

**BEHAVIORAL SCIENCES REGULATORY BOARD
BOARD MEETING MINUTES
JANUARY 6, 2023**

APPROVED MINUTES

- I. Call to Order and Roll Call.** The meeting was called to order by Mary Jones at 10:00 am.

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

Staff. BSRB Staff present by Zoom: David Fye, Leslie Allen, Tyla Wadsworth, Cindy D’Ercole. Legal counsel for the Board, Attorney Steve Kearney, was present by Zoom.

Guests. Elizabeth Pfalzgraf, National Association of Social Workers (NASW) Kansas Chapter – Board President; Becky Fast, Executive Director for the Kansas Chapter of NASW; and Dr. Tonya Ricklefs, Chair of Kansas Council of Social Work Educators and Board President-Elect for the NASW Kansas Chapter.

- II. Agenda Approval.** Jim Kilmartin moved to approve the agenda with a minor correction to the date reference. Cynthia Schendel seconded. The motion passed.

- III. Public Comment.** Elizabeth Pfalzgraf provided comment on workforce shortages and the safety of Kansas children and families, due to barriers in passing the national licensing exam. A request was made for consideration of removing the requirement to pass the national exam. Becky Fast provided comment that the ASWB exam shows bias and how the lack of passing test takers will cause a lack of mental health treatment for Kansans. It was noted that some other states have removed the testing requirements and have seen an increase in the number of licensed social workers. States have implemented supervised practice in lieu of testing and alternative pathways for non-English speakers. Tonya Ricklefs provided comment on educational standards programs must meet under accreditation criteria for the Council on Social Work Education (CSWE).

- IV. Minutes Approval:** Jim Kilmartin moved to approve the minutes from the Board meeting on November 14, 2022, with an adjustment to the phrasing of new business item D. Laura Shaughnessy seconded. The motion passed. Jim Kilmartin moved to approve the minutes from the Board meeting on November 28. Deb Stidham seconded. The motion passed.

- V. Executive Director's Report.** David Fye, Executive Director for the BSRB, reported on the following topics:

A. Outreach. The Executive Director and Assistant Director have been meeting with students at universities who are approaching graduation to help with the expectation of the licensing process and disciplinary requirements of the profession.

- B. Expenditure and Revenue.** At the end of November 2022, revenue for this fiscal year totaled \$401,718, after the statutory 10.0 percent contributions that must be made to the State General Fund. The current balance in the BSRB Fee Fund is about \$2.2 million.
- C. Legislative Updates.** On December 21, 2022, the Executive Director provided an update to the Legislature on Board activities and items to be requested in a bill for the 2023 Legislature session at an interim special committee on mental health beds. The Legislative session begins on January 9, 2023. The State of the State address by the Governor will be on January 11, 2023. (*Note: The State of the State address was later rescheduled to January 24, 2023*). The BSRB's budget for fiscal year 2023 was originally approved by the 2021 Legislature, then revised by the 2022 Legislature. This year, the agency will present further revisions to the budget for FY 2023, as well as new budget requests for FY 2024 and FY 2025. Also, the agency will be requesting introduction of a bill including changes requested by the Board. The Executive Director will provide updates to the Board on any bills relevant to the BSRB. By consensus, the Board agreed for the Executive Director to alert the Board on bills relevant to the agency, then the Board could consider scheduling brief meetings to provide direction on possible testimony.
- D. PSYPACT.** There are currently seventy-four licensed Psychologists in Kansas that hold Authority to Practice Interjurisdictional Telepsychology (APIT) authorizations to practice under PSYPACT authority and there are seven individuals who hold Temporary Authorization to Practice (TAP) authorizations, which allow for a limited number of days of in-state practice in other compact states.
- E. Kansas Fight Addiction Grant Review Board (K FAGRB).** Jason Hess serves as the Board's appointee on the K FAGRB. Mr. Hess submitted a written update on the K FAGRB to the BSRB Board.
- F. Investigation Policy.** The Executive Director brought two items to the Board for clarification. The Executive Director asked the Board whether the Investigation Policy should reflect membership on the Complaint Review Committee will include (1) four professional members and one public member or (2) three professional members, one public members, and the last member either a professional member or a public member. By consensus, the Board confirmed that the final member of the Complaint Review Committee could either be a professional member or a public member. The Executive Director noted the current Investigation Policy states that orders from the disciplinary matters would be drafted by the disciplinary council. Currently, the orders are drafted in collaboration with legal counsel and the Executive Director for the BSRB. By consensus, the Board agreed to modify the language to reflect this operational change.
- G. Social Work Compact.** The language for a social work compact is still in draft form. The drafting team is hoping to meet in February to finalize the language. In the most

recent version of the draft language, the compact requires the passage of a national licensing exam for all levels of licensure under the compact.

