

Next stop, Alberta, for the spring meeting



# association news

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Inside:

*Distance education.*  
Page 2.

*New bills headed through in some states,*  
page 3.

*Law would have heavy impact on exams in New York.*  
Page 4.

*New ASWB committees.*  
Page 5.

*FARB Forum.*  
Pages 6, 7 and 8.

## ***Joint task force will work toward standards for electronic practice***

*NASW, ASWB join forces to look at complex topic*

For the first time in many years, there will be a combined effort by the National Association of Social Workers (NASW) and the Association of Social Work Boards (ASWB). It will be a joint task force on electronic practice standards, to be called the Social Work Practice and Technology Work Group.

ASWB President Delfino Trujillo has named five members to represent ASWB, including a liaison to the Board of Directors.

They are Charlotte McConnell of Washington, D.C., who is to be co-chair, and Mary Burke of Maryland, Amanda Randall of Nebraska, Andrew Marks of Texas and Roger Kryzaneck, director at large, as liaison.

Co-chair for the NASW part of the joint task force will be Yvette Colon, Director of Education and Internet Services for the American Pain Foundation. Members representing NASW will be Rebecca Sager Ashery of the U.S. Public Health Service, Susan Mankita, host of AOL's Social Work Forum, and president of the Florida Chapter of the Society for Social Work Leadership in

See **TASK FORCE**, page 3

## **The Canadian provinces join: Now there are five**

Half of the ten Canadian provinces are now members of ASWB.

By vote of the ASWB Board of Directors, the Manitoba Association of Social Workers/Manitoba Institute of Registered Social Workers (MASW/MIRSW) has become the fifth provincial regulatory organization to join the association. Manitoba also makes 56 member boards for ASWB—49 states, Washington, D.C., the Virgin Islands, and the five provinces.

Manitoba's application materials were submitted to boards in early December for comment, and only favorable response was received. The directors' unanimous vote was in February.

Canadian provinces that were already members are Alberta, British Columbia, New Brunswick and Nova Scotia. Eight of the ten provinces participated in the practice analysis that was completed in 2003, and that concluded that social work practice was very similar in the two North American countries.

MASW is the "voice of the social work profession" in Manitoba, providing education and peer support for members as well as public education. MIRSW is the regulatory arm of the profession. It certifies members and requires that its registrants maintain current knowledge through continuing education, and also is a disciplinary body that investigates public complaints. The two organizations work closely together, sharing a volunteer board of directors elected by members.

MIRSW issues a certificate of registration to signify that a registrant meets recognized standards of practice and is committed to ethical standards. This allows a member to practice as a Registered Social Worker and to use the initials RSW (or the French version, TSE, Travailleur Social Enregistre) following the registrant's name.

Protection of the public is listed as the first purpose of the groups, by developing "sound professional standards of social work practice," informing the public and ensuring professional accountability.



## **BOARD OF DIRECTORS**

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Donna DeAngelis, LICSW, ACSW

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## ***Distance learning--more distance, more questions***

By JENNIFER WARD  
Program Coordinator  
Approved Continuing Education (ACE)

Are you seeing new types of distance learning in the continuing education courses you review for approval? With many employers no longer offering leave or reimbursement for continuing education, more social workers are finding distance education attractive. There is an explosion of continuing education alternatives to the book and post-test standard, many using the computer and the internet. These new types of distance learning raise some new oversight issues that didn't exist just a short time ago.

Non-interactive home study has shortcomings everyone is familiar with. The learner must initiate all learning in traditional home study. There is no interaction with the presenter so the learning is in one direction only and some participants may not actively engage in the material. Questions raised by the course content or presentation methods go unanswered unless the learner pursues the question independently.

On the positive side, the learner decides when class begins and ends. Learners who live great distances from workshop or seminar locations may find this method very satisfactory. Because many employers no longer offer leave or reimbursement for continuing education participation, this type of course also gives many social workers an opportunity to catch up on articles and the latest research of favorite practitioners in an economical, flexible and timely manner.

From the Approved Continuing Education (ACE) program's viewpoint, some nagging questions remain: How does the provider verify the identity of participants? How much can reading an article and answering a few questions teach participants? Is the course material valid and current? Is the provider reputable?

Interactive home study tries to more closely mimic in-person workshops with a specialist presenting and an audience discussing a topic. In one type of interactive home study course, the learner reads an article or book received in hard copy or downloaded from a website. After completing specific sections of the book or article, the learners participate in online discussions by posting comments within a specified period of time. Learners read the comments of others, in their own time, and contribute to the discussion, which may be facilitated by an instructor or moderator.

### ***New position at ASWB***

ASWB is seeking a licensed social worker with psychometric and research experience or related examination development experience to fill new ASWB Examination Program Director position. Must relocate to Culpeper, Va., area. Please send letter of interest and resume to Donna DeAngelis, Executive Director, ASWB, 400 South Ridge Parkway, Suite B, Culpeper, VA 22701.

While there is no "real time" interaction, and no facial expressions or body language to read, the participants find their written ideas challenged and questions answered in a manner similar to interactions in a classroom or workshop. Questions and problems can be addressed and resolved during the course session.

At the end of the class, learning is assessed by class participation, much the same way as during an in-person workshop or seminar—basically, those who participated receive

See **LEARNING**, page 8

# New state legislation expected in Michigan, Colorado

Several bills affecting social work licensing are on their way through several different state legislatures. One in Michigan would change the registration system currently used there to licensing, coinciding with the state board deciding to use the ASWB examinations, and one in Colorado would reduce the levels of licensure from four to two.

