

**BEHAVIORAL SCIENCES REGULATORY BOARD
BOARD MEETING MINUTES
MAY 9, 2022**

APPROVED MINUTES

- I. Call to Order and Roll Call.** The meeting was called to order by Chair Leslie Sewester at 9:00 am.
- Board Members.** Board Members present by Zoom: Leslie Sewester, David Anderson, Mary Jones, Jacqueline Lightcap, Johnna Norton, Bruce Nystrom, Andrea Perdomo-Morales, Ric Steele, Deb Stidham, and Carolyn Szafran.
- Staff.** BSRB Staff present by Zoom: David Fye, Leslie Allen, and Cindy D'Ercole. Assistant Attorney General Laine Barnard and Jane Weiler were present by Zoom.
- Guests.** Dr. Tim Davis, Department Chair, Fort Hays State University of Social Work; Rhonda Weimer, MSW Program Director; and Kendal Carswell, MSW Field Director, were present by Zoom.
- II. Agenda Approval.** David Anderson moved to approve the agenda as written. Deb Stidham seconded. The motion passed.
- III. Minutes Approval:** Mary Jones moved to approve the minutes from the Board meeting on March 14, 2022. Carolyn Szafran seconded. The motion passed. Bruce Nystrom moved to approve the minutes from the Board meeting on April 15, 2022. Deb Stidham seconded the motion. The motion passed.
- IV. Public Comment.** David Fye, Executive Director for the BSRB, summarized the Board meeting on April 15, 2022, concerning matters relating to the Fort Hays State University online Master's of Social Work program, legislative action in SB 453 concerning graduates from this program, graduates from other social work programs that are in candidacy for accreditation from the Council on Social Work Education (CSWE), and the Board's discussion on "in residence" requirements for licensure. Representatives from Fort Hays State University were available for questions from the Board and thanked the Board.
- V. Executive Director's Report.** David Fye, Executive Director for the BSRB, reported on the following topics:
- A. BSRB YouTube Channel.** Since the BSRB YouTube Channel was launched in January 2021, the BSRB has streamed or uploaded 59 Board and Advisory Committee meetings, which have been viewed over 1,500 times.
- B. Governor's Direction on State Offices and In-Person Meetings.** The Governor has lifted many COVID-19 directions, but the limitation on in-person meetings remains in

effect, to ensure adequate spacing for attendees. Most meetings of the Board and Advisory Committees will continue to be held remotely.

- C. Revenue and Expenditures.** At the Beginning of FY 2022, the BSRB Fee Fund had a balance of almost \$2,077,000 dollars. The current balance in the fund is \$2,033,000.
- D. Advisory Committee Update.** Advisory Committees met began discussing possible changes to the unprofessional conduct regulations. The Executive Director followed up on a previous recommendation by the Behavior Analyst Advisory Committee to request legislation to add a member to the Board to represent the Behavioral Analyst profession. The Executive Director reached out to the Kansas Legislative Research Department (KLRD) to clarify any requirements on the ratio of public to professional members. Representatives from KLRD provided information on the ratio of public members to professional members on boards, which showed that the ratio used by the BSRB is in-line with most agencies. Representatives from KLRD clarified that they are unaware of any state-wide restrictions on a ratio of public members to professional members on state agency boards.
- E. Expert Review Process.** The BSRB is still seeking additional experts to assist with the review process of certain applicants that did not attend a school that was accredited by a national accreditation body. If Board members wish to recommend additional experts, they should contact the Executive Director.
- F. SPARK Taskforce Update.** The BSRB applied for funding from the Kansas Strengthening People and Revitalizing Kansas (SPARK) Taskforce, as a modernization project, to convert paper records into electronic records. The Executive Director noted he has not received any news that the proposal was recommended by the Taskforce, so he stated it is unlikely that the BSRB will receive funding, but the BSRB will continue to seek creative funding opportunities for this project.
- G. Legislative Updates.** The Executive Director noted that the BSRB's budget for FY 2022 and FY 2023 was approved by the Legislature in the appropriations bill (House Sub. for Sub. for SB 267.) The appropriations bill also included a five percent raise for most state employees, includes the BSRB Staff. The bill originally requested by the BSRB, SB 387, was introduced and heard in the Senate Public Health and Welfare Committee. An amendment removed the Board's recommendation on continuing education for the License Psychology profession in the area of Diversity, Equity, and Inclusion (DEI). SB 387 was passed out of committee favorably as amended, but was not worked on the Senate floor died as a result. Amended SB 387 was reintroduced as HB 2734 and was passed in the House Health and Human Services Committee and was passed on the House floor with no changes. The contents of HB 2734 was added to SB 453, which was passed by the Legislature and signed into law by the Governor. The recommendations that have gone into law allow most master's-level licensees under the BSRB to use that standing to fulfill the education requirements to take the examination for the addiction counselor license at the master's level or lower. The recommendation on the social work language allows the Board the statutory authority

