

**Kansas Behavioral Sciences Regulatory Board
Board Meeting
Monday, January 09, 2017, 9:00 a.m.**

Call to Order and Roll Call: Meeting was called to order by Chair Grant Edwards at 9:10 a.m.

Board Members Present: Attending in person: Larry Salmans, Barbara Callahan, Jill Craven, Kathryn Armstrong, Todd Frye, Cheryl Reynolds, Terry Pfannenstiel, Deb Stidham, Carolyn Szafran and Grant Edwards. Attending by phone: Marcia Simoneau.

Staff Present: Max Foster, Leslie Allen, Janet Arndt, Cindy D’Ercole and Linda Hoover.

Guest Present: Sky Westerlund of KNASW, Austin Main of Hein Governmental Consulting, LLC and Mitchell DePriest of Hein Governmental Consulting, LLC.

- 1) **Agenda Approval.** Cheryl Reynolds asked to remove the agenda item ‘Legislative Committee’ and adding the ‘Technology Committee Report.’ Add to New Business, g. Document Committee. Max Foster would like to add New Business, ‘possible licensure of art therapists.’ Also, add ‘Oliver Appeal’ as item d. in Old Business. Additionally, Max Foster would like to add an Executive Session.
- 2) **Approval of November 2016 Board meeting minutes.** Cheryl Reynolds moved to approve November meeting minutes as published. Motion carried. The September 25-26, 2016 out of town Board meeting minutes were distributed to the board; due to the size the Board will need time to read. Therefore, move to the March 2017 Board meeting for approval. Also, need to receive and review phone conference minutes and add this to March 2017 Board meeting.
- 3) **Review of Newly Issued Licenses.** Cheryl Reynolds moved to approve all newly issued licenses between November 1, 2016 through December 31, 2016. Terry Pfannenstiel seconded. Motion carried.
- 4) **Public Comments.** Guests Austin Main and Mitchell DePriest of Hein Governmental Consulting, LLC, introduced themselves. They explained they routinely monitor regulatory board meetings.
- 5) **Executive Director’s Report:**
 - a. Meeting with AG’s Office: Due to her workload, Jan Arndt will no longer be writing Summary Proceeding Orders (SPOs) or Consent Order and Agreements (CAOs) for the Board. Max had a sit-down meeting with Jan and her supervisor regarding this. Currently, BSRB is the only state agency receiving this service. The AG’s workload prohibits Jan from being able to continue to write these orders. She will review the orders once they have been written for legality. The Board discussed ways to solve this problem and the best idea at this time is to hire a 2nd or 3rd year law student to draft the orders. It was made clear that Jan will supervise the work of the law student; she will not supervise the law student. The Board would like this to be a paid internship providing an estimated 5 – 6 hours of work a month.

The law student will not be drafting any order for the Complaint Review Committee.

Terry said a paid intern is fine, but as chairman of the CRC, he does not want a non-attorney, BSRB staff drafting these orders for the CRC. The Board agreed that they would leave the final decision up to Max.

- b. Max gave a short description of the Small Agency Executive Director meetings in which he participates. They meet and discuss items that affect their agencies, like upcoming policy changes, statute changes, etc. as well as exchange ideas.
- c. EEO Affirmative Action Plan. Max Foster revised the Plan which has been approved.
- d. Max gave an update on speaking activities:
 - i. On 12/07/2016 Leslie provided information on the requirements and general licensing process by phone for LMLP/LPC students of Avila University, General Licensing Process with Leslie
 - ii. On 02/10/2017 Leslie and Joan will visit Washburn University to present the requirements and general licensing process to Social Work students.
 - iii. On 3/30/2017 Max, Leslie, and Joan will travel to Newman University where they will present the requirements and general licensing process to LBSW, LPC, LMFT and LAC students.
 - iv. Sometime in March or April of this year, staff will be presenting the requirements and general licensing process for Social Work and Bachelor's or Master's Psychology students (LAC if it is Bachelor's level) Max is not sure who will be providing the presentation at this time, as he may be unavailable to attend due to the Legislature
 - v. Terry Pfannenstiel will check with Kansas State University about their interest in the BSRB presenting to their students.
- e. 2017 Legislative Session begins January 9, 2017.
 - i. Senator Vicki Schmidt has been appointed to Chair the Senate Public Health and Welfare Committee; she will also serve on the Senate Ways and Means Committee. Representative Daniel Hawkins has been re-appointed as Chair of the House Health and Human Services Committee. Max Foster will be meeting with committee members to introduce himself and provide information on the BSRB.
 - ii. Legislative Committee meeting scheduled a conference call meeting for Thursday, February 9th at noon. Cheryl said Max should schedule a meeting sooner if a bill was introduced which would affect the BSRB.
 - iii. Max attended the ASWB Annual Meeting in San Diego, CA. The day before the meeting the ASWB holds an Administrator's Forum, which he feels is very helpful. The Boards have similar things going on and they can share information regarding the issues.
 - iv. Budget for FY 2017, FY 2018, FY 2019 – The Governor's Budget. Recommendations have been received. No major cuts have been proposed.
 - v. Max shared with the Board that he had completed a FY2017 Budget Analysis through 11/30/16. The Board is right where it should be with 62% of the allocated money remaining.