The Michigan bill, which had been passed by the House in early February and was waiting for Senate approval, does not include an examination in its requirements. It leaves that decision to the Board of Social Work, which had already tentatively approved new administrative rules requiring an exam.

With legislative approval in Michigan, candidates applying to be Certified Social Workers (CSWs) must pass the Clinical exam, and applicants for the Social Worker (SW) designation must pass the Basic.

The changed law has been 25 years in coming, according to Linda Burghardt, government affairs specialist with the Michigan Chapter of the National Association of Social Workers (NASW). The chapter has 8,000 members, according to Burghardt, and they were strongly in support of the bill. A grandparenting provision is included, that will allow anyone currently certified or registered as a Certified Social Worker (CSW), a Social Worker (SWJ) or a Social Work Technician (SWT) to be licensed at a corresponding level.

Michigan would become the last of ASWB's state member boards to use the examinations. It has never required an exam for certification of social workers. With a more favorable political climate for professional regulation in the state now, quite a few professions have new laws or changes to existing legislation coming up for votes.

In Colorado, Board of Social Work Examiners Administrator Amos Martinez said that the sunset bill for social work regulation barely made it through the House Health, Education, Welfare and Institutions Committee. It must now go to the Appropriations Committee and then to the Senate, and the result probably won't be known until May.

The new law would reduce the social work licensing levels to two, LSW for master's social workers and LCSW for clinical social workers. Both the RSW (Registered Social Worker) and LISW (Licensed Independent Social Worker, generally considered for administrators) will be repealed, according to Martinez. He said that this had resulted mostly from lack of interest, since the board had had only 13 RSW applications in the past six years, and only about 40 in the LISW category.

## TASK FORCE

From page 1

Health Care, Dick Schoech of the University of Texas at Arlington School of Social Work, and Robert Vernon of the Indiana University School of Social Work.

Staff for ASWB will be Executive Director Donna DeAngelis and Communications Director Troy Elliott. For NASW, staff will be Toby Weismiller, Division Director, Professional Development and Advocacy; Mirean Coleman, Senior Policy Associate, Clinical Social Work Professional Development and Advocacy; and Carol Stambaugh, Director of the Arizona Chapter of NASW.

Both organizations have been concerned for some time about standards of electronic practice, since it is a form of providing therapy that has become a reality very quickly and with little supervision. Other forms of social work practice using technology will also be addressed.

ASWB devoted a Spring Education Meeting to the topic several years ago, with Susan Mankita as the featured presenter. The conclusion for most regulators in attendance was that such practice was not something that was going to go away, and that boards have to try to protect the public that uses social work by telephone or online.

Some rewording was done for the association's Model Social Work Practice Act, after study by the Disciplinary and Regulatory Standards (DARS) Committee. In the law itself, a section was added:

**(e) The provision of social work services to an individual in this state, through telephonic, electronic or other means, regardless of the location of the social worker, shall constitute the practice of social work and shall be subject to regulation.**

In the comments section, the model act notes that: "Many factors, including technological advancements, increase the likelihood of the practice of social work across state lines. While federal legislation or the judiciary may have the final word on regulating professions across state lines, this section is designed to specifically address the issue of where practice takes place. ASWB adopts the position that social work practice through electronic means takes place in the client/patient jurisdiction of residence irrespective of the location of the social worker.

"ASWB recognizes that social work practice via telephonic and electronic means is becoming an increasing reality in the health care and behavioral science fields. ASWB affirms the premise that in-person client contact is the most effective and preferred method of providing client assessment, treatment, and appropriate referral services. The provision of social work services through telephonic and electronic means shall constitute social work practice as defined in the statute."

## ***New York bill could affect professional exams there***

A bill that could have far-reaching implications for professional testing has been reintroduced in the New York Legislature. It would require that standardized tests used for licensing and certifying professionals and occupations in the state “not have the effect of discriminating” because of race, ethnic background or gender. To investigate, the legislature would obtain information from test subjects on race or ethnicity, gender and linguistic background.

In January, the bill, actually introduced in 2003, was amended by one committee and returned to another, Investigations and Government Operations. The requirement would apply to tests “prepared and administered by a state agency for licensing pursuant to state statute.”

Test agencies would be required to file reports giving such information as the pass rates by race, ethnicity, linguistic background and gender, and the same breakdown for each item on the test. Differential Item Functioning (DIF), in which a question gives different percentage results for one group when compared to another, would have to be shown for any item in which it occurred. Test takers will be asked to voluntarily give this information about themselves when they take a licensing examination.

There are a number of limits built into the proposal; for example, the test agency would not be required to include in reports information for any group comprising fewer than 100 test subjects during a year. This would exclude many minority groups in licensure testing.

At the recent meeting of the Federation of Associations of Regulatory Boards, there was some discussion of the proposal. One objection raised was that it would generate “a mountain of paperwork.” Another speaker pointed out that many groups don’t gather DIF information, and that there would be huge ramifi-

## **ASWB to be hosted by Alberta in spring**

Balancing regulation with the requirements of appropriate consideration of diversity will be the unusually complex theme of the ASWB Spring Education Meeting April 29 – May 2 in Calgary, Alberta. The featured speaker will be Dr. Jose Torres of the University of Wisconsin in Milwaukee.



