

Behavioral Sciences Regulatory Board
Board Minutes
January 12, 2015

Called to order at 9:15 a.m.

Members Present: Kathy Armstrong, Barbara Burks, Barbara Callahan, Grant Edwards, Kathy Herzog, Terry Pfannenstiel, Cheryl Reynolds, Larry Salmans, Marcia Simoneau, & Carolyn Szafran. Jill Craven joined the meeting by phone. Todd Frye was absent with illness.

Staff Present: Max Foster, Leslie Allen, Cindy D’Ercole and Marilyn Revell, Jan Arndt

Audience Present: Sky Westerlund - KNASW, Kari Presely – Autism Speaks

I. Agenda: Announcements and Approval

Agenda Item IX - Remove - “Leslie White – LBSW applicant”

Add – officially approve list of applicants approved for licensure from the last Board Meeting to this Board Meeting

II. Approval of Minutes

Item: November 2014 Board Meeting Minutes

Action: Barbara Burke asked that the minutes be explicit and complete thoughts for clarity of review down the road. Cheryl asked that when the board votes on a motion, that the chair can repeat the motion being voted on and so the proper motion can be recorded in the minutes. There was much discussion about how much detail and attachments needed to be included in the minutes. Kathy Herzog moved that the minutes be corrected and approved as amended. Grant asked for a vote on the motion. The motion carried.

III. Public Comments

Sky expressed the concerns of the KNASW about the legislation and statutory language being proposed this legislative session. Max replied that this would be addressed later on the agenda.

IV. Staff Reports

Max: Bruno suffered a serious accident before Christmas and will be out for some time yet. Other staff members have been helping out with the three professions for which Bruno is responsible (MFT, LPC, and LMLP). We can hire a temporary staff member to help out in the meantime.

The testing company has changed for the MFT and LMLP, so that is another issue staff is dealing with.

Cindy will be in CLEAR training next week here in Topeka (Counsel on licensure enforcement and training for investigators).

New information technology plan – we got it submitted on time and are doing everything correctly.

HR activity at year end, Max is trying to keep the staff current on everything.

Max has had two meetings with the fiscal analyst (division of the budget). As a fee-funded agency, we should be safe, budgetarily. Max has not seen the Governor’s budget which won’t be available until after the State of the State address. No discussion yet about sweeping the fee funds of the carry-forward balances.

Expenses for the first six months of the year are right in line with what was budgeted.

Max and other small agency leaders had a chance to meet with Jim Clark, the new Secretary of Administration. The leaders voiced the concerns of the group.

KanFocus is the bill tracking and legislative website to which we subscribe, we will be given new laminated lists for this session to distribute to board members.

Max will be meeting with Senator Schmidt about introducing our legislation into the proper committee.

Barbara Burks asked about the website progress. Max explained that since we have had staff shortages and vacations that the progress has slowed. Leslie projected three months out for the website launch.

V. Complaint Review Committee Report – Terry Pfannensteil

21 cases were reviewed

15 cases didn't meet support criteria

1 suspension of a license

5 CAO's with fines

Next meeting should be lighter as there haven't been as many complaints lately. Attorney General's office is helping get rid of old cases and keeping current with new cases.

VI. Profession Reports

A. **Psychology** – Barbara Callahan – Advisory Committee met on December 9, 3 people are leaving. Jim is retiring, Dorrie Lambert is leaving and Terrie Price is leaving. The committee decided that the telemental health participation could be accomplished by some psychology students completing those surveys as a project.

B. **Social Work** – Carolyn Szafran & Marcia Simoneau. The committee met on November 18th, did not meet in December and are meeting again today at 1 p.m. We have a new committee member to be accepted by the board today. We had put together an ad hoc committee to put together a survey. The committee will look at the rough draft today of the survey that we want to submit to our LSCSWs concerning the supervisor training. We are looking at surveymonkey.com as a service to use to conduct the survey. We also discussed the DSM IV and DSM V changes as well as telemental health issues.

C. **Professional Counselors** - Todd Frye is absent. No meeting report.

D. **Masters Level Psychologists** – Larry Salmans – no meeting, but he has received calls from members of KAMPA – and visited with them about what was going to happen with the Autism law. Maybe have a meeting next month to discuss things.

