

**BEHAVIORAL SCIENCES REGULATORY BOARD
BOARD MEETING MINUTES**

September 12, 2022

Approved Minutes

- I. Call to Order and Roll Call.** The meeting was called to order by Chair Mary Jones at 10:00 am.
- Board Members.** Mary Jones, David Anderson, Donna Hoener-Queal, Jim Kilmartin, Jacqueline Lightcap, Richard Nobles, Johnna Norton, Andrea Perdomo-Morales, Cynthia Schendel, and Deb Stidham attended remotely over Zoom.
- BSRB Staff.** David Fye and Cindy D’Ercole attended by Zoom. Assistant Attorney Generals Laine Barnard, Jane Weiler, and Paul Keithley were present by Zoom.
- Other Attendees.** Leslie Sewester, Heart of America Professional Network; Don Oliva, CE Broker; and Todd Frye and Tara Arnold attended by Zoom.
- II. Agenda Approval.** David Anderson moved to approve the agenda as written. Cynthia Schendel seconded. The motion passed.
- III. New Board Member Jim Kilmartin.** The Board welcomed new public member Jim Kilmartin.
- IV. Public Comment**
- A.** Don Oliva, Senior Business Development Executive for CE Broker, provided information to the Board on alternative continuing education reporting and tracking.
 - B.** Leslie Sewester, Executive Director for Heart of America Professional Network, providing information on impaired provider programs.
 - C.** Todd Frye, Department Chair of Counselor Education for Mid America Nazarene University, and license applicant Tara Arnold provided public comment on K.A.R. 102-3-7a(b).
- V. Minutes Approval:** Donna Hoener-Queal moved to approve the minutes from the Board meeting on July 11, 2022. David Anderson seconded. The motion passed.
- VI. Executive Director's Report.** David Fye, Executive Director for the BSRB, reported on the following topics:
- A. BSRB Outreach.** Since January 2021, the BSRB has broadcast 75 Board or Advisory Committee meetings, which have been viewed nearly 2,000 times.

- B. 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.
- C. 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 percent 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 \$2.1 million. At the end of FY 2022, the BSRB Fee Fund had a balance of \$2.2 million.
- D. 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 submitting a revised budget estimate for FY 2023 as well as a new budget request for FY 2024 and FY 2025.
- E. 3-Year IT Plan.** At the end of each fiscal year, all state agencies are required to complete several end-of-the-year fiscal reports. One report details the agency’s 3-year plan for IT changes and developments. The agency hopes to have the disciplinary database integrated into the licensing database, for some initial applications to be offered electronically, and for some paper records to be converted to digital records.
- F. Contracts with other State Entities.** The Executive Director provided updates on contract offers for services for FY 2023. The Executive Director noted that following the July Board meeting, he researched alternative legal services and will continue to collect information on this topic. The Executive Director noted he would encourage the Board to continue receiving services from the Attorney General’s office and stated he will continue to have conversations with that office regarding improvements to the contractual agreement in the future. It was noted that the agency received information that there would be about a \$2,000 increase in the yearly cost of the agency’s licensing database through the Board of Healing Arts.
- G. 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. The Executive Director asked Board members to refer names of potential experts to him.
- H. Supervisor Training.** The Executive Director noted he recently participated in three days of training for supervisors, offered by the Department for Children and Families.
- I. Legislative Updates.** During the 2021 Legislative session, HB 2066 was passed, which provided for expedited licensure for military members, military spouses, and select other individuals. Additionally, the bill provided an alternative method for reciprocity for certain applicants. The Executive Director summarized a report he provided to the

Legislature, which showed that the BSRB processed applicants under this bill in a very short timeframe during FY 2022. The average length of time between receipt of the initial documentation and having a complete file was about 30 days and the average length of time between having a complete file and a decision being issued was 5 days. The Executive Director will be presenting testimony to the KanCare Oversight Committee on September 27, 2022, on certain recommendations from the 2020 and 2021 Special Committees on Mental Health Modernization and Reform.

- J. Psychology Interjurisdictional Compact (PSYPACT) Update.** Kansas became an official member-state in PSYPACT on January 1, 2022, and this multi-state compact is currently in 34 states. The Executive Director provided an update on the number of licensed psychologists in Kansas who are practicing in other states under PSYPACT authority.

- K. Update on the Kansas Fights Addictions Grant Review Board (KFAGRB).** The KFAGRB was created by the 2021 legislature and is organized under the Attorney General's office. The enacting legislation named 11 members, including an individual determined by the BSRB. The Board of the BSRB previously named the Executive Director to serve temporarily as the agency's designee. The first meeting for the KFAGRB was on July 14, 2022. The Executive Director noted the second meeting was likely to be in late September. The Board expressed a desire to change the Board's designee to an individual with expertise treating addictions and asked the Executive Director to send a message to all Advisory Committees, noting the Board was seeking to name an Advisory Committee member to serve as the Board's designee, providing information about the KFAGRB, the qualifications for the position, and the expectations of the person serving on the Board. The Board asked the Executive Director to continue to serve as the Board's designee until a more permanent designee was determined. The Board noted an ideal candidate would have a high level of expertise treating addictions and would need to provide reports back to the Board on the activities of the KFAGRB. The Board asked the Executive Director to collect submission from interested Advisory Committee members, similar to the method used for Advisory Committee recruitment, and provided the Executive Director the authority to perform a preliminary narrowing of applicants to determine which applicants had the highest level of expertise matching the description sought by the Board and consistent with the statute. The final decision of the KFAGRB designee will be determined by the Board.

- L. Association of Social Work Boards (ASWB) Exam Pass Rate Analysis Report.** The Executive Director noted ASWB recently released a report on examination pass rates by demographic groupings. It was noted the report showed disparities between different categories of test takers. The Executive Director noted the full report and more information on actions ASWB has taken since the release of the report can be found on the ASWB website.

