Revered international leader Nelson Mandela once observed, “It always seems impossible...until it is done.” While we mourn his loss, his wisdom lives on and will continue to resonate as he reminds us that nothing is impossible. At the beginning of this year, the ASWB board and staff set some bold, change-making strategic goals to take us through this Leadership Transition Year, while laying the foundation for an even bolder five-year strategic plan for the organization. Looking back over this year that has flown by, I can say with confidence that not only did we meet those goals, but we have exceeded them. My Association Report presented at the Annual Meeting of the Delegate Assembly explains the internal organizational changes. The 2014-2018 Strategic Plan adopted by the Delegate Assembly at the Annual Meeting outlines the strategic objectives that will focus the activities of the Board of Directors and the organization moving forward.

I believe there are three keys to our success: 1) we increased employee/volunteer engagement through direct communication; 2) we built meaningful partnerships internally as well as with key stakeholders in the social work and regulatory communities; and 3) we moved confidently forward with a positive attitude of leadership.

Our challenge in 2014 will be to implement the first of our two-year operations and governance business plans that will bring our strategic vision to life. Each functional department within ASWB used the strategic plan to craft the activities that will be part of their business plans and they will provide quarterly reports on their progress throughout 2014. In fulfilling their strategic objectives, the Member Services department will be particularly active supporting our members and the Examination Services department is preparing for an upsurge in the number of examination registrations. The Communications and Marketing department will be focused on building awareness of ASWB and the value of regulation as a means of public protection. The Board has adopted the Governance as Leadership model and has a written governance plan for the year as well.

What is most gratifying for me as we close this year is to know that staff, Board, and volunteers are truly “living our values” of Respect, Accountability, Integrity, Service, and Excellence...or RAISE. Thanks to all for making my first year here so remarkable, meaningful, and memorable.

Blessings of this Holiday Season to you and your families and my best wishes for a bountiful New Year!
Familiar faces elected to the ASWB Board and Nominating Committee

The elections at this year’s Annual Meeting were quite exciting, with concise, timed speeches and an up-close-and-personal Q&A session with the candidates. All the candidates represented themselves well and posed tough choices for the voting assembly. In the end, only four could be elected, and they are:

Carole Bryant (SK), treasurer. Bryant has served as ASWB treasurer since 2011 and on the Finance Committee before that. She holds an MSW, MBA, and a Certified Management Accountant (CMA) designation. She is a past president of the Saskatchewan Association of Social Workers, after having served a two-year term as president.

Fran Franklin (DE), director at large. Fran has served in this role since 2011. She holds an MSW and Ph.D. in social work and is licensed to practice clinical social work in four jurisdictions. She is BSW program director for Delaware State University. Franklin has been appointed twice to the Delaware Board of Clinical Social Work Examiners.

Patricia O’Reilly, director at large, public member. O’Reilly has served in this role since 2011. She has a Ph.D. and spent most of her career in higher education, either as a teacher or an administrator. O’Reilly has served as a public member on the West Virginia Board of Social Work since 2004 and is currently its vice-chair.

Tim Brown, Nominating Committee. Brown holds an MSW and an LCSW license in Texas. He is also a board-approved supervisor. He works for the VA North Texas Health Care System as associate chief of social work and mental health. Brown is chair of the Texas State Board of Social Worker Examiners.
Honoring achievement and service to social work regulation

Each year, ASWB recognizes people who have risen to achieve greatness and longevity. Such people are the winners of this year’s Sunny Andrews Award, Kenneth Middlebrooks (MN), and the Board Administrator’s Award, Richard Hazel (SK). The winners were recognized at the Annual Meeting of the Delegate Assembly in Nashville, Tenn., November 7-9.

**Sunny Andrews Award**

**Kenneth Middlebrooks (MN)**

After he was introduced with glowing praise by Kate Zacher-Pate, administrator of the Minnesota Board of Social Work (MNBOSW), at the Annual Meeting, Kenneth Middlebrooks said, “I almost don’t recognize myself in those comments.” The association, however, certainly recognized his accumulated achievements as the Minnesota board’s public member.

In her letter nominating Middlebrooks for this esteemed award, Zacher-Pate wrote: “Mr. Middlebrooks embodies genuine volunteerism performed with commitment, integrity, and intelligence at both a state and national level.” His nomination came with the full support of the board, due to his tenure of leadership as a public board member, board officer, and member of the Legislative Task Force, Complaint Resolution Compliance Committee and four other committees.

Middlebrooks was praised for his understanding of the complexities of board regulation and how seriously he takes his responsibility to ensure that licensed professionals meet standards and are qualified, ethical, and accountable. Also noted were the many hours Middlebrooks volunteered to provide the excellent narration “in his James Earl Jones voice” for the MNBOSW online compliance process video in 2008, as well as his active leadership role as the longstanding MNBOSW delegate to ASWB. Middlebrooks has served on the ASWB Bylaws and Resolutions Committee since 2012 and was its chair in 2013.

**Board Administrator Award**

**Richard Hazel (SK)**

In his remarks at the Annual Meeting, Richard Hazel, newly retired executive director of the Saskatchewan Association of Social Workers (SASW), told the tale of how he discovered he had won the award.
There was a sole letter in the mailbox from ASWB President Patricia Heard. He slid his finger under the envelope’s flap and opened it. “I stood there with my jaw on my chest…I was stunned.”

Hazel was nominated by Carole Bryant, past president of the SASW and ASWB treasurer, on the eve of his retirement as a professional who exemplifies the high standards of this award. Bryant credits Hazel with ensuring that the SASW flourished under his leadership from September 2002 to May 2013. More high praise came from Morel Caissie, president of the Canadian Association of Social Workers (CASW) Federation: “The CASW Federation has benefitted from your knowledge, expertise, and leadership during your tenure as SASW ED….Your leadership, within the Province of Saskatchewan and across the country, has influenced in a very positive manner the public profile and the reputation of the social work profession.”

Hazel was also lauded for his instrumental role in the creation and development of the Canadian Council of Social Work Regulators (CCSWR), as well as his greatly valued and appreciated “mediation” skills in dealing with interest groups who took issue with the furthering of regulation. “He is the quintessential professional,” said Bryant.
The Exam Committee in action: The year in review

A year ago, Superstorm Sandy’s power and force kept all but one Exam Committee co-chair from attending the Annual Meeting. This year all three co-chairs “boot scooted” their way to Nashville to provide a comprehensive review of the work of one of the busiest volunteer committees that serves ASWB and its members by helping to ensure that the licensing exams are legally defensible and reliable.

The Exam Committee meets at least quarterly to review items, or exam questions, for use on the exams. In 2013, Bachelors exam co-chair Stacey Owens (MD) reported, the committee met five times. Owens explained the general process of how the committee works and gave an overview of its responsibilities and diverse makeup. The committee, comprising 17 social workers in 2013, was selected based on their diversity, geography, and practice areas. All are former item writers with specialized training and experience in the process of item development. Committee members include social work faculty and practitioners in all areas of practice, from agency settings to private clinical practice. All are licensed.