- H. Association of Social Work Boards (ASWB).** There have been several conversations on the exam data and steps that ASWB has taken to respond. ASWB has included more materials for test prep for universities on their website.
 - I. Strengthening People and Revitalizing Kansas (SPARK).** In February 2021, the Executive Director previously applied for modernization federal grant funding related to the COVID-19 pandemic, through the SPARK Committee. Recently, the SPARK Committee informed applicants that previous submissions were considered “ideas for proposals,” rather than official submissions, and that the process would be reopened to all agencies to submit applications for federal funding. The BSRB will be re-submitting requests for funding for modernization of certain technology.
 - J. Kansas Health Institute (KHI) Report.** The Executive Director noted KHI recently released a report that included certain licensee totals for the BSRB, as part of a series on workforce shortages. The Executive Director noted agency staff was able to see a draft copy of the report before it was published and expressed concerns to KHI staff that the totals in the report appeared to significantly under-represent the actual number of licensees. This under-reporting appeared to be due to the criteria used by KHI in the report, in which (1) individuals with a business address outside of Kansas were excluded and (2) only included individuals who voluntarily chose to report their frequency of hours worked when renewing their licenses. The Executive Director noted he will clarify information in committees if provided the opportunity to do so.
- VI. Staff Reports.** The Executive Director highlighted a report created by the BSRB, which shows historic totals of permanent licensees. Trends differ by professions, but overall, the number of individuals with permanent licensees under the BSRB continues to increase.
- VII. Complaint Review Committee (CRC) Report.** Cindy D’Ercole, Lead Investigator for the BSRB, reported that at the end of December, the BSRB received 97 complaints. In FY 2022, the BSRB received a total of 205 complaints.
- VIII. Professions Reports**
- A. Licensed Psychology.** The Advisory Committee met on December 13, 2022. They worked on finalizing unprofessional conduct regulations and discussed reciprocity and education requirements. The Advisory Committee recommended to the Board replacing the license requirement of having “good moral character” with a standard of “meriting the public trust” to be consistent with other professions and to follow a more commonly accepted license standard in other states.
 - B. Social Work.** The Advisory Committee met on December 20, 2022. They discussed possible language on care of clients who are in crisis and possible changes to reciprocity requirements.

- C. Professional Counseling.** The Advisory Committee met on December 8, 2022. The Advisory Committee welcomed four new members; worked on possible changes to unprofessional conduct regulations; discussed the care of clients in crisis; and education requirements.
- D. Master's Level Psychology.** The Advisory Committee met on January 5, 2023. They worked on unprofessional conduct regulations; discussed possible requirements for psychometrician licensure; adding another member; and possible changes to reciprocity requirements.
- E. Marriage and Family Therapy.** The Advisory Committee met on December 9, 2022. They discussed possible changes to reciprocity requirements and changes to unprofessional conduct regulations.
- F. Addiction Counseling.** The Advisory Committee met on December 16, 2022. There was a presentation from the National Addiction Studies Accreditation Commission (NASAC) and creation of new student temporary licenses. The Advisory Committee also discussed possible changes to reciprocity requirements and potential changes to unprofessional conduct regulations.
- G. Behavior Analyst.** The Advisory Committee did not meet before the Board meeting and will be meeting Monday, January 10, 2023.

IX. Old Business

- A. Discussion on Professional Counseling Multi-State Compact Legislation.** On August 1, 2022, the Professional Counseling Advisory Committee received a presentation on a multi-state compact for professional counseling. On October 3, 2022, the Advisory Committee discussed the compact and recommended the Board support the compact, if a bill was brought before the 2023 Legislature. In November, the Board heard public comment in support of the compact from the President of the Kansas Counseling Association. The Executive Director noted that there is still lack of clarity whether there will be a cost to Kansas to be a member in the compact, as the model language provides authority for an amount be charged, but the compact commission current has not implemented a fee. Additionally, the model language includes language on background checks based on fingerprinting, which the BSRB does not currently require. The compact is currently approved in 17 states. Cynthia Schendel moved that if legislation is introduced, the BSRB should provide proponent testimony in support of the compact. The motion was seconded by Richard Nobles. The motion passed.
- B. Continued Discussion on Social Work License Examination.** Board members discussed reports that some individuals were struggling to pass the licensing examination, as well as the report from ASWB on disparities in examination passage rates. The Social Work Advisory Committee discussed support for increasing the

