

Behavioral Sciences Regulatory Board
Board Minutes
July 12, 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, Jacqueline Lightcap, Bruce Nystrom, Andrea Perdomo-Morales, Johnna Norton, Leslie Sewester, Deb Stidham, Ric Steele, Laura Shaughnessy, and Carolyn Szafran.

II. Staff. BSRB Staff present by Zoom: David Fye, Leslie Allen, Cindy D’Ercole, and Ashley VanBuskirk. Janet Arndt, Assistant Attorney General, was present by Zoom and Laine Barnard, Assistant Attorney General, was present over the phone.

III. Guests. None.

IV. Agenda Approval. The agenda was approved.

V. Election of Board Chair and Vice-Chair. The Executive Director directed members of the Board to the statutory language for Board Chair and Vice-Chair elections included in the meeting materials. The statute states the election of Chair and Vice-Chair is to take place each year at the first Board meeting after July 1. Also, the Executive Director noted that the election is to be held in a public meeting, so there cannot be secret ballot voting and the person elected to the Chair position would take office upon conclusion of this meeting. The Chair noted that Board members who are absent cannot be nominated for Chair or Vice-Chair, because those individuals are not available to accept the nomination. The Chair nominated Leslie Sewester for Board Chair. The motion passed. Leslie Sewester nominated Ric Steele as Vice-Chair. Ric Steele declined. Deb Stidham nominated David Anderson as Vice-Chair. Leslie Sewester nominated Laura Shaughnessy as Vice-Chair. Laura Shaughnessy declined. David Anderson was elected Vice-Chair.

VI. Minutes Approval.

- David Anderson moved to approve the minutes from the Board meeting on May 10, 2021. Carolyn Szafran seconded. The motion passed.

VII. Executive Director’s Report. David Fye, Executive Director for the BSRB, reported on the following items:

- **Enforcement of Expiration of Licenses.** Following the Board meeting on May 10, the BSRB was able to return to enforcing the expiration of licenses that had expired during the pandemic, with an effective date of May 28, 2021. On May 11, a message was sent to all licensees whose licenses had expired and the BSRB posted notice on the agency’s website that treatment of expired licenses would return to normal after May 28, 2021.

- **BSRB Staff Returned to Working in the Office Full-Time.** The state of emergency related to the pandemic ended on June 15. Per direction from the Governor, staff for most state agencies, including the BSRB, returned to working in state offices full-time as of June 14, 2021. The BSRB received authorization to provide a telework policy, and the agency has been using that policy on a limited basis, while collecting information on its' effectiveness so that it could be expanded in the future.
- **BSRB YouTube Channel.** Since the launch of the BSRB YouTube channel in January 2021, the agency has streamed or uploaded 26 videos of Board or Advisory Committee meetings. Those videos have been viewed a combined 557 times.
- **Meeting Logistics.** The agency is working on logistics for in-person meetings/hybrid meetings. The agency has reached out to representatives from the Office of Information Technology Services, but they were unable to provide direct support to facilitate online meetings, so the agency is attempting to work on these details. The agency is asking each of the Advisory Committees to discuss what option they would like to use going forward.
- **HB 2066.** The agency has been approved to hire a part-time licensing specialist to assist with expedited application processing times for military members, military spouses and select other individuals. The agency is moving forward.
- **Mid-Year Performance Review Meetings.** Per direction from the Department of Administration, the agency held mid-year performance review check-in meetings with each staff member and allowed staff members to provide feedback on their current roles with the agency.
- **Tracking Reports.** BSRB staff members have been asked to submit reports so the Director is able to better track the daily functions of the staff to assist with the process of making adjustments to employee roles in the future.
- **BSRB Fee Fund Update.** The Executive Director summarized revenue and expenditures from the BSRB Fee Fund as of the end of FY 2021. Overall, revenue came in slightly higher than previously estimated. The 2021 Legislature approved a base budget for FY 2022 and FY 2023.
- **Agency Facilitated Meetings.** The Executive Director's Report lists different meetings facilitated by the agency since the last Board meeting.
- **Social Work Multi-State Compact.** The Executive Director attended a virtual Social Work Multi-State Compact Kickoff Meeting and an Overdose Fatality Review Board (OFRB) Introductory Meeting.
- **Upcoming Conferences.** In August, the Executive Director will be attending a conference with the National Board for Certified Counselors (NBCC) in Denver, CO.