Keeva Hartley (MN), Clinical exam co-chair, gave a detailed explanation of what the committee does during its three-day meetings. The goal during item review is to ensure that the questions are clearly written and measure minimum competency in the knowledge, skills, and abilities that are relevant to current social work practice as determined by the most recent practice analysis. She demonstrated the difference between an item that measures minimum competency and would be approved and one that would not be approved because it was not relevant to practice. She also reviewed the basics of “good item construction,” which includes making sure the item is written in clear language and has only one correct answer, but also ensuring that the question can be answered consistently across jurisdictions and is free from bias and “window dressing.”

Masters exam co-chair Monica Roth Day (MN) explained form review and problem item review, two different types of content review that occur throughout the year in addition to the regular meetings of the Exam Committee. Problem item reviews involve items that have been flagged for statistical concerns based on ongoing psychometric review of the exams. Often the reason for an item’s poor performance cannot be determined, Roth Day noted. But the types of discrepancy that might be seen include items that women answer correctly more often than men and items that high-scoring test-takers answer incorrectly but low-scoring test-takers answer correctly. During problem item review,
committee members determine whether the item needs to be revised and returned to the pretest pool or removed and archived. Of the 713 items reviewed in 2013, the committee revised 471 items and archived 235. Seven items were approved and returned to the pretest pool without being changed.

While the Exam Committee reviews individual items for pretest, Roth Day explained, the purpose of form review is to select a set of exam questions that will make up an exam, or form, before it is released for use at the testing centers. Form reviewers work in pairs as they review and approve the 150 scored items and the 20 nonscored pretest items that are put on the exams to gather statistics before being used as scored items. These volunteer reviewers are former Exam Committee members who have completed their terms on the committee. Essentially, form reviewers take the exam again and again over the year. In 2013, form reviewers met four times and approved 12 exam forms, four each for Bachelors, Masters, and Clinical exam categories. They approved a total of 1,800 operational items and 1,520 pretest items for these forms.

In 2013, the Exam Committee reviewed 1,635 items and approved 1,234 for pretest. There were 196 items that were reviewed in pairs only, 11 items that were moved to another exam category, and 101 items that were deleted. In addition to the 17 committee members, the exam development program includes 79 current item writers and five item development consultants. The item development consultants are subject matter experts who work with the item writers, serving as both coach and critic. They help the writers craft their items prior to Exam Committee review. The consultants also attend the Exam Committee meetings to provide their expertise to the review process. This hard-working group devotes a significant amount of time and brain power to ensure that the exams contain items that are relevant to practice, measure minimum competency, and are applicable across jurisdictions to ensure that ASWB’s member boards have a legally defensible and reliable licensing exam to support their license application process.

Cultural sensitivity and awareness

A number of questions were asked by members following the presentation. One question asked by Montana delegate Henry PrettyOnTop raised the issue of cultural sensitivity and awareness, specific to Native American/First Nation and Latin American populations and his concern that the exams do not cover this area with sufficient depth.

The response by Stacey Owens, Bachelors co-chair, is transcribed here.

“Thank you for your comments and question. You brought up a lot of things that we all think about when we’re sitting in the examination committee rooms. Cultural competence—in particular, Native American/First Nations people, and other cultures that we all practice with—is important to all of us. It is one of many KSAs that we address throughout the exams. We do have to balance for different knowledge areas, but culture is definitely included there.

“I have to be honest that generally the cultural competence questions are some of the more difficult questions that we review. Because you have to place a careful balance between testing knowledge while not stereotyping at the same time. So it really takes a special writer to write a cultural competence question well. We also have to strike a balance between testing knowledge and providing education. We really can’t use the exam to provide education to individuals; what we’re doing is testing their basic competence in that area. So it’s an important point that you brought up because it is something that we spend a lot of time on in the exam committee and give a lot of thought to. And one of the reasons why we try to—why ASWB tries to—balance for demographics and diversity [in the committee] so that many schools of thought are included in the room.

“You also touched on some of the potentially dated items. What we try to do is come up with items that are in some ways timeless. Because as it has been brought up a number of times that sometimes the items are expensive and the development process costs money, and in order to be cost effective we try to develop items that are not something that will need to be pulled out of the pool every year or often at all, because that would add to the expense of the exam. Thank you for your comments.”
Committees report 2013 activities

Delegates heard updates on ACE, elections, the Model Act, and more

This year’s Annual Meeting in Nashville, Tenn., held Nov. 7-9, highlighted reports from the association’s volunteer committees. Both together and long distance over the course of 2013, committee members worked hard to ensure that the association’s members were optimally served by its programs and services. In her address to the Delegate Assembly, CEO Mary Jo Monahan stressed how ASWB was currently beginning a very healthy phase of its evolution from a start-up organization in 1979 to a strategic leadership association, but much work lay ahead. These committees and their loyal volunteers are dedicated to successfully completing the most important of that work. Highlights from the committee reports follow:

**Approved Continuing Education (ACE) Committee**

The 2012 improvements to the ACE Provider database resulted in benefits in 2013. The updates allowed the committee to accumulate data and feedback related to visitors’ experiences with the new areas of the ACE website. The feedback informed ongoing changes to documents, the application process, and the database. One such new change under discussion is to modify the process used by social workers to search for courses.

In addition to reviewing applications, the committee continues to review several areas in the application itself and discuss ways to strengthen both the application and the approval process. This year marked the first full year of use of the Course Development Checklist, which requires providers to pilot test their courses, thereby satisfying member board queries concerning CE hours being aligned with the number of CE credits awarded.

As of October 2013, the committee had reviewed 22 applications with 10 in the approval review process; 83 providers were renewed for a three-year period; 13 audits were conducted; and 4 individual courses and 153 providers are currently approved, including 9 in Canada and 144 within the U.S. A total of 36 providers were approved to offer social work ethics courses. Members in 2013: Anwar Najor-Durack (MI), chair, and Joyce A. Bell (MD), Ellen Costilla (NM), Joan Davis-Whelan (NL), Janice W. Fitts (NB), Elaine Halsall (BC), Micki Lilly (NC), Alison MacDonald (AB), and John McBride (LA), board liaison.

**Bylaws and Resolutions Committee**

The committee had four charges in 2013. The first was to explore whether the association should develop a policy requiring a schedule for completing regular examination security reviews/audits. Currently, security reviews are part of the psychometric evaluation every six to
eight years. Committee members believed a shorter time frame should be considered, but also thought additional research was warranted. The committee requested that the issue become a charge for 2014.

The second charge was to consider possible options for including board and staff input into the annual evaluation of the executive director. The committee recommended no change to policy at this time, because the new executive director had not been in her job long enough to have a track record that can be evaluated. The third charge was realized at the 2013 Annual Meeting in Nashville, Tenn., by providing a public Q&A session with candidates prior to the election. The final charge was fulfilled at the Delegate Assembly when the committee reintroduced amendments to two articles of the Bylaws. These amendments were approved at the meeting. Members in 2013: Kenneth Middlebrooks (MN), chair, Winifred Anthony-Todman (VI), Claude Leblond (QC), Carol Miller (TX), Carla Moore (LA), Kristi Plotner (MS), Ronnie Saunders III (IN), Patricia O’Reilly (WV), board liaison.