- M. Social Work Multi-State Compact Draft Language.** The Executive Director noted draft language for a social work multi-state compact has been released for review and

comment. It was noted that the drafters of the language hope to have the language finalized for consideration during the 2023 or 2024 legislative sessions.

- N. Other Updates.** The Board’s off-site annual planning meeting will be on Monday, October 24, 2022, in Olathe, KS. The address for the meeting will be posted on the BSRB website. The Executive Director noted he will be attending annual meetings for the Association of State and Provincial Psychology Boards (ASPPB) and ASWB over the next few months. The public hearing on proposed changes to regulations will be held at the BSRB office on November 8, 2022. Any comments at the meeting will be shared with the Board at the full Board meeting on November 14, 2022.
- VII. Staff Reports.** The Executive Director highlighted the number of permanent licenses under the BSRB.
- VIII. Complaint Review Committee (CRC) Report.** Lead Investigator for the BSRB, Cindy D’Ercole, provided documents showing the number of Reports of Alleged Violations since the start of FY 2023. In response to a past request from the Board, the Executive Director noted a new statistic is included on the reports, which shows the frequency of open cases and the frequency of complaints, compared to the number of permanent licenses for each of the professions. The new statistics show whether certain professions are experiencing a higher or lower percentage of complaints, relative to the number of licensees in that profession.
- IX. Professions Reports**
- A. Licensed Psychology.** The Advisory Committee met on August 2. The Advisory Committee continued to review the unprofessional conduct regulations and began to discuss accreditation standards. The next meeting will be on October 11.
- B. Social Work.** The Advisory Committee met on August 16 and received information on draft language for the social work compact. The Advisory Committee is having further conversation on past recommendations concerning having Board-approved supervisors.
- C. Professional Counseling.** The Advisory Committee met on August 1 and received information from individuals from the Council for State Government (CSG), who provided information on a multi-state compact for professional counseling. Additionally, the Advisory Committee reviewed educational standards for licensure, including requirements for degrees held by program chairs, the ratio of core faculty to non-core faculty, and the physical presence requirement in the “in residence” requirement. The next meeting will be on October 3.
- D. Master's Level Psychology.** The Advisory Committee met on August 31 and welcomed a new member to the Committee; discussed the “in residence” requirement for certain education; and discussed the use of psychometricians and the ability to provide psychological assessments. The next meeting is October 19.

- E. Marriage and Family Therapy.** The Advisory Committee welcomed two new members; received training for Board members and Advisory Committee members; recommended a change to remove the physical presence requirement for the “in residence” educational requirement; and discussed having a subcommittee for the creation of a supervision manual.
- F. Addiction Counseling.** The Advisory Committee met on June 24 and discussed possible changes to the unprofessional conduct regulations and the “in residence” requirements for educational programs. There was a discussion of bringing back lower levels of licensing at the next meeting on September 16.
- G. Behavior Analyst.** The Advisory Committee met on August 1 and discussed the unprofessional conduct regulations for the profession. The Committee discussed possible changes to licensure statutes but did not recommend any changes at this time. The next meeting is on October 4.

X. Old Business

- A. Continued Discussion on 988 National Suicide Prevention Hotline and Providers’ Responsibilities to Clients in Crisis.** David Anderson, Vice Chair for the Board, noted that in 2017, prior to his time on the Board, the facility where he worked had been listed by other practitioners as a resource if their clients were in crisis after hours. The Vice Chair had requested a clarification from the Board whether that practice would constitute unprofessional conduct. A message was sent by the Executive Director for the BSRB, noting the Board discussed this topic in a meeting on January 9, 2017, and the Board agreed that if a person was providing mental health or substance use disorder services that they had to have the ability to respond to their clients who were in crisis or make formal arrangements if they were going to have another group do that for them. The message noted that any licensee who did not respond to their client who was in crisis would be in danger of violating the unprofessional conduct regulations associated with their particular profession. A copy of the minutes from the Board’s meeting on January 9, 2017, was also provided to members of the Board. The Vice Chair noted he is seeking to have more clear language added to the statutes or regulations to provide notice to licensees of the expectations of conduct in this area. Board members also discussed whether practitioners should be able to list 988 as a resource for their clients who are in crisis after hours. Board members discussed whether the term “formal arrangement” should be defined. Advisory Committees were asked to discuss this topic and to bring back language for the Board to consider on this topic. The Executive Director noted that he would research the unprofessional conduct regulations to see if an existing regulation could be adjusted to address this topic.
- B. Continued Discussion on BSRB Investigation Policy.** The Board continued reviewing proposed changes to the Investigation Policy of the Board. The Board decided not to add social media to page 1 in the examples of what is considered “other

reasonably reliably written information.” Board members approved recommended changes through page 11 and will conclude review of proposed changes at the next Board meeting.

C. Delegation Motions Related to K.S.A. 74-7501 to K.S.A. 7511. Due to time limitations, this item was continued to the next Board meeting.

D. Consideration of Professional Counseling Advisory Committee Recommendation to Change Definition of “Related Field.” Due to time limitations, this item was continued to the next Board meeting.

XI. New Business

A. Board Discussion on BSRB Reciprocity Statutes and Regulations. Due to time limitations, this item was continued to the next Board meeting.

B. K.S.A. 65-7504(a) Behavior Analyst Language on Board Disciplinary Remedies. Due to time limitations, this item was continued to the next Board meeting.

C. Consideration of Utilization of Hearing Panels or the Office of Administrative Hearings for License Applicant Hearings. Due to time limitations, this item was continued to the next Board meeting.

XII. Adjournment. Cynthia Schendel moved to adjourn the meeting. Deb Stidham seconded the motion. The motion passed.