A frequent presenter on diversity issues, Dr. Torres also has a more than passing acquaintance with one of the keys to social work regulation, the ASWB licensing examinations. He was a member of the Examination Committee from 1999 – 2002, and before that was an item-writer.

This will be ASWB’s first meeting in Canada; attendees should bring a passport or birth certificate, as well as the Letter of Recognition that will be sent after registration. The conference will be held at the Fairmont Palliser, and the meeting will include a tour to the resort town of Banff.

Also on the agenda is a discussion of the impact of privacy legislation on the regulation of professionals who have confidential information on their clients, and an update on other pertinent legal issues. Since the locale is Canada, the Canadian model of regulation will be explained.

The deadline for registration for the meeting is March 26, and for the tour, March 23. The agenda and other information for the meeting was mailed out weeks ago. For questions, contact Meeting Planner Jennifer Hoffman, (800) 225-6880, Ext. 3007, or [jhoffman@aswb.org](mailto:jhoffman@aswb.org).

cations for Computer Adaptive Testing (CAT), which is used in a number of professional testing programs. With CAT, candidates are given fewer questions, chosen by a computer that is directly honing in on the individual’s ability. The testtaker answers only enough questions to determine competency.

FARB Executive Director Dale Atkinson, an attorney, said that the physical presence of a candidate in New York could make the law applicable to national tests. But he added that if a test was taken just outside, in New Jersey or Connecticut, with the scores transferred into New York, the law probably would not apply.

Most standardized tests, including ASWB’s, either do not collect this information or collect it only by item. ASWB does calculate DIF for individual items, and brings those that have evidence of unequal performance back to the Examination Committee to be fixed or discarded.

The bill would take effect April 1, 2005.

## ***CSWE session well-attended***

Executive Director Donna DeAngelis made another in a series of presentations on the new social work practice analysis in early March, this one at the Council on Social Work Education (CSWE) Annual Program Meeting in Anaheim, Calif. The session was very well-attended by the educators.

Board of Directors members who attended both the conference and the presentation were President Delfino Trujillo and Directors at Large Sandra Starks and Roger Kryzanek. Others with the association who are educators also came to the panel discussion that included DeAngelis’ presentation, in some cases to help answer questions. They were Lynn Pehrson of Utah, former co-chair of the Examination Committee, Steve Marson of North Carolina, the current co-chair, Tony Bibus of Minnesota, who is on the DARS Committee, Amanda Randall of Nebraska, chair of this year’s Bylaws Committee, and Dorinda Noble of Texas, a Practice Analysis Task Force member.

**Committee  
appointments  
include three new  
members for the  
Exam Committee**

New members of the ASWB Examination Committee this year include two Canadians, Richard Shelson of Alberta and Vicki Coy of New Brunswick. Both were members of the Practice Analysis Task Force, which completed its work last year. Also new will be Julia Hankerson of New Jersey, who has been an item-writer. Carol Albott of Kansas, Carol Boyd of Mississippi and Mila Tecala of Virginia and Washington, D.C., will be returning members of the committee.

See COMMITTEES, page 11

## ASWB Committees, 2004

### Approved Continuing Education Committee

Kathy Outland (OR), chair  
Virginia Adolph (MS)  
Maria Carroll (DE)  
Jane Christiansen (VI)  
Joyce Westphal (IA)  
Saundra Starks, board liaison

### Bylaws and Resolutions Committee

Amanda Randall (NE) chair  
Benjamin Foster (VA)  
Ruth Hallett (IN)  
Marcia Heitz (IL)  
Leticia Hermosa (MA)  
Robert Showers (LA)  
Roger Kryzanek, board liaison

### Discipline and Regulatory Standards Committee

Alison MacDonald (AB) chair  
Tom Tupa (ND)  
Tony Bibus (MN)  
Donald Montoya (NM)  
Rita Shawn (NY)  
Gwendolyn DaCons – Taylor (OH)  
Ginny Dickman, board liaison

### Examination Committee

Catherine Clancy, (TX) co-chair  
Steve Marson (NC) co-chair  
David Aiken (OH)  
Carol Albott (KS)  
Carol Boyd (MS)  
Vicki Coy (NB)  
Julia Hankerson (NJ)  
Kim Holley (TX)  
Megan McNeill (MD)  
Mary Meis (MT)  
Susan Mercer (NM)  
Jacquelyn Mitchell (MS)  
Donna Rewolinski (WI)

Alvin Sallee (NM)  
Richard Shelson (AB)  
Mila Tecala (DC)  
Nancy Sidell (PA)  
Bruce Buchanan, board liaison

### Finance Committee

Jonathan Finck, ASWB Treasurer, chair  
Kate Zacher-Pate (MN)  
Lynda Quan (MO)  
Patrick Wolberd (MT)  
Walt Stamper, board liaison

### New Board Member Training Coordinators

Rodney Crownover (AR)  
Janice James (KY)

### Nominating Committee (three members elected)

Taylor Aultman (LA)  
Jenise Comer (MO)  
France Daigle (NB)  
Bruce Buchanan, board liaison

### Program and Education Committee (until spring 04)

Andrew Marks (TX) chair  
Rod Adachi (AB)  
Jane Christiansen (VI)  
Beth Farnsworth (OH)  
Michael Lundy (AR)  
Suzanne Vandiver (TN)  
Walton Stamper, board liaison

### ASWB – NASW joint task force on electronic practice standards

Charlotte McConnell (DC), co-chair  
Mary Burke (MD)  
Amanda Randall (NE)  
Andrew Marks (TX)  
Roger Kryzanek, board liaison

## FARB war stories

### What happens when accreditation of a school is questioned?

On the face of it, the relationship between education and professional regulation may seem straightforward—basically, you can't get licensed without the right degree. But that seemingly simple relationship begs a host of questions, such as: Who gets to say which degrees are "right"? What happens when a degree program loses its accreditation? And, perhaps most important, are regulatory boards prepared to handle the political and emotional turmoil that will ensue if their licensing laws can't provide answers to the first two questions?

