

**BEHAVIORAL SCIENCES REGULATORY BOARD
BOARD MEETING MINUTES
NOVEMBER 14, 2022**

I. Call to Order and Roll Call. The meeting was called to order by Vice Chair David Anderson at 10:00 a.m.

Board Members. Board Members present by Zoom: David Anderson, Donna Hoener-Queal, Jim Kilmartin, Richard Nobles, Johnna Norton, Cynthia Schendel, Laura Shaughnessy, Ric Steele, and Deb Stidham. Mary Jones, Jacqueline Lightcap, and Andrea Perdomo-Morales were absent.

Staff. BSRB Staff present via Zoom: David Fye, Leslie Allen, and Cindy D'Ercole. Assistant Attorney General Laine Barnard was present by Zoom.

II. Agenda Approval: Jim Kilmartin moved to approve the agenda as written. Cynthia Schendel seconded. The motion passed.

III. Public Comment

A. Comment on Professional Counseling Multi-State Compact. Andrew Secor, President of the Kansas Counseling Association (KCA), providing information on a multi-state compact for professional counseling and encouraged the Board to support legislation adding Kansas to the multi-state compact if such legislation was considered by the 2023 Legislature.

B. Presentation on Alternate Licensing Application Processing. Tammi Lee, Vice President of Business Services and Partnerships Division with the Center for Credentialing and Processing (CCE), presented information on license processing services offered by CCE, primarily for applicants who did not attend a program accredited by the nationally recognized accrediting body. CCE currently provides reviews for five states (Colorado, Iowa, South Carolina, Michigan, and Florida). The earliest reviews began in 2006. Ms. Lee noted the reviewers are trained on the licensing statutes and regulations. Reviewers would be available for hearings if needed and there will be no added cost for that service. The turnaround time for review is normally less than two weeks. Ms. Lee noted the cost per reviews totaled \$150 per review of professional counseling applicants and \$100 per review for addiction counseling applicants.

IV. Minutes Review and Approval for Previous Board Meetings. Deb Stidham moved to approve the minutes from the Board meeting on September 12, 2022. Richard Nobles Seconded. The motion passed. Jim Kilmartin moved to approve the minutes for the Board meeting on October 24, 2022, with clarifying language that some impaired provider programs allow licensees to enter a program anonymously, so long as the reason for entering the program does not impact their practice. Cynthia Schendel seconded. The motion passed.

V. Executive Director's Report

A. Outreach. The BSRB continues to stream Board meetings and Advisory Committee meetings on the BSRB YouTube channel. The Executive Director and Assistant Director have been speaking to students at different schools in Kansas, providing helpful information as those students approach graduating and seek licensure. Those meetings are currently being held over Zoom, though the

Executive Director noted he hopes to resume meeting with students in-person at some time in the future. The BSRB is still under the guidance of the Governor's COVID-19 policy, concerning providing adequate spacing for in-person meetings.

- B. Revenue and Expenditures.** From July 2022 to October 2022, BSRB revenue totaled about \$344,000, compared to about \$315,000 at this point in time last fiscal year. The Executive Director noted that expenditures this fiscal year are higher than at this point last fiscal year, due to increase staffing at the agency.
- C. Expert Review Process.** When in certain cases when an applicant doesn't receive their education from a program that has been accredited by a nationally accredited body, the materials for the applicant must be sent to an expert review to review that the program and the coursework meet the requirements for licensure. The BSRB is seeking to expand the number of expert reviewers. Board members were requested to provide names of any potential experts to the Executive Director for follow up.
- D. Summary of Off-Site Board Planning Meeting.** The Executive Director summarized discussions and actions by the Board at the annual off-site planning meeting that was held in Olathe, Kansas, on October 24, 2022.
- E. Legislative Updates.** The Executive Director noted he recently attended a meeting of the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight and was asked to present testimony on actions by the Board address workforce concerns. The Executive Director presented information on the Board's proposal to request legislation for a new type of temporary license for graduates from social work programs in candidacy for accreditation by the Council on Social Work Education (CSWE), similar to a model currently utilized in Minnesota. Additionally, the Executive Director provided a summary of recent testimony he presented to the Joint Committee on Administrative Rules and Regulations, involving BSRB regulation changes that were in the process of being implemented.
- F. PSYPACT.** The Executive Director noted he received a message from representatives of the Psychological Interjurisdictional Compact (PSYPACT), noting that Kansas was in compliance with requirements from the PSYPACT Commission. One of the requirements for jurisdictions in PSYPACT is to require background checks within 10 years of joining the compact. The Executive Director noted the BSRB does not currently perform background checks, but many multi-state compacts include this requirement, so the Executive Director will be speaking with representatives from law enforcement to collect information on how this could be implemented.
- G. Kansas Fights Addiction Grant Review Board.** The Executive Director noted several individuals requested to be considered by the Board as the Board's permanent appointee to serve on the Kansas Fights Addiction Grant Review Board, so those materials have been provided to Board members for review and an agenda item is included in this meeting for the Board to select that appointee.
- H. Social Work Compact.** The Executive Director noted that the draft language for the social work compact was out for comment. It was noted that the drafters of the language have communicated that they hope to have a final version of the language available for states to consider during the 2023 legislative session.
- I. ASPPB Annual Meeting.** The Executive Director attended the annual meeting of the Association of State and Provincial Psychology Boards (ASPPB). It was noted that the American Psychological Association (APA) is working on accreditation standards for master's level psychology programs and

