Licensure: the strength behind the values of the social work profession

As I begin my leadership role at the Association of Social Work Boards (ASWB), I find myself keenly aware of two facets of the profession of social work that often are viewed separately, but that I see as inextricably intertwined. Those facets are the values of the social work profession embodied in the Code of Ethics and the need for public protection as embodied by regulation and licensure that ASWB supports through its licensing exams and service to its member boards. One cannot exist without the other, if the public is to be served competently and with the highest ethical standards. During Social Work Month, the month of March, ASWB congratulates social workers everywhere—not only on the work they do for others, but on their commitment to ensure that our profession continues to thrive by adhering to the highest standards of professionalism, values, and ethics—standards served by the National Association of Social Workers (NASW), the Council on Social Work Education (CSWE), and ASWB. As a social worker, an educator, and a social work regulator, I believe that my role at ASWB will be to strengthen the guiding light of social justice through bringing the importance of regulation and licensure into focus at all levels of our profession, starting with education.

If our growth as a licensed profession is to continue and thrive as powerfully as it started less than “four score years ago” (as a revered paragon of social justice once said), then the social workers in training must be educated about licensure as an integral component of their professional development, just as the Code of Ethics is! Both the Code of Ethics and professional regulation support safe and competent practice as well as protection of the public. So as ASWB joins NASW and CSWE in recognizing all social workers who make a difference in thousands of ways every single day, we celebrate those who serve on their regulatory boards doing the often unappreciated job of ensuring that the practitioners who are affecting the lives of individuals, families, and communities are entering the profession because they have passed an important test of competency and are maintaining it.

The fact that social work has earned its place as one of the most important licensed health care professions in such a comparatively short amount of time says a lot about the power of the profession, but it says even more about the values of social workers themselves. Social workers bring an ethical perspective that is magnified and enhanced through licensure, and licensure in turn strengthens the core values of the profession through public protection.
The relationship between our core social work values, as expressed in the Code of Ethics, and licensing is reflected in many areas. Here are a few examples that have become apparent to me over my years as a social worker, a social work regulator, and most recently, as executive director at ASWB:

**Competence.** Social workers have long recognized the danger of incompetent practice and have been passionate about establishing practice standards. Licensing is a governmental recognition of that passion and an acknowledgment that professional social work competence has a direct impact on public health and safety.

**Integrity.** Agreeing on what constitutes competent practice is one thing; having the integrity to actually see to it that professionals abide by those standards is something else. Social workers understand that competence must be enforced at every level—from broad policy areas to the individual behaviors and choices made each day by members of the profession. Licensing solidifies the link between values and “everyday real life” practice behaviors, and makes that link visible to the public.

**Dignity and worth of the person.** Social work is grounded in a fundamental recognition of the value of every person touched by the profession, and licensing carries this idea full circle by establishing standards that help to ensure that this value informs every aspect of our professional behavior.

**Importance of human relationships.** The profession of social work is a testament to the power of human relationships, and the ways these relationships can change lives, and society as a whole. Licensing serves to bring this value from theory to practice by publicly acknowledging the harm that can be done when professionals lose sight of this power, or take this power lightly.

**Service.** Providing essential social and clinical services to vulnerable individuals at critical times requires social workers to elevate service to others above self-interest. Licensing assures protection of the public and offers clients legal recourse if harmed by a licensed social worker.

**Social justice.** Social justice is a guiding light for the profession and has been throughout its history. When a government recognizes the importance of the social work profession, by extension it recognizes the fundamental role that social justice plays in safe and competent practice. Social justice is the fundamental reason for public protection.

As I enter my third month of leadership of ASWB—the month that celebrates social workers—I thank our board members and staff for the work they do and I urge every social worker to take a few moments to appreciate how licensure and those who serve on our regulatory boards have strengthened our core social work values. They make it possible for those in our profession to provide services that both serve the public and protect it. And as you reflect on this, in turn, I encourage every social worker to think about how our Code of Ethics has served us—by providing the values and guiding principles that made “our foremothers and forefathers” strive to make our profession worthy of licensure.
From the President

To all ASWB members:

January is often the set point for the start of new plans. This January ASWB started the year with a new executive director for the first time in 17 years. You will learn more about the new executive director, Mary Jo Monahan, through her writing, her speaking with you at conferences, or her visiting your district. The staff and board want to hear from you as we move forward with plans for the organization. You can communicate with us through the forums and the usual social media outlets. All of the links can be found on ASWB’s website.

ASWB’s newly constituted Board of Directors is a mix of old and new faces. The members are very talented individuals who will be excellent resources for the organization. During 2013, the board will go about its usual business but will have a larger focus on planning for the future of ASWB. The strategic plan is an essential element of these plans.

Several of you participated in the development of the current strategic plan. The vision, mission, and organizational goals were crafted to extend through 2013. The board will be reviewing this plan with staff and developing the next steps for ASWB.

One of the goals for this year is to look for ways to maintain communication with all our member jurisdictions. Several states still have travel restrictions that prevent board members and staff from participating on committees, attending the annual meeting, and attending the spring conference. These meetings are important for exchanging information about regulation that affects social workers. At the last meeting I noted the increase in the number of attendees with tablets. Because more individuals have become connected to the Internet away from their desktop, there is the opportunity to explore other ways to engage valuable resources in the social work community.

One of my goals for this year is to remember other definitions of the term “social.” During the new Board of Directors orientation in January, several members expressed interest in getting to know each other as individuals as well as regulators. The board and staff attending the January Board of Directors meeting gathered in an informal setting after the meeting to get to know each other better. I think the time spent together in January brought the board and staff together in ways that will facilitate clear communication over this year, even when decisions need to be made electronically and with members unable to meet face to face.

Pat Heard, MSW, MBA, LCSW
ASWB President
The staff and board are looking for more efficient ways to help you communicate about regulatory challenges. ASWB will continue to work with other social work organizations across North America to accomplish this. Social workers in other countries have expressed interest in the work that ASWB is providing toward standards for social work regulation. One of my first acts as president was signing the agreement with South Korea. I am looking forward to exploring other opportunities for outreach as other countries express interest in how social work is regulated on this continent.

In retrospect, 2012 was a year full of transition. I want to thank all of you who contributed to the various documents that were updated over the last two years. I want to thank everyone who served on a committee. This organization has succeeded because of our dedicated volunteers.