The boards that license chiropractic practice across the United States have been dealing with these questions in a very real way for nearly three years now. And according to Federation of Chiropractic Licensing Boards (FCLB) Executive Director Donna Liewer, the entire process has earned FCLB and its member boards "a diploma from the school of hard knocks." Liewer presented the entire story as a kind of case study in accreditation issues during the most recent Federation of Associations of Regulatory Boards (FARB) Forum, held in February.

The story centers on Georgia's Life University in general, and its College of Chiropractic in particular, although nearly as important are two credentialing bodies, the Southern Association of Colleges and Schools (SACS), which accredits its entire institutions of higher learning; and the Council on Chiropractic Education's Committee on Accreditation (CCE-COA), the body that approves chiropractic schools and programs. The story begins in June of 2001, and as Liewer tells it, has not yet ended.

It was in early summer of 2001 that both Life University and its College of Chiropractic received the bad news: the CCE—the Chiropractic accreditors—were putting the Chiropractic College on public probation, and the SACS—the regional institutional accreditors—were issuing a warning, citing 52 "areas of concern." To make matters worse, the confidential SACS report was leaked to the local press.

By the winter, the situation had gone from bad to worse for the university. In December, SACS warned LU that it had failed to meet five important standards related to academic and professional prepara-

tion, financial stability, and overall management. The university was given six months to respond.

In June, 2002, CCE issued its opinion: LUCC was denied a reaffirmation of accreditation (a decision that the CCE said constituted "revocation" of accreditation). The College of Chiropractic immediately began the appeal process, which effectively put off official revocation until the matter is settled.

What the appeal process didn't put off was the public relations fallout, and the attendant rumors and accusations. With the issuance of the accrediting body decisions, student enrollment declined rapidly, and with that came claims that other schools and programs were purposefully taking advantage of the situation at Life, and harvesting students from the university. At the same time, students who chose to stay at Life were becoming desperate to complete their degrees before the other shoe dropped at the conclusion of the appeals process—according to Liewer, some chiropractic students close to graduation signed up for as many as 56

See FCLB, page 7

### *Social work regulators get an overview of examination, legal topics*

The Federation of Associations of Regulatory Boards (FARB) held its annual Forum Feb. 6–8 on Amelia Island, Fla. The ASWB Board of Directors held its first board meeting of the year on Thursday, Feb. 5, at the same conference center, and then stayed for the FARB presentations.

The welcome and keynote were given by Donna DeAngelis, ASWB executive director as well as FARB president for 2003. DeAngelis was selected by the FARB board at its own meeting to continue as president for 2004.

Topics in the three-day meeting included examination development, exam validation and security, the role of accreditation in licensing, the licensure application process, and legislative and legal issues. There were several presentations on the growing international presence in regulation, with Alison MacDonald, associate registrar of the Alberta College of Social Workers, speaking on "What's New in Canada?"

Members of ASWB's member boards who attended included Roy Garza and Sheryl McNair, both of the Minnesota Board of Social Work, Janet Lockington of

the Alberta College of Social Workers, Dr. William Mosier and Julianne M. Serovich of the Ohio Counselor, Social Worker, Marriage and Family Therapists Board, Laura Schmid-Pizzato of the Wyoming Mental Health Professions Licensing Board, and Jacqueline Shellington of the Louisiana Board of Social Work Examiners.

Staff members of ASWB boards who were there were Beth Farnsworth, administrator of the Ohio Counselor, Social Worker, Marriage and Family Therapist Board, who was a member of a panel on licensure application; Kay McCormack, executive director of the New Jersey Board of Social Work Examiners, and Sue Foster of the Florida Department of Health and Medical Quality Assurance, which includes the social work board. Also, Amos Martinez, administrator of the Colorado Board of Social Work Examiners, and Annette Martinez and Angelina Romero of the New Mexico board.

Dale Atkinson, FARB executive director and legal counsel for ASWB, gave several talks on legal issues, and Jack Atkinson and Julia Works, partners in the firm of Atkinson & Atkinson, also presented.

# One approach for boards serious about “public” hearings

Are public hearings something to be held because it's the law, or are they a good-faith effort to get reactions and opinions from those who are affected? Is it good if no one notices and no one shows up, or says anything? Or is it better government if there are excited stakeholders practically picketing the doors?

“I take public hearings very seriously,” Ken Bishop, executive director of the Missouri State Board of Accountancy, told an audience of regulators at the annual Federation of Associations of Regulatory Boards (FARB) Forum in February. “If you're going to change people's lives, give them hoops to jump through,” the hearings should be as open as possible.

