

Behavioral Sciences Regulatory Board
Masters Level Psychology Advisory Committee
April 20, 2022, Minutes
DRAFT Minutes

- I. Call to Order.** The meeting was called to order by David Anderson, Chair of the Advisory Committee, at 10:00 a.m.

Master's Level Psychology Advisory Committee Members. Advisory Committee Members who participated by Zoom or phone were David Anderson, Donna Hoener-Queal, Rebecca Jabara, Iris Pauly, Joshua Tanguay, and Kari Wold.

BSRB Staff. BSRB staff members who participated by Zoom included David Fye and Leslie Allen.

Guests. None

- II. Approval of the Agenda.** Donna Hoener-Queal moved to approve the agenda with the addition of adding an item under new business for the Advisory Committee to discuss whether to recommend BSRB pre-approved continuing education providers and pre-approved continuing education classes for the profession. Kari Wold seconded. The motion passed.
- III. Review and Approval of Minutes.** Kari Wold moved to approve the minutes from the Advisory Committee meeting on February 10, 2022. Joshua Tanguay seconded. The motion passed.
- IV. Executive Director's Report.** David Fye, Executive Director for the BSRB, reported on the following items:
- A. BSRB Staff Update.** The BSRB is still under most of the Governor's pandemic directions, including the limitation on in-person meetings, so the agency is unable to hold Board or Advisory Committee meetings in person currently. Most staff are working in the office full-time, though the two investigators are using a telework hybrid model, working in the office three days each week and utilizing the BSRB Telework Pilot two days each week.
- B. 2022 Legislative Session.** The Executive Director provided a brief summary of the legislative process to enact a bill, including legislative deadlines. The Legislature is currently on a three-week break, before returning and wrapping up most items during the legislative Omnibus period. The appropriations bill (House Substitute for Substitute for Senate Bill (SB) 267) was passed by the Legislature and is pending review and action by the Governor. The Executive Director provided a summary of legislative action on the Board's recommendations, beginning with the introduction of SB 387, the hearing and Senate Committee discussion on that bill, Amended SB

387 being passed out of the Senate Committee after the Senate Committee voted to remove the licensed psychology Board recommendation, SB 387 dying on the Senate calendar, follow up efforts to have Amended SB 387 reintroduced, heard, and worked in a House Committee, and the activities in Legislative conference committees. Ultimately, two Board recommendations were passed in the final version of SB 453. The final bill included Board recommendations for the addiction counselor profession and the social work profession, but not the Board's recommendation concerning continuing education changes for the Licensed Psychology profession. Another bill relevant to the BSRB is House Bill (HB) 2087, which was passed with the previous contents of Substitute for SB 34. HB 2087 requires all agencies to submit a report to the Joint Committee on Rules and Regulations, for all agency regulations, explaining if each regulation is necessary for the implementation of state law. There are over 120 regulations for the BSRB, so creation of this report will necessitate the agency diverting staff time from regular duties and will likely cause licensing delays or lead the agency to hire additional part-time staff.

- C. March Board Meeting.** The Executive Director provided updates from the Board meeting on March 14, 2022. Most full Board meetings will begin at 9am, at least while meetings are held remotely. The Board is reviewing the Investigation Policy for the Board, which was last updated in 2009. The Executive Director will be presenting a report to the Board with proposed changes to the Policy at the May Board meeting. Certain statutes and regulations state authority for actions as “the Board,” but some of these tasks have been delegated over the years to the BSRB, the Executive Director, the Complaint Review Committee, etc. The Executive Director noted he will bring sections of statutes and regulations before the Board to clarify delegation authority and possibly have the Board vote to renew some of these delegations. The Board discussed Board-approved supervisor training and if there are adequate opportunities for supervisor trainings. In future meetings, the Board intends to discuss impaired provider programs, telehealth standards, and other topics.
- D. April Board Meeting.** On April 15, 2022, a special Board meeting was held for the Board to discuss language added and passed by the Legislature in SB 453, concerning graduates of an online Master's of Social Work program at Fort Hays State University. This program is in candidacy for accreditation through the national accrediting body for social work, the Council on Social Work Education (CSWE), but does not expect to reach full accreditation until February 2023. Under the licensure statutes and regulations of the BSRB, if applicants obtained their education from schools not accredited by CSWE, then those applicants alternatively must meet separate requirements in the regulations. One such regulation requires half of the coursework to be completed “in residence,” while the applicant was physically present at the school. Graduates of an online program would not be able to meet this standard. The language added by the Legislature directed the BSRB to treat graduates from this online Fort Hays State program as if they had graduated from a CSWE accredited school, for the purpose of fulfilling licensure requirements (retroactively for past graduates and for future graduates through the end of FY 2023). The Board expressed interest in re-examining licensure requirement which require a physical

presence while obtaining coursework and also the creation of a new provisional/temporary license for applicants who graduated from a school while their program is in candidacy for CSWE accreditation.

- E. Conferences.** The Executive Director will be attending upcoming conferences for the Association of State and Provincial Psychology Boards (ASPPB) and the Association of Social Work Boards (ASWB) later this month and will provide a report