Looking forward, 2013 will be a year of discovering the next issues in social work regulation that need to be researched. ASWB has an opportunity to become a global leader with your continued help on committees and task forces that will be formed over the next year. Please feel free to write to me or other board members as you come across information that you think will help us in governing this wonderful organization.
Good, lifelong learning can enhance practice—but how to be sure about it?

Educational standards, measurement, online learning, experience, and examinations are all on the agenda, with some great speakers.

Someone on the ASWB Program & Education Committee was apparently having flashbacks to a bad car day when the subheadings for the Spring Education Meeting were formulated. The meeting will be held April 11–14 at the Omni Austin Hotel Downtown in Austin, Texas.

In getting to the topic “Continuing Competence: A Critical Refueling Station on the Regulation Highway,” the requirements and pitfalls of educational standards, online learning, experience and education, and high-stakes examination are explored. Actually, they are likened to a road trip that might take you to Hades, or at least to that place where “The Road is Rough, My Tires Are Low, and My License Photo is Ugly.”

But at least there are some high-powered (another car analogy here, but it fits) speakers to give some directions for the trip. Scheduled are Darla Spence Coffey, the new president of the Council on Social Work Education (CSWE); David Swankin, president and CEO of the Citizen Advocacy Center (CAC); and Gregory J. Cizek, professor of educational measurement and evaluation at the University of North Carolina-Chapel Hill. Additional expertise will come from Charles Ungerleider, director of research and managing partner at the Directions Evidence and Policy Research Group; Lise Betteridge, director of professional practice with the Ontario College of Social Workers and Social Service Workers; and ASWB legal counsel and Federation of Associations of Regulatory Boards (FARB) executive director Dale Atkinson.

Atkinson will present the opening session on Thursday, April 11, from 5–6 p.m., titled “Expanded Engine Efficiency: An Explanation of Education, Experience and Examinations.” Coffey will open the Friday session beginning at 8:30 a.m., discussing some of the issues in education, or “Merging with Fast Traffic: How Educational Standards Connect with Continuing Competence.” With experience in both education and in direct practice, she has been CSWE president since July 1, 2012, taking over from Julia Watkins, who paid a visit to ASWB in spring 2008.

The CAC has done a great deal of work on continuing competency, and Swankin will be part of a panel talking about “Maintaining the
Vehicle and the Roadway: The Big Picture of How Continuing Competence Can Enhance Practice.” He expects to put competence in the context of lifelong learning, and provide examples of how that learning can make a difference in individual practice. Also on that panel, set for 9 a.m. to 12:30 p.m., will be Betteridge, who will describe the Ontario portfolio approach to continuing education.

Although he is familiar with the ASWB examination program as its most recent independent evaluator in 2010, Cizek will talk about exams in more general terms in contributing to the topic “Getting the Car Inspected and Licensed Before Hitting the Road: High-Stakes Exams.” He’ll be explaining what an exam score really means. Also on the panel for that discussion from 1–2:45 p.m. on Friday will be Atkinson, ASWB Secretary M. Jenise Comer, and John Mayr, registrar for the British Columbia College of Social Workers. The session will deal with the many factors involved in using the examinations.

Winding up the formal sessions on Saturday afternoon, Ungerleider’s presentation will be “Want to Buy My Car? A Different Perspective of How Education and Exams Fit Regulation.” Continuing with the automotive theme, ASWB Approved Continuing Education (ACE) chair Anwar Najor-Durack of Michigan will discuss “When the Car Needs Gas: Stop at ACE!” to explain the services provided by the association’s continuing education program. That presentation will begin Sunday morning at 8:30.

The aforementioned title regarding low tires and ugly license photos is the wrap-up on Sunday morning, 9:30–10:30, and will feature ASWB President-Elect Dorinda Noble and Andrew Marks, former Program and Education Committee chair, and a scenario that uses many of the concepts covered in the conference. No word as to whether they will sail over a cliff “Thelma and Louise”-style.

Also on the agenda are a Saturday afternoon “rest break,” with wine and cheese at talking stations, a presentation from Texas State University-San Marcos on the standards and difficulties inherent in the university’s current online curriculum, and news from the association office. A social time and dinner is set for 6–8 p.m. on Thursday.

The 2013 Spring Education Meeting is the work of the current Program and Education Committee—those who began the project in a meeting in Virginia in July are Janice James of Kentucky, chair; and Sandy Barlow of Florida, Tim Brown of Texas, Toni Lempicki of Oklahoma, Dorinda Noble of Texas (the Board of Directors liaison), Martin Pittioni of Oregon, and Anna Lyn Whitt of Mississippi. Since that beginning, because of one resignation and elections, new committee members who have worked by conference calls are Margaret Hazlette of Kentucky and Richard Silver of Québec (the new liaison).
“Keep Austin weird” really is the motto of the Texas city where the Association of Social Work Boards (ASWB) will hold its 2013 Spring Education Meeting April 11–14. And they have the T-shirt with Willie Nelson standing precariously on top of an armadillo to prove it.

Tim Brown, chair of the Texas State Board of Social Worker Examiners, and Dorinda Noble, a former Texas board member and now president-elect of the association, issued the official welcome to the state capital at the association’s November meeting, both wearing weird Austin T-shirts. Apparently the weirdness is a source of pride, but Austin offers much more. In fact, both Brown and Noble said that it is an unusually beautiful city.

ASWB participants will have a unique opportunity to judge this for themselves, since the meeting agenda includes an optional “duck boat” tour when the sessions give everyone a half-day break on Saturday. This is an amphibious trip around downtown Austin and Lake Austin inside a vehicle that, for those worrying about the fate of the Carnival Cruise ship, is billed as “unsinkable” and “Coast Guard inspected.” Sightseeing includes historic Sixth Street, the State Capitol Building, Bob Bullock State History Museum, the Governor’s Mansion, and Lake Austin. The capitol itself is well worth a tour; it is an excellent encapsulation of Texas history, and is beautifully designed as well.

Austin also bills itself as the “live music capital of the world,” with more than 200 live music venues: music of all kinds, from piano bars onward. It has multiple entertainment districts, unique shopping, and more than 200 restaurants.