Bishop, who was executive director for his state's social work board before moving entirely to the accountancy staff, was at FARB to talk about an innovative way of making public hearings really public—via Internet broadcasting. It sounds a bit intimidating, but he said it has worked in Missouri, where stakeholders and other members of the public can simply tune in on their computers and basically see boards operate as if they were on television. Live on television, even.

Missouri has invested maybe \$50,000 in equipment, but it can be done for less, he said. And the gains in participation, exposure of ideas, openness of the process, and even defense from legislative criticism, are, as they say on actual television, “priceless.” The initial purchase was made by the accountancy board, but it is now being shared with other boards.

The state began looking at doing something like this in the 1990s, as a move to implement some of its strategic planning. Missouri's idea was to consider stakeholders, the licensees, the public, and other interested parties, customers. Discussions centered on how to improve customer service, and as e-government began to take hold in the past few years, Internet broadcasting of government in action as a service to “customers” seemed like a natural step.

Viewers can not only see what is being done, they can e-mail comments to be read into the record. “We don't see a huge volume, but a good volume,” Bishop said.

“It's been efficient and cost-effective,” he explained. “The video is not great, but the audio is fine.”

There are two monitors; one monitors the Internet, and the other shows where the camera is. A computer operates the equipment, and there is also a document camera that transfers documents to the screen. The camera will robotically follow a speaker around by means of a device attached to the lapel.

A number of options are available—full-screen capability, which the accountancy board has been considering, or at the other extreme, the hearing reduced to a small window so someone can continue working on the computer while waiting for a particular topic to come up. Bishop said all the broadcasts can be archived, and his board does so. Internet visitors can go back to a meeting of par-

ticular interest and see what happened months later.

Other uses include public education, the ability to make important announcements in a timely way, and meeting review. Minutes can be clarified quickly, and board members can look back themselves to refresh their memories on an earlier hearing before resuming deliberations on a particular topic.

And what about if a speaker who is at the public hearing becomes unusually argumentative and aggressive, maybe even personally insulting, and a board member loses his or her temper? What if there are inappropriate political statements? No one, Bishop says, even notices the camera any more, but no one has ever behaved in a way that would make them regret the filming. No bleeping needed.

## FCLB

From page 6

concurrent semester hours in an effort to graduate sooner.

Soon after, chiropractic regulatory boards and the FCLB found themselves drawn into the fray. In the midst of the student exodus and desperate course cramming, the chiropractic creditors begin advising students that they should be contacting the regulatory boards for information on whether their degrees from Life University and the LUCC would be considered acceptable for purposes of licensure. Almost immediately, phones at the board offices and the office of FCLB were swamped with students and parents demanding to know whether the degrees from LUCC would be all but worthless from the regulatory perspective. When the boards weren't answering calls from students, they were trying to respond to graduates of Life University worried that their licenses will be revoked.

In July 2002—a little over a year after the first hint of trouble at Life—chiropractic boards began issuing statements regarding licensure eligibility in light of the status of LUCC. Despite FCLB's efforts to counsel the boards otherwise, some boards and outspoken board members started rendering opinions before they had studied the exact wording of their own laws and regulations. One board member even went as far as to state that his board would not recognize the appeal process for LUCC, an opinion that caused controversy on the board, and contributed to his removal from the board by that state's governor.

The Federation of Chiropractic Licensing Boards understood that it needed to provide some guidance to its member boards, but that the first step would be to see where the accreditation issue stands in existing laws and regs. What FCLB found was not exactly encouraging.

The research found very little consistency among boards. Not only did terminology vary, some laws contained references to organizations that no longer existed, or candidacy programs that were dropped 15 years ago. The FCLB found other laws requiring the institution in question to be “approved by the Board and accredited by CCE” or mandating that the program attended had to be accredited during an individual's “entire course of study.” In a few instances, the laws took the preferable approach of keeping the language in the actual law fairly terse—saying that programs must be approved by the board—and then adopting the standards and policies of the private accrediting body in the rules and regulations. In several states, boards didn't

See FCLB, page 8

Page seven

## FCLB

From page 7

seem to understand the differences between regional institutional accrediting bodies and the accrediting bodies that oversee individual programs.

Despite the occasional lack of clear laws backing them up, boards felt increasing pressure to make decisions about how their state would handle the LUCC issue. As might be expected, the boards took a variety of approaches to the problem, with one board actually conducting its own site visit to the LUCC campus. Several boards decided to not accept LUCC degrees earned after October of 2002—still, issues such as what happens to students who transfer, or to students who might graduate from LUCC should the program regain accreditation sparked wide variation among boards.

By the winter of 2002-2003, not much had improved: despite efforts by LU to make changes, the regional accreditors refused to reaffirm LU's accreditation status, and moved the university to probation status (where it remains today). To make matters worse, nearly 200 current and former LU students filed a class action lawsuit against the university for claims of negligence.

But things were also looking worse for the chiropractic accreditors, the CCE. Groups had formed to challenge their authority and decision-making processes. Finally, in February, a US District Court judge ordered CCE to return Life University's chiropractic college to the accreditation status it had before 2002, citing conflicts of interest in a peer review accreditation process that included representatives of competing chiropractic schools.

By June, 2003 CCE and Life University worked out an agreement that allowed Life to keep its chiropractic accreditation. But the complications were far from over: in an effort to accommodate students who were caught in the middle of the accreditation fight, the CCE allowed a waiver of its own requirements, and allowed chiropractic programs to award degrees to LU students enrolled before June 2002, as well students who transferred out of Life University after 2002, without the final 25% of normally required credits.