**Regulation and Standards (RAS) Committee**

The RAS Committee’s charge for 2013 was a large one: launch a full review of the ASWB Model Social Work Practice Act. To facilitate this effort, the committee divided the review process into a three-year cycle. Articles I, II, and III were evaluated in 2013; Articles IV and V will be reviewed in 2014; and Article VI and VII will be reviewed in 2015.

At its meeting in June, the committee reviewed nearly 200 comments received from representatives of 38 jurisdictions who responded to a survey sent to close to 500 board administrators and board members requesting input on the first three articles of the model act. The changes that the committee recommended will be reviewed by staff and ASWB’s legal counsel and incorporated as draft revisions.

No changes will be presented for adoption by the Board of Directors or Delegate Assembly until the entire Model Act review is complete and the recommendations of the International Technology Task Force have been received for Section 107, Electronic Practice.

Highlights from the PPD report prepared by IT Operations Manager Dan Sheehan include the following data: 52 jurisdictions have reported 7,374 actions for 5,171 social workers since 1996. In 2013, actions increased 7 percent and the number of social workers reported increased 6 percent. Since January 2012, a total of 35 jurisdictions reported a minimum of one action. ASWB acts for 17 jurisdictions as the designated reporting agent to the National Practitioner Data Bank (formerly the HIPDB/NPDB).

RAS members in 2013: Jacqueline Johnson (MN), chair, Renée Cardone (PA), Lisa Crockwell (NL), Lisa Lipsey (LA), Steven Pharris (TN), Laura Thiesen (AK), Brahna Wilczynski (NM), M. Jenise Comer (MO), board liaison.

**Finance Committee**

The Finance Committee reviewed all financial reports and worked with the association’s auditor on the annual audit of the association’s financial operations. The committee recommended approval and the
Board of Directors accepted the recommendation to approve the draft 2012 audit. The committee also sought and chose a financial advisory firm to offer guidelines concerning ASWB’s investments. The committee worked with the investment firm to update the association’s investment policy, 7.10, which the Board of Directors then voted to adopt.

As charged in 2013, the committee reviewed its previous recommendation for a change to the ASWB Bylaws regarding the setting of examination fees. The committee decided not to recommend any changes to the Bylaws at this time, because the strategic plan was under development. Finance Committee members in 2013: Carole Bryant (SK), ASWB treasurer and committee chair, Tim Brown (TX), Kim Frakes (NV), Mary Macomber (FL), Dorinda Noble (TX), board liaison.

Administrators Forum
The Administrators Forum met as usual on the day before both the Spring Education Meeting and the Annual Meeting. This year the forum addressed special topics including best practices surrounding criminal background checks and substantial equivalency standards, as well as how social media and electronic records are affecting the regulation of the profession. Both forums were chaired by Kate Zacher-Pate (MN). Three action items resulted from the forum’s work for the year. The supervised practice surveys developed by the Administrator Subcommittee and ASWB staff will be combined to facilitate one comprehensive survey and response process and will be sent to the admin listserv. Missouri’s jurisprudence exam was sent out with the minutes. Ohio generously offered to send a DVD with its exam program to those interested. Please email your mailing address directly to Jim Rough at Jim.Rough@cswb.state.oh.us to request a DVD. A “future forum topics survey” will be sent via the admin listserv in January or February.

New Board Member Training
The association conducted three training sessions in 2013, with 57 participants representing 33 jurisdictions from Alaska to Newfoundland/Labrador to Alabama. The association invited representatives from the International Conference of Funeral Service Examining Boards (ICFSEB) to participate and observe the July training session as a possible model for training their own organization’s members. Richard Silver (QC) served as the volunteer coordinator for the program in 2013. Dale Atkinson, ASWB legal counsel, develops the legal and practical aspects of the training and creates the case scenarios that help participants put what they are learning into context. Three New Board Member Training sessions are planned in 2014.
All that jazz: The strategic plan hits a high note

The introduction of the 2014-2018 Strategic Plan was the high note of ASWB’s 2013 Annual Meeting of the Delegate Assembly. Against the backdrop of Nashville, Music City USA, ASWB’s Board of Directors orchestrated a presentation worthy of its own award for Best Musical Event of the Year—or at least the standing ovation that it received. Accompanied by the Mario DaSilva Jazz Ensemble, the members of the Board told the story of how the strategic plan came to life as a vision for ASWB’s future.

After ten months of planning, the strategic plan was ready to be unveiled. The surveys had been completed, the data gathered, and the hard work of selecting the best ideas and shaping them into four strategic initiatives was finished. The challenge now facing the Board was how to share the plan with the delegates who would be asked to formally adopt it. “We knew we were going to be in Nashville,” said President Dorinda Noble, “and we wanted to use music not only as part of the presentation but also as the theme.” Noble and director Fran Franklin took the creative lead in the process, finding similarities in how ASWB developed the strategic plan to how a composer writes a piece of music. They built on those images to explain the evolution of the plan to its final form. During the presentation, each member of the Board had a role in introducing the plan.

Just as a piece of music evolves from individual notes, the separate parts of the strategic plan were crafted and then brought together as a cohesive whole. Vision, mission, and values became the figurative musical staff on which the musical notes of the strategic initiatives were written. The separate instruments of the jazz ensemble provided a musical interlude to introduce each of the strategic initiatives. As all the parts of the strategic plan were brought together at the end of the presentation, the whole ensemble played together the musical composition that they had written for ASWB: A Tune for Monday.

Much of the strategic planning process was familiar to those who had done planning in the past, either as part of their own organization or as part of ASWB. The plan has a Vision and a Mission in addition to the Strategic Initiatives and the Strategic Objectives. In working with consultant Michael Barrett, the Board determined that both the Vision and Mission still reflected ASWB’s aspirations as an organization. A small but significant change was made to the Mission statement: “Safe” practice was introduced as separate from “competent practice” in the
new strategic plan to mirror language in the model law. The model law recognizes that regulators have a responsibility to protect the public from social workers “whose incapacity or impairment prevents a licensee from engaging in the practice of social work with reasonable skill, competence, and safety to the public.”

Another new element introduced with this strategic plan was the addition of a Values statement consisting of five principles that will guide ASWB decision making, setting of policy, and the conduct of operations. The values are an expression of what ASWB as an organization believes in: Respect, Accountability, Integrity, Service, and Excellence. The Board put these values in a specific order, to spell the word “RAISE.” Each of these words was then defined in terms of what it means to ASWB.

- **Respect.** Embracing commonalities and differences in regulatory practice
- **Accountability.** Operating responsibly toward members, professionals, and the public
- **Integrity.** Being just, fair, and honest
- **Service.** Meeting the needs of members, professionals, and the public
- **Excellence.** Achieving the highest standards in all operations and services

As explained during the presentation, ASWB relies on these values and the word it spells to RAISE our awareness of our mission and to RAISE our awareness of the qualities that we use in our work and in our interactions with others.