It’s also just west of the Hill Country that propelled the political career of Lyndon B. Johnson, and is the location of the Lyndon Baines Johnson Library and Museum. Former presidents don’t have a corner on such institutes, though: there are museums of history,
music, and art, a couple of military museums and one for the writer O. Henry (housed in the Victorian cottage where he lived from 1893 to 1898), and to no one’s surprise a Museum of the Weird.

Brown warned that it is possible to see a singing cowboy on the streets wearing only a guitar, boots, and Hanes shorts. Nor is it unusual to spot Sandra Bullock, Dennis Quaid, or Matthew McConaughey, as well as Willie Nelson. There is even a PBS show that calls Austin home—“Austin City Limits.”

The Texas hosts pointed out that Austin is big on cowboy hats and boots; “you can see a bride wearing cowboy boots with a $5,000 dress,” Brown said. They also bragged about the weather—it should be in the 80s and 90s at the time of the conference, and there are 300 days of sun each year.

Carol Miller, executive director of the Texas board, says “the #1 thing everyone who visits me must do is have margaritas and see the sunset at the Oasis Restaurant.” It’s a ways from downtown, but worth it, she says. The Hula Hut is another dinner classic, and Miller recommends a comedy club on 6th Street called Esther’s Follies.

Everyone familiar with Austin seems a bit fixated on the Mexican bats at the Congress Avenue Bridge. According to Miller, 1.5 million bats fly out every evening. Watchers can stand on the bridge or take cruises. It’s the largest Mexican bat population in the world, Brown declared, and it takes about two hours for them to exit.

The executive director also recommended: one of the last remaining huge independent bookstores in the country, a three-story edifice called Book People; Amy’s Ice Cream; the hike and bike trail along Town Lake/Lady Bird Lake; dinner and a movie at Alamo Draft House; the LBJ Presidential Library, and more. In short, “one of the best places in the U.S. to visit, in my humble opinion.”
Brahna Wilczynski is a genuine pioneer of social work regulation. The third president of the then American Association of State Social Work Boards (AASSWB) in 1981–82, she was on the New York State Board for Social Work beginning in 1976. She was also there in 1983 when the New York board voted to turn over the examination items it had used in its own tests to AASSWB, throwing in its lot with the national association for good. After a total of 10 years in social work regulation, she moved on; but now she’s back.

A resident and practitioner in New Mexico for 18 years, Wilczynski was appointed to the New Mexico Board of Social Work Examiners last year, and in November she came to Springfield, Ill., to her first Annual Meeting in a quarter of a century as a voting member of the renamed Association of Social Work Boards (ASWB). She was late arriving, and came just in time to be directed into the dining room for the opening day’s dinner.

When she went in, “I was overwhelmed,” she recalls happily. “There were so many people, compared to the numbers we used to have.” She was pleased and excited by the showing, but having thought about it she feels the growth was natural. “Individual states really were never financially able to mount an exam that would hold up” on their own, dealing with a population that is by nature and inclination one of the most litigious professions. The unified effort has encouraged social work regulators to share not only the heavy responsibility of an examination, but ideas, information, legal advice, and learning opportunities.

New York had one of the first exams; it had felt the need for an objective measure of competence early on, she recalled. When she joined the board, she was the youngest person on it, and she is convinced her appointment was made because she was the clinical supervision of a forensic psychiatric clinic and had some legal knowledge. She
was interviewed by a department attorney and Phil Johnston, who, in addition to being the executive secretary of the New York State Board, served as the first AASSWB executive director—on a volunteer basis.

She found that at that point the board was itself carrying out a very intensive process to decide who was qualified to practice safely as a social worker. Included was a requirement that the candidate for clinical licensure prepare three case summaries; the board members each read them all and compared notes when they got together. “We got so we could tell when someone had been keeping notes all along and when they were reconstructing what was done,” she recalls. Her own attitude toward ongoing and timely record keeping was strengthened by the experience.

Wilczynski remembers very well the board vote to hand over the examination items to this very new national organization. “I don’t remember any opposition, but we knew it was a big step,” she says. Shared responsibility for a legally defensible examination was a good move, they felt, but they knew they were giving up some control.

And there was no electronic transfer of the exam items, as there is now. The story of New York’s surrender of the questions is recounted in the history of the association’s first 20 years, *Are we there yet?* Wilczynski and Phil Johnston went to Grand Central Station, with Johnston carrying a suitcase holding the items. Tom Samph, founder and owner of the testing service that AASSWB was contracting with, was to meet them. Wilczynski recalled the thoughts going through her mind—“What if he didn’t come? What if someone snatched the suitcase?” It felt like high intrigue.

With that infusion of questions, the association began to sort out what a national exam meant. Many of New York’s 500 items were state-specific, or didn’t fit all the states, and had to be discarded. The participation of many social workers knowledgeable in both law and content was accepted as a necessity from the beginning.

While all this was being sorted out, Wilczynski foresaw something that would become of great importance to her—a move toward uniformity and thus mobility of licensing.

“I saw it as a woman’s issue,” she says, and she still does. “We tend to follow our men,” which in fact she has done, and the ease of moving a license means a great deal. She also sees it as a social justice issue, since everyone who needs social work services should have equal access to qualified professionals. Standards should not be lower because potential clients are poor or are located in rural areas. “The difference is in the people we serve, not the quality of service,” and regulation reinforces this.

Besides her board service, Wilczynski has had quite a bit of variety in her social work practice. A native of California, she came east after the death of her mother when she was college-aged. She had family in Pennsylvania and a cousin in New York, and she ended up at Barnard College. She needed somewhere to spend her school vacations, and she needed money, so when she saw an ad looking for 100 camp counselors she applied. It turned out they paid more for counselors who worked in
the camp for children with emotional disturbances, so that is what she did.

A social worker on the staff took an interest in her and encouraged her to go on for a degree in social work. Wilczynski had been a history major, and when the woman pointed out that social work was a good direction to go for a job, the fledgling camp counselor was in. Her first job was with an aftercare clinic with the New York Department of Mental Hygiene.

It was a time when early psychotropic medications were making deinstitutionalization possible; when people who had spent 10 and 20 years in state mental hospitals were being discharged into the community. “It was really a remarkable change in mental health,” Wilczynski says. The available options deepened her interest. For her, social work as a career “started with necessity and ended with commitment,” she explains.