timeframe for temporary licenses to allow applicants more time to take the licensing examination. The Advisory Committee also supports allowing coaching and mentoring individuals preparing to take the licensing examination to count as continuing education. Board members discussed whether the disparity in the passage rates for these exams is unique to social work or if this is common among standardized exams. It was noted that most professions have not released similar data, so it is difficult to know whether similar disparities exist for certain professions. Ric Steele, Chair of the Licensed Psychology Advisory Committee, noted that he has seen smaller reports concerning certain applicants for the psychology licensing examination, and these reports showed disparities for the same groups. It was noted that the Council on Social Work Education (CSWE) previously recommended states pause a requirement of the licensing examination for the bachelor level and master's level applicants. It was noted that the most recent draft language for the social work multi-state compact included a requirement of passage of a licensing examination for all levels of licensure, so if Kansas discontinued or pass requiring the licensing examination, this could impact the state's ability to join the compact. Board members expressed a desire to continue discussing issues related to this topic and expressed a desire to for more information on other licensure pathways in different states.

C. Follow up on Executive Director Annual Evaluation and Executive Session.

Dave Anderson, Vice-Chair of the Board, made the following motion:

Pursuant to K.S.A. 75-4319, I move that the Board recess into executive session for 30 minutes and reconvene the open meeting at 12:20 p.m. The meeting will be reconvened remotely by conference call at 1-877-278-8686, PIN 327072, and by Zoom as directed in the notice of meeting that was sent to individuals who requested notice and is published on the Board's website: ksbsrb.kansas.gov.

The justification for closure is to discuss personnel matters of non-elected personnel. The Board's legal counsel, Steve Kearney is to be included in the executive session. The subject to be discussed in the executive session is personnel evaluations.

Cynthia Schendel seconded. The motion passed.

When the executive session ended, the Board moved to the next item on the agenda.

X. New Business

A. Consideration of Memorandum of Understanding for Legal Services from the Kansas Department for Aging and Disability Services. The Board entered a contract for limited legal services with Kearney and Associates on November 28, 2022, with the terms that the BSRB will be investigating other options for long-term legal services. The Executive Director stated he has been in communications with representatives from the Kansas Department for Aging and Disability Services (KDADS) and representatives from KDADS would be willing to provide both Board legal services

and disciplinary services to the BSRB, through a Memorandum of Understanding (MOU) through the end of FY 2023. During this time, the BSRB would be able to research and consider other options for long-term legal services. It was noted that the agreement could be terminated earlier than the end of the fiscal year, if the BSRB identified another provider of legal services prior to the end of the term of the MOU. The Executive Director informed the Board that he believed this agreement would be the best option for legal services for the Board and encouraged the Board to agree to the MOU. Jim Kilmartin moved for the Board to enter into the MOU with KDADS. Cynthia Schendel seconded. The motion passed.

B. Appointment of Board Members for Hearing Panels. The Executive Director noted an applicant for a Master's Level Psychology license requested a hearing, so a hearing panel would need to be appointed, including David Anderson, Jim Kilmartin, Richard Nobles, Cynthia Schendel, and Deb Stidham. Mary Jones moved to appoint the hearing panel. Richard Nobles seconded. The motion passed.

C. Consideration of Possible Changes to Statutes and Regulations

I. Reciprocity Statues. The Board discussed the general reciprocity statute for the professions, which requires most applicants to have either licensure from a jurisdiction with substantially equivalent license requirements or have practiced in that jurisdiction for 48 of the past 54 months. Three Advisory Committees recommended the time period be lowered to 12 months. The Social Work Advisory Committee also recommended allowing a provisional license for applicants short of 12 months of practice in their jurisdiction. Two Advisory Committees recommended eliminating the time period, so it would be sufficient to hold a license in another jurisdiction. The Board discussed the value in having consistency in reciprocity requirements across professions. Dave Anderson moved to request language in a bill before the Legislature to adopt a standard of holding a license in another jurisdiction with a similar scope of practice for 12 months. Jim Kilmartin seconded. The motion passed.

II. Addiction Counseling. The Addiction Counseling Advisory Committee recommended the Board consider requesting language in a bill before the Legislature to create two new student temporary licenses for addiction counseling. One of the student temporary licenses is for students who have not yet finished the educational requirements to receive a licensed addiction counselor license, but would be able to work under a specific set of criteria, for a specific set of providers, while finishing the education to receive a permanent license. This student temporary licensure would last two years and could be renewed for one two-year period. The second type of student temporary license would be for graduate-level students who are finishing coursework to qualify for a permanent licensed master's addiction counseling license. Board members expressed concerns regarding the scope of practice for individuals holding a student temporary license at the graduate level. Cynthia Schendel moved to request bill language for the bachelor's level student temporary license. Richard Nobles seconded. The motion passed.

The Board did not take action to approve the recommendation for the second student temporary license for individuals pursuing a licensed master's level addiction counseling license.

XI. Adjournment. The meeting was adjourned.