

**BEHAVIORAL SCIENCES REGULATORY BOARD  
BOARD MEETING MINUTES  
JULY 11, 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.** Leslie Sewester and Deb Stidham attended the meeting at the BSRB office over Zoom. Laura Shaughnessy, Donna Hoener-Queal, Ric Steele, Jaqueline Lightcap, David Anderson, Cynthia Schendel, Johnna Norton, Richard Nobles, Mary Jones, Andrea Perdomo-Morales attended remotely over Zoom.

**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.** None

- II. Agenda Approval.** Mary Jones moved to approve the agenda as written. Donna Hoener-Queal seconded. The motion passed.
- III. Minutes Approval:** Donna Hoener-Queal moved to approve the minutes from the Board meeting on May 9, 2022. Johnna Norton seconded. The motion passed.
- IV. New Board Members.** The Board welcomed new Board members Richard Nobles and Cynthia Schendel to the Board, whose terms began on July 1, 2022.
- V. Public Comment.** None.
- VI. Executive Director's Report.** David Fye, Executive Director for the BSRB, reported on the following topics:
- A. Year-End Report of the BSRB.** Fiscal Year (FY) 2022 lasted from July 1, 2021, through June 30, 2022. At the end of FY 2022, there were 14,550 permanent licenses across the seven professions: 55% social work, 14% professional counseling, 10% addiction counseling, 8% marriage and family therapy, 7% licensed psychology, 4% master’s level psychology (including clinical psychotherapy), and 2% behavioral analysis. Concerning licensing activities by the agency, during FY 2022, the BSRB processed 1,536 permanent licenses, 328 temporary licenses, 97 out-of-state temporary permits, and 4 provisional licenses. Concerning investigations and discipline, during FY 2022, the BSRB processed 205 reports of alleged violations.

- B. Update on BSRB YouTube Channel.** In January 2021, the BSRB started a YouTube channel to provide access to meetings in a more secure way. Currently, 67 meetings have been broadcast live or uploaded with 1,662 views of those videos.
- C. Governor's Direction on State Offices and In-Person Meetings.** The Governor's direction limiting in-person meetings remains in place, so the BSRB will continue to hold Advisory Committee meetings and most Board meetings remotely or in hybrid form as long as there is adequate space for social distancing.
- D. Revenues and Expenditures.** The BSRB is a fee-funded agency, does not receive money from the State General Fund, and operates off the revenue the agency receives. By statute, the BSRB contributed back 10% of all revenue received, up to a cap of \$100,000 per fiscal year. At the beginning of FY 2022, the BSRB Fee Fund had a balance of about \$2,077,000. At the end of FY 2022, the BSRB Fee Fund had a balance of \$2,066,000.
- E. Budget Preparations for Future Years.** The 2022 Legislature approved the BSRB revised budget estimates for FY 2022 and FY 2023. All state agencies are required to submit a budget by September 15 of each year and the Executive Director will be working on preparing a revised budget estimate for FY 2023 as well as a new budget request for FY 2024 and FY 2025.
- F. End of Year Fiscal Reports.** At the end of each fiscal year, all state agencies are required to complete several end-of-the-year fiscal reports. The Executive Director reported he will be completing and submitting these reports on behalf of the agency.
- G. End of Year Legislative Reports on Applicants Under 2021 HB 2066 Reciprocity Bill.** In 2021, the Legislature enacted House Bill (HB) 2066, which involves reciprocity and an expedited license processing timeframe for military members, military spouses, and select other individuals. The statute requires an annual report to the Legislature by August 31 of each year, including the number of licenses issued under the bill, the number of applicants that are denied, and timeframe for certain processes during the processing of these applicants.
- H. Contracts with other State Entities.** The Executive Director provided updates on contract offers for services for FY 2023. The Department of Administration proposed a contract at a rate of \$1,200, a decrease of \$600 below the amount in FY 2022. The Executive Director accepted the new agreement on behalf of the BSRB. The Office of Administrative Hearings proposed an agreement for FY 2023 to continue services under FY 2022 terms, so the Executive Director accepted on behalf of the BSRB. The BSRB's contract with the Attorney General's office has totaled \$75,000 in FY 2022 and the past few years. The Executive Director noted the new FY 2023 proposed agreement from the Attorney General's office totals \$87,200, an increase of \$12,200. The Executive Director noted he received information last year that indicated there could be an increase, but representatives from the Attorney General's office informed him there would not necessarily be an increase, as the amount per agency depended on

