of American Indian Social Workers within tribal jurisdiction areas, as the Board is currently offering a period of GF to social workers who are working in previously exempt settings including city and state agencies, and private nonprofit nontribal agencies whose primary focus is to address ethnic minority populations and the applicant is also a member of an ethnic minority population within the agency. However, Minnesota Statute 148E.0555 that allows GF of social workers does not include the American Indian Social Workers who are working on reservations.
- There is a shortage of American Indian culturally specific clinicians throughout the state and an over-representation of American Indian people in need of services. There is a strong need for culturally specific clinicians to be available to American Indians on and off reservations.
- There are several barriers to increasing the number of licensed professionals such as a disproportionate number of American Indian people, who for a number of reasons, are not encouraged to receive a college level master's education, and some American Indians shy away from the clinical exam as they feel it requires the need to adjust their basic Indian values in order to successfully pass the exam.
- Fortunately, tribes have the authority as sovereign nations to license their own social workers. However, that license is not honored once the social workers are off the reservation boundaries or on other reservations. Further, managed care organizations

credential providers who are licensed by the State of Minnesota, and Minnesota Tribal Governments recognize the licensure of social workers licensed by the Board of Social Work. In fact, there are some practicing licensed social workers working on reservations.

- The current recommendation is that American Indian Social Workers working within tribal jurisdictions be offered the opportunity to participate in the GF process or to seek legislation that would honor tribal licensure through endorsement or the reciprocity process.
- The current GF requirements would allow tribal social workers who have the educational background to leave the reservations and become employed in qualifying private nonprofit, nontribal agencies. This is a disincentive to continue practicing on the reservation. Unfortunately, many social workers who leave the reservation rarely return, or if they do return, they leave for a long period of time.
- GF would provide an opportunity for the social workers, and specifically Native Americans who struggle with the exam as it is not culturally specific, to become licensed without having to take and pass the exam. We want American Indian clinicians to be able to achieve these professional standards and practice in their own communities.
- Trained and licensed Native American clinicians would promote professional standards and enhance public protection in Indian communities throughout the State of Minnesota.
- Licensing is a personal accomplishment and in regard to third-party billing, the tribes can be more self-sufficient and not so dependent on federal and state funded programs.
- It is important to engage in conversations with those who might be affected and to understand the impact on tribes before decisions are made.
- There is over-representation of the American Indian population within the judiciary system and those with mental health needs, including children in the welfare system. It's key that we get culturally relevant practitioners to work within the field to serve the American Indian population.

Richardson reported on a meeting held last week with the AIMHAC, which Stratig and Zacher-Pate also attended. The issues raised were related to cultural competency, the need for licensed social workers on the reservations, examination issues, the interpretation of the "private nonprofit nontribal" language in statute, and possible reciprocity of current tribal licenses, knowing not all tribes issue licenses.

Middlebrooks thanked the Council for appearing today and asked for more information about the Council. Jaakola said AIMHAC is one of the Councils that DHS designated for a particular area of human services and this Council represents mental health. The Council is made up of representation from the 11 tribes and 3 urban programs. The tribes meet quarterly and generally all but two tribes, whose goals and situations are different, participate in the meetings. The tribes meet and advise DHS on issues from the tribes and the Indian communities in the state, and DHS brings information to the Council which is relayed to the tribal community leaders.

Board members commented:

- The Board must consider if this is within the Board's jurisdiction, and if so, then how the Board might accomplish the goal. There is a great need for culturally competent clinicians, including culturally competent social workers.
- The Board's job is to protect the public and licensing requirements are specified in statute.
- How do the Tribes feel about licensure? It is important to know the positions of the tribal organizations. The Board requested the Council to ask the 11 Tribes if they would support licensure. The Council anticipates very favorable reactions from the tribal governments.

There was discussion about whether the Board's current endorsement provision may be an option for licensure for tribal social workers. Eligibility for endorsement requires that the individual hold a current license or credential to practice social work in another jurisdiction, hold a social work degree accredited by CSWE, and meet examination requirements. Endorsement would not meet every situation, including 1) not all tribal organizations currently issue licenses, 2) the ASWB licensing exam is required which may be an issue for some applicants, and 3) persons with nonsocial work degrees do not qualify. GF allows for nonsocial work degreed individuals to qualify.