the goal is to have language available for review by the fall of 2023. Also, there was an update on the national examination for psychology. On October 28, 2022, it was announced that the ASPPB Board had voted that effective no later than January 1, 2026, the EPPP will be one examination with 2 parts. EPPP-1 and EPPP-2. Any jurisdiction wishing to continue using the EPPP as of that date will be required to make applicants take the two-part exam. The BSRB received several emails expressing support for the BSRB to vote no on the passing of this requirement. The Executive Director noted that jurisdictions were not able to vote on this issue. The Executive Director noted he responded to the individuals who had sent emails of concern. It was noted that there would be separate fees for each part of the exam, currently the cost of the EPPP-1 is \$600 and the cost of the EPPP-2 is \$450. Board members expressed concerns, including concerns regarding the cost to applicants, the requirement of two examinations, licensure in other states, requirements of multi-state compacts, and other matters.

- VI. Staff Reports.** The Executive Director reported that the number of permanent licenses continues to grow. As of November 2022, the number of permanent licenses under the board totaled 14,714.
- VII. Complaint Review Committee Report.** Cindy D’Ercole, Lead Investigator for the BSRB, noted that due to the number of cases before the Complaint Review Committee and the complexity of those cases, a special November meeting would be held on November 15, 2022. Based on the number of open cases LMLP is receiving the most alleged violations. The Executive Director noted that at the off-site Board meeting, Board members requested statistics showing the number of violations per the number of permanent license holders, to show which professions received proportionally more or less complaints. The Executive Director noted the profession currently receiving proportionally more complaints than other professions is the master’s level psychology profession, though he noted there was a very small sample size. The Executive Director noted he is attempting to create a document with assistance from legal counsel and BSRB investigators, to show the types of violations by profession, while appropriately protecting confidentiality involved in some of these cases.
- VIII. Professions Reports**
- A. Licensed Psychology.** The Licensed Psychology Advisory Committee met on October 11, 2022. The members completed review of the unprofessional conduct regulations and will bring recommendations back to the Board. The Advisory Committee recently discussed accreditation standards. The current regulations follow past APA standards of accreditation and has not been updated with APA accreditation standard changes over time. Additionally, there is another accrediting body recognized in some jurisdictions, that is being evaluated by the Advisory Committee.
- B. Social Work.** The Social Work Advisory Committee met on October 17, 2022. There was public comment by Representative Susan Ruiz, expressing concerns regarding disparities in examination passage rates by applicants seeking social work licensure. Additionally, representatives from the Association of Social Work Boards (ASWB), presented information on the exam score report and the racial disparities in the passage rates. It was noted that CSWE’s request that licensing Boards temporary pause requiring passage of a national examination would not be possible at this time, because the statutes of the BSRB require passage of a national examination as a requirement of licensure. At the off-site planning meeting, there was a discussion on clinical supervision and requiring Board-approved supervisors. The Advisory Committee will meet again on December 20, 2022.
- C. Professional Counseling.** The Professional Counseling Advisory Committee met on Oct 3, 2022, and reviewed recommendations by an Unprofessional Conduct Regulation Review Subcommittee. The Advisory Committee will finish reviewing those recommendations at the next meeting. Four new advisory committee members were recommended. The Advisory Committee discussed a multi-state compact for professional counseling and recommended the Board support legislation for Kansas to become a member

of that compact, should such legislation be introduced during the 2023 legislative session. Laura Shaughnessy, Chair of the Advisory Committee, requested discussion of the compact be included on the agenda for the Board meeting in January 2023, to allow time for Board members to review information and watch the August 2022 Professional Counseling Advisory Committee meeting, which included a presentation on the compact by representatives of the American Counseling Association and the Council of State Governments.