VIII. Staff Reports. Leslie Allen, Assistant Director and Licensing Manager for the BSRB, provided updated information on the number of permanent licensees for active practitioners, per the distinct fields licensed by the BSRB.

IX. New Business.

- A. **Danielle Johnson Resigned from the Board.** BSRB Board member Danielle Johnson recently accepted a position to be the new Director for Habitat for Humanity, so she resigned her position on the Board for the BSRB on June 25, 2021. The

Executive Director has been in conversations with the Governor's Office of Appointments and he will inform the Board when a new Board member is appointed.

- B. Assistant Attorney General Janet Arndt is Retiring.** Assistant Attorney General Janet Arndt has been with the Attorney General's office since 2007 and has been with the State over 26 years. Due to her upcoming retirement on August 6, this will be her last meeting with the Board. Assistant Attorney General Laine Barnard will take over as the primary attorney assisting the Board from the Attorney General's office. Board members and the Executive Director thanked Ms. Arndt for her service to the BSRB and stated they looked forward to working with Ms. Barnard going forward.
- C. Review of Regulatory Language Due to Passage of HB 2208**
- a. **Regulatory Language Concerning Licensure Requirements.** The Assistant Director reviewed draft regulatory language, including language on postgraduate supervision, direct client contact, necessary hours of clinical supervision, extenuating circumstances, definition of an hour, definition of a half-hour. The Assistant Director used the social work regulations as an example, noting that the same changes would be made to regulations for the other professions. The Assistant Director reviewed separate language concerning practicums, related fields, supervision, and direct client-contact hours.
 - b. **Licensed Psychology Regulation Expanding Supervision by Televideo.** The Assistant Director reviewed additional language expanded tele-video supervision for the licensed psychology profession. The Executive Director noted that this regulation change was not covered in HB 2208, however it was recommended by the Licensed Psychology Advisory Committee as it would bring a change for the licensed psychology statutes that was similar to the changes for the other professions in HB 2208. By consensus, the Board directed the Assistant Director to continue forward in the process to submit this language to the Department of Administration for review.
 - c. **Setting Fee for Board-Approved Marriage and Family Therapy and Professional Counseling Clinical Supervisors.** The Executive Director noted HB 2208 set the maximum fee cap to be a Board-approved clinical supervisor for the professions of marriage and family therapy and professional counseling at \$50. Board members were asked what amount should be set in regulation. Board members noted they did not wish this fee to be prohibitive, but to compensate for staff time spent reviewing and approving these applications. Laura Shaughnessy moved to set the one-time fee at \$20 in regulation for both the marriage and family therapy and professional counseling professions. Leslie Sewester seconded. The motion carried.
- D. Selecting Representative for Overdose Fatality Review Board.** The Executive Director informed the Board that the Kansas Department of Health and Environment (KDHE) received a grant from the Centers for Disease Control and Prevention to study fatalities due to overdoses. KDHE sent a letter to several agencies, including the BSRB, to see if they would be interested in participating in this group. The Executive Director attended an introductory meeting of the Overdose Fatality Review Board on behalf of the Board. The Executive Director noted he would be willing to attend future meetings and report back to the Board on the work of this group, or