The four initiatives and their accompanying objectives are:

**Expand Member Services**
Enable member boards to adopt and use best practices for effective and consistent social work regulation
- Enhance technological capacity
- Enhance member regulatory skills and effectiveness
- Identify and develop new verification and credentialing mechanisms

**Bridge the boundaries of social work regulation**
Implement strategies to increase professional competence and mobility to allow practitioners to serve a diverse public
- Increase consistency of regulation across jurisdictions
- Develop processes to verify continued competence across jurisdictions
- Achieve licensure mobility for social workers across jurisdictions

**Strengthen leadership for the future**
Identify, develop, and build leadership capacity for regulatory practice to ensure a strong association in the future
- Review and revise ASWB Board governance procedures and structures
- Create avenues for enhancing leadership learning and skills of member boards
- Craft formal leadership programs and certificates aimed at helping individual regulators increase their effectiveness as regulatory leaders
**Broaden stakeholder relationships for the regulatory community**
Build collaborations that embrace regulation to ensure public protection
  - Increase public, academic, and professional knowledge about ASWB as an organization
  - Educate stakeholders about the value of professional regulation for public protection
  - Build collaborative relationships with social work regulators outside the US and Canada

The adoption of the strategic plan was the first step in its implementation. This was done formally on November 9, following a motion presented by Dorinda Noble, as the delegate from Texas. The next stage will begin in January, when the first of the organization’s two-year operations and governance business plans are put in motion. Each functional department within ASWB developed activities in response to the three operational initiatives comprising the strategic plan. The Board developed activities in support of the leadership initiative. Progress on these activities will be measured quarterly.

ASWB’s Strategic Plan for 2014-2018 is available for [download](#) from the website. Copies of the DVDs from the Annual Meeting are also available. Please contact Karen Francisco or LaTonya Bannister to request a set.
Getting to witness regulation “in action” offered many teaching moments for both social work students and faculty of the Texas State School of Social Work, which hosted the December 5-6 meeting of the Texas State Board of Social Worker Examiners at its campus in San Marcos. Probably the most gripping, reported Dorinda Noble, director of the school and ASWB president, was the Ethics meeting, where students and faculty listened to actual cases of social worker misconduct, including breaching confidentiality, engaging in financial fraud with clients, operating outside the scope of practice by using the Bible as a clinical therapeutic tool, misrepresenting the level of licensure to the public, and conducting an inappropriate relationship with a client (among others). The success of the interaction between board and school was summed up by one student who said: “Now we know this licensing thing is really serious!”

“My idea behind this gathering was to offer students and faculty a chance to see the board in action and learn more about licensure and regulation,” said Noble. “Since Texas State is one of the institutions that is engaged in the Pathways to Licensure project, I thought that bringing our faculty and the board together would help build a bridge between education and regulation.” She approached Board Chair Tim Brown, LCSW, another long-serving ASWB volunteer and former ASWB treasurer, about holding the meeting at the school, and he agreed.

Logistics were quickly ironed out. Because San Marcos is about 50 miles south of Austin, where the board typically meets, the board staff had to transport their case materials to the school. To make it easy for them, the school offered student help to move materials and provided complimentary parking (no easy feat on a college campus). Board members ate their lunches and held their meetings in the LBJ Student Center. The school also advertised the board’s meeting at Texas State on the school website, the school’s Facebook page, the university website, and the internal educational
platform for students. Several faculty offered students extra credit for attending the meetings.

More than 100 students attended the various meetings, although Noble said that the school did not keep an exact count. During the Ethics meeting, for example, many dozens of students and probably ten faculty members attended. The board graciously welcomed students as well as other members of the public and explained the processes they followed to students. There were some opportunities for students to talk to board members as well.

After a full day of board meetings, the school hosted a dinner at Dick’s Classic Car Museum in San Marcos. Board members and staff, faculty and staff, and the School of Social Work scholarship recipient students enjoyed wandering through the displays of vintage and classic cars, some of which are quite rare and valuable. The group enjoyed a delicious dinner there and had the opportunity to visit with each other. This was interesting for board members, said Noble, because they learned more about the modern educational landscape and some of the new teaching strategies that educators use. They also learned about the kinds of students who now populate the social work program and the school’s field placements.

In describing the students’ reactions, Noble noted that they were intrigued by the meetings: “Their anecdotal comments indicated that it was a great learning experience.” Faculty members also found the meeting to be quite informative. Although the school incorporates teaching about regulation into its curriculum, faculty members who attended the Ethics meeting left with new realizations of elements they should emphasize with students when thinking about applying social work concepts to actual practice. “I now see that I need to teach my students more effectively about confidentiality and documentation,” one faculty member said. Of an event that served to bring the subject of regulation to life for her students and staff, Noble said, “I believe we were very successful.”
It has been an exciting fall for the Path to Licensure Campaign. Social work students at both pilot schools, Adelphi University in New York and Texas State, began the year as usual—with one significant change: the addition of the Path to Licensure campaign. The campaign’s purpose is to raise awareness of the importance of professional regulation as an integral part of the students’ professional development and an essential component in public protection. The hope is that the students began their year with a little more knowledge about ASWB with the introduction of the campaign. Just as the leaves of autumn bring forth rustlings of the change of seasons, students heard a few rustlings about ASWB—at least enough to begin asking questions about licensure, ASWB, and what professional regulation means to them as they move forward in their social work career.

Students may not have heard the rustlings behind the scenes, but a lot of planning has gone on to determine how to move the campaign forward. In order to effectively accomplish the goals of the campaign, there needed to be some understanding about what outreach to schools and students is already being done by member jurisdictions. There also needed to be greater understanding about how much students know about licensure upon entering their social work degree programs. It appeared that assessments and/or surveys were in order.

To that end, ASWB developed a survey that was sent to administrators and/or registrars from all 61 jurisdictions. The survey input is still being collected, but the hope is that the information gathered will help ASWB better serve the needs of member jurisdictions through the campaign. One of the survey questions invites the sharing of outreach materials. ASWB is looking forward to reviewing the materials and compiling them into a library of resources that can be shared with members to strengthen their outreach to educators and students. There is still time to participate in the survey, so please take a moment to submit your input. To share outreach presentations or materials you currently use, please submit them to Melissa Ryder at mryder@aswb.org. If you have already completed the survey, thank you very much!

A student pre/post survey also has been developed to assess the knowledge (or preconceived perceptions) students have about social work licensure upon entering their social work degree program. This survey will be administered to the same group of students upon their completion of the degree program to find out how effective the
implementation of the campaign was in increasing student understanding of not only the importance of regulation, but also the licensure process. Both surveys are very important in establishing the direction and depth of the campaign for boards of social work and schools. A meeting of the partner schools and ASWB staff took place when everyone convened at the 2013 CSWE Annual Program Meeting in Dallas in November. In attendance were Dorinda Noble, Ph.D., LCSW, and Andrew Marks, LMSW, from Texas State and Andrew Safyer, Ph.D., and Peter Chernak, Ph.D., from Adelphi University. The student assessment was discussed and is scheduled to be ready for administration to entering students at both schools in January 2014.
At a recent meeting of the Exam Committee, which included form reviewers, item development consultants, as well as current committee members and ASWB staff, there was much laughter as participants introduced themselves and explained their roles. One of the form reviewers described herself as a “regurgitated” committee member. Similar descriptions followed for these “reconstituted,” and “recycled” experts whose training is so valuable that ASWB continues to call on them for various examination development tasks after their terms on the committee have ended. In the same way, ASWB reached out to find new item development consultants who will serve as coaches and subject matter experts for item writers developing questions for the Clinical and Masters social work exams. Their terms begin in January 2014.