a number of factors, including the number of hours of staff time. The Executive Director noted that he believes that the number of hours of services from their office has decreased, but he has not received the totals for FY 2021 and FY 2022. Additionally, the Executive Director noted that he attempted to receive new terms or the Board to review prior to the beginning of the start of FY 2023, however the new rate was not provided until FY 2023 had already started. The Board recommended is to approve payment for services received until there is more information from the Attorney General's office and the Executive Director will bring that information back to the Board for further review. Mary Jones motioned to approve the recommendation. Laura Shaughnessy seconded. The motion passed.

- I. Staff Performance Reviews.** Kansas statutes requires each state agency to conduct performance reviews for all staff members each year. As part of that process, a mid-year check-in meeting is held with each BSRB staff member, to allow for feedback and other communication related to job performance. The Executive Director reported the BSRB held mid-year check-in meetings for all staff members in June.
- J. New Part-time Licensing Specialist.** The BSRB has hired a new part-time licensing specialist named Emma Allan. She will begin working for the BSRB on Monday, July 18, 2022.
- K. Update on Expert Review Process.** The Executive Director provided an update on the BSRB's utilization of experts for the review of certain license applications. Currently, the BSRB is contracting with five expert reviewers and is seeking to identify more experts to assist the Board with this process. The Executive Director asked Board members to refer the names of potential experts to him.
- L. Transferring Records to Historical Society.** The BSRB follows a specific document retention schedule for licensing records. When records reach the end of this schedule, they may be transferred to the Historical Society for archival purposes. The BSRB is currently transferring several boxes of records to the Historical Society, so that agency will become the new custodian of the records.
- M. K.A.R. 102-1-15(g) Continuing Education for Licensed Psychology.** All licensed psychologists must renew their license in June of even numbered years. At the time of renewal, the licensees must attest they have completed 50 continuing education hours during the current license period, otherwise they are unable to renew their license. Under K.A.R. 102-1-15(g), a licensed psychology may request an extension of time with the BSRB, and if they can show good cause for needing an extension and they provide a plan outlining how the applicant intends to complete the missing continuing education, they are able to renew their license and the BSRB can provide additional time for them to complete the necessary continuing education hours. The Executive Director noted this regulation is only in place for the licensed psychology profession and has existed since at least 2003, and historically the BSRB evaluated individuals under this regulation if those licensees contacted the agency requesting an extension of time under the regulation. Due to concerns about a decrease in licensed psychologists

due to the implementation of the new multi-state compact for licensed psychologists (PSYPACT), the BSRB sent a letter to all licensed psychologists who had not renewed their license, one week prior to the deadline for renewal, noting the regulation and noting that if any licensees thought they might meet the qualifications under the regulation, they could send a message to the BSRB for consideration. The Executive Director noted that through the proactive use of this regulation, the BSRB was able to assist several licensed psychologists to renew their licenses in Kansas, when those practitioners would otherwise have allowed their licenses to expire. Members of the Board discussed this regulation and noted it may be beneficial for other professions to consider adopting similar language. Advisory Committees were asked to discuss this regulation and report back to the Board if they were in favor of similar language for their professions.