- D. Master's Level Psychology.** The Master's Level Psychology Advisory Committee met on October 19, 2022. There was continued discussion on the types of testing and types of assessment being taught in graduate programs and whether those matters could be effectively taught in an online program. There was also discussion on psychometricians and their role. The current BSRB regulations are silent regarding the profession. Discussion on this topic was due to discussion on workforce issues causing long waits for services. Also, the Advisory Committee discussed possible language for a regulation addressing care of clients in crisis after-hours. The next meeting will be on December 21, 2022.
- E. Marriage and Family Therapy.** The Marriage and Family therapy did not meet in October 2022. The Advisory Committee previously requested the creation of a subcommittee to create a supervision manual. The Supervision Manual Subcommittee met on October 4, 2022, and will meet again on December 5, 2022.
- F. Addiction Counseling.** The Addiction Counseling Advisory Committee met on September 16, 2022. Eric Thomason, Director of Behavioral Health for the Community Mental Health Center of Southeast Kansas, presented information on creating a new entry-level license for individuals that would not meet all license requirements, but could work in certain facilities under supervision while completing the remaining classes to meet the requirements. The Advisory Committee is considering two type of student temporary licenses. The Advisory Committee scheduled an additional meeting on November 3, 2022, to continue working on these topics and will meet again December 16, 2022.
- G. Behavior Analysis.** The Behavioral Analyst Advisory Committee met on October 5, 2022. Advisory Committee members continued to discuss unprofessional conduct regulations, including comparing to the Behavioral Analyst Credentialing Board code of ethics. There was a discussion on the language for K.S.A. 65-750a on the disciplinary remedies the profession. The language is significantly different from other professions and only allows for the most remedies such as denying, suspending, and revoking.

10-Minute Break

IX. Old Business

- A. BSRB Investigation Policy – Consideration of Changes.** The Executive Director summarized proposed changes to the BSRB Investigation Policy, beginning on page 12. Jim Kilmartin moved to accept proposed changes to the Investigation Policy. Cynthia Schendel seconded. The motion passed. The Executive Director noted he would provide the Board with a revised copy of the Investigation Policy at the Board meeting in January 2023.
- B. Change in CRC Membership.** The Executive Director noted one of the previous changes to the Investigation Policy modified the composition of the Complaint Review Committee (CRC), so that one public member would serve on the CRC, but the other position previously reserved for a second public member, could be a public Board member or a Board member of a profession not currently on the CRC. The Executive Director noted that Johnna Norton had requested to end her term on the CRC. The Executive Director requested a motion from the Board to add a new agenda item concern a change in

CRC membership. Cynthia Schendel moved to add this item to the agenda. Deb Stidham seconded. The motion passed. Jim Kilmartin volunteered to serve on the CRC. It was noted that the change would be effective for the December CRC meeting. The Vice Chair of the Board appointed Jim Kilmartin to the CRC.