- other Board members could attend if they were interested. Bruce Nystrom stated he had some interest in this area. The Board asked the Executive Director to continue to attend meetings to obtain more details regarding this group and will report back to the Board to see if a Board member wishes to be named as a representative to this group in the future.
- E. **Selecting Representative for Kansas Fights Addiction Grant Review Board.** The Executive Director noted the Kansas Fights Addiction Grant Review Board was established in the office of the Attorney General, due to the passage of legislation during the 2021 Legislative session. No meetings have been scheduled yet, but the Board appointed the Executive Director as the initial representative of the Board and asked the Executive Director to collect additional information and report back at a future Board meeting to determine if the Board would like to select a Board member as a representative to attend future meetings.
 - F. **Forum for Board Meetings Going Forward – In-Person, Remote or Hybrid.** The Board discussed whether to hold in-person, remote meetings, or a hybrid of the two options going forward. The Board decided to hold remote meetings in November and January and in-person meetings in March, May, July and September.
 - G. **Recruitment of Advisory Committee Members.** The Executive Director reported that he spoke with the chairs of the Advisory Committees to determine if they would be interested in sending a message to licensees that the Advisory Committee was interested in adding new members. Based on the responses from the chairs, the Executive Director sent emails to licensees from most professions. The Executive Director reported to the Board summary information on the number of applications that have been received. Advisory Committees will begin the process of reviewing resumes and letters of interest from applicants and making recommendations on new members, to be submitted to the Chair of the Board for review and consideration.
 - H. **Board Governance Policy from 2011 Distributed for Review at a Future Meeting.** The BSRB Board Governance Policy was last modified and adopted by the Board in October of 2011. The Executive Director provided a copy of the Policy to Board members and noted he would be reviewing the Policy to suggest updates and changes, based on current Board practices and other considerations. Board members were asked to review the Policy for consideration of additional changes at the September Board meeting.
 - I. **Aligning Expiration Dates for Multiple Licenses Under the BSRB.** The Executive Director informed the Board that some practitioners hold multiple licenses through the BSRB and the agency has received requests in the past to align the expiration dates for multiple licenses. The Executive Director noted the agency does not have authority to shorten or extend the length of licensure to align the expiration dates and to enable the agency to do this, it would require extensive changes to the licensure acts for the different professions. The Executive Director noted that while there are over 14,100 permanent licenses under the BSRB, about 1,100 individuals hold more than one license. Board members noted they would like to continue to discuss this topic in the future to examine potential changes. Members noted aligning expiration dates could be helpful when practitioners are keeping track continuing education hours, but some practitioners may not want to align the expiration dates as they may not want all of their renewal fees to be due at the same time. It was noted that

licensed psychology licenses are unique, as they are renewed in June of even numbered years. Some Board members spoke in favor of considering changing the renewal dates to be based on licensee's birth months. The Board asked the Executive Director to work on the process of creating a letter or survey to licensees with more than one license to see if they would be interested in changing the statutes to allow them to align the expiration dates of their licenses.

- X. Executive Session.** Andrea Perdomo-Morales moved “pursuant to K.S.A. 75-4319(b)(2), I move that the Board recess into executive session for 25 minutes and reconvene the open meeting at 12:30 p.m. The meeting will be reconvened remotely by conference call at 1-877-278-8686, PIN 327072, and at the link to the Board’s YouTube channel as stated in the notice of meeting that was sent to individuals who requested notice and published on the Board’s website: ksbsrb.ks.gov. The justification is consultation with the Board’s legal counsel, Assistant Attorneys General Janet Arndt and Laine Barnard, that would be deemed privileged in the attorney-client relationship. The subjects to be discussed in the executive session concern issues with a proposed contract. Board staff who are included as the client in the executive session are David Fye and Leslie Allen.” Ric Steele seconded. The motion passed.
- XI. Consideration of Service Agreement with Office of Administrative Hearings for FY 2022.** Laura Shaughnessy moved to direct the Executive Director to sign the proposed agreement with the Office of Administrative Hearings for FY 2022. Leslie Sewester seconded. The motion passed.
- XII. Review of Additional Regulatory Language.** The Assistant Director and Licensing Manager reviewed additional regulatory language concerning direct client contact, extenuating circumstances, and other topics. The Assistant Director noted that the statutes and regulations for the licensed psychology profession does not include a definition of “Direct Client Contact,” and asked the two Board members representing licensed psychology if similar language should be added to define that term in regulation for that profession. The Board members representing licensed psychology requested draft language be submitted to the Licensed Psychology Advisory Committee, so the Advisory Committee could review the language and make a recommendation on whether it should be added.
- XIII. Old Business.**
- A. Licensing Database Agreement for FY 2022.** The Executive Director reported that following the last Board meeting, he negotiated for additional language to be added to the licensing database contract with the Board of Healing Arts, including language that disciplinary items and the initial application process for licensing would begin to be moved to the online system in FY 2022, though it was not guaranteed that it would be completed during that fiscal year. The cost of the agreement is the same as the agreement for FY 2021. The agreement has been signed and is in place for FY 2022.
- B. Review of Legislation and Considerations for Implementation.**
- i. **HB 2066 –Licensure of Military Servicemembers, Military Spouses, and Others.** The Executive Director reported this bill went into effect as

of July 1, 2021. Information on the bill has been posted to the BSRB website and applications have been revised to include language to determine if applicants will qualify for licensure under this bill.

ii. **SB 170 – Bill Concerning PSYPACT.** The Executive Director reported that, due to the passage of SB 170, Kansas will become a member-state of PSYPACT on January 1, 2022.