to evaluate applicants for the clinical level of license without those applicants having attained a clinical practicum, but the standards for licensure will still need to be established in rules and regulations before the BSRB can review those applicants.

- H. Bills Relevant to BSRB.** The Executive Director provided a summary on other bills having a connection to the BSRB. A bill was passed by the Legislature requiring the BSRB to complete a comprehensive report on all regulations under the agency, to the Legislative Rule and Regulations Committee. The BSRB must show whether each regulation is necessary for the implementation of state law. The report is due at the beginning of FY 2026. The Kansas Open Borders for Jobs Act did not pass nor did a bill that would have established a committee to develop telehealth and telemedicine standards.
- G. PSYPACT.** On January 1, 2022, Kansas officially became a member-state in a multi-state compact for Licensed Psychologists titled PSYPACT. The BSRB has posted information to the front of the Board's website and the Executive Director created a frequently-asked-question handout based on questions the agency has received. As of May 6, 2022, 47 Licensed Psychologists in Kansas have received approval from the PSYPACT Commission to practice teletherapy in other compact states and four Licensed Psychologists have received approval to practice a limited number of days of service in compact states. The BSRB is researching the effect of PSYPACT on licensure and will provide a report to the Board on the change in licensure after July 1, 2022.
- H. Updates on Special Meetings.** The 2021 Legislature passed legislation creating the Kansas Fights Addiction Review Board (KFARB), and the Kansas Fights Addiction Grant Fund, which receives a share of the proceeds of federal legislation concerning opioids. The KFARB is organized under the Attorney General's office. The Executive Director has been in contact with that office, but no meetings have been scheduled. The Executive Director will continue to track this group. The Overdose Fatality Review Board was proposed in legislation during the 2021 Legislative session, but the legislation did not pass. The Kansas Department of Health and Environment (KDHE) received a grant from the Centers for Disease Control and Prevention (CDC), and KDHE have used part of this funding to commence meetings of this Board. This Board has not met in calendar year 2022. The Association of Social Work Board (ASWB) is offering a virtual training for new board members that will take place June 2 and June 3, 2022. The Executive Director will be attending this training. ASWB is offering an in-person training on September 15-17, 2022, in Alexandria, Virginia. Trainings are paid for by ASWB for approved individuals. If any Board members are interested in attending the training in September, they should contact the Executive Director. The Executive Director recently attended the Mid-Year meeting for the Association of State and Provincial Psychology Boards (ASPPB) and the ASWB Educator Meeting. At the ASPPB Mid-Year meeting, representatives from the American Psychological Association (APA) announced they are working on standards for accredited master's level psychology programs. They hope to have standards developed by the fall of 2023. Updates were provided on accreditation standards, PSYPACT, and the EPPP-2.

ASPPB has planned two town-hall meetings to discuss the EPPP-2 further in May. At the ASWB conference, some states are discussing waivers of fees for individuals of low income, re-evaluating past criminal conduct as a barrier to licensure, and what applicant data should be tracked. Other discussion topics included reciprocity for military members and military spouses, sunset review bills being passed by other states, and states considering relaxing the definition of dual relationships to allow adoptions. Other discussion topics included pre-applicant determination by Boards on past criminal conduct, pushes to eliminate licensing requirements in certain states, and DEI trainings or continuing education requirements. At the ASWB meeting, an announcement was made that a draft of the multi-state compact for social workers is expected to be released for review and comment sometime this summer or fall.

I. Temporary Licenses for Graduates from Schools in Candidacy for Accreditation through CSWE. The Executive Director provided information on a model used by the Minnesota Social Work Licensing Board, which provides temporary licenses to applicants who graduated from social work programs that were in candidacy for accreditation when they graduated from those programs. These temporary licenses cannot be renewed, but can be extended by the Board if necessary. Board members noted concerns whether the reciprocity standards of the BSRB were strict compared to other states and requested the topic of the BSRB reciprocity requirements be reviewed at a future Board meeting,

VI. Staff Reports. Board members received an updated report with the number of permanent licenses under the BSRB, separated by profession. In May 2022, there were 14,475 permanent licenses under the BSRB.