- N. Update On Legislative Interim Committees.** On June 16, 2022, initial dates for legislative interim committee meetings were approved. In the past few years, a Special Legislative Committee for Mental Health Modernization and Reform met frequently, but no days were approved for this committee to meet this fall. The Executive Director highlighted several committees, including: a committee to study the need for mental health beds, inpatient psychiatric hospital beds, and mental health bed expansion; a committee to examine Intellectual and Developmental Disability (I/DD) Home and Community-Based Services (HCBS) Medicaid waiver modernization; a committee to study medical marijuana; and a committee to study state employees and Board member compensation.
- O. Update on Psychology Interjurisdictional Compact (PSYPACT).** Kansas became an official member-state in PSYPACT on January 1, 2022, and this multi-state compact is currently in 34 states. As of July 7, 2022, 50 licensed psychologists in Kansas have been approved by PSYPACT to provide telehealth services in other compact states. Four licensed psychologists have been approved to provide temporary in-person services in other compact states. The Executive Director noted he created a Frequently Asked Question (FAQ) document which is posted on the front page of the BSRB Website.
- P. Update on the Kansas Fights Addictions Grant Review Board.** The Kansas Fights Addictions Grant Review Board was created by the 2021 legislature and is organized under the Attorney General's office. The Board has not met, but the Executive Director reported receiving news the Committee will be meeting on Thursday, July 14, 2022. The Executive Director will attend this meeting and provide more information back to the Board.
- Q. Update on the Overdose Fatality Review Board.** The Kansas Department of Health and Environment (KDHE) received a grant from the Center for Disease Control (CDC) to study fatalities in Kansas related to overdose and opioids. The Executive Director noted two organizational meetings were held in the fall of 2021, but there are no current upcoming meetings. The Executive Director noted the Board previously appointed the Executive Director and former Board member Bruce Nystrom to represent the Board

at these meetings, so if the Overdose Fatality Review Board meets in the future, the Board of the BSRB may wish to appoint a different Board member to attend these meetings.

- R. Opportunity for Board Member Training by the Association of Social Work Boards (ASWB).** The Executive Director reported there is a training opportunity for new Board members by ASWB in September in Virginia and asked Board members interested in this training to contact him for more details.
- S. Other Meetings.** The Executive Director provided information to the Board on Advisory Committee meetings, Complaint Review Committee meetings, and other meetings that were facilitated by staff of the BSRB. The Executive Director also reported on a townhall meeting he attended by the Association of State and Provincial Psychology Boards (ASPPB) on the EPPP-2 and a presentation he recently made to the Governor's Behavioral Health Services Planning Council Rural and Frontier Subcommittee meeting. Also, the Executive Director recently met with representatives from the Board of Healing Arts (BOHA), which hosts the agency's licensing database, as they are working on integrating the BSRB disciplinary database with the agency's licensing database. Once that project is complete, the BSRB plans to move forward with representatives of BOHA on implementing electronic version of applications for original licensure. The Executive Director will be attending the PSYPACT mid-year meeting and will be a guest presenter on innovations in licensing at a conference hosted by the National Board for Certified Counselors (NBCC).
- T. Update on Review of New Programs.** The Executive Director noted some schools are interested in starting new programs and having these programs pre-approved by the BSRB, however the way some statutes and regulations for the BSRB are worded, certain program requirements are impossible to meet unless a program already exists. The Executive Director noted the Board may wish to review the language on programs in the future if the Board wishes to allow for pre-approval of programs.
- VII. Staff Reports.** The Executive Director highlighted a report provided to Board members, showing the current number of permanent licenses under the BSRB. A significant decrease was noted in the number of license psychologists between May 2022 and July 2022. The Executive Director noted that as all licensed psychologists renew by June of even numbered years, so a traditional decrease in licensees was anticipate and the agency anticipated a further decrease due to some out-of-state licensees choosing to practice under PSYPACT authority rather than renew their license under the BSRB.
- VIII. Complaint Review Committee (CRC) Report.** Lead Investigator for the BSRB, Cindy D'Ercole, noted the BSRB processed 205 new reports of alleged violations in FY 2022. This total was the highest number of complaints that had been received by the BSRB in a fiscal year. The Executive Director noted the report shows an increase in the number of complaints against licensed psychologists and stated that the increase is not linked to out-of-state practitioners under PSYPACT. Ms. D'Ercole noted there have been an increase in appeals, some of which may be due to practitioners wishing to avoid a disciplinary record

that would prohibit them from practicing under PSYPACT. Board members requested future reports show the number of complaints, per the number of licensees for that profession.

