

**Behavioral Sciences Regulatory Board
Board Minutes
March 8, 2021**

Call to Order. The meeting was called to order by Chair Deb Stidham at 10:00 a.m.

I. Roll Call

Board Members. Members present by Zoom: David Anderson, Danielle Johnson, Mary Jones, Jacqueline Lightcap, Johnna Norton, Bruce Nystrom, Andrea Perdomo-Morales, Leslie Sewester, Laura Shaughnessy, Ric Steele, Deb Stidham, and Carolyn Szafran.

BSRB Staff. Staff present by Zoom: David Fye, Leslie Allen, Cindy D’Ercole, Joan Hahn, Janet Arndt, Laine Barnard, Jane Weiler and Ashley VanBuskirk.

Guests. Judy Hughey, Bud Dale, Theresa Coddington, Katie Kriegshauser, Janet Orwig, and Whitney Damron.

II. Agenda Approval

- David Anderson motioned to approve the agenda as published. Danielle Johnson seconded. The motion passed.

III. Minutes Approval

- Carolyn Szafran motioned to approve the December 21, 2020 minutes as written. Leslie Sewester seconded. The motion passed.

- Mary Jones motioned to approve the January 11, 2021 minutes as written. Jacqueline Lightcap seconded. The motion passed.

- Carolyn Szafran motioned to approve the February 10, 2021 minutes as written. Mary Jones seconded. The motion passed.

- Jacqueline Lightcap motioned to approve the February 23, 2021 minutes as written. Johnna Norton seconded. The motion passed.

IV. Public Comment

a. Role of the BSRB in Disciplinary Matters for School Counselors who are also Licensed Under the BSRB.

Judy Hughey, Associate Professor at K-State and Coordinator Counselor Education, Ethic Chair and Past President of the Kansas School Counselor Association. Ms. Hughey spoke about conflicts involving school counselors that are also licensed as practitioners under the BSRB, regarding the reporting of complaints against practitioners. Ms. Hughey noted her support of a policy providing clarity on reporting of complaints against these practitioners based on the role the practitioner was providing at the time of the complaint. Ms. Hughey requested the Board review current policies and statutes and examine if there are gaps in current policies on this topic and to consider working with the Kansas Department of Education and school administrators to review this topic further.

b. Additional Information on Psypact. Bruce Nystrom recused himself from discussion on Psypact due to a conflict of interest. Whitney Damron spoke on the PSYPACT bill

(HB 2209) being considered by the 2021 Legislature and he noted he would like the bill to pass this legislative session. Janet Orwig, PSYPACT Executive Director, spoke about joint investigative processes with PSYPACT and the home state of licensees. Janet Orwig also answered questions from the Board and legal counsel for the Board on other Psypact processes.

V. **Executive Director Report**

- **Phyllis Gilmore.** Former Executive Director Phyllis Gilmore passed away on January 24, 2021. Flowers were sent to the funeral on behalf of the agency.
- **Expert Witness Contracts.** At the Board meeting on February 23, 2021, the Board approved an expert witness contract and authorized the Executive Director to contract with expert witnesses for the purpose of reviewing applications from applicants who received their education from institutions not accredited by the national accrediting organization. Since this time, the BSRB has contracted with an expert witness for the purpose of reviewing certain professional counselor applications. It was noted that when determining who could serve as an expert witness for application review, the Board member for that profession and any other Board members serving on that profession's advisory committee will be consulted.
- **BSRB YouTube Channel.** On January 11, 2021, the agency launched the BSRB YouTube channel for the purpose of broadcasting Board meetings and advisory committee meetings to the public in a more secure way. Since that time, the agency has broadcast 3 Board meetings and 4 advisory committee meetings. There were technical issues with one advisory committee meetings, however the agency was able to take the audio and combine it with an image of the BSRB logo to create a new video which was uploaded to the YouTube channel, so all meetings are available for viewing. Currently, there are 4 subscribers to the channel, the videos receive an average of 15 to 20 views, though the January 11, 2021, Board meeting has been viewed 56 times.
- **Replacing Desktop Computers with Laptops and Docking Stations.** Some of the desktop computers in the office are past their warranties and the agency has experienced problems with delays relating to old technology. The agency has been in conversation with the Office of Information Technology Services (OITS) and has agreed to replace the three oldest desktop computers with laptops and docking stations. The Executive Director noted the agency will examine the option to replace other aging computers during the next fiscal year.
- **BSRB Operations.** Currently, most agency staff members are working from home the majority of each week, due to concerns related to the pandemic. The agency has been examining measures to increase productivity in processing applications and while proposals to increase the number of days all staff may be back in the office have been discouraged by the Department of Administration and the Department of Emergency Management Services, the agency is able to make adjustments on a case-by-case basis, based on each employee's job responsibilities. It was noted that the agency is seeking to improve its customer service to licensure applicants and it has been attempting to increase the ability of staff to make outgoing phone calls while working remotely. Efforts to take office phones home, utilize "soft phone" technology through Microsoft Teams, and other research on obtaining short-term

Skype phone numbers has been unsuccessful. However, the agency was informed that the use of Jabber technology would be rolled out for BSRB staff soon, so the office has processed a ticket for this to be downloaded and a request has been submitted to purchase headsets to assist in the use of this technology.