VII. Complaint Review Committee (CRC) Report. Cindy D'Ercole, Lead Investigator for the BSRB, highlighted a report on the number of Report of Alleged Violation (RAV) that had been received by the BSRB. The Lead Investigator discussed the number of cases that have been reviewed by the CRC this fiscal year totals 167. At this time last year, that total was 110 cases. The investigators have seen an increase in new cases, including having received 30 new cases last month. The Executive Director noted that other states have experienced a similar trend of an increase in complaints against practitioners. Board members requested additional information on violations, so the Executive Director noted would collect that information and provide it to the Board at the next meeting.

VIII. Professions Reports

A. Licensed Psychology. The Advisory Committee met on April 12 and began reviewing the regulations regarding unprofessional conduct. The Advisory Committee and will continue to review unprofessional conduct regulations at the next meeting on June 14, 2022.

B. Social Work. The Advisory Committee met on April 19 and is focusing on clinical supervision, workforce issues, and possible continuing education requirements. The Advisory Committee also discussed expectations for Advisory Committee

membership for FY 2023. There were discussions on possible changes to the unprofessional conduct regulations and considering proactive ways to approach public protection. The June Advisory Committee meeting will be the last meeting for Carolyn Szafran and the Advisory Committee thanks her for her service. The next meeting will be on June 21, 2022.

- C. Professional Counseling.** The Advisory Committee met April 4 and recommended creation of a subcommittee to study possible changes to the unprofessional conduct regulations. The Advisory Committee also discussed possible changes to the accreditation standards for the Council for Accreditation of Counseling and Related Educational Programs (CAPREP). The Advisory Committee is still considering whether it supports pre-approval for continuing education providers. The next meeting will be June 6.
- D. Master's Level Psychology.** The Advisory Committee met on April 20 and continued to discuss continuing education hour requirements, “in residence” requirements for licensure, unprofessional conduct regulations, and candidates who have expressed interested in being added to the Advisory Committee. The Advisory Committee’s next meeting is June 22.
- E. Marriage and Family Therapy.** The Advisory Committee April 8. The Advisory Committee considered recruitment of new members and reviewed the unprofessional conduct regulations for the profession. The Advisory Committee recommended requesting a subcommittee be formed for the creation of a supervision manual, similar to the existing supervision manual for the social work profession. The next meeting will be on June 24.
- F. Addiction Counseling.** The Advisory Committee met March 18. The Committee discussed possible continuing education requirements in DEI and also discussed pre-approved continuing education providers. The next meeting will be June 24.
- G. Behavior Analyst.** The Advisory Committee met on April 13 to introduce new members and discuss the Advisory Committee’s recommendation for a Behavior Analyst to be added to the Board. The Advisory Committee also discussed standards for education. The Advisory Committee will meet again on June 8. Board members requested an agenda item be scheduled for a future Board meeting, to continue discussions on whether the BSRB should seek legislation adding a Board member for the Behavior Analyst profession.

IX. Old Business

- A. Feedback on Pre-Approved Continuing Education.** The Executive Director noted that social work is the only profession under the BSRB with statutory authority for continuing education providers to seek pre-approval for a continuing education course or pre-approval for a continuing education provider by the BSRB. Advisory Committees were asked to discuss and report back whether their professions would

want the option of pre-approval for continuing education provider and pre-approval for continuing education courses. The Marriage and Family Therapy and Master's Level Psychology professions were supportive of adding of pre-approval as an option to their regulations. Leslie Allen, Assistant Director and Licensing Manager for the BSRB, will bring draft language back to the Board for review.