On behalf of its member boards, FCLB protested the decision, insisting that students must be required to, at the very least, sign an informed consent statement

acknowledging that the deal brokered by Life and CCE may have implications on licensing. Regulatory boards rely on the CCE standards themselves, FCLB argued, and these exempted students clearly did not comply with these standards.

The chiropractic accreditors not only ignored the FCLB protest, in January of this year, it announced the creation of a new standards that allows CCE to grant exceptions to its standards.

According to Liewer, the story is far from over. Regulatory boards are still wrestling with imprecise or outdated laws regarding educational requirements for licensure, and now must consider the CCE use of exceptions to its own standards. She stated that several of the problems encoun-

tered in the Life University case could've been lessened had the CCE not chosen to marginalize, and then completely eliminate participation in the CCE by members of the regulatory community—a sort of subplot that occurred as the LUCC situation mess was unfolding.

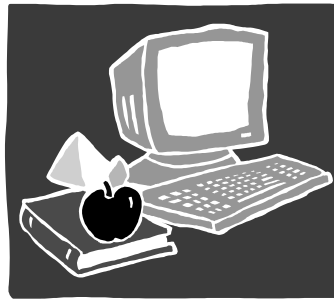
In her presentation, Liewer said that the biggest lesson to be learned from the situation is not just the importance of the accreditation process, but the need for regulatory board members and staff to have thorough understanding of how that process works, and an insight into whether their own regulatory laws can weather the inevitable crises that will occur when the accreditation process breaks down. When the phones start ringing at the board offices, it could be too late.

## DISTANCE EDUCATION

From page 2

credit. Participants may find their skills challenged by the technology as well as by the course content. Many providers use specific software or web sites that learners must be able to access and navigate in order to participate.

In another type of "interactive" format, an expert lecture or panel discussion is broadcast live or by tape. Viewers watch at selected sites in a group or individually on their computer. Questions can be sent to the panel through a moderator who interacts with the presenter on behalf of the audience. A discussion period may follow the broadcast, conducted by a coordinator at the individual broadcast site or by the broadcast moderator at the origination site. Participants must have access to toll free phone numbers or Website and email addresses to ask questions. Again, the technology may be part of the educational challenge, as the learner must be able to download and operate the software required for receiving and participating in the broadcast.



Although online learning is promoted by CE providers as equal in quality to in-person educational experiences, continuing education approvers are still learning and asking questions about it. Does guided interaction between learners provide the same educational quality as interaction with an authority on the topic? How can you evaluate participants learning at remote locations? How can you be sure a participant completes the entire course? How do you determine the number of course credits when some work is done individually and some as a group?

The ACE program requires providers to field test and establish credits before offering a course. A recent applicant wanted to offer a range of credits depending on how much time a participant claimed when the course was completed. ACE requirements caused the provider to rethink that offering.

And the usual questions still apply: How does the provider verify the identity of the participant? Is the course material valid and current? Is the provider reputable? How is learning assessed?

Continuing education does not guarantee competence, but it is accepted as one tool used to support competence. The new formats in distance learning raise new issues in provider competence and program quality, as well.

## COUNSEL'S COLUMN

### *HIPAA: How is (the) practice act affected?\**

By DALE ATKINSON  
Atkinson & Atkinson

There is a constant balancing act between the privacy rights of a client receiving mental health services and the essential authority granted to the board of social work to investigate and, if necessary, administratively prosecute a licensee or other individual alleged to have violated the practice act. These privacy or confidentiality issues are further magnified by the privacy regulations recently put forth by the U.S. Department of Health and Human Services in the Health Insurance Portability and Accountability Act of 1996 (known as HIPAA). As has been discussed at recent ASWB Delegate Assemblies and will be explored at the 2004 Spring Educational Meeting in Calgary, Alberta, the impact of HIPAA on the regulatory responsibilities of the social work boards will be minimal. However, this does not mean that regulatory boards exercising their authority to subpoena and review client records will go unchallenged. Consider the following.

A social work board received a complaint that a licensed social worker, formerly treating a minor, had failed to report suspected child abuse as required by the practice act. The complaint contained newspaper articles describing the criminal convictions of the grandfather of the minor for child abuse and various sex offenses committed against the child. Specifically, the Maryland Social Workers Act provides that a social worker may be disciplined for failure to report suspected child abuse.

Based on the complaint, the board began an investigation of the licensee and subpoenaed the complete patient files of the social worker related to the treatment of the child. The clients (referred to as appellants) moved to quash the subpoena and seal the records. The lower court granted the motion to seal the record, but denied the motion to quash the subpoena. In effect, a motion to quash a subpoena seeks a judicial ruling to nullify the subpoena, while a motion to seal the record allows the matter to proceed under court review that is closed to the public. The appellants appealed the matter.

On appeal, the appellants argued that the records sought by the subpoena were confidential, privileged, or both. They also argued that the board had no right to subpoena mental health records under the Maryland Confidentiality of Medical Records Act. Finally, the appellants argued that subpoenaed records were privileged under the social worker-client privilege statute.

*\*The title, a labored reflection of the HIPAA initials, is the work of Dale Atkinson*

Dale Atkinson is a partner with the Illinois law firm that is counsel for ASWB. He is also executive director of the Federation of Regulatory Boards, of which ASWB is a member.