Bynia Reed-Clark MSW, of Elkwood, Maryland, and Monica Roth Day, MSW, Ed.D., of Duluth, Minnesota, will be adding their expertise to that of current consultants David Aiken (Clinical and Advanced Generalist), Ann McAllister (Bachelors and Advanced Generalist), and Nancy Sidell (Masters and Advanced Generalist). Reed-Clark will serve as a consultant for the Clinical examination. Roth Day will serve as a consultant for the Masters examination. Both are former item writers as well as members and co-chairs of their respective committees prior to being signed as consultants. Each brings a wealth of knowledge and vast experience to their new role.

**Bynia Reed-Clark (Clinical examination consultant)**

Bynia Reed-Clark has been in private practice in Maryland since 2009. She specializes in child therapy but also works with adolescents and adults. Before entering private practice, she worked as a child therapist at a group practice and at a center specializing in the treatment of children under the age of six. Her past experience includes working in early intervention mental health, therapeutic foster care, and play therapy. She also was a member of a forensic Attachment Study team, and her areas of expertise include attachment and bonding. Reed-Clark received her bachelor’s degree in psychology from Princeton University and her MSW from the University of Southern California.

Reed-Clark became an item writer for ASWB in 2007, was a member of the Clinical exam committee, and served as Clinical exam co-chair in 2009 and 2010. After completing her service on the committee, she returned to writing items. Reed-Clark recalls that she went through the first five stages of the Family Life Cycle during her tenure with ASWB:
her first year, she got engaged; her second year, she got married; she
had her son Cameron during her third year; and two years later had her
daughter, Skylar, who turned nine months old in November 2013. She
also has a stepson, David Jr., who is a teenager. She loves the outdoors
and taking her children to farmers markets and “pick your own” farms.
Skiing and snow tubing with her family are winter sport activities that
she also enjoys.

“I am flattered to be asked to serve as a consultant,” Reed-Clark
said. “This is a wonderful group to be a part of. I learned a lot and saw
different aspects of practice, from all walks of life and from different
sectors. It’s very rewarding.”

Monica Roth Day (Masters examination consultant)

Monica Roth Day is chair of the Human Behavior, Justice and
Diversity Department at the University of Wisconsin, Superior, and
coordinator of the social work program. An associate professor of social
work, she has a knack for challenging her students using community
organizing and group facilitation techniques to help them grow and
progress in their professional development.

Roth Day has more than 15 years of social work practice. She
worked as an organizer with Minnesota Public Interest Research
Group, volunteer coordinator and community educator at the Program
to Aid Victims of Sexual Assault, and assistant director at the Center
for American Indian and Minority Health. She maintains her license
because she believes it is important to model for her students, as well
as for professional integrity. She has taught as both an adjunct and full-
time professor at public, private, tribal, and two-year colleges. Roth Day
received her bachelor’s in psychology with a minor in counseling from
the University of Iowa; her MSW from the University of Minnesota,
Duluth; and her Ed.D. from University of Minnesota.

Roth Day’s hobbies include knitting, hiking, reading, and travel.
She was able to combine two of those interests in the summer of 2013
when she was invited to teach a seminar in Edinburgh, Scotland, using
the Harry Potter books to help students explore children’s development
and social justice issues.

She became an item writer for ASWB in 2007, joined the Masters
examination committee in 2010, and served as Masters Exam co-chair
in 2013. Of her upcoming role as item development consultant, she
says: “I am excited to work with ASWB in a different context. I’ll be
supporting the committee work and I’m excited to work with individuals,
to support their efforts to write items. I don’t consider myself an expert;
I’m a life-long learner. As a consultant, I’ll be a coach and a learner.”

The dedication and commitment to public protection of ASWB’s exam
program volunteers, consultants, and contract item writers ensure the
success of the program. The diversity of experience infuses the collaborative
process and preserves the validity and reliability of the licensing exams.
The addition of Reed-Clark and Roth Day as item development consultants
was preceded by the retirement of item development consultants Dan
Wheelan (Masters and Advanced Generalist) and Glenda McNeill (Clinical
and Advanced Generalist). “We are grateful for the many years of service Dan and Glenda gave to the examination program,” said Lavina Harless, examination development manager. “We look forward to Monica and Bynia sharing their knowledge as coaches with item writers and the committee.”

The co-chair and committee appointments for 2014 follow:

**Bachelors exam**
Stacey Owens (MD), co-chair
Miriam Balen (BC)
Nikki Barfield (FL)
Sujata Pai (NY)
Mary Stebbins (VA)

**Clinical exam**
Greg Winkler (WI), co-chair
Marlienne Christian (NY)
*Emily Honken (MN)
Liz Johnston (CA)
Trish Smith (AB)
*Bora Sunseri (LA)

**Masters exam**
Brent Meyer (GA), co-chair
*Adolpha Bassett (NC)
Amanda Duffy Randall
Karen Tamminga (OR)
Stephanie Washington (TX)
*June Yee (AB)

*New member in 2014
In Memoriam

ASWB joins with the members of the Montana Board of Social Work Examiners and Professional Counselors in remembering John Lynn, who passed away unexpectedly on November 6, 2013. He was first appointed to the board on April 5, 2005, and was appointed to his third term on May 24, 2013, when he was seated by Governor Steve Bullock as the board chair.

Cyndi Reichenbach, executive officer for the Montana board, wrote to ASWB to share the sad news and also share John’s accomplishments: “Throughout his tenure as a board member John contributed through legislative activities, rule writing projects devoted to clinical supervision requirements, qualifications for supervisors and codes of conduct for social workers, professional counselors and marriage & family therapists.

“John’s commitment to protecting the public, his personal integrity, and his innate sense of fairness made him an invaluable member of the Board; his magnetic personality, his sense of humor and his compassion for all made him a friend to so many. His passing has left us with such sadness and an emptiness beyond words.”

ASWB announces with sadness the passing of Robert R. Wohlgemuth, seventh president of the organization. Wohlgemuth, of Illinois, served from 1985 to 1986 during the era when ASWB was known as AASSWB (for American Association of State Social Workers). Before serving as president, Wohlgemuth was active in the development of the first then-national social work licensing exam that would debut in 1983. In 1981 he served as co-chair of the first Job Analysis Committee, which would determine the knowledge and skills to be tested. In 1982 he co-chaired the Task Analysis/Exam Committee and focused on issues related to fairness in testing. In 1983 Wohlgemuth was elected to the Executive Committee as a member at large and in 1985 was voted president-elect. His tenure as president concluded in 1986.