- **COVID-19 Sanitation Supplies.** The office of the BSRB was running short on masks, but the agency was able to obtain additional masks from the Department of Emergency Management Services at no cost to the agency. With the new masks, supplies should be sufficient through at least the end of June, if not past that date.
- **Office Safety Notes.** Several office ceiling tiles had water damage from past leaks. Facilities staff was contacted and replaced about 10 to 15 ceiling tiles. Additionally, certain offices had been experienced severe heat or severe cold regardless of adjustments to thermostats. Facilities was contacted and was able to resolve the issues, which helped keep staff in a productive working environment when the office experienced severe cold temperatures lately. Also, in late January, the Eisenhower building had been shut down for several days, due to safety concerns regarding the federal inauguration. Staff was largely able to work from home during this time period and thankfully the closure appears to have been precautionary.
- **COVID-19 Vaccine for BSRB Staff.** The State is providing the opportunity for vaccines for state employees. The State is currently in phase 2, but is expected to move to phase 3 soon, which includes the remainder of state employees. It was noted that no employees are required to get the vaccine, but the agency is permitted to grant leave when individuals receive the vaccine and time for any side effects.
- **Legislative Budget Updates.** The budget for the BSRB was heard and passed out favorably without changes by both the House and Senate. Any changes after this point are likely to only be items affecting all state agencies.
- **Legislative Action on BSRB Bills (HB 2208 and Substitute for SB 238).** The Executive Director explained that the agency requested the same language in both a House and Senate bill, to allow both the House and Senate health committees to hear and work the bill at the same time, in the event that the session might have been shortened due to COVID-19 concerns. Both bills have passed out of the relevant health committee's favorably with amendments and both bills have been passed across the original chamber's floor (HB 2208 passed with a vote of 124-0 and SB 238 passed with a vote of 38-1). The amendments included removing language requiring Board-approved clinical supervisors for social workers (and removal of language setting a \$50 cap for this designation), removing a specific number of direct client-contact hours in the social work practicum for individuals pursuing a clinical license, adding provisions related to telemedicine in HB 2206, and SB 238 also included an amendment adding provisions relating to Certified Community Behavioral Health Clinics (SB 138). The Executive Director noted he would be speaking with the Chairs of the health committees requesting hearings on both bills. The Director noted hearing a great deal of support for the items related to the BSRB.
- **Legislative Action on Bills Relating to the BSRB**
 - o **HB 2206.** HB 2206 is a bill involving telemedicine. The contents of this bill have been added to both HB 2208 and SB 238.
 - o **HB 2207.** HB 2207 is a bill prohibiting conversion therapy to minors. The bill has not received a hearing.

- **HB 2209.** HB 2209 is the Psypact bill. The bill was amended to change the implementation date from July 1, 2021, to January 1, 2022. It passed out of the House Health and Human Services Committee favorably as amended and passed the House floor on a vote of 121-3.
- **Legislative Updates on Regulatory Bills**
 - **HB 2370.** HB 2370 would prohibit a criminal conviction from acting as the sole disqualification for occupational licensure and created guidelines to follow when considering criminal convictions of an applicant. The bill has not had a hearing.
 - **SB 10.** SB 10 would create the “Right to Earn a Living Act.” The bill would require regulatory bodies to complete a comprehensive review of all occupational statutes and regulations, analyze these statutes and regulations using a set criteria, and take action to repeal any statutes or rules not adhering to the criteria. The bill received a hearing on January 27 but was not worked by the committee.
 - **SB 34.** SB 34 would create a 5-year sunset on all existing agency rules and regulations and set a 5-year sunset on any newly issued rules and regulations and requires agencies to put any of these sunset provisions into statutes if the agency wishes to keep those regulations. The bill received a hearing on January 26, but was not worked by the committee.
 - **HB 2066.** This bill would shorten the period of time in which regulatory bodies are required to issue occupational credentials to military servicemembers and military spouses, individuals wishing to seek residency in Kansas, or individuals who currently reside in Kansas, in certain circumstances where the individual has similar credentials in another state or jurisdiction. The bill is scheduled for a hearing in the Senate Federal and State Affairs Committee on Thursday, March 11. The Board of the BSRB indicated it wished to have a special Board meeting to discuss this bill further and to consider requesting testimony on any concerns on the bill.
- **Summary of Recent Association Meetings.** The Executive Director noted he was able to participate in the first day of a two-day conference put on by the American Association of State Counseling Boards (AASCB) on February 26, 2021. The second day of the conference will be on March 26, 2021. The Director noted he was able to take part in a meeting called Engaging with ASWB on March 4, and he reported on news concerning ASWB’s budget, testing, and plans for the creation of a future test. On March 5, the Director was able to meet with representatives from the Kansas and Oklahoma chapters of the Red Cross and he was able to receive information on a Resiliency Program for veteran’s and the families of veterans. He requested additional information on the program.
- **Upcoming Speaking Engagements.** The Executive Director and Leslie Allen, Assistant Director for the BSRB, will be presenting information on licensure and answering questions from professional counseling students from Mid-America Nazarene on March 9 at 7:30pm.