She’s been a school social worker, a probation officer, a medical and psychiatric social worker, and more. Most recently, she had been a consultant, particularly on ethical dilemmas, but she has now ended that because of the worry of conflict of interest with her board work. In a state with a limited number of social workers, ensuring that the roles don’t come into conflict is always difficult.

Service as a regulator has been satisfying, she has found. “It’s intellectually challenging in terms of social work practice,” as well as an opportunity to do something that seems right while keeping an eye on carefully crafted laws and regulations. If she were in college now, she thinks, she would be heading for a joint career in social work and law; when she was finding a direction for herself, there were few women lawyers, “and no scholarships.” Legal expertise is another area in which she thinks the unified efforts boards can make with ASWB are a boon. ASWB legal counsel Dale Atkinson has worked hard at regulatory law and is part of a rather limited field of expertise—“Dale has become more specialized, and he’s a rare and wonderful lawyer.”

No doubt she could have been, too, but she’s done fine by the profession without the law degree.
A study of 34 Maryland health professionals who violated sexual boundaries gives insight into predictive behavioral characteristics

“We never had sex in the treatment room!” “A staff member told my patient that she should report me because I had denied her a raise.” Statements such as these are a few of the myriad responses regulatory boards hear made by practitioners brought up on charges of sexual misconduct who are not prepared to admit that they violated their professional ethical boundaries. What’s a board to do? With most of the traditional sanctions available to them involving only reprimand, suspension, and revocation of license—with or without the possibility of reinstatement—boards have little ammunition to pierce the defensive armor with which these practitioners gird themselves. Without teeth, sanctions can do little to prevent a repeat offense.

A former board member and chair of the Maryland Board of Examiners of Psychologists who has done some unique research on who is likely to offend again and how to stop it from happening talked at the recent Federation of Associations of Regulatory Boards (FARB) Forum in San Diego on the subject “Sexual boundary violations: A study of practitioner characteristics.” S. Michael Plaut, PhD, adjunct professor with the department of psychology at the University of North Carolina Wilmington, is certified as both a sex educator and a sex therapist. He received his doctorate in psychology from the University of Rochester and was on the faculty of the University of Maryland School of Medicine in the psychiatry department from 1973 to 2008. During his three-year tenure on the Maryland board from 1982 to 1985, Plaut said, the board dealt with 12 sexual boundary violation cases. This experience started him on a journey of research into why offenders violate and discovery of the characteristics of practitioners likely to violate sexual boundaries. He developed an alternative methodology for rehabilitating offenders, which he describes as “tutorial education” that can be administered during a suspensory period to make the suspension a constructive experience for the practitioner.

The key differences between Plaut’s ethics tutorial education program versus a traditional classroom experience are the frequency of visits, the customized readings, a therapeutic component, an awareness of the respondent’s learning and attitudes, and access to background
information. Additionally, Plaut requires respondents to write a paper of 20-30 pages (using 12-point font, for standardization) in which they report why they are taking the tutorial, what they distilled from the readings they completed on relevant principles and standards, what they might do in a similar situation in the future (what Plaut calls a “behavioral rehearsal”), and general recommendations to prevent similar violations, which could include such things as education requirements and policy changes. Plaut requires respondents to put their name on their papers, a condition critical to their ownership of what they did to get in trouble, according to Plaut. At the end of the ethics educational tutorial, the provider makes a report to the board about the respondent’s progress.

Over a 20-year time frame, Plaut estimates that he has conducted approximately 100 tutorials. The outcomes were mostly positive, although he reported that in a small number of cases, respondents were known to have committed additional violations after they had successfully completed their rehabilitation program. Other observations that he shared:

- Certain personal and professional factors may put providers at greater risk for committing a boundary violation
- There appear to be certain defense mechanisms at work that pave the way for a violation to occur
- Respondents typically experience additional consequences of their actions over and above the sanctions imposed by a licensing board (including, in Plaut’s experience, one suicide)

From these observations and tutorials, Plaut developed a retrospective study that received Institutional Review Board approval from both the University of Maryland Baltimore and the University of North Carolina Wilmington. It included the review of files of 34 Maryland licensed health professionals who had been assigned to a tutorial with Plaut. The focus of the study included a number of criteria: characteristics of the respondent; violations cited by the board; sanctions imposed by the board; description of the tutorial process, including behaviors observed; possible risk factors observed; additional consequences to the respondent; and evidence of recidivism. During his session, Plaut reviewed all these components.

Professions represented included: medical, psychology, physical therapy, dentistry, acupuncture, and social work (3%). Average age at time of offense was mid-40s. Of the four possible combinations of reported cases by gender, 90% were male respondent/female patient; 6% were female/female; and 3% each were male/male and female/male. Respondent race was reported as: 53% Caucasian; 20% Hispanic; 15% Filipino; 9% African American; and 3% Asian. Plaut noted of the racial breakout that “a fair number of respondents were not trained in the United States and Canada,” reflecting that cultural perspectives were influencing behavior and that training was needed to revise those perspectives. Regarding the source of the complaint, 64% was the victimized patient.

The type of violations cited by the board added up to more than 100%, reflecting the fact that most respondents did more than one thing in
violation Plaut explained. Types of violation included sexual harassment, inappropriate touch or exposure, verbal disclosure or invasive questions, inappropriate clinical procedure, falsification of records or documents, ‘consensual’ sexual relationship, and nonsexual boundary violations (e.g., gift exchange, meeting outside the office, ‘nonsexual’ touch outside the standard of practice; and dual relationships). Plaut also noted that reports of nonsexual boundary violation (34%) were often predictive of later sexual boundary violation.

Possible risk factors that Plaut called attention to during his discussion: the need to rescue, and neglect of personal life. In addition he noted the most reported risk factor (77%) was progression of boundary crossings, the “slippery slope” that practitioners often find themselves on, where nonsexual activities such as accepting a dinner invitation from a client or treating an office employee as a patient, become precursors to sexual behavior. He noted that another risk factor, disdain for professional standards (reported 9%) was predictive of sexual recidivists and predators.

The most frequently reported “collateral damage,” or consequences, that respondents reported were relationship problems with family members, including partners; employment problems; loss of income or home; loss of patients; and loss of hospital privileges. Other consequences included damaged reputation, dismissal from practice group, loss of malpractice insurance, damaged work relationships, risk of deportation, criminal charges, and heart attack.