Wohlgemuth contributed to the association’s publication titled “Are we there yet?”, which was published in 1999 to commemorate AASSWB/ASWB’s 20th anniversary. In 2004 he attended ASWB’s Annual Meeting in Chantilly, Virginia, to participate with other past presidents in the 25th anniversary gala. During his speech at the 25th anniversary dinner he recalled what kept him connected to ASWB after so many years: “This is the closest thing I ever had to an extended family—good friends who are very special in so many ways.” Wohlgemuth himself fit that description of a good friend to ASWB who was special in so many ways. He will be missed.
Your board in action

A summary of the work of ASWB’s Board of Directors at its Nov. 7 and Nov. 9 meetings in 2013

The ASWB Board of Directors met in person on Thursday, Nov. 7, and Saturday, Nov. 9, at the Loews Vanderbilt Hotel in Nashville, Tenn., in sessions before and after the 2013 Annual Meeting of the Delegate Assembly. Here is a recap of the activities of the board at those meetings.

Consent Agenda: Reports approved via consent agenda included: President’s report, Chief Executive Officer’s report, Deputy Executive Director’s report, Examination Services report, and New Board Member Training evaluations. A question was asked if fiduciary responsibility is discussed during New Board Member Training. It was agreed that this topic may need to be added and the issue will be explored.

Confirmation of decisions made in email meetings: The Board confirmed the decisions made in email meetings conducted on August 27, September 6, and September 26.

Financial report: Board members reviewed financial statements through September 30, 2013. It was determined that information from the Graham Group at Morgan Stanley, ASWB’s investment advisor, will be included in the financial reports for the January 2014 board meeting.

Examination Security Manual: Updates to ASWB’s Examination Security Manual were reviewed and discussed. Suggested revisions will be incorporated for a follow-up review at the January 2014 board meeting.

Technology task force: Two meetings of the task force led by chair Ric Reamer were conducted virtually with great success. Task force members have been assigned research in one or more of 11 critical focus areas being explored. Results of their research are due in December with another virtual meeting scheduled for January.

Annual Report: The 2012 Annual Report was distributed to the Board.

Committee reports

Examination Committee: ASWB staff discussed the decision to temporarily suspend item writer recruiting due to a sufficient number of current writers (79) and the exploration into new software.

Program and Education Committee: The committee reported that it will make changes to the titles of the sessions for the 2014 Spring Education Meeting, as recommended by the ASWB Board of Directors. The committee advised the board that one of its members was on a medical leave. ASWB Secretary M. Jenise Comer has offered to fill in during the medical absence if the committee needs additional support.
Nominating Committee: It was reported that the nomination process went well and that discussions about nominees were very helpful in populating the slate.

RAS Committee: It was noted that the three-year work plan to revise the model act was organized very well and that the process is moving along smoothly.

Other topics
Office expansion: The potential need for additional office space was discussed because a building in the South Ridge Office Park was recently vacated and the current ASWB offices are at near capacity. Staff was asked to investigate the opportunity.

ACE approval: The Board accepted The Family Outreach Center as an ACE approved provider.

Website preview: The Board previewed the newly designed ASWB website.

From the November 9 meeting
Review of 2013 Annual Meeting: Board members discussed their impressions of the 2013 Annual Meeting and possible additions or changes for the 2014 meeting. Suggestions raised by members to individual board members were shared. A request for bilingual meeting materials was discussed and tabled until the January 2014 meeting pending research by board members and staff.

Work plan for 2014: Board members were asked to review materials related to committee charges and the 2014 Meeting Calendar to determine where skills and interests align. A survey will be distributed prior to the January 2014 board meeting to assist in the assignments of board liaisons.

Examination Committee appointments: The Board approved Examination Committee appointments proposed by the Board president.
Good Morning, Bonjour, y !Buenas Dias!
What a difference a year makes! This year, I am very excited to share with you the past very busy 10 months that we have had at ASWB.

First of all, I will fill you in on what has been happening in Culpeper, including my learnings, what I have been hearing from staff, volunteers, and other key stakeholders…and the resultant changes that have been made.

Then, we’ll go on the road. I was told that I’d be traveling and yes, I have been traveling! It is a good thing that I love to travel.

During my first three months of listening and getting to know all of you, I learned about the rich history of ASWB – our past. I met the people who have shaped and formed this organization, and then I began to hear about ideas, visions and challenges for our future…from just about everyone I spoke with!

When the board, staff and other members of the Strategic Planning Team met in August for our first strategic planning session, I spoke about the 3 P’s—past, people, and I added partnerships…since just about everyone I spoke with is interested in partnering with ASWB…in order to strengthen the regulatory community in our common mission of protection of the public.

Through these conversations, I am realizing that ASWB has entered a new developmental phase. Just as individuals and families move through their necessary developmental phases, so do organizations. ASWB has moved from being a start-up organization in the 1980s that was run by volunteers to a structural organization in the 1990s (with a small staff getting organized) to a professional organization that hired staff with specific areas of expertise to support the significant growth of the organization from 2000 to 2013. Now ASWB has moved on to become a leadership organization with the presentation of the Strategic Plan for 2014–2018. I think you will agree that ASWB is indeed a leader as we meet over these next two days and that you will be proud.

So, let’s start with the three themes from 2013 – Transitions; Partnerships and Leadership; Making it Happen—Realizing our Goals.

**Transition—Engagement and Alignment**
From January through June of this year, Phase One and Two changes included the engagement and alignment of staff into functional departments to support a new strategic plan that would boldly move ASWB forward to meet the demands of a rapidly changing social work and regulatory world. One of my mentors is Jim Haudin. He states that “when people believe they are part of something big, feel like they
belong, feel they are on a meaningful journey, and can see how they are helping to make a difference, engagement occurs naturally.”

Engaging staff into the realignment process and keeping them informed has made these transitions go fairly smoothly. Here is the new internal organization by department and I will introduce staff members who are present as I describe their department:

**Executive Management Team**—Responsible for the planning and implementation of all internal Operations – **Dwight Hymans**, co-partner with me this year; **Pat Olinger** director of exam services; **Christine Breeden**, director of operations and **Jayne Wood**, director of communications. A most significant member is our organizing force, **Melissa Ryder**, who keeps up with all of us and board members, too. I believe we have developed into a working, creative leadership team. Three accomplishments are: the Revision of the Employee Handbook; rewriting the Examination Security Manual; and crafting a dynamic Investment Policy. And the most important partnership our executive management team has established is with our Board of Directors. You will see the results of this partnership throughout our time together.

**Member Services**—We have changed the name of the Board Services Department to Member Services to better reflect the organizational variety among our membership. **Jennifer Henkel**, LCSW, joins us as the Senior Manager of Member Services. She has oversight of the ACE program; the Registry, and the license application processing & CE audits services. **Dave Ryzcko** has direct responsibility for our supplemental contract services, including license application processing and CE audits, and the Registry. I moved convention and meeting planning services to this department, because it just made sense. I am pleased to introduce **Karen Francisco** and **LaTonya Bannister** as our very professional, calm and tireless meeting planners.