1. **PSYPACT Participation Fee.** SB 170 included language offered by representatives of the Kansas Psychology Association and adopted by the Kansas Legislature, authorizing the Board of the BSRB to assess a fee at the time of licensure or renewal to licensed psychologists who wish to practice under PSYPACT and who list Kansas as their home-state. The fee was not to exceed \$25. It was noted that PSYPACT will assess a fee to the BSRB totaling \$10, per calendar year, for any licensed psychologist practicing under PSYPACT who lists Kansas as their home-state. It was also noted that the BSRB is anticipating investigating additional complaints against practitioners from other states practicing under PSYPACT. Ric Steele moved to implement a fee of \$25 fee at renewal. Carolyn Szafran seconded. The motion passed.

2. **Selecting Representative for PSYPACT Commission.** States that participate in PSYPACT are required to select a representative so attend meetings for PSYPACT. The Licensed Psychology Advisory Committee met and recommended naming the Executive Director of the BSRB to serve as the PSYPACT Commissioner for the State of Kansas. Ric Steele moved to appoint the Executive Director of the BSRB to serve as the PSYPACT Commissioner for the State of Kansas. David Anderson seconded. The motion carried.

C. **Update on Contracting with Licensure Review Company.** The Executive Director reported that the agency is still in the contract negotiating process. He reported that he received a new version of a potential agreement from the company and submitted it for review from legal counsel for the BSRB. The Executive Director noted that he will continue contract negotiations in an effort to reach an agreement.

XIV. **Complaint Review Committee Report.** Bruce Nystrom, Chair of the Complaint Review Committee, noted the CRC met in June and he gave a brief report on the number of violations that were received, noting the Committee had a few more cases than normal in June.

XV. **Professions Reports.**

A. **Licensed Psychology.** Ric Steele, Chair of the Advisory Committee, noted the Advisory Committee met on June 8 and discussed PSYPACT and the Commissioner role. The Advisory Committee members also discussed selecting new Advisory Committee members.

B. **Social Work.** Carolyn Szafran, Co-Chair of the Advisory Committee, noted the Advisory Committee met May 18 and discussed the possibility of pursuing Board-

- approved clinical supervisors for social workers. The Committee discussed creative legislative solutions in rural communities and records of deceased practitioners. Next meeting is scheduled for August 17.
- C. Professional Counseling.** Laura Shaughnessy noted the Advisory Committee met on June 7 and discussed bills and tabled records of deceased practitioners and CEU's regarding diversion, equity, and inclusion. Kylee Dotson-Blake, President and Chief Executive Officer for NBCC, met with the Advisory Committee to discuss a multi-state compact for professional counselors. Next meeting will be in August.
 - D. Master's Level Psychology.** David Anderson, Chair of the Advisory Committee, noted the Committee met on June 17 and discussed a couple of members leaving the committee and gaining new members. Also, the Committee discussed possible CEU requirement in the areas of diversity, equity and inclusion. The Advisory Committee discussed the 988 national suicide line. The Advisory Committee will continue to hold Zoom meetings and possibly hold an in-person meeting at least once a year. Next meeting is scheduled for August.
 - E. Marriage and Family Therapy.** None.
 - F. Addiction Counseling.** Deb Stidham, Chair of the Advisory Committee, reported the Advisory Committee met June 18 and discussed records of deceased practitioners and supported addressing this topic during licensure renewal, possibly as part of the audit process. The Advisory Committee also discussed adding continuing education in diversity, equity and inclusion and reducing diagnosis and treatment continuing education hours. Next meeting is scheduled for September 24.
 - G. Behavior Analysis.** None.
- XVI. Adjourn.** Leslie Sewester motioned to adjourn the meeting. Carolyn Szafran seconded. The motion passed.