Plaut reported that of the 34 respondents who started the tutorial experience, 22 completed the program, and that three were sexual recidivists. Of those three, one repeated a sexual violation and the board revoked the respondent’s license; another violated the terms of probation but currently is in good standing; and the third hired a noncertified assistant, but is currently in good standing. Reasons for not completing the program included moved out of state, left the profession, surrendered license, suicide, and a number who did not write the paper, either on the advice of their attorney or because they were foreign trained and unwilling to learn to write in the required reference style.

Plaut showed two graphs that represented the positive impact that the tutorial experience had on respondents. The first graph showed how respondents’ attitudes changed during the course of the journey, from violation, through onset of the tutorial, progress in the tutorial, and completion of the program by measuring the defense mechanisms, or behavioral constructs, that allowed respondents to perpetrate the violations: denial, rationalization, externalization, and entitlement. At the onset of treatment, nearly 70% of respondents expressed denial and externalization, an increase of more than 10% compared to when measured at the time of violation; by completion, these constructs were observed in less than 40% of the respondents. Rationalization was observed at onset in less than 60% of respondents (down from 60% reported at violation) and this construct was observed at completion in less than 20% of respondents. Entitlement, observed at onset in slightly more than 30% of respondents (down 10% from violation) also
decreased significantly, to less than 10% at completion of the course. The second graph represented attitudes of cooperation, insight, and resistance in respondents at onset of the tutorial program, through progress, and completion. Cooperation at onset was present in nearly 80% of respondents and by completion had reached 100%. Insight was measured at less than 40% at onset, but had increased to nearly 80% at completion. Resistance at onset was measured at roughly 30% of respondents, and decreased by about 10% at completion of the program.

In concluding his remarks, Plaut observed the importance of comprehensive education focusing on ethical standards and moral development, risk factors and warning signs, the disciplinary process, and consequences, at both the pre-degree level and post-degree level through ongoing continuing education. He noted that while the risk factors that get professionals into trouble often seem innocuous at the time, the consequences can be serious. He reiterated the importance of peer consultation as a means of staying the ethical course and avoiding one of the biggest issues leading to boundary violations: isolation.

The “takeaway” for board members: Despite the absence of a control group in the study, the tutorial experience, in concert with other experiences during the rehabilitation period, appeared to produce positive change with a low level of sexual recidivism. Plaut emphasized the importance of other experiences outside the tutorial as being critical to successful rehabilitation of respondents. Other conclusions drawn from the study: Certain respondent behaviors may be predictive of further unprofessional conduct, and there is a strong tendency for those who violate sexual boundaries to focus on immediate desires and consequences at the expense of generally accepted and clearly stated professional standards. Plaut encouraged attendees in their work as regulators to ensure that the professionals they license meet the standards of their professions in fulfilling the mission of public protection.
It’s more than likely every board’s worst nightmare: getting sued. And if it isn’t the No. 1 concern, it probably ranks in the Top 5. Whether a board can be sued comes down to the question of Immunity: Are boards really state entities? This was the topic of a session at the Federation of Associations of Regulatory Boards (FARB) Forum at San Diego in January led by attorney Mark Brengelman of Kentucky, whose remarks covered only United States regulatory boards. During his discussion, Brengelman reviewed case law regarding whether a board is a state agency, provided information about what language to look for when reviewing statutes designating the board as a state agency, and gave tips on conducting board business as a state agency.

Brengelman, who got his law degree from the University of Kentucky, served as assistant attorney general for Kentucky, focusing on administrative and professional regulatory law. He retired from state government in 2012 and became a certified hearing officer. He has represented multiple boards as general counsel and prosecuting attorney. Currently Brengelman’s private practice focuses on government services and consulting, continuing education, and representing health care practitioners before licensure boards and in professional regulatory matters.

The two cases Brengelman presented had many twists and turns, overturns, and breath-holding moments until final decisions were handed down, one by the Alabama Supreme Court and one by the federal court. In both cases, the board was determined to be immune from prosecution, but for different reasons.

In *Ex Parte Board of Dental Examiners of Alabama (in re: Mary Ann Wilkinson v. Board of Dental Examiners of Alabama)* 2012 WL 1890677, 2012 Ala. LEXIS 69, __ So. 3d__ (Ala. May 25, 2012), Wilkinson, a contract employee, sued the board for back pay when an audit revealed she had been underpaid for attending meetings. According to her contract, the sole remedy regarding disputes was to file for an administrative claim in the state Board of Adjustment.

In trial court, the Board of Dental Examiners claimed constitutional immunity as a state agency and won. The trial court upheld the finding that the board was a state agency because “funds raised by the board are appropriated by the state to the board for use as provided by statute.” On appeal, however, the Court of Civil Appeals, an intermediate court, ruled against the board, determining that it was not a state agency—and therefore not protected by immunity—because, in part, the court
relied on Alabama case law regarding whether a money judgment against the board would impact the state treasury in general. Following this decision, the board appealed the case to the state Supreme Court, where the decision of who is a state agency is based on legal analysis from statutes and case law, and not based on the particular facts of the situation from the evidence presented at the trial court. The three-part test applied by the state Supreme Court determined that, in fact, the board was a state agency and thus immune from a lawsuit in court for money. In overturning the intermediate court, the Supreme Court ruled that though the test of whether the board received money from the state is important, it is not determinative.

In Versiglio v. Board of Dental Examiners of Alabama, case: 10-14282, U.S. App. LEXIS 14457, decided July 13, 2012, Versiglio, an employee, sued the board in federal court for money, alleging violations of law under the Fair Labor Standards Act. The board claimed immunity to suit in federal court under the 11th Amendment. The federal court relied on the ruling of the Alabama Court of Civil Appeals in Wilkinson, but held its opinion pending the appeal of Wilkinson in the state Supreme Court. When the Supreme Court ruling was issued, the federal court relied fully on its decision and found that the board was entitled to immunity in federal court as well.

The takeaway for board members: Common themes in both court cases were that the lawsuits were against the board, and not against individual board members for their personal liability, and that state law on what constituted “the state” controlled in both state court and federal court. In determining if their board is a state agency under state law and in federal court under the 11th Amendment, Brengelman referred attendees to their own state statutes, to find out if their board is separate from being lumped in with agencies funded by tax dollars, noting that “judges don’t see beyond state tax dollars.”