In its analysis, the appellate court distinguished between confidential medical records and privileged communications. It determined that “confidential” is a term used to describe a type of communication or relationship and that medical records are confidential due to the Confidentiality of Medical Records Act. The court also stated that “privilege” is the legal protection afforded to certain communications and relationships (i.e. attorney-client, physician-patient). It summarized the social worker-client privilege as protecting “communications made while the client was receiving counseling or any information that by its very nature would show that such counseling occurred.” Based on the definitions and interpretations of the applicable statutes, the court determined that the records subject to the subpoena are both confidential and privileged.

Next, the court addressed the subpoena power of the social work board. Citing the purpose clause of the practice act, the court noted the fact that the legislature determined that the profession of social work “profoundly affects the lives, health, safety and welfare” of the people of the state of Maryland. It also noted the relevant portions of the act addressing the medical review committee (the subpoenaing entity) which is obligated, among other things, to evaluate and improve the quality of health care and health care providers. The court held that social workers are health care providers who must comply with duly issued subpoenas.

Finally, the court addressed the issue of the authority of the board to subpoena confidential and privileged documents. In finding that the board has the authority to subpoena such records, the court recognized the intent of the legislature in empowering the board. It cited the applicable confidentiality and privilege acts and held licensees must disclose mental health records pursuant to disciplinary investigations of social workers. Indeed, the applicable confidentiality statutes identify permitted disclosures (without client approval) as including requests from licensing authorities.

Regarding privileged communications and the potential for constitutional, privacy violations, the court said that such privacy rights are not absolute. It held that when the individual privacy rights are balanced against the legitimate state interest of gathering information in an administrative investigation, disclosure is appropriate. The court stated:

See COUNSEL, page 11

**DONNA DEANGELIS** was in Toronto to attend a January 23 meeting of the Entry to Practice Task Force of the Ontario College of Social Workers and Social Service Workers. The results of the new practice analysis were presented to the group.

\*\*\*\*

Nice piece about **MAESTRO EVANS** from the American Correctional Health Services Association newsletter was posted on the Web. **MAESTRO**, a member of the ASWB Practice Analysis Task Force and a member of the Exam Committee for some years, was described as "an icon of social consciousness in the Atlanta community" for his work with inmates, substance abusers and the mentally ill.

\*\*\*\*

Minnesota administrator **FRANK MERRIMAN** had heart surgery in mid-January, to replace a damaged valve. He hopes to return from medical leave by mid-March.

\*\*\*\*

It's been really cold at the end of winter on the east coast, but there is not much sympathy to be had from North Dakota Executive Director **TOM TUPA**. **TOM** may have used the word "wimps," or worse, while declaring that he was enduring temperatures of 40 below. And **SUZANNE MCKENNA**, the executive director and registrar of the New Brunswick Association of Social Workers, mentioned in an e-mail that it was minus 26 degrees Celsius, and minus 43 Celsius with the windchill (which comes out to minus 45.4 Fahrenheit). "The joys of our winter," she noted. "We are told it makes hardy stock of us but I could use a little less hardy right now."

\*\*\*\*

ASWB's whole board went to the FARB meeting in Florida, preceding it with a board meeting. The program included a report by ASWB Executive Director **DONNA DEANGELIS**, also FARB president, on what the various organizations are

doing that is new. Communications Director **TROY ELLIOTT** gave a Powerpoint talk on last year's far-reaching census of the association, including the somewhat unexpected difficulties of getting that much information out of people. He entitled it "Taking Leave of Our Census." The

## Association Asides

somewhat jaded Sunday morning audience was properly appreciative of the pun.

\*\*\*\*

There was a recent reminder from an association old-timer that ASWB's examinations have had past Canadian influence. **ANNA BOWMAN**, then of Goshen College in Indiana, was an Examination Committee member from 1993 to 1996, and came to the workshop in Culpeper in 1994 that was held to build up the item banks. **ANNA**, who retained her Canadian citizenship, also was a subject matter expert for the job analysis completed in 1996.

\*\*\*\*

It was nice to see former ASWB legal counsel **JACK ATKINSON** again, at the FARB forum—he spoke on examination defensibility. He's sticking to his story that the association's current legal counsel, **DALE ATKINSON**, is adopted.

\*\*\*\*

**DONNA DEANGELIS** is not only carrying the responsibility of being FARB president this year, but she's also now on the Board of Directors for the Alumni Association of the University of Chicago's School of Social Service Administration. She received her MA in social work there a while back—30 years ago, in fact.

\*\*\*\*

New responsibilities, too, for **JAKE KUIKEN** of Alberta, who has served as delegate to ASWB and was a member of the 2002 Finance Com-

mittee and the 2003 Nominating Committee. He will be in charge of developing an entirely new social policy for the city of Calgary—it will cover the full range of services offered by the city, from social and recreational services to eventually, land use and public housing. The policy, he says, is to be based on the principles of "social inclusion." A tall order.

\*\*\*\*

The cowboy hat goes with the territory in Calgary. Rod Adachi, executive director of the Alberta College of Social Workers, officially invited ASWB to Calgary (home of the Stampede) at the fall meeting, and brought the hat to make someone an honorary Calgarian. He chose Meeting Planner **JENNIFER HOFFMAN**, who has to do lots of the work, he said.

Registration deadline, by the way, is March 26.



**Did your copy of Association News have a hard time finding you?**

While you have this newsletter in your hands, check out the mailing label that got it to you. If there is anything about it that's not quite right, please let us know at ASWB.

Call (800) 225-6880, Ext. 3008, or email [bhartman@aswb.org](mailto:bhartman@aswb.org).

## COMMITTEES

From page 5



Clancy

Co-chairs for 2004 are Kathy Clancy of Texas and Steve Marson of North Carolina. Clancy has just completed three years of the committee, and was appointed by President Delfino Trujillo as chair. Marson is in his second year

as co-chair.

Trujillo made a number of changes in committee chairs and membership in this, the first year of his presidential term.

Other committee chairs are Kathy Outland of Oregon, Approved Continuing Education (ACE) Committee; Amanda Randall of Nebraska, Bylaws and Resolutions; Alison MacDonald of Alberta, Discipline and Regulatory Standards (DARS); Jonathan Finck of Missouri, ASWB treasurer, Finance; and Andrew Marks of Texas, Program and Education (until new appointments in the spring.)

Rodney Crownover of Arkansas and former president Janice James of Ken-

tucky remain the coordinators of Board Member Training.

The Nominating Committee, with its three elected members plus Past President Bruce Buchanan, does not choose a chair until it meets at the Spring Education Meeting.

There are committee members from 32 of the association's member jurisdictions. All of the appointments for 2004 are listed on page 5.

## COUNSEL

From page 9

The relevant statutes and case law make it clear that the legislature has concluded that (1) the public's interest in regulating health care professionals is best served by providing the board with the power to subpoena the records at issue, and (2) it would create an absurd result to mandate that a social worker report child abuse, while at the same time, permit the abuser and/or the social worker to prevent the Board from investigating a complaint of failure to report suspected abuse.

Thus, the appellate court agreed with the lower court that the motion filed by the appellants was properly denied because the appellants have neither a statutory or constitutional right to quash the subpoena.

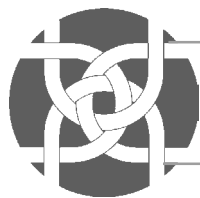
The interplay between the statutes and constitution related to the confidentiality of client records involves some complex legal issues. Interestingly, and perhaps indicative of the

inapplicability of HIPAA to board activities, HIPAA was not addressed by the parties or the courts in this matter. Boards of social work, however, are encouraged to understand the powers granted to them through the practice acts and exercise such authority to protect the public. An initial question is whether the board has subpoena power. If so,

use such power within the authority of the statutes and the circumstances.

*Doe v. Maryland Board of Social Workers* 2004 WL 35539 (App. Ct Md 2004)

HIPAA apparently was  
not considered  
in court case



## THE ASWB CALENDAR

### February 27-March 1

Counsel on Social Work Education (CSWE), Anaheim, Calif.

### March 6

Approved Continuing Education (ACE) Committee, Culpeper, Va.

### March 12 - 14

New Board Member Training, Culpeper.

### March 26 - 28

Examination Committee, Scottsdale, Ariz.

### April 3

Finance Committee, Culpeper.

### April 5 - 10

National Association of Black Social Workers, Pittsburgh, Pa.

### April 29

Board of Directors, Calgary, Alberta.

### April 29

Administrators Forum, Calgary.

### April 29 - May 2

Spring Education Meeting, Calgary.

### May 21 - 23

Examination Committee, Chantilly, Va.

### November 12 - 14

Annual Meeting, Chantilly, Va.



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## INSIDE:

**ASWB committees for 2004.**  
**Page 5.**

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# *association news*

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## **Dedication and danger**

*Iowa editorial summarizes the demands—and costs—of the profession*

Social workers involved in regulation have to focus on the “bad apples,” members or would-be members of the profession who should not be social workers. Occasionally, though, it’s good to look more closely at the heart of what is being protected.

At the February meeting of the Board of Directors, Past President Bruce Buchanan read from an editorial in his hometown paper about a friend and colleague who had been killed by a client. The *Des Moines Register* called the editorial “Dedication and danger,” and wrote with feeling about the death of social worker Greg Gaul.

“To be a dedicated social worker, one has to believe in people. Believe people can change, can have better lives, can learn to make better choices. In a cynical world where everyone seems focused on themselves and it’s easier to give up on the troubled souls in our society, social workers have to maintain a strong faith that what they’re doing matters.

And it does matter, though few may pause to reflect on just how much. Social workers are the people society depends on to deal with parents furious after their children are placed in foster care. Violent fathers who yell threats across a courtroom. Kids who pull knives and slash tires and are dealing with their

own demons. Three-year-old girls with permanent scars where their mother’s boyfriend put out cigarettes. Teenagers who go on drug binges or fly into a rage when no one expects it.

Helping these troubled people is part of being a social worker. It’s a dangerous job.

Iowa was reminded just how dangerous this week.

Greg Gaul, a Des Moines human-services worker, was doing his job when he was killed. The troubled 16-year-old boy suspected of the murder has killed himself. A young woman, Sarah Dahlke, house-sitting at the boy’s home, in the wrong place at the wrong time, also was found dead.

The tragedy is incomprehensible from every angle.”

The editorial noted that social work is a job in which workers are generally underpaid and overworked, and that for those reasons and the stress many people choose to use their educations in other ways. It concluded:

“But there are those workers who persevere. They stick with the job because they care about kids and know what they do matters. They are compassionate and understanding and necessary.

Greg Gaul was one of those workers.”