- C. Discussion on K.A.R. 102-1-15(g) for Licensed Psychology Profession and Possible Language for Other Professions.** The Executive Director noted the Licensed Psychology profession is the sole profession that currently includes language in regulation that at the end of an applicant's renewal period, if the licensee has not completed their continuing education hours necessary for renewal, they can request a six-month extension to complete their CEUs if there is a showing of good cause and a plan for completing the CEUs submitted and approved by the Board. This topic was previously brought before the Board to discuss by Advisory Committees to see if this is language would be helpful for other professions. There was a consensus to adopt this language for other professions, so long as the 6-month time period was shortened to 3 months, this extension cannot be used for back-to-back licensure period, and the standard of good cause is changed to extenuating circumstances. Cynthia Schendel moved to recommend introduction of this language for all professions. Laura Shaughnessy seconded. The motion passed.
- D. Discussion on Custodianship of Records in an Emergency Situation When a Practitioner is no Longer Able to Provide Care.** The Executive Director noted this topic could be discussed further as a new item to be added to the unprofessional conduct regulations. There was a discussion of adding a practitioner's name to renewals but there are concerns about the workload that will add to BSRB Staff. The Board requested the BSRB consult with legal counsel on this item prior to the issue being revisited by the Board.
- E. Possible Delegation Motions Relating to K.S.A. 74-7501 to K.S.A. 74-7511.** The Executive Director noted that the statutes for the BSRB include the term "Board" repeatedly, though some of those tasks have been delegated to the Executive Director and it would be helpful for the Board to pass delegation motions to reflect this practice.
- i. K.S.A. 74-7501(d).** In K.S.A. 74-7501(d), the current terminology in that statute states that the Board may employ clerical personnel and other assistants all of whom shall be in the classified service under the Kansas Civil Service Act. The Board may make and enter contracts and employment with such professional personnel as necessary in the Board's judgment. The Executive Director noted the Expectations of Board Members document notes these responsibilities are delegated by the Board to the Executive Director, so the Executive Director asked the Board to pass a delegation motion to reflect this practice. Deb Stidham moved to clarify that the use of the term "Board" in that context would be a delegation of authority by the Board of the Behavioral Sciences Regulatory Board to the Executive Director of the BSRB to act on the behalf of the Board. Ric Steele Seconded. The motion passed.
 - ii. K.S.A. 74-7506.** In K.S.A. 74-7506, the statute includes language on expenditures from the BSRB fee fund. The language in that statute is that all expenditures from the BSRB Fee Fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the Chairperson of the Behavioral Sciences Regulatory Board or by a person or the person designated by the Chairperson. The Executive Director for the Behavioral Sciences Regulatory Board noted in his role approving certain expenditures, it would be helpful to have a delegation motion noting that he should be considered an individual designated by the Chairperson to approve vouchers related to expenditures from the

BSRB Fee Fund as described. Jim Kilmartin moved to approve the new language. Richard Nobles seconded. The motion passed.

- iii. **K.S.A. 74-7507.** In K.S.A. 74-7507, the statute states the Behavioral Sciences Regulatory Board has the following duties, powers, and functions, including appointing an Executive Director and the other employees. The Executive Director noted that while the Board appoints the Executive Director, it would be helpful for the Board to pass a delegation motion reflecting that the hiring of other employees was delegated by the Board of the Behavioral Sciences Regulatory Board to the Executive Director of the BSRB to act on behalf of the Board. Cynthia Schendel moved to approve the language Change. Ric Steel seconded. The motion passed.

X. New Business

- A. Appointment of Advisory Committee Members.** The Vice Chair of the Board appointed the following members to the Professional Counseling Advisory Committee: (1) Melissa Briggs; (2) Michael Countryman; (3) Acha Goris; and (4) Vanesa Perez.
- B. Appointment of Board Members to Hearing Panels.** At the Board's meeting on October 24, 2022, the Board elected to begin using 5-member hearing panels for individuals who request hearings on license decisions. These hearing panels will be composed of five Board members, including one Board member for that profession, if there is a Board member for that profession on the Board; one public Board member; and the remaining three members of the hearing panel could be any Board members. The first hearing panel for a professional counseling hearing will include Mary Jones, Laura Shaughnessy, Jim Kilmartin, Richard Nobels, and Deb Stidham. Ric Steele moved to appoint the members for the first hearing panel. Deb Stidham seconded. The motion passed. The second hearing panel is for a professional counseling applicant. The members of that hearing panel will include David Anderson, Laura Shaughnessy, Johnna Norton, Jacqueline Lightcap, and Cynthia Schendel. Laura Shaughnessy moved to approve the panel. Johnna Norton Seconded. The motion passed. The third hearing panel is for a Clinical Psychotherapist applicant. The members of that hearing are Mary Jones, Dave Anderson, Donna Hoener-Queal, Ric Steele, and Andrea Perdomo-Morales. Laura Shaughnessy moved to approve the panel. Cynthia Schendel seconded. The motion passed. The Executive Director will poll members of each panel to select dates and times for the hearings.
- C. Appointment of Permanent Member to Kansas Fights Addiction Grant Review Board.** The Board discussed individuals who had requested consideration to be appointed as the BSRB appointee to the Kansas Fights Addiction Grant Review Board (K FAGRB) by the BSRB Board. There is a request to make terms so one person is serving many years. Deb Stidham moved to appoint Jason Hess to the K FAGRB, for a term beginning on November 14, 2022; reappointment to the K FAGRB would be considered at the Board's meeting in July 2024, with following terms on the K FAGRB lasting two fiscal years. Cynthia Schendel seconded. The motion passed.
- D. Consideration of Final Adoption of Changes to Regulations Following Public Comment on November 8, 2022, with One Typographically/Clerical Correction to Statute.** The Executive Director noted that within the proposed changes to regulations, there is a new definition of "related field" for the professional counseling profession. The Executive Director clarified that the Professional Counseling Advisory Committee submitted a definition, based on the definition used by the Marriage and Family Therapy profession, but with two items removed from the definition (social work and human development and family studies), however due to an error, the definition brought to the Board, and voted on by the Board included identical language to the marriage and family therapy definition of "related field." To avoid delay in the implementation of other regulations, the Executive