Brengelman offered the following tips for ensuring that a board is conducting itself as a state agency:

• Separate the board and the state association, maintaining separate offices and boards of directors, and consult state ethics laws to determine if a member of a licensure board can serve contemporaneously in the state association as an officer on the state association’s board of directors.

• Ensure that written documentation reflects the board’s independent status as a state agency and its purpose of public protection.

• Identify the board as a state agency to other state agencies and ensure counsel does the same, even if counsel is housed in the office of the attorney general.

As a final point, Brengelman emphasized that these cases were about the board as a state agency, not about whether board members are state actors. He noted that state and federal laws provide various immunities to individuals such as board members acting within the scope of their governmental duties on behalf of their board.
Your board in action

A summary of the work of ASWB’s Board of Directors at its January 24, 2013, meeting

The ASWB Board of Directors met in person on Thursday, January 24, at the Omni San Diego Hotel in San Diego, Calif., preceding the Federation of Associations of Regulatory Boards (FARB) Forum. Here is a recap of the activities of the board at that meeting.

**Financial report:** Board members reviewed financial statements for the first 11 months of 2012.

**Committee appointments:** Board members reviewed and approved the committee appointments as presented.

**Committee charges:** Board members reviewed and approved charges for all association committees.

**Technology task force:** Board members discussed the proposed list of international participants to be invited to serve on a task force to develop new electronic practice technology standards that are global in scope. Board members approved the list of participants with the addition of a member from the Canadian Council of Social Work Regulators (CCSWR). M. Jenise Comer, ASWB secretary will serve as board liaison and Dorinda Noble will be included in all communications in her role as president elect.

**Annual meeting evaluations:** Board members reviewed evaluations from the Nov. 2–3, 2012, Annual Meeting held in Springfield, Ill.

**Examination program reports:** Board members received reports on test administration, the testing program under Pearson VUE, score reporting, survey results regarding jurisdictions’ experience with both ASWB’s Candidate Registration Center and Pearson VUE, and activities related to individual jurisdictions.

**Association office report:** Board members received reports on personnel, equipment, ACE, the Social Work Registry, Massachusetts applications, CE audits, the Public Protection Database, and other products, as well as reports on visits to individual jurisdictions and involvement with and activities of other groups.

**ACE provider approval:** Board members approved Suncoast Hospice as an ACE approved provider.

**Strategic Planning:** Board members discussed beginning a process to update and extend the ASWB Strategic Plan. Staff were directed to develop a summary of progress for the current strategic plan and contact the consultant from the 2010 strategic planning session to determine his availability for the August board meeting to assist the board in plans to extend the strategic plan.
For 2013, a total of 62 volunteers have been named from 35 jurisdictions

ACE starts off the year; the dubious award for “biggest list of tasks” will go to the Bylaws and Resolutions Committee

Even before representatives to a planned, new international task force are named, ASWB has lined up a total of 62 volunteers from 35 jurisdictions to do its 2013 committee work. Thirteen people new to committee participation with ASWB this year are included. The size of the groups ranges from 18 members on the Examination Committee to four comprising the elected Nominating Committee.

The task force still to be finalized will consider international standards for electronic communication and practice. Representatives are being invited from other countries and from other social work organizations in the U.S. and Canada.

A first meeting is planned for the Approved Continuing Education (ACE) Committee March 1–3 in Arlington, Va., that will coincide with the first session of New Board Member Training. ACE has two meetings slated for this year, with the second in July; it will operate on a charge that is unchanged from last year—developing and monitoring criteria to assess applicants for ACE approval, monitoring approved providers, and developing and monitoring programs to assess individual continuing education program in specific subject areas.

Committees work from charges approved by the Board of Directors each year, charges that contain both routine assignments and new undertakings. In 2013, the biggest supply of new work has been given to the Bylaws and Resolutions Committee. Besides the usual listing of considering duly proposed amendments and resolutions, and reviewing the policy manual for inconsistencies with changing ways of operating, the committee will be developing recommendations on ideas suggested by the 2012 committee.

These include exploring whether the association should have a policy requiring a schedule for regular examination security audits (currently the policy manual provides for a periodic assessment of the exam program as a whole), and considering options for including board and staff input into the annual evaluation of the executive director. Last year’s committee also discussed allowing time during the Annual Meeting for more interchange between candidates for elected offices and delegates before the elections are held.

There is also some leftover work for the Finance Committee in addition to the standing charges to advise the Board of Directors and the development of revenue sources, as well as attending to the details of finances, budgets and fiscal management. The group, headed by
Treasurer Carole Bryant of Saskatchewan and including President-Elect Dorinda Noble of Texas, will review the previous recommendation for a change to the Bylaws regarding the establishment of examination fees.

The Examination Committee charge for 2013 remains unchanged, listing the reviewing, editing, and evaluation of items that it usually does; the change includes participating in psychometric support activities as needed and contributing to policy decisions on item content and phrasing.

Regulation and Standards (RAS) continues in 2013 with a list of six charges, including monitoring and encouraging regulatory board participation in the Public Protection Database (PPD), developing model procedures and requirements to facilitate greater uniformity among jurisdictions, and monitoring emerging issues in practice. A large and daunting new charge for this year is to begin a full review of the Model Social Work Practice Act.

Two committees have carried-over charges unchanged from 2012. The Nominating Committee will continue to work to encourage new leadership and will again come up with a slate, this time for treasurer; two directors at large, one of them a public member; and one member of the 2014 Nominating Committee (since two members of the current committee will serve a second year to improve the continuity of the group). Program and Education will again develop topics for the Spring Education Meeting and plan the program, and once more will have the assignment of identifying opportunities and proposing ideas to encourage meeting attendance by regulators who are from outside the U.S. and Canada.
ACE: A painstaking examination of minutiae

Minutiae can be a good thing or a bad thing. In the case of approving continuing education offerings, it’s a good but time-consuming thing. Because individual member boards don’t have the staff for minutiae on that level, it’s fortunate that ASWB has volunteers willing to wade through it.