There was discussion about the 2011 and 2012 bill to modify the current licensing exemptions which resulted in the current GF provision. When the legislative changes occurred and the GF was put into place, GF was very narrow and applied to affected, previously exempt agency personnel employed by city, state, and private nonprofit, nontribal agencies. Social workers employed by federally recognized tribes remained exempt from licensure, because the Board has no jurisdiction over tribal agencies as they are sovereign nations.

Greg Schaefer, AAG, commented that the current language in statute, "private nonprofit nontribal agency" does not allow tribal agency social workers to qualify. A legislative change is necessary to include tribal agency social workers in the current GF.

Department of Human Services (DHS) guest, Vern LaPlante, made the following comments:

- The State of Minnesota DHS does support the American Indian Advisory Council, the Tribal Governments and also the Board of Social Work in looking at GF to figure out if there is a way we can make this work.
- LaPlante said the goal of the Board of Social Work is to protect people and that is also the goal of DHS, the tribal nations, and the urban Indian programs. He said at this particular time the exclusion or the lack of the opportunity for Indian people working within tribal communities to have access to the GF opportunity is something that's standing in the way of us assuring that we have the protection in place for families and individuals in reservation Indian communities.
- There are only 2 tribes that offer tribal licensure: the Fond du Lac Nation and the White Earth Nation at this particular time. There are numerous individuals who are mental health professionals and social workers licensed by the state licensing entities, and there are people who are licensed social workers that are practicing on the reservations.
- There are many individuals who have had training and don't have licensure but have committed their lives to working in the American Indian community. He said we

should look at the opportunity to extend licensure to people who are practicing within the tribal jurisdictions.

- Licensed individuals submit to the Board's criteria and, if they do something that is not in alignment or in violation of their license, then the Board could reach into their community and reprimand them or seek corrective action. LaPlante asked the Board to think about those individuals who will voluntarily submit to the licensing criteria who are working in tribal communities.
- LaPlante advocated for working together for legislative action. LaPlante agreed with Hallman that the first piece to think about is whether we think this makes sense, is this good practice, and is this the way we want to protect the people in the state of Minnesota including individuals who live on reservations and individuals who are provided services by Indian people. LaPlante said we shouldn't let too much time slip by as there have been hearings at the legislature already and we need to act fairly and quickly if we need legislation.

Board members made the following comments:

- If the Board moves forward for this group, will there be any opposition or requests from other groups? Would it put the current statute at risk?
- Are there other solutions rather than amending the statute such as inclusion in other regulations or State agencies?

DHS representative Edwall made the following comments:

- Edwall stated: "Within the authority of the Executive Branch, we have done essentially what is possible which is recognizing the authority of tribes to create their own licensing standards and recognizing persons who are licensed under those standards as able to participate in our Minnesota Health Care Programs". Edwall expressed support for inclusion in the GF.

DHS representative Hartford made the following comments:

- LaPlante made a point earlier that DHS' mission of looking after the health and safety of Minnesotans very much aligns with the Social Work Board and one of his concerns is the work force issues as he comes from a very broad standpoint. There are enormous workforce issues in the area of chemical and mental health services in the State of Minnesota from psychiatric providers to social work providers, especially in greater Minnesota.
- He has heard tribal councils identify the needs of the American Indian people of the reservations today, and the need for culturally competent providers that actually understand and will support those needs.
- It is critical to consider these issues from a workforce perspective which is important today especially as you drill down into some of the specifics of what the tribes need for both health and safety especially when we are at the cusp of health care reform. The demand for people that are competent deliverers in the area of chemical and mental health services is enormous especially when you consider our graying workforce.

Zacher-Pate stated there is a real need and it may be necessary to think of both short-term and long-term solutions. Workforce issues are real, public safety is our over-arching

mission, and if we really put that as our base to develop a strategy, perhaps all options must be considered.

Board members made the following comments:

- There is a need for more social workers in all communities and this is a greater issue involving more than one group of people. If legislation moves forward to amend the GF, other groups may say if you are offering GF for one group, then you have to do it for us also.
- The Board has worked for 10 years trying to remove the exemptions and trying to license more social workers who are members of ethnic minority populations to serve the needs of those populations.
- Over the years the Board has moved forward and, in time, the exemptions will be removed ensuring licensure standards and public safety for all Minnesotans.