X. New Business

- A. Reappointment of Advisory Committee Members.** The Chair reappointed Christina Boyd, Jason Hess, and Dulcinea Rakestraw to the Addiction Counselor Committee; Rodney McNeal to the Licensed Psychology Advisory Committee; Jurdene Coleman, John Fleeker, and James Godbey to the Marriage and Family Advisory Committee; Iris Pauley and Joshua Tanguay to the Master's Level Psychology Advisory Committee; and Mike Gillett, Lee Ann Gingery, Angi Heller-Workman, Jane Holzrichter, Cristin Stice, and Robin Unruh to the Social Work Advisory Committee.
- B. Recognition of Advisory Committee Member Reaching Maximum Service.** The Chair thanked Joyce Baptist and Rebecca Culver-Turner from the Marriage and Family Therapy Advisory Committee and Kenton Olliff from the Professional Counseling Advisory Committee for serving the maximum length of service on those Advisory Committees. Certificates of appreciation were sent to Advisory Committee members who were leaving the Advisory Committees.
- C. Board Delegation Motion for Alternate Presiding Officers.** Every July, according to statute, the Board elects a Chair and Vice-Chair for the next fiscal year. A delegation motion was discussed to allow other Board members to serve as presiding officers when both the Chair and Vice-Chair are unavailable. The delegation motion showed the following hierarchy after the Chair and Vice-Chair: (1) a past Board Chair (in order of most recent past Board Chair; (2) a past Board Vice-Chair (in order of most recent past Board Vice-Chair); then (3) the longest serving Board member. If there was a tie in terms of longest serving Board member, hierarchy would be determined in alphabetical order of last name. Dave Anderson voted to approve the motion, Mary Jones seconded the motion. The motion passed. By consensus, the Board authorized signing of orders using this process for the Board's meeting under the Kansas Administrative Procedures Act in April 2022.
- D. Review and Approval of Regulatory Language.** The Board reviewed official regulatory language relating to past Board votes on fees. This language included a one-time \$20 fee to become a Board-Approved Supervisor for the Marriage and Family Therapy profession or the Professional Counseling profession and a \$25 PSYPACT Homestate Privilege to Practice Fee. Additionally, a fee change was presented to the Board to lower the Marriage and Family Therapy Temporary License Fee from \$150 to \$75, to bring that fee in line with similar fees that were reduced in past years. Ric Steele moved to approve the language for these fees. Carolyn Szafran Seconded. The motion passed. Additional regulatory language was presented to the Board on changes to the Master's Level Psychology profession in K.A.R. 102-4-3a Education

Requirements, relating to “core faculty” and use of “in residence” in terms of semesters of attendance at a program. David Anderson moved to approve the language. Deb Stidham seconded. The motion passed. Regulatory changes were provided for the Marriage and Family Therapy profession involving K.A.R. 102-5-7b, Board-approved clinical supervisor regulations, and K.A.R. 102-5-10, continuing education regulations. The Assistant Director and Licensing Manager summarized the changes to the regulation. Mary Jones moved to approve the language. Deb Stidham seconded the motion. The motion passed. Board member noted concern that there may not be sufficient providers of continuing education or training for Board-approved supervisors. The Board was supportive of further discussion on this topic, and encouraging ways to increase the number of continuing education providers providing trainings in this area. Regulation language was provided for the Marriage and Family Therapy profession in K.A.R. 102-5-3 concerning changing the previous “in residence” requirement so it would apply to applicants from non-accredited schools only, rather than all applicants. Mary Jones moved to approve the changes to the regulations. Deb Stidham seconded the motion. The motion passed.

E. Board Consideration of Clinical License and Training Plan Questions. The Executive Director noted there are situations in which further clarification of the regulations on clinical licenses and training plans are necessary to come before the Board. The BSRB provided a handout including several scenarios which require further clarification.

- a. A clinical-level licensee is seeking to become clinically licensed in another profession. Does the licensee need to receive 3,000 hours in the new profession, or can that applicant use the 3,000 hours they already completed for the original clinical license to satisfy the requirement for the new clinical license? The Board held that the regulations do not permit this request to use the hours from a previous clinical license pursuit. Board member discussed whether the regulations should be changed asked the BSRB to report back if these requests increase in frequency.
- b. If a licensee who holds two master’s-level licenses is seeking to become clinically-licensed in both professions and the licensee wants to complete postgraduate supervised hours at the same time with the same person serving as the supervisor, but the supervisor is only licensed in one of the professions, is that acceptable? The Board discussed this issue and it was determined that it would be acceptable, if there was a showing that a supervisor in the specific profession was unavailable, as that is a requirement in regulation.
- c. A licensee is providing crisis counseling services over the phone. The regulations state that certain identifiable information about the provider must be provided when they provide services. Are these providers still required to provide the identifiable information when providing services? The Board discussed this scenario and will revisit this question at a future meeting.
- d. The BSRB is receiving training plans for individuals who have a supervisor in Kansas, but are seeking to acquire direct client contact hours in other states by providing telehealth services. Can the hours in other states be approved? Should

something additional be provided? The Board did not reach a position on this scenario.

