



## Regulatory Rigor Mortis



By Dale Atkinson, Partner,  
Atkinson & Atkinson

*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).*

Decision-making is fundamental to progress. Decision-making effectuates change necessary to allow adaptation to the needs that currently exist. In the regulatory community, decision-making is essential to effective and efficient government involvement in issuing, renewing, and enforcing a regulatory structure. State and provincial social work boards are created by law and delegated with the authority to regulate the profession in the interest of public protection. It is through this statutory authority that social work boards are authorized to act or, perhaps, not act. At times, suggested political and legal change may need to be stimulated and effectuated to ensure that a regulatory board is sufficiently authorized to act to fulfill its statutory mandate of public protection. But who or how can such change be effectuated?

Social work boards are encouraged to understand the bounds of how and where boards and members can be an information source to the legislature. While many regulatory boards are prohibited from engaging in lobbying as defined, such prohibition does not preclude boards from being an information source to the legislature and the legislative process. Social work boards are encouraged to gather relevant information and

disseminate such data to the legislature and executive branches of government as deemed necessary. Information gathered may include statistics regarding board activities, applicant and renewal data, complaints and disposition, board minutes, and other information that adequately describes the activities of the board. In short, such information and data can better inform the legislature without attempting to “influence” government through what may be defined as lobbying efforts.

Social work boards can forge relationships with legislatures to ensure an informed legislative decision. Indeed, some legislatures seek opinions from the affected regulatory board when enacting changes to the practice act. For example, a change in law may be needed that authorizes a social work board to fulfill its public protection mandate by recognizing administrative authority over unlicensed activities. ASWB member boards may consult the ASWB Model Social Work Practice Act as a reference and resource to address unlicensed practice authority as well as other statutory considerations. Social work boards can be a stimulus for harmonization of statutes in order to ensure regulatory authority and promote mobility and portability. Too often, inaction by the boards

occurs that leads to the perception of inactivity or a reactive approach to regulation.

Similarly, decision-making is important to ASWB. Under its governance structure, the Board of Directors and the Nominating Committee members are elected by the delegates at the Annual Meeting. The Board of Directors acts in the interest of the association in carrying out the mission, vision, and values of ASWB. Additional overarching policy issues that affect all member boards may come before the Delegate Assembly for a vote in the form of motions and resolutions, suggested initiatives, and examination matters. It is incumbent on the delegates to come to the Annual Meeting prepared to engage in dialogue, debate, and eventual decision-making in order to allow ASWB to address the needs of the membership.

Informed delegates are the connection between ASWB and its member boards. As is continually

emphasized, ASWB is an organization of members, consisting of the governmentally created state and provincial agencies delegated with the authority to regulate the profession. Dialogue and input among and between member boards and ASWB will ensure that the association is aware of and acts in the interests of the member boards and regulatory community. This dialogue and input occurs throughout the year—not just at the Annual Meeting.

Of particular importance for the 2017 ASWB Annual Meeting of the Delegate Assembly is the Mobility Task Force report and anticipated participation by the member boards in addressing issues related to mobility and portability. State-based licensure is under heightened legal and political scrutiny. Reports and theories are being propounded that place an added emphasis on the economics of regulation. That is, regulation of the professions and occupations is a barrier to economic growth and unnecessarily

keeps willing persons from the workforce. Further, requirements for licensure are varied and too onerous. Dialogue must occur that balances these economic perspectives with the public protection benefits to regulation.

The collective voice of the boards of social work must be heard. ASWB provides the vehicle for developing and carrying these messages. As regulatory boards face political scrutiny, opportunities exist. These opportunities come from the member board perspectives individually and the ASWB perspective collectively. Delegates and members of member boards along with staff are encouraged to review the agenda and materials to be discussed in Atlanta, Georgia. A Mobility Task Force report, strategy, and related resolution will be presented to the delegates. “Be Ready!” and do not let regulatory rigor mortis dictate the future of social work regulation.