Director advised the Board to implement these changes, then the BSRB could pursue further changes to the regulation to reflect the definition originally recommended by the professional counseling advisory committee. The Board was supportive of this course of action. Also, the Executive Director noted that the regulations that were submitted for public comment included one typographical error, incorrectly referencing a statute without an “(a)” following the statute. The Executive Director noted representatives from the Attorney General’s office and the Secretary of State’s office noted error was not significant enough to delay the implementation and it could be corrected prior to publication, but wanted to ensure the Board was aware of the error prior to the Board voting to approve the regulations. Richard Nobles moved to adopt the proposed changes to all regulations. Cynthia Schendel Seconded. By rollcall vote, David Anderson, Jim Kilmartin, Richard Nobles, Johnna Norton, Cynthia Schendel, Laura Shaughnessy, Ric Steele, and Deb Stidham voted in favor of the proposed changes to the following regulations: K.A.R. 102-1-1; K.A.R. 102-1-5; K.A.R. 102-2-1a; K.A.R. 102-2-8; K.A.R. 102-2-12; K.A.R. 102-3-1a; K.A.R. 102-3-3a; K.A.R. 102-3-7a; K.A.R. 102-4-1a; K.A.R. 102-4-7a; K.A.R. 102-5-1; K.A.R. 102-5-7a; K.A.R. 102-7-1; and K.A.R. 102-7-6.

E. Modification to Definition of “Related Field” for Professional Counseling Profession. Deb Stidham moved to change the definition of “related field” for the professional counseling profession in K.A.R. 102-3-1a, to remove “social work” and “human development and family studies,” consistent with the recommendation from the Professional Counseling Advisory Committee. Richard Nobles seconded. The motion passed.

F. Consideration of New Recommended Changes to Regulations from Advisory Committees

- i. Removal of Physical Presence Requirement from “In Residence” Definition for Addiction Counseling, Marriage and Family Therapy, and Social Work.** The Executive Director noted the Addiction Counseling Advisory Committee, the Marriage and Family Therapy Advisory Committee, and the Social Work Advisory Committee recommended the Board remove program requirements for licensure in regulation that some of an applicant’s education be received while the applicant was physical present at the institution and to clarify that the face-to-face requirement in front of core faculty could be met either in person or by screen. Jim Kilmartin moved to approve the recommendations. Deb Stidham Seconded. The motion passed.
- ii. Adding Standard of Review of Applicants for Licensed Specialist Clinical Social Worker who Lack Clinical Practicum.** The Executive Director noted that during the 2021 legislative session, an amendment was added in a legislative committee, later enacted in 2021 HB 2208, which removed the authority of the BSRB to evaluate applicants for a clinical level social work license if those individuals had not completed a clinical practicum. Language was added back to the statutes in 2022 SB 453, allowing the Board to consider other postgraduate experience in place of this requirement. The Social Work Advisory Committee recommended the Board adopt language establishing criteria to allow the BSRB to evaluate these applicants who had not completed a clinical practicum, including a requirement of other postgraduate experience including not less than 200 hours of direct client contact, in place of the clinical practicum. Cynthia Schendel moved approved the changes. Deb Stidham seconded. The motion passed.

G. Process for Executive Director Annual Evaluation. The Expectations of Board Members document indicates that the performance of the Executive Director will be evaluated by the Board on an annual basis. By consensus, the Board was supportive of using the evaluation form used during the past

evaluation, Board members would send input on the Executive Director's performance to the Chair of the Board, and the Chair of the Board would meet with the Executive Director to review this information.

H. Due to time constraints, other items were postponed to future Board meetings.

XI. Adjournment. Jim Kilmartin moved to adjourn the meeting. Laura Shaughnessy seconded. The motion passed.