Due to time limitations, the Board decided to revisit certain scenarios at future Board meeting. It was requested that Board members review the remaining language for further discussion.

F. Review of Possible Changes to BSRB Investigation Policy. The Executive Director referenced the BSRB Investigation Policy, which guides the work of the CRC, and was last updated 2009. The Executive Director spoke with legal counsel for the Board and the investigators for the Board and created a report with recommendations and items for Board discussion of potential changes to the Investigation Policy. The Executive Director asked Board members to review the recommended changes in the report so that changes to the document could be discussed and voted on by the Board at the next Board meeting.

G. Statutory Review for Delegation Consideration (K.S.A. 74-7501 to K.S.A. 74-7511). The Executive Director noted the statutes and regulations for the BSRB include many references to “the Board.” Some of these references mean the full Board, some are delegated to the BSRB, the Executive Director, the Complaint Review Committee, etc. The Executive Director previously noted that he would review sections of the statutes and regulations with the Board, identifying areas for possible statutory changes and other areas that may be appropriate for delegation motions. The Executive Director summarized K.S.A. 74-7501 to K.S.A. 74-7511, noting possible areas for changes and delegation motions. The Executive Director highlighted language in K.S.A. 74-7501 that indicates a Board member may be a Licensed Addiction Counselor or a Licensed Clinical Addiction Counselor, but there is no reference to a Master’s Level Addiction Counselor, so this could be clarified with a future edit to statute. In K.S.A. 74-7501(d), it notes the Board may employ clerical personnel and other assistants. The Board does not employ clerical staff, as hiring of non-Executive Director staff has previously been delegated to the Executive Director, so this could be appropriate for a delegation motion. Also, the statute states clerical staff and assistants will be classified employees. New state employees must be unclassified employees, so this could be another area that could be updated with a statutory change. K.S.A. 74-7506 states all expenditures from the BSRB Fee Fund will be “issued pursuant to vouchers approved by the chairperson of the BSRB or a person or persons designated by the chairperson.” Historically, BSRB expenditures have been delegated to the Executive Director, so this could be appropriate for a delegation motion. K.S.A. 74-7507(a)(2) states the BSRB will compile and publish annually a list of the names and addresses of all persons who are licensed under the profession acts. In accordance with the statute, the BSRB is making preparations to publish this list on the BSRB website. K.S.A. 74-7507(a)(11) states that the Board “appoints an Executive Director and other employees.” The Board does appoint an Executive Director, but other hires are delegated to the Executive Director, so this could be appropriate for a delegation motion. K.S.A. 74-7508 may not need delegation motions, unless the Board would like to clarify certain actions by the CRC, rather than the Board. K.S.A. 74-7511 provides authority to charge a fee for

fingerprinting applicants, though the Executive Director stated the amount of that fee has never been set in regulation, so if the Board wished to enforce this section in the future, it would need to set an amount for that fee.

H. Request for Unprofessional Conduct Subcommittee for the Professional Counselor Advisory Committee. The Executive Director stated the statutes for the BSRB state for Board members to receive compensation for attending Board meetings or subcommittees of the Board, those must be approved by the Board. In requesting the subcommittee, the Advisory Committee noted it intends to collect information from national associations and unprofessional conduct regulations in other states. By consensus, the Board approved the creation of the subcommittee.

I. Request for Clinical Supervision Manual Subcommittee for Marriage and Family Therapy Advisory Committee. The Marriage and Family Therapy Advisory Committee requested a subcommittee be created for construction of a supervision manual. By consensus, the Board approved the creation of the subcommittee.

XI. Preview of Topics for Future Board Meeting. The Executive Director noted the Board may discuss topics at future meetings, including possible use of an impaired provider program, developing a consistent approach to telehealth standards, and continuing to review statutes and regulations of the BSRB for potential changes and to identify when delegation motions are appropriate. The Executive Director also noted that at the July Board meeting, the Board will hold the annual election for Board Chair and Board Vice-Chair. Additionally, appointments to several committees will occur, including the Complaint Review Committee.

XII. Special Recognition of Board Members Completing Terms. Carolyn Szafran is completing her second term on the Board. The Board thanked her for her service over the past eight years on the Board. It was noted that Leslie Sewester and Bruce Nystrom were completing their first terms on the Board and the Board thanked each member for their service on the Board.

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