The Approved Continuing Education (ACE) Committee spends hours on applications completed by CE providers, time that is all volunteer except for the organizing and information-gathering work done by ASWB staff. Since CE is a business in most cases, with payment changing hands, the review by people with no monetary interest is a valuable asset to social workers. And ACE has had a variety of very committed members over the years, representing diversity in practice as well as in geography and race and ethnicity. Currently, members are:

- **Committee chair Anwar Najor-Durack** of Michigan, director of field education at Wayne State University School of Social Work and chair of the Michigan board of social work
- **Joyce Bell** of Maryland, coordinator of the Dual Degree Program, University of Maryland Eastern Shore Social Sciences Department
- **Ellen Costilla** of New Mexico, manager of the New Mexico Developmental Disabilities, Medically Fragile, and Acquired Immunodeficiency Syndrome (AIDS) Waiver Programs, HSD/Medical Assistance Division, Long-Term Services and Support Bureau
- **Joan Davis-Whelan** of Newfoundland-Labrador, with the Memorial University of Newfoundland
- **Janice Whalen Fitts** of Nebraska, executive director of the Community Action Partnership of Western Nebraska
- **Elaine Halsall** of British Columbia, manager of Child, Youth & Family Mental Health Services in Victoria

“Getting in the weeds” doesn’t get any deeper than this!

To explain just how far into minutiae committee review can get, ask yourself and your board—DID YOU KNOW:
- Every ACE application is reviewed at least twice, and some are reviewed 6 times before the applicant is recommended for ACE approval
- Each ACE application requires between 3 and 7 hours of review time
- Each ACE committee member reviews between 8 and 40 applications per year
- ACE applications for provider approval contain an average of 150 pages, including course materials and supporting documentation
- One application for ACE provider approval can contain as may as 3 courses
- Applicants who offer online courses must allow online access to the ACE committee, so they can review the entire course, posttest and evaluation, as well as the organizational webpages
• Micki Lilly of North Carolina, executive director of the North Carolina Social Work Certification and Licensure Board
• Alison MacDonald of Alberta, associate registrar of the Alberta College of Social Workers
• John McBride of Louisiana, program director of the Veterans Administration Home Based Primary Care Program in his area.

Most of these people are current members or staff of a social work regulatory body; among them are PhDs, college faculty, a book author, and a father of a large family of adopted children.

This is an impressive group and an impressive process. Continuing education that gets through it is worthwhile continuing education.
It was just two years ago (give or take a few months), that ASWB put in place the current strategic plan. It was no surprise that outreach to social workers and the public was one of the main objectives and the consensus was, and is, that this is to be accomplished in a variety of ways. To that end, much of what I do at ASWB has to do with accomplishing those goals through our participation in meetings and conferences that are hosted by other organizations. I staff the ASWB booth from time to time, but for the most part, I am behind the scenes making sure those attending are registered, booth products and services are ordered, everyone knows where they are going, and the booth and all materials get to their destination. I guess you could call me an outreach facilitator. If those attending forget about me while they are at the meeting, then I have done my job!

My official title is Meetings Associate, and my focus is on the portion of the ASWB mission and strategic plan that is highlighted on the corkboard in my office: …the association will aim to increase its visibility generally, and will look at developing additional products, services, and trainings that will assist its member boards in their public protection missions. The other part I have highlighted reads ASWB will be focusing efforts on increasing its outreach to regulatory board members, social workers, social work faculty, and regulators outside the U.S. and Canada. I keep it highlighted because it is forward moving, motivating and exciting. It encompasses so many possibilities and reminds me that what I do is part of the future of ASWB.

Currently, staff and/or volunteers attend several meetings annually, including the Council on Licensure, Enforcement and Regulation (CLEAR) annual meeting and midyear business meeting; the Federation of Associations of Regulatory Boards (FARB) Forum and Attorney Certification Seminar; the Citizen Advocacy Center (CAC) annual meeting; the Association of Test Publishers (ATP) Innovations in Testing conference; the Institute for Credentialing Excellence (ICE) Annual Educational Conference; and the Canadian Registrars’ Conference. We are also dipping our toes into overseas meetings, including the International Federation of Social
Workers biannual joint World Conference, held in Stockholm, Sweden, last summer, and CLEAR’s biannual International Congress being held in Edinburgh, Scotland, in June.

AS WB owns two exhibit booth displays that it uses at meetings and conferences, a necessity when timing of events overlaps due to shipping schedules. Publications that explain who ASWB is, why protection of the public is so important, information about the exams, exam development, item writing opportunities, the registry, and much more are sent with the displays. Most important, volunteers and ASWB staff are at these events in person to answer questions, ease exam candidates’ anxieties, and represent ASWB positively to social work professionals. Study guides and the new supervision books are also shipped and available for purchase at these conferences. This year, an ASWB exhibit booth is traveling to seven conferences, including the Association of Baccalaureate Social Work Program Directors (BPD) Annual Conference, the National Association of Black Social Workers (NABS W) Annual Conference, and the Council on Social Work Education (CSWE) Annual Meeting. We also plan to set up shop at NASW state chapter meetings in New Mexico, Florida, California, and Ohio.

On a personal note, even though my position is new, I am not new to ASWB. I was with ASWB for two years, a blip on the radar screen for many staff members. After leaving my post as ASWB meeting planner in 2003, I returned in the fall of 2011 to the same building (same office in fact) and many of the same staff, board, and committee members. Obviously, people involved with ASWB tend to stick around. Why did I ever leave in the first place, you ask? Well, I felt the need (for a while anyway) to choose between a full-time job I loved and a baby I loved, and the baby won! Eight years later I was eager to come back to ASWB. I am using my prior meeting planning experience to assist Jennifer Hoffman, meetings manager, with the ever-increasing demands of ASWB-hosted meetings as well. While many of the same meetings are in place from my time here years ago, their attendance and complexity have increased. I am also assisting Dwight Hymans, deputy executive director, with the grant program offered through the American Foundation for Research and Consumer Education in Social Work Regulation. Applications are currently being accepted, and I am looking forward to being a part of this process as it unfolds. The deadline for applications is May 1. Interested applicants can email me at mryder@aswb.org for an application.