6) **Staff Reports.**

- a. Leslie Allen reported that two people have requested hearings regarding denial of license. Cheryl Reynolds moved and Barb Callahan seconded that the Board appoint a designated panel of three members of the CRC to attend the hearings right after the next CRC scheduled meeting. Plan to start the hearing at around noon. Motion carried.

- b. Leslie Allen reported that State Historical Society has offered to provide a four-hour training for the entire staff regarding document retention. They train all staff because they feel that employees will perform better in this area if they understand why this is being done.

7) **Complaint Review Committee Report.**

- a. Terry Pfannenstiel reported that the committee met in December. They reviewed 25 cases which included three CAOs or SPOs, two for revocation and one for suspension. Also, had one formal censure. We had 15 cases where the facts did not support a violation; sent two cautionary letters and we referred one case to the District Attorney to review because the person had no license at all and was practicing. Terry thanked Cindy D'Ercole for her work.
- b. Max Foster remarked that the CRC held a special meeting by phone regarding a response letter that was sent to a complainant who submitted a letter of complaint to the Board on how his case was handled. There has been no contact from that individual.

8) **Professions Reports.**

- a. **Psychology.** Barbara Callahan said that the committee has not met, but are scheduled to meet on January 17, 2017.
- b. **Social Work LSCSW Supervisory Training Manual Sub-Committee.** Carolyn Szafran said that this is an ongoing process and the group continues to meet every other week. The next meeting of the sub-committee is scheduled for January 11, 2017.
- c. **Social Work Committee.** Carolyn Szafran reported that this committee did not meet in December due to illnesses. They are scheduled to meet again on January 18, 2017.
- d. **Professional Counseling.** Todd Frye reported that this committee has not met since the last Board meeting. They are scheduled to meet on February 6, 2017.
- e. **Master's Level Psychology.** Larry Salmans reported that this committee has not met since the last Board meeting. He does plan to schedule a committee meeting sometime in early February.
- f. **Marriage and Family Therapy.** Terry Pfannenstiel reported that the Committee met. Max Foster reviewed legislative matters with the committee. They also discussed MFT supervision rules and regulations being approved through the State. The committee discussed the possible upcoming change to the structure of state associations. If this change does take place KAMFT will not be able to develop and offer a clinical supervisor training. The committee also discussed the AMFT tele mental health guidelines. They are scheduled to meet again next month.
- g. **Addiction Counseling.** Deb Stidham reported that the Committee did not meet since the last Board meeting. They are scheduled to meet again on February 17, 2017.
- h. **Behavioral Analysis.** This committee has not met.

9) **Sub-Committee Reports.**

- a. **Document and Policy Review Committee.** Cheryl Reynolds provided a copy of the Board Governance Policy with the committee's recommended changes. They would like to have the Board adopt their changes as they move along rather than waiting until the entire document has been completed. Due to the length of the document the Board will vote on the changes at the March Board meeting.
- b. **Technology Committee.** Cheryl Reynolds reported that Apple IDs have been a challenge. At this point, no one should be logging on to their iPads using the BSRB ID. Max Foster was asked to provide Cheryl with the State's IT policy and the Board's iPad policy. They are researching best practices for email and devices.

They have researched using state email for all board members, however, that would be cost prohibitive. Therefore, they are looking at options such as gmail.com to separate email regarding Board business from their personal information at a low cost. This is being done to eliminate the risk of a Board member's entire personal email account becoming part of an open record if they use their personal email account to conduct Board business, if there is an open records request or if the information is subpoenaed. Cheryl asked that those who have not done so yet, to please bring old I-Pads to March meeting. The committee is researching what options are available when disposing of the old iPad. The next meeting is scheduled for February 21st at Noon by phone.