E. **Marriage and Family Therapy** – Terry Pfannensteil – held a meeting on January 7th. Discussed supervision language for supervisors of post grad candidates with a training plan. The committee decided that “Postgrad supervision could be done by a non-MFT” in situations where it would present a hardship to have a MFT supervisor. The candidate can get appropriate supervision from another qualified supervisor. Telemental health issues were discussed. Terry stated that some things were now being done in his practice such as screenings, medicine checks and such that

can be done across some distances. No therapy is currently being done this way. The committee also discussed using the DSM IV vs the DSM V. Some of the therapists are questioning which was to be used. Terry's advice is to use your best clinical judgment, diagnosing is not going to be so much different from one version of DSM to the other, and the process should be about the same. The CRC is certainly not going to charge anyone for using DSM IV vs DSM V. We approved the language for the supervision. We lost a committee member Chris Habben who is now President of American Association of Marriage and Family Therapists. He was also on the telemental health committee. Chris Habben resigned as a conflict of interest. The committee will meet on March 11th for the next meeting.

- F. **Addictions Counseling** – Barbara Burks – held a meeting last Friday, January 9, 2015. The committee had been approached by the CRC and asked to provide guidelines for individuals that had substance abuse issues or “using” that might interfere or impact their licenses with BSRB. One of the things that the committee wanted to do was to take the CRC out of the position of prescribing a course of treatment. We felt that this was not an appropriate role for the CRC. The committee put together a response for an LCAC to conduct an evaluation, and have a plan of treatment for the licensee. The committee sent the suggestions of something that would appropriately and effectively fit each situation to the CRC committee.

The committee also reviewed the statute language changes and wanted to have alternative language that concerns licensees having the authority to diagnose while participating in a training plan. Also discussed was the DSM V implementation delay. The next meeting was set for March 6th.

Barbara said that the committee had looked at each profession's applications, renewals, training plans, and regulation language. Each of the professions had slightly different language in “unprofessional conduct” regulations on how to handle people with substance abuse. The committee wanted to present a solution with evaluation first for the need for rehabilitation and treatment, not just a punitive treatment. Licensees across all professions can be affected by this issue.

VII. Subcommittee Reports

A. Document and Policy Review Committee – Cheryl Reynolds

Item: Next meeting will be January 20th at 4:30 p.m. by phone conference. We looked at the initial documentation of the board governance. The committee is currently going through the complaint review committee process and documentation. We will put together something for the Board members who are NOT on the committee can understand the process.

B. Telemental Health Committee

Item: Barb Callahan asked for a list of questions from each of the professions that the committee can look at revising.

C. Legislative Committee meeting

Item: Cheryl Reynolds stated that the committee met last week on January 8th by phone. Three items were discussed. 1. Max shared who he was talking to in the Senate and the House to introduce the BSRB bills to the legislature. 2. Autism bill – the stakeholders informed that the current law as written does NOT address the statute about the composition of the board, there will not be a seat on the board for an Autism specialist. There is to be no trailer legislation to change that. Does the board need to form an Autism Advisory Committee? How do we set up an advisory committee without a profession representative on the Board. Which staff member will

review the application process for this profession and who will they ask on the board for the feedback that regularly happens during the application process?

Leslie assured the board that it is NOT too soon to start looking at the document review committee to put together the advisory committee documentation.

3. The committee talked about DSM V and ICD 9. There were 13,000 codes in ICD 9 and there will be 68,000 codes in ICD 10. Maybe there is no need for DSM for diagnosing? Maybe the ICD 10 codes could be used for diagnosis *and* billing. ICD 10 was to be in place by October 2014, but the federal government has been pushing it back. BSRB voted that the DSM IV is to be in effect in October 2015.

Cheryl would like to invite Jan to the next legislative committee meeting to discuss the wording of the statutes.

Terry pointed out that autism diagnosis is not a profession and should not have an advisory committee. Autism is a diagnosis. There will be Behavioral Analysts that will hold licenses and complaints will be filed against them and BSRB will have to approve licensees.