## **IX. Professions Reports**

- A. Licensed Psychology.** The Advisory Committee met on June 14. The Advisory Committee continued to review the unprofessional conduct regulations and will meet again August 2.
- B. Social Work.** The Advisory Committee met on June 21. The Advisory Committee thanked outgoing Board member Carolyn Szafran for her service and looked forward to working with new Board member Cynthia Schendel. The Advisory Committee reviewed the unprofessional conduct regulations and reviewed feedback from the survey of social workers in December 2021. The Advisory Committee recommended moving forward to the full Board discussion on a continuing education requirement in the area of diversity, equity, and to consideration of implementing a requirement of clinical supervision approved by the Board. The Advisory Committee also discussed the release of draft language for a social work multi-state compact and discussed the “in residence” requirement for licensure. The next meeting will be on August 16.
- C. Professional Counseling.** The Advisory Committee met on June 6 and created an Unprofessional Conduct Regulations Review Subcommittee, which will meet on July 18. The Advisory Committee discussed the third draft of proposed changes to the accreditation standards for the Council for Accreditation of Counseling and Related Educational Programs (CACREP), pre-approval of continuing education hours and providers, and discussed adding two more Advisory Committee members, and the professional counseling multi-state compact. The next meeting is on August 1, at which time a representative from the American Counseling Association (ACA) will present information on the multi-state compact.
- D. Master's Level Psychology.** The Advisory Committee met on June 22 and continued discussions on unprofessional conduct regulations and requested changes to the application to clarify that licensed clinicians are responsible for their clients that are in crisis. New members were added to the advisory committee. There was also a discussion about the in-residence requirements for educational programs. The next meeting is on August 24.
- E. Marriage and Family Therapy.** The Advisory Committee met on June 24 and discussed unprofessional conduct regulations, potential multi-state compacts, and in-residence requirements for educational programs. The next meeting is on August 12.
- F. Addiction Counseling.** The Advisory Committee met on June 24 and discussed unprofessional conduct regulations and in-residence requirements for educational programs. There was a discussion of bringing back the counselor in training status. The next meeting will be on September 16.

**G. Behavior Analyst.** The Advisory Committee met on June 8 and discussed the unprofessional conduct regulations for the profession. Also, the Behavior Analyst statutes identify the Behavior Analysis Credentialing Board (BACB) as the national accrediting body recognized for that profession. The Advisory Committee recently received information on the Qualified Applied Behavior Analysis (QABA) Credentialing Board, and at the June Advisory Committee meeting recommended that QABA should not be added to the statute nor be considered an equivalent entity, for the purposes of licensure applicants.

## **X. Old Business**

**A. Comment on Executive Director Annual Evaluation.** The Chair of the Board thanked Board members for completing performance review evaluations for the Executive Director. The Chair met with the Executive Director and reviewed this information with him.

**B. BSRB Investigation Policy-Consideration of Changes.** The Complaint Review Committee (CRC), a subset of the Board which reviews complaints against practitioners, is guided by an investigation policy. This policy had not been updated since 2009, so the Executive Director met with the investigators for the Board and legal counsel from the Attorney General's office and presented the Board with a report with potential changes and other items highlighted for discussion. The Board recommended changes noted on the marked up report, but did not recommend adding "social media" under the section of the document which lists types of "reasonably reliable written information." The Executive Director will bring back a definition of electronic media to the Board. The Executive Director noted the section of the document identifying the members of the CRC was created prior to the BSRB licensing the addiction counseling profession. The Board recommended changing membership to have one public member on the CRC, rather than two, and the position previously held by a public member would be a professional member of the Board. The Board also recommended language that no profession would have more than one member on the CRC at the same time. It was noted that representatives from the Behavior Analyst Advisory Committee had expressed an interest in having a member on the CRC, but the CRC is composed of Board members and there is not a Board member for the Behavior Analyst profession. Board members recommended allowing appointments for one or two years, to allow for staggering of terms. Board members were supportive of adding language that the Chair of the Board would appoint the Chair of the CRC. The Board was supportive of adding language to allow for a stay on review of a RAV if there is a pending criminal or civil case or investigation. The Board was supportive of changing the 15-day extension to a 30-day extension and allowing additional extensions without a specific time limit, if extenuating circumstances were shown. The Board was supportive of allowing another member of the CRC to sign investigative subpoenas, if the Chair of the CRC was unavailable, in order of presiding offer. Due to time limitations, the Board tabled the remainder of the items in the policy and will resume discussions at the next full Board meeting.