10) **New Business.**

- a. **After Hours Care – Inquiry from High Plains Mental Health Center.** High Plains Mental Health Center (HPMHC) submitted a letter regarding concerns about after hour care and how that should be handled. They have been receiving after hours calls where the clients have been instructed by their mental health provider to contact HPMHC for crisis situations or services when their provider is unavailable. HPMHC felt there should be an agreement in place for this type of situation to take place and there was not. The Board agreed that an agreement needs to be in place. Terry stated, while HPMCH is not responsible to do so, it would be helpful if they could seek out an agreement with these providers. However, if this situation is not fixed HPMHC may have to file an RAV.
- b. **Military and Family Life Counselors.** Max received information that the requirements Military and Family Life Counselor would be changing. In the future, the military is planning to require each of these military counselors to be licensed in the state where they are practicing. In the past the counselors were required to be licensed, however, not necessarily the state where the base was located. The Board suggested obtaining additional information. They suggested Max reach out to the person who had contacted him and extend an invitation requesting he come to the next board meeting and provide information to the Board on what these changes entail.
- c. **Regulatory Board Consolidation Hearings.** Max Foster provided a copy of the testimony he gave at the regulatory board consolidation hearing, along with testimony from other participants, The Board reviewed testimony presented by KNASW, which included several serious concerns. The Board discussed whether they should request a meeting with KNASW's Board or send a response to address the issues found in the testimony. The Board consensus was to not take any actions. While it is important to keep communication open, these concerns were part of testimony given in a special legislative hearing, they were not concerns submitted to the board. Therefore, a response was not required and not appropriate in this type of situation. The Board would, however, be open to a discussion with KNASW if the concerns were brought directly to the Board. Carolyn Szafran expressed concern about a situation where factually incorrect information was provided by KNASW which shed a negative light on the BSRB and how this directly effects the ability to have open communication.
- d. **Changes in Composition of Advisory Committees.** Max Foster received a request to expand the number of members on the addiction counselor advisory committee. Currently the Board Governance Policy only establishes the minimum number of committee members. Discussion followed.

Action: Cheryl Reynolds moved that the parameter be set of not less than three and to not more than 10 members on advisory committees. As not all committees have the same number of members the number of members would be at the discretion of

the Chair of each advisory committee. Deb Stidham seconded. Motion carried.

Cheryl requested that this be included in the Board Governance Policy.

Deb asked what the standard practice is for members being licensed in the field. The Board consensus was that each advisory committee chair and members determine the membership criteria.

- e. **Approval of California MFT Examination for KS Licensure.** An applicant from California had passed the California exam for MFT licensure. The California board will not disclose the applicant's score on the exam she passed. They state they cannot release the actual score only provide whether the person passed or failed.

Action: Terry Pfannenstiel moved that this applicant be approved for licensure without being required to take and pass the MFT exam used in Kansas. Cheryl Reynolds seconded. Motion passed.

- f. **Licensing of Social Workers under Contract with Department of Children and Family Services.** Max informed the Board that applicants who were working for agencies that contract with the Department of for Children and Family Services have been expressing concern that they cannot get licensed quickly enough and this was due to BSRB. The applicants' information in the database was reviewed. It was determined that the applications had not been in the office for one week, two when Joan was out of the office for a week. Max felt the Board should be aware of the negative talk regarding the BSRB in the event they were asked any questions.
- g. **Document Committee.** See Sub-committee reports above.
- h. **Licensure of Art Therapists.** Max Foster was informed the Art Therapist were working on a bill that would grant them licensure. He will be watching for a bill introduction and will inform the Board when that happens. There are only 51 art therapists in the State of Kansas. Todd Frye commented that the statute change he has requested might help in these types of situations. The change which would add "or a related field" to the current statutory language "a degree in counseling." It would allow those with a degree in a related field AND the required counseling coursework to be licensed as an LPC in Kansas.

11) **Old Business.**

- a. **Oliver Appeal.** Max Foster explained that an individual applied for LPC but did not have a degree in counseling. She was denied licensure. The applicant appealed, she requested and received a hearing where the decision was upheld. The case was appealed in the District Court. There was a Remand Order for which the Board asked for reconsideration. This request was denied. Under the court's Remand Order, the Board is now required to review all the applicant's coursework for the degree. It was suggested that a sub-committee be formed to complete this review. Todd will work with Max to find members for the sub-committee.

12) **Executive Session.** Cheryl Reynolds moved that the Board move into Executive Session from 11:50 a.m. to 12:10 p.m. to discuss personnel matters. Todd Frye seconded the motion. The motion carried.

The Board reconvened at 12:10 p.m..

13) **Adjourn.** The next Board meeting is scheduled for 9:00 a.m. Monday, March 13, 2017 in the BSRB Office. Terry Pfannenstiel moved the BSRB adjourn at 12:12 p.m. Deb Stidham seconded. Meeting adjourned at 12:12 p.m.