It makes sense, as a social work organization, that outreach is an important part of the future of ASWB. I recently attended a camp fair where many summer camps from across Virginia set up a booth complete with information about what their camp has to offer. Booth staff met me with a smile and talked in-depth with me about their camp. As mentioned before, I am usually behind the scenes at events like this one—but this time I was an attendee. After having visited several camp websites prior to attending (a time-consuming and exhausting endeavor), I was reminded of the importance of meeting face-to-face.
After about an hour I walked away from the camp fair with so much more knowledge than I did from visiting a multitude of Web pages, no matter how colorful and informative those pages were. Talking with people is important. Getting out there is important, and it does make a difference. It is gratifying to be a part of the ongoing outreach goals of ASWB.
Association Asides

A great story from PAM ABRAMS of Arkansas, who completed her three years on the exam committee in 2012. She and her 81-year-old mother attended the inauguration of President BARACK OBAMA in January, the genuine fulfillment of a dream for ANNIE ABRAMS. PAM said she had had standing tickets to the first Obama inauguration, but it was so cold she and friends ended up watching it at the ESPN Zone a couple of blocks away, so it was a goal of hers, too. This time, her mother wanted to go really badly. (She had attended both of BILL CLINTON’S inaugurations.) Her mom had been a dedicated volunteer for Obama, and through a congressman she was able to get seated tickets for them both, which was fortunate because the older woman wouldn’t have been able to stand for very long.

The seats were really great, PAM says, and while it was not so cold, the trip took real fortitude on her mother’s part. They had stayed at the Hyatt Regency in Crystal City, she explained, “so I had to drag her on the Metro at 5 a.m. on inauguration day and change at the Metro Center, finally ending our Metro experience at Union Station.” It was quite an adventure for both, “but it was worth it,” Pam summed up. Her mother has taped reports on her Facebook page.

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TOM HAWK, until recently executive director of the Behavioral Sciences Regulatory Board of Kansas, has resigned his position because he was elected to the Kansas Senate. Before assuming the position with the board, he had served three terms in the Kansas House.

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Updating former ASWB treasurer JONATHAN FINCK of Missouri is pretty exciting. His business, Finck & Associates has grown to 18 sites and 150 employees. But JONATHAN, once profiled in association news under the headline “Jerry Seinfeld is handling your money,” still doesn’t take himself very seriously. He said in a recent email, “I’m not allowed to run our managers’ meetings anymore because it was pointed out that I hate meetings and tended to fake phone calls so I could leave.”

In spite of this admitted dislike of meetings, he was a fine treasurer and made good reports to the Delegate Assembly, but enlivened by a wry and apparently uncontrollable sense of humor.

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As is usual, the Board of Directors held their January meeting just before the Federation of Associations of Regulatory Boards (FARB) Forum in San Diego, and then stayed for the always informative
conference. Director at Large **FRAN FRANKLIN** won a prize, one of many handed out by FARB Executive Director **DALE ATKINSON**, for answering a trivia question about photos that were on the screen before a morning session began. The photos were of Cambodia, a region where she had traveled (and apparently not a lot of other people had).

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There was certainly geographical diversity in the prize drawings at the annual meeting. Among the winners were **JASON FLOYD** of Alaska and **WINIFRED ANTHONY-TODMAN** of the Virgin Islands.

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**STEVE MARSON**, former ASWB Examination Committee chair and co-editor with recently retired ASWB Executive Director **DONNA DEANGELIS** of the *Journal of Social Work Values and Ethics*, has received an Excellence in Teaching award from the student athletes group at the University of North Carolina at Lumberton. Appropriately, the certificate was presented at half-time of a basketball game.

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Another echo of the past came from Santa Fe, N.M., where **SUSAN MERCER**, who had a long career as an item writer and was on the Exam Committee beginning in 2003, emailed that she is well and that life in Santa Fe “remains good.” She’s still fishing and kayaking, as well as playing tournament duplicate bridge. She moved to New Mexico from Arkansas.

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It was a rough trip home to Québec from the board/FARB meeting in San Diego for **RICHARD SILVER**. His plane was rerouted to Des Moines (where he could have dropped in on former president **BRUCE BUCHANAN**) because of bad weather in Chicago. The plane was refueled, and he missed the connecting flight; took the last flight to Montreal, and got home at 2 a.m. And his suitcase remained in Chicago.

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Visiting the board in Edmonton brought a bonus for Deputy Executive Director **DWIGHT HYMANS**—**ALISON MACDONALD**, a dyed-in-the-wool sports fan, took him to his first hockey game ever. **DWIGHT**, who mostly follows football, admits he has no idea who was playing, but he had a fine time.

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While ASWB was exhibiting at the New Mexico NASW conference, former ASWB president **DELFINO TRUJILLO** (left, with **LATONYA BANNISTER**) came by the help out and no doubt to talk shop with **BRAHNA WILCZYNSKI**, who is currently on the board, and also helped staff members **JAYNE WOOD** and **LATONYA BANNISTER** provide information and study guides to NASW members. Although a theoretical retiree, **DELFINO** is continuing to work with the Veterans Administration.

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ALVIN SALLEE has been promoting a job opportunity for a BSW program director at the University of Houston-Downtown, pointing out that he came to the school as a visiting professor for one semester but stayed for three years—so far—because it’s “an exciting place to work,” with a president who “strongly supports social work and its mission.” ALVIN, who spent years on the New Mexico board before moving to Texas and was on the ASWB Exam Committee, is now an item writer.
ASWB member boards, in their own words

In ASWB profiles we highlight a few ASWB member jurisdictions and get them to answer some basic questions about how things are going and what’s in store, as well as some basic facts about social work regulation in their neck of the woods. Get to know your fellow boards—chances are, you have more in common than you think!

This issue: Montana

Name of board: Montana Board of Social Work Examiners and Professional Counselors

Number of board members: 7 – 3 Social Workers, 3 Professional Counselors and 1 public member

Licensure levels offered: 1 – Masters level

Number of licensees: 888

Biggest achievement in the past 12 months: passing ambitious rules packages.

Biggest lesson learned in the past 12 months: to listen more and actively seek more input from the associations, especially the counselors

Biggest challenge facing the board: mending relationships while not losing our ambition or forward thinking.

(complete the sentence) “I would really love to hear about how other jurisdictions... deal with electronic issues and rules related to same.

Completed by: Cyndi Breen, Executive Officer, Department of Labor & Industry

Useless tidbits from the association news editors: You’re breaking the law if you have more than one alarm clock ringing at the same time. In Montana it is illegal for married women to go fishing alone on Sundays, and illegal for unmarried women to fish alone at all.