Grant said that in Missouri they have a model where the advisory committee makes recommendations to the LP Board. Practically speaking, we need to have some mechanism that is formal and transparent to get advice and input from the Behavioral Analysts. The Psychology committee would seem the most appropriate, but the other professions may all say the same thing.

Kathy Herzog asked who will take responsibility of this licensing group? If we don't go back to the legislature to change this law, will we have different legislation pop up for each different diagnosis? Do we give the impression of tacit approval if we don't fight it or discuss the trailer legislation.

Cheryl stated that the BSRB's position is not to fight this bill, but just how to administer this bill. We were told earlier that there was to be a trailer bill to make changes possible. But at this time, trailer legislation is not probable.

Larry gave an impassioned plea for the BSRB to take responsibility for this law. We need to represent the professions and protect the public.

Grant stated that our mission is not to take a political stand but to administer the licensing process as deemed by the legislature. The intent of the legislature is for BSRB to license ABAs.

Cheryl said that the professions and their professional organizations need to fight the bill and address the legislature, Not the BSRB. It is not the purpose of BSRB to change the law.

Much more discussion ensued.

Barbara Burke asked if the legislative committee come up with language for our regulations as it pertains to diagnostic language? She would like to see "DSM" language removed from the regulations to simplify things in the future.

11:00 a.m. Larry moved to adjourn the meeting for a 10-15 minute break. Kathy Herzog seconded the motion. Motion carried.

11:15 a.m. Meeting called back to order by Grant Edwards.

Item: Remove diagnostic language in statutes and regulations

Action: Cheryl moved to remove all references to diagnostic manual language from proposed statute revisions. Kathy Herzog seconded the motion. Motion carried. Cheryl then moved that if we are successful in deleting all diagnostic manual language from our statutes, then we remove from our regulations all diagnostic manual language as well. Kathy Herzog seconded the motion. Motion carried.

The legislative committee will NOT meet next week, but will wait to hear from Max on our the sponsorship of our bills are going.

VII. New Business

A. Staff Presentations

Item: Two presentations by staff to outside groups since the last Board meeting. Leslie presented to the Kansas City Psychological Society and gave them information on the upcoming changes and proposed statute changes. On December 1st, Max, Leslie and Joan presented to the masters level of Social Workers at Wichita State University.

Item: KAMFT has asked for a Board representative on ethics at the annual meeting in March. Terry will represent the board from a regulatory perspective on that panel discussion.

B. Committee Members appointed

Item: Board needs to appoint one new committee member, Dr. A. Hamilton Williams, to the social work advisory committee.

Action: Board appointed Dr. A. Hamilton Williams to the SW advisory committee.

C. Approval by the Board to post minutes on the website

Item: On the new website, would the Board like the minutes from all the advisory committee meetings posted?

Action: Cheryl moved the Board approve the advisory committee minutes be posted to the new website. Marcia seconded the motion. Motion carried. If minutes cannot be completed for a meeting, then the committee meeting agenda can be posted instead.

VIII. Old Business

A. Autism/ABA Law – discussed earlier in the legislative committee report.

B. Review and comments on Bill Draft. All board members have been sent a copy of the 53-page bill draft. Staff needs guidance from the board to talk about the bill and incorporate any changes the board members might suggest. Can we just have a phone-in meeting? We need a discussion with comments from stakeholders. We can ask for the stakeholders to participate in public comments. Stakeholders should submit comments in advance in writing and plan for only 5 minutes per speaker. BSRB Board phone meeting is scheduled for Wednesday, Jan 21st from Noon to 1:00 p.m. to go over the statute changes. Max will send out the message to the stakeholders this afternoon and to the Board members and Open Meeting notice people. *New wording/changes will be noted in italics.*

IX. Applications

Item: Formally vote on the applications approved since the last Board meeting. Leslie reported that there were 159 total licenses issued between November 9, 2014 and January 9, 2015.

Action: Kathy Herzog moved to approve the list. Cheryl seconded the motion. The motion carried.

X. Adjournment

Action: Cheryl moved to adjourn the meeting. Barbara Burke seconded the motion. Motion carried. Meeting adjourned at 11:50 a.m..