**Examination Services**—One of the major reorganizational changes that I made was to bring all exam development and administration services under one director—**Pat Olinger**. I also eliminated the full-time position of exam program manager held by Chuck Friedman, psychometrician. By the way, Chuck sends his best. To continue to have excellent psychometric consultation for the exam program, we have engaged the services of HumRRO, a company based in Alexandria, Virginia, that provides full-service psychometric consulting. You will hear from Dr. Gordon Waugh tomorrow. ASWB renewed the contract with Pearson VUE for five years, since we have been pleased with the partnership we have forged over the past three years. We moved all products and services to the highly efficient and effective Candidate Services Center, and our numbers are up compared to last year for exams and all products and services.

**Communications Department**—**Jayne Wood**, **Tim Schoch**, and **Bobbie Hartman** are all here. What is new in this department is adding marketing skills as well as an increased social media presence. Please like us on Facebook so the department can reach its year-end goal of 3000 Likes! Later this afternoon, you will see our much-anticipated website launch. Other branded materials are the name tags we are
wearing and the ASWB Celtic knot centerpieces on your tabletops. The internal newsletter is produced by the ASWB Buzzzz! Team, one of our four new teams….and our excellent Association News is published every other month and sent out to you. It is full of all of our activities, so please keep up with us!

Operations Department—Christine Breeden is the director of operations (she sends you your reimbursement checks) and Dan Sheehan, technology expert is in the house. Although this is a small department, they keep all of us connected and will be a major part of the new strategic plan.

Internal teams—We have four internal teams. The Training Team is responsible for designing an annual training plan for all staff and helping managers to plan and implement training for their particular staff. For example, exam development services conducted two workshops on how ASWB exams are constructed for the Candidate Services Center staff. Our Philanthropy and Social Affairs Team has focused ASWB’s charitable giving so that we have a clear impact on local charities, letting Culpeper know what a good corporate citizen ASWB is….as well as a major employer….and ultimately getting newspaper coverage…. So, far ASWB has been in the Culpeper Star Exponent three times!

Volunteers—I want to highlight the incredible engagement and alignment of all of our volunteers—our Board of Directors and all our committees. Your attendance is outstanding…YOU SHOW UP…and when you do, you complete your work with expertise, good will and good humor! At this time, ASWB has more than 160 active volunteers who contribute hours of their time and expertise.

William Ryan, another of my mentors, suggests that high performing organizations consider their staff and volunteers as “working capital”: Organizations with the most “capital” provide the organization with a competitive edge….the ability to “outgovern” the competition, just as the most astute and industrious staff and volunteers can outsmart and outwork the competition.

Tomorrow, you will hear from our current board president, Pat Heard, about the board’s work and also from the committee chairs you will hear how significant and strategic volunteers are to ASWB. Thank You—and please join us—fill out an interest form so you can become more engaged and aligned with us.

Partnerships and Leadership – Let’s Go “On the Road, Again!”

So, ASWB has definitely been “On the Road” this year, consulting with members and forging new partnerships. Reaching out, meeting you face to face and really getting to know each other. Kouzas and Posner remind us that “credibility is the foundation of leadership” and here are statements that are made about credible leaders: “They practice what they preach. They follow through on their promises. They do what they say they will do.” As social workers and regulators, we demonstrate our credibility through establishing positive relationships and showing up.

Members—So far this year, we have visited Alberta once and Alaska twice; we visited the New York State Board in June and we traveled to California to meet with Kim Madsen of the California board…and
NEWSFLASH! California will resume using the ASWB Clinical exam in January 2016! Dale consulted with the Mississippi board; ASWB hosted the Spring Education Meeting in Austin, and now we are having this great meeting in Nashville. In the last two weeks, we have had serious conversations with both Puerto Rico & Guam about using the ASWB exams. A highlight for me, personally, was the New Board Member Training in Québec and the Canadian Registrars Meeting and meeting of the Canadian Council on Social Work Regulation in Halifax, Nova Scotia. You are so welcoming, warm and interesting and made me feel at home with you.

I made this slide (of a bridge) for our California presentation. It shows how the three major social work organizations are connected, how they are separate and how they intersect. CSWE—ASWB—NASW. This is theme for all three new leaders as we reach out to each other and build our new relationships.

CSWE—Dr. Darla Spence Coffey was a featured speaker at our Spring Education Meeting. She was well received and we will invite her back. She said that she learned much as well. ASWB had a large presence at the CSWE conference last week, and Dwight remains on the Commission on Professional Education. On September 25, Dwight and I, along with 160 other social work leaders, had the privilege of attending the White House briefing on “Addressing the Social Determinants of Health in a New Era—The Role of Social Work Education,” exploring social work’s role in implementing the Affordable Care Act. It was very exciting.

NASW—ASWB has participated at the following NASW Chapters—New Mexico, Florida, California, Alabama, and Ohio. Dwight met with NASW chapter executives last week. ASWB was a sponsoring organization for the Advanced Practice Doctorate Degree “Think Tank” at NASW. It was very important to have the voice of social work regulators provide critical input on eligibility for licensure and workforce issues to the social work education community. And something new and exciting for ASWB—we submitted a book chapter “Hope in the Midst of Reality: How Regulatory Law Helped Claudia Find a New Direction” for a book titled “Hope Matters” to be published by NASW…and were accepted!

Dwight and I attended both the National Association of Deans and Directors meeting in Laguna Beach and the Baccalaureate Program Directors meeting in Myrtle Beach. Three of our board members presented at the National Association of Black Social Workers, and Kate Zacher-Pate and I served on a panel at the Citizens Advocacy Center conference in Seattle. Staff and board members also attended three FARB meetings. On the international scene, Dorinda Noble, incoming president, and I attended the CLEAR Conference and International Network of Social Work Regulators in Edinburgh, Scotland; next year, we are onto Melbourne, Australia, where we have submitted a workshop on “E-Practice Standards and Regulation”

I initiated a new strategic way of meeting with stakeholders called “Road Trips to Culpeper.” CSWE, ASPPB (the Association of State and
Provincial Psychology Boards), and NASW (we met the new CEO, Dr. Angelo McClain, and four of his team) all came to ASWB in Culpeper for a daylong strategic meeting. Each meeting was unique and very productive for ASWB. We have two already planned for 2014—National Association of Deans and Directors representatives and the Canadian Registrars in September!

**Two Leadership Initiatives**

The Path to Licensure campaign is a partnership between ASWB and social work programs to help faculty to incorporate education about the regulation of the social work profession into the existing social work curriculum. The purpose is to inform faculty and to orient students about their professional development and responsibilities to protect the public from Day One. Current pilot programs are under way at Texas State School of Social Work and Adelphi University School of Social Work in New York—two very different programs in two very different states. Stay Tuned!

The International Technology Task Force that was envisioned last year has been brought to life. This year we had two virtual meetings, chaired by Dr. Ric Reamer. You will hear the full report tomorrow from Jenise Comer, ASWB Board liaison.

**Realizing the Vision and Mission—Making It Happen….Get ’er Done!**

Another mentor, Gary Harpst cautions, “Planning and executing, while at the same time managing the unknowns of the real world, is the biggest challenge in business.”