Black-Hughes made the following recommendation: 1) to ask the staff and the BOSW to work with folks from Fond du Lac and White Earth as they have licensure to see if we can get endorsement; 2) for the BOSW to empower the Executive Committee to work with representatives from all 11 tribes and DHS and hopefully some people from the legislature to see if we can come up with a short-term solution that might work in this session because we are on a very short timeframe for GF; and 3) the Legislation & Rules Committee will work with the 11 tribes and DHS to see if we can come up with a long-term solution. It will likely be necessary to have input from the AAG.

Discussion occurred about whether the Board or the tribes should initiate action. Based on the earlier recommendations, it may be advantageous for the Council and the Board to work together. Stratig said she would like to see a more concerted effort to include tribes in some of our legislative committees or AC, etc. It may be helpful to contact state legislators who have a reservation in their area.

**A motion was made by Hallman, and seconded by Richardson, to instruct the Executive Committee, to actively explore expanding licensing opportunities within American Indian Communities. The motion carried unanimously.**

Black-Hughes requested that Hallman, as Chair of the Legislation & Rules Committee, and Middlebrooks, as ex-officio, be involved in the efforts, in addition to representation from all 11 tribes, and DHS representatives at a public meeting. Black-Hughes directed staff to set up meetings as soon as possible and thanked the guests for coming to today's meeting. Buckanaga thanked the Board for the invitation to meet with the Board today.

*[There was a short break]*

**9. CONSIDERATION OF 2013-2014 GRANDFATHERING "NONTRIBAL" AGENCY; OTHER GRANDFATHERING ISSUES:** Richardson, Stratig, Zacher-Pate, Schaefer [Attached]

Black-Hughes said the Executive Committee met last night and would like the Board to consider two GF interpretations. The first is "newly employed" which was discussed at a meeting Zacher-Pate participated in with the Minnesota Management and Budget Human Resources Management Division (MMBHR). There are different definitions and connotations

of "newly employed", which may or may not include intergovernmental transfer when there is no break in employment or if there is a transfer between departments or divisions within the same city, state, or county agency. The term must be defined statewide for purposes of the statute, including as it affects state employees. The statute requires that newly employed individuals in city, state, and nonprofit agencies, as of July 1, 2016, must be licensed. Richardson suggested researching the 17c transfer provision which may be used when an individual transfers from one governmental agency to another and there is no break in service or benefits. In order to affect a 17c transfer, the job description must be similar to the previous job description. Black-Hughes asked Schaefer to review the 17c requirements. The AAG will research the issue and provide input soon.

The second interpretation Black-Hughes asked the Board to consider is the definition of "private nonprofit nontribal organizations". Zacher-Pate responded that staff is receiving specific questions from licensees about their situations and would like to receive AG input and Board interpretation. For example, how should "primary service focus" be defined related to private nonprofit, nontribal agencies whose primary service focus addresses ethnic minority populations? On the advice of the AG a majority rule should be applied and a person would qualify for GF if they work in a private nonprofit, nontribal agency with a primary service focus addressing ethnic minority populations if they can demonstrate that at least 51% of their clients are members of ethnic minority populations. Would an agency, such as Allina, meet the legislative intent as a private nonprofit, nontribal agency whose primary service focus addresses ethnic minority populations? By defaulting only to the 51% to operationalize the requirement, is this meeting the legislative intent of "primary service focus addressing ethnic minority populations"? Should additional documentation be requested? It will take more to operationalize the process and perhaps the ARC will review these cases. The board has two options 1) leave the requirement at 51% and don't consider intent, or 2) require 51% and staff will request documentation of intent.

**A motion was made by Roiger, and seconded by Middlebrooks, to require documentation from an agency that 51% of clients served are from ethnic minority populations with proof of service intent, such as a mission statement or document of intent to serve ethnic minority populations, for applicants who apply for licensure through the grandfathering provision whose practice setting is private nonprofit, nontribal agencies whose primary service focus addresses ethnic minority populations.**

The motion was withdrawn.

**A motion was made by Hallman, and seconded by Kassekert, to require documentation from an agency that 51% of clients served are from ethnic minority populations for applicants who apply for licensure through the grandfathering provision whose practice settings are private nonprofit, nontribal agencies whose primary service focus addresses ethnic minority populations. The motion carried unanimously.**

## **10. COMMITTEE & LIAISON REPORTS:**

Black-Hughes reported the order of the Committee reports was being changed as follows:

H. HPSP: Kassekert

Kassekert was not able to attend the Program Committee meeting but she received the following information from Monica Feider from HPSP.