VI. Staff Reports

- None.

VII. Complaint Review Committee Report

- The Complaint Review Committee (CRC) met in February. Bruce Nystrom, Chair of the CRC, provided a brief report on the number of violations for the different professions. Complaints have started to even out a bit and haven't had as big of a spike incoming recently.

VIII. Professions Reports

a. Licensed Psychology

- None.

b. Social Work

- None. The advisory committee is scheduled to meet next week on March 16.

c. Professional Counseling

- Laura Shaughnessy reported the advisory committee met in February and the majority of the meeting focused on training for advisory committee members.

d. Master's Level Psychology

- David Anderson reported the advisory committee met in February and received training for advisory committee members. Discussion was had that the advisory committee is seeking to add a new member. The advisory committee will meet next in April.

e. Marriage and Family Therapy

- Mary Jones reported the advisory committee met in February received training for advisory committee members. The advisory committee will meet next in April.

f. Addiction Counseling

- Deb Stidham reported the advisory committee met in March and received training for advisory committee members. The advisory committee will be meeting quarterly and the next meeting is scheduled for June.

g. Behavior Analysis

- None.

IX. Old Business

- **Records from Deceased Practitioners.** The Board discussed issues regarding records of deceased practitioners. Legal counsel for the Board discussed policies relating to deceased practitioner records in Missouri and Texas, and the meeting materials included documents relating to these two policies. The advisory committees will discuss what each profession thinks would be a good process for dealing with these records and those proposals will be brought back to the Board for further discussion.
- **Legislative History of KSA 74-5374, Disclosure to a Client at Beginning of Client-Therapist Relationship.** At the January 11, 2021, Board meeting, the Board discussed potential changes to the statutes relating to disclosure to a client at the beginning of a client-therapist relationship. At that meeting, the Executive Director volunteered to research the Legislative history of KSA 74-5374 and report back to the Board. At the March 8, 2021, meeting of the Board, the Director provided a memo summarizing the origin of the language. The language was enacted by the Legislature

in 1999, implemented in 2000, and had not been amended since that date. In the 1999 Legislative session, HB 2213 was requested on behalf of the Task Force on Providers of Mental Health Services, which met over the 1998 Legislative interim. This bill made several changes, including changes to the clinical level of licenses of several professions under the BSRB. When the bill was worked in the Senate Committee on Public Health and Welfare, a package of amendments was introduced, and the minutes from the meeting describe this group of amendments as a compromise from proponents and opponents of the bill. The language concerning the provider disclosures originated from this group of amendments. The Director noted that minutes and testimony from the two dates the bill was considered by the House Health and Human Services Committee, as well as the two dates the bill was considered by the Senate Public Health and Welfare Committee, are included for reference on the BSRB website.

- **Regulatory Language Clarifications.** Leslie Allen, Assistant Director for the BSRB, presented regulatory language clarifications for clinical supervision. The Board discussed the language and agreed on the wording for the regulation across the professions. Also, the Board discussed clarifications regarding the definition of an hour. Mary Jones moved to approve the language with a few changes. Carolyn Szafran seconded. The motion passed. Leslie Allen indicated that she would look into language for the next meeting to clarify the definition of extenuating circumstances.

X. **New Business**

- **Disciplinary Actions on Agency Website.** David Fye reported he received an anonymous letter that was also sent anonymously to several members of the Board. The letter claimed it was being sent from a current licensee who had a past disciplinary action and the letter noted that a Google search of the person's name revealed the disciplinary action on the BSRB website to be the top search result. The individual noted they would like the disciplinary record removed from the website, as they feel it is being posted to cause embarrassment, and the person would request that the disciplinary record be available through an open records request instead. The Board discussed the current policy on posting disciplinary actions to the BSRB website and decided to continue using the current policy to ensure protection of the public.
- **Board Member Responsibilities if in Receipt of Message from the Public.** The Board discussed what each Board member's responsibilities are if they receive a message from the public. Legal counsel for the Board from the Attorney General's office noted that if Board members all receive correspondence and respond to the individual separately, it could inadvertently lead to issues concerning open meetings, because the Board was weighing in on a matter concerning the Board outside of an open meeting. To avoid any potential issues, it was recommended that Board members who receive messages from the public concerning Board business politely inform the individual they should contact the Executive Director of the Board, so that the matter can be discussed in public comment either at an Advisory Committee or a

Board meeting.

- **ASWB Training for New Board Members.** David Fye announced optional “Training for New Board Members” is available free of charge to any Board members by the Association of Social Work Board (ASWB) on March 25 and March 26, from noon to 4:30pm each day. The training is also available June 10-11. While ASWB is offering the training, the classes are open to Board members representing any of the professions or representing the public. David Fye noted he will be attending the meetings in March and would be happy to answer any questions after the training for anyone interested in attending the June training.

XI. Adjourn

- David Anderson moved to adjourn the meeting. Carolyn Szafran seconded. The motion passed.