I have spent this year listening and planning, while continuing to serve you, our members….as you deal with the “knowns and unknowns” in your real world of public protection. ASWB has grown: we’ve had a 30% increase in staff and added a new building. However, our most significant achievement is the 2014–2018 Strategic Plan. I am very pleased with our goals and very challenged to deliver on our promises.

We have prepared the people – staff, board, and other volunteers to serve you, our members to own this strategic plan, to stay or become engaged and aligned, and together, with great confidence, we will achieve the results that you want and public protection needs!

*Prepared by Mary Jo Monahan for presentation at the Annual Meeting of the Delegate Assembly, November 7, 2013.*
DUI: Don’t Underestimate Inquiries

By Dale Atkinson, Partner, Atkinson & Atkinson

An analysis of what acts constitute grounds for discipline and/or are indicators of moral character that may disqualify or, at least, call into question one’s eligibility for licensure can create conflicting perspectives from board members. Examples of such acts inevitably include events that may occur outside a professional setting, thus challenging the board to consider more than just the professional environment. Further, such nefarious acts may occur outside the jurisdiction of licensure. Both sides of this issue present compelling arguments. Consider the following.

A physician (Licensee) licensed in Tennessee was arrested for driving under the influence on July 6, 2008, in Lake of the Ozarks, Missouri. In September 2008, the Licensee pled guilty to a misdemeanor charge related to his DUI arrest. On September 22, 2009, and based upon his guilty plea in Missouri, the Tennessee Board of Medical Examiners (Board) filed a Notice of Charges against the Licensee alleging unprofessional, dishonorable, or unethical conduct. A hearing was held on January 27, 2010, before a panel of the Board whereby evidence was presented and witnesses testified. Witnesses included the state trooper who arrested the Licensee, an owner/director of a substance treatment facility, and the Licensee.

At the conclusion of the hearing, the Board entered findings of fact that included the guilty plea, a blood alcohol level of .182 (over twice the legal limit) taken more than one hour after the traffic stop, and video footage that clearly shows the Licensee to be impaired at the time of the traffic stop. Based on the facts, the Board found the Licensee to have engaged in unprofessional, dishonorable, or unethical conduct and placed him on probation for a two-year period, required him to be evaluated within 90 days at the comprehensive clinic, and required him to “obtain and maintain the advocacy of the Tennessee Medical Foundation program for a period of not less than two years.” The Board order did provide that the Licensee could apply for an Order of Compliance to lift the probation period after a six-month period.

The Licensee petitioned for a rehearing that was denied. He thereafter applied for judicial review in the Chancery Court. On appeal to the
Chancery Court, the Licensee argued that the Board’s action in placing his license on probation was arbitrary and capricious, made upon an unlawful procedure, and was unsupported by substantial evidence. The parties briefed the issues, and oral arguments were heard on July 14, 2011. In January 2012, the Chancery Court issued its opinion and memorandum reversing the decision of the Board. In short, the court found that the statute was impermissibly vague because there was no definition of the standard of care in statute or rules. Without an identified acceptable level of conduct delineated in law, the terms “unprofessional, dishonorable, or unethical” did not satisfy the necessary notice requirement identifying standards by which licensees would be judged. Thus, the Chancery Court reversed the decision of the Board.

The Board appealed the matter to the court of appeals and argued that the lower court reversal was in error. Specifically, the Board argued that the Chancery Court erred in requiring the Board to articulate a standard of care because a standard of care was not at issue in the matter. The Board also argued that the lower court erred in finding the statute to be impermissibly vague.

The Court of Appeals (Court) first outlined the standard of review used by the judiciary to determine whether a Board decision or lower court review is appropriate. Reviews of administrative decisions are examined to ensure there has been no constitutional violation, were not made in excess of authority, that such were not made upon unlawful procedure, were not arbitrary or capricious, and were not unsupported by evidence. Further, review and interpretation of statutes is a question of law reviewed anew and without deference to the lower court.

Turning to the merit of the current case, the Board argued that the Licensee was given sufficient notice that the conduct for which he was disciplined was “specifically prohibited by the Medical Practice Act” and, thus, such did not violate his due process rights. The court reviewed the property interests held by licensees and the requirement for due process rights to be recognized. Citing previous jurisprudence, the Court held that revocation of a license “cannot be predicated upon acts not specified in the statute or embraced within its general terms.” However, the Court noted that such a requirement for specificity in the statute does not prohibit the Board from having the authority to revoke a license “upon general grounds which by common understanding and universally accepted standards, are regarded as dishonorable, disreputable, or incompatible with the honest practice of the licensed profession and the public welfare.”

The court noted previous judicially established definitions of unprofessional conduct as including common and approved interpretation used in context to the circumstances. Indeed, the actions need not have to have occurred in the context of professional practice to amount to unprofessional conduct. If reasonable suspicion surfaces regarding one’s fitness to practice, such may give rise to an administrative action.

In addition to unprofessional conduct, the statute specifically delineates 22 grounds for discipline, one of which includes a standard of conduct for physicians that involves professional judgment. To the
extent activities call into question such professional judgment while taking into consideration the public welfare, such may be addressed by the regulatory board. Also, the use of intoxicating liquor in such a manner as to adversely affect a person’s ability to practice medicine is delineated in the law as constituting grounds for administrative discipline. Based on the foregoing, the Court held that notice of charges that the Licensee engaged in unprofessional, dishonorable, or unethical conduct adequately advised him that a DUI could subject his license to administrative sanctions.

Next, the Court addressed the standard of care. The Board argued that the administrative charge against the Licensee did not implicate a medical standard of care, thus the lower court erred by requiring such a standard be articulated. The Court reviewed the lower court opinion and the case used to substantiate a reversal. In short, that case held that the Tennessee statute stands for the proposition that such law requires an understanding of relevant standards of care to which doctors will be held accountable. As noted by the lower court, the Licensee’s “unseemly conduct in another state was used as a platform for disciplining his professional license without describing how that conduct undercut the minimally acceptable level of professional competence expected of all physicians in Tennessee.”

The court of Appeals disagreed with the application of the previous jurisprudence to the current matter. The previous case involved a physician and his alleged medical diagnosis and treatment of patients. The current case involved a DUI conviction and implicated an offense not directly related to the treatment of patients. Accordingly, no specific standard of medical care was required to be articulated by the Board. As a result, the court of Appeals reversed the lower court and reinstated and affirmed the decision of the Board.

This case addresses the important issue of due process and the necessity of accused persons in administrative matters to be adequately notified of the charges against them in order to effectively prepare a defense. Under this opinion, accusations implicating a breach of the standard of care related to diagnosis and treatment may need to specifically identify what standards are alleged to have been breached. Allegations unrelated to practice may not need to cite the specific standard(s) in order to provide adequate notice. Of course, supporting the Board’s position was the statute identifying misuse of alcohol as a specific ground for discipline. In the end, unprofessional, dishonorable, and unethical conduct was upheld as a sustainable phrase and a standard to which practitioners can be held.


*Dale Atkinson is a partner with the Illinois law firm that is counsel to ASWB. He is also executive director of the Federation of Associations of Regulatory Boards (FARB).*