- Kermit Fruechte, AG, reported it is doing an analysis of HPSP's statute and will prepare a report regarding whether HPSP should report or is required to report persons that have diverted controlled substances for self-use to their Board. Fruechte said there are risks in changing the interpretation of the statute which has been used for 18 years. He recommended that it may be more appropriate for the Boards to seek legislative changes if the Boards want HPSP to report diversion cases to them. The committee postponed action until the AG's report is prepared for review.
- The Committee received documentation on HPSP and other state programs to read before the meeting. Statistics show that confidentiality increases the number of individuals who enroll in the programs.

C. Association of Social Work Boards (ASWB): Middlebrooks, Johnson, Zacher-Pate

There was discussion on attendance at the ASWB Spring Education Meeting April 11-14, 2013 in Austin, Texas regarding "Continuing Competency: A Critical Refueling Station on the Regulatory Roadway".

**A motion was made by Hallman, and seconded by Middlebrooks, to approve funding a staff member and a Board member to attend the ASWB Spring Education Meeting April 11-14, 2013 in Austin, Texas, and Richardson will apply for a conference scholarship. The motion carried unanimously.**

B. Application Review Committee (ARC): Black-Hughes, Stratig, McNair  
Committee Review of Grandfathering Application Process and Membership

Black-Hughes reported the following:

- The committee will review grandparenting or GF applications and Black-Hughes asked for volunteers to serve on the committee. Richardson volunteered as a public member and Roiger volunteered as a LSW.
- In order to avoid a delay in processing applications, Zacher-Pate said the AG recommended the Board give the ARC authority to approve and deny grandfathering applications.

**A motion was made by Hallman, and seconded by Sandry, to approve the Application Review Committee having the authority to approve and deny grandfathering applications, and the appeal process of the applications will go before the full Board. The motion carried unanimously.**

*[Kassekert left the meeting at 2:43 p.m.]*

E. Council of Health Boards: Kassekert  
In Kassekert's absence, there was no report.

*Executive Session-Closed to the Public [2:45 – 3:00 p.m.]*

D. Communication Education Outreach Committee (CEOC)  
In Wilcoxon's absence, the committee was reported to have not met.

G. Finance Committee: Payne [Attached]

Payne made the following Finance Committee report:

- According to the December 2012 budget report and through 50% of fiscal year 2013, the direct operational expenses paid through December 31 are at 29.42% of the budgeted amount, the IT budget is at 38.40%, and the indirect operational expenses are at 41.93% of the budgeted amount with AG expenses at 47.58% of the indirect operational expenses budgeted amount. The total direct and indirect expenses are at 42% of the budget.
- This is the second year of the biennium and with the grandfathering process it is expected there will be an increase in AG costs.
- Revenues are at 56.55%. Renewals remain on target, and LICSW temporary leave applications and reactivation of expired licenses have increased.

A. Advisory Committee (AC): Wilcoxon, Kovach [Attached]

In Wilcoxon's absence, there was no report.

F. Executive Committee (EC): Black-Hughes, Richardson, Payne

Please refer to number 9 on the agenda.

I. Legislation & Rules Committee: Hallman

Hallman reported there was no meeting.

J. Legislative Task Force: Middlebrooks, Wilcoxon

Middlebrooks reported there was no meeting.

K. Nominating Committee: Sandry

Sandry reported there was no meeting:

## **11. PUBLIC COMMENT**

There was no public comment.

## **12. OTHER BUSINESS**

There was no other business.

## **13. ROUNDTABLE**

- Middlebrooks commented the grandfathering conversation was very good and as a public member, he learned a lot.
- Hallman commented that it was interesting to see that others want to have a social work license.
- Stratig thanked everyone for welcoming and listening to the Advisory Council and she was pleased that the Council had the opportunity to be heard before the Board.
- Roiger asked if Stratig could present training at the March Board meeting on the American Indians in Minnesota and Stratig agreed.
- Zacher-Pate thanked the Board for its support today and how engaged each Board member was in the discussion demonstrates the power of collaboration and diversity.
- Black-Hughes said the Board appreciates Zacher-Pate's devotion, passion, and commitment to the protection of the public in regard to social work practice.

#### 14. **ADJOURN**

The meeting adjourned at 3:15 p.m.

Respectfully submitted,



Carol Payne, LSW  
Secretary-Treasurer