**C. Review and Approval of Regulatory Languages on Pre-Approved Continuing Education Providers for Marriage and Family Therapy and Master's-Level Psychology Professions.** The Marriage and Family Therapy and Master's-Level Psychology Advisory Committees recommended new regulatory language allowing the BSRB to pre-approve continuing education providers and continuing education courses for those professions. Leslie Allen, Assistant Director and Licensing Manager for the BSRB, provided draft language for both professions, similar to the current social work language authorizing pre-approved continuing educations. No objections were noted to the language. Mary Jones moved to approve the language for the marriage and family therapy profession and Dave Anderson seconded. The motion passed. Dave Anderson moved to approve the language for the master's level psychology profession and Mary Jones seconded. The motion passed.

**D. Postgrad Experience and Training Plan Questions for Board Discussion.** Members of the Board were provided a one-page document which illustrated three scenarios involving postgraduate supervised experience and training plans. Staff from the BSRB requested clarification from the Board on certain issues. The Board determined that if a licensee was accruing hours towards a clinical level license under a training plan approved by the BSRB, the licensee changes supervisors and locations and submits a training plan amendment approved by the BSRB, then later returns to the original supervisor but does not file a training plan amendment, they will not accrue hours after the change back to the previous supervisor until a new training plan amendment is approved. The Board determined that if an applicant accruing hours under a training plan approved by the BSRB later changed positions and received a new position description at their work site, but did not change supervisors or work site, that type of change would require a training plan amendment, so hours after the position change would not count until a training plan amendment was later filed with the Board. The Board determined that a licensee wishing to accrue hours under a training plan approved by the BSRB, by providing crisis counseling services, must submit information to show that the agency is providing information that crisis counseling can be handled by students under supervision and list contact information.

## **XI. New Business**

**A. Election of Chair of the Board.** Deb Stidham nominated Mary Jones to serve as chair of the Board. Mary Jones accepted the nomination. Laura Shaughnessy seconded. The motion passed.

**B. Election of Vice-Chair of the Board.** Deb Stidham nominated David Anderson to serve as Vice-Chair of the Board. Laura Shaughnessy seconded. The motion passed.

**C. Appointments of Complaint Review Committee.** The Chair of the Board appointed Mary Jones, Johnna Norton, Andrea Perdomo-Morales, Richard Nobles, and Donna Hoener-Queal to the Complaint Review Committee.



- D. Appointment of Complaint Review Committee Chair.** The Board Chair appointed Mary Jones as Chair of the Complaint Review Committee.
- E. Appointment of Behavioral Analyst Advisory Committee Chair.** Previous chair of the Behavior Analyst Advisory Committee Chair Bruce Nystrom's term on the Board ended on June 30, 2022. The Chair of the Board appointed David Anderson to serve as new Chair of the Behavioral Analyst Advisory Committee.
- F. Appointment of Board Members to Advisory Committees.** The Board Chair appointed Richard Nobles to serve on the Licensed Psychology Advisory Committee, and appointed Cynthia Schendel to serve as Co-Chair of the Social Work Advisory Committee. The Governor has announced that Jim Kilmartin will serve as a new public member on the Board as of July 12, 2022. The Chair of the Board appointed Jim Kilmartin to serve on the Marriage and Family Therapy Advisory Committee and the Professional Counseling Advisory Committee once his term begins on July 12, 2022.
- G. Appointment of Advisory Committee Members.** The Chair of the Board appointed Chris Habben, Marcie Lechtenberg, and Nicole Eitzen to serve as new members of the Marriage and Family Therapy Advisory Committee. The Chair of the Board appointed Travis Hamrick to serve as a new member of the Master's Level Psychology Advisory Committee.
- H. Professional Counseling Advisory Committee Recommendation to Change Definition of "Related Field."** Due to time limitations, the Board elected to consider this item at the next full Board meeting.
- I. Delegation Motion to Allow Alternate Presiding Officer at Advisory Committee Meetings.** Deb Stidham moved that, should the Chair of an Advisory Committee of the BSRB be unable to serve as Presiding Officer of the Advisory Committee, another Board member serving on the Advisory Committee will serve as Presiding Officer in the following order of availability: (1) a Board member appointed by the Governor to represent that profession on the Board; (2) a Public Member of the Board appointed to the Advisory Committee. An alternate Presiding Officer serves with the same authority during that meeting as the Chair of the Advisory Committee. Donna Hoener-Queal seconded. The motion passed.
- J. Delegation Motion to Allow Alternate Presiding Officer at Complaint Review Committee Meetings.** Deb Stidham moved that, should the Chair of the Complaint Review Committee (CRC) of the BSRB be unable to serve as Presiding Officer of the CRC, another Board member serving on the CRC will serve as Presiding Officer in the following order of availability: (1) a past CRC Chair (in order of most recent past CRC Chair); (2) any other member of the CRC in order of the longest serving CRC member (any ties broken by order of the last name alphabetically). An alternate Presiding Officer serves with the same authority during that meeting as the Chair of the CRC. Cynthia Schendel seconded. The motion passed.

- K. Delegation Motions Relating to K.S.A 74-7501 to K.S.A 74-7511.** Due to time limitations, the Board elected to consider delegation motions under K.S.A. 74-7501 to K.S.A. 7511 at the next full Board meeting.
- L. Discussion of Reciprocity Requirements.** Board members expressed interest in discussing the current BSRB statutes and regulations relating to reciprocity in Kansas. Due to time limitations, the Board elected to discuss this item at the next full Board meeting.
- M. Implementation of 988 National Suicide Prevention Hotline and Requirement that Practitioners have an “After-Hours” Policy.** Dave Anderson, Vice-Chair of the Board, noted the implementation of the 988 National Suicide Prevention Hotline is going live and noted the importance of clinicians understanding that referring patients in crisis to the 988 hotline should not be sufficient to fulfil the responsibility that clinicians provide services to clients who are in crisis or make arrangements for another entity to provide services to those clients when they are in crisis. The Vice-Chair noted he is seeking for the BSRB to clarify this item for licensees at the time of licensure or renewal. Due to time limitations, the Board elected to discuss this item further at the next full Board meeting.
- N. Board All-Day Planning Meeting in Late September/October.** Historically, the Board has attempted to hold an annual all-day off-site planning meeting to discuss items for its legislative agenda and other topics. In 2021, this meeting was held over Zoom during two half-day sessions. The Executive Director requested feedback from Board members regarding whether to hold this meeting in person or remotely. Board member expressed support for meeting in person with no hybrid option. The Executive Director noted he would send a poll to Board member to determine availability for this meeting.
- O. Future Board Meetings.** The next full Board meetings will be held remotely on September 12, 2022, and November 14, 2022.
- XII. Recognition of Outgoing Board Members.** The Executive Director noted this meeting would be the final meeting for Board Chair Leslie Sewester, as her term on the Board was ending. The Executive Director thanked her for her service and presented a plaque to her, noting the BSRB would be sending plaques to outgoing Board members Carolyn Szafran and Bruce Nystrom in appreciation of their service as well.
- XIII. Adjournment.** Donna Hoener-Queal moved to adjourn the meeting. Richard Nobles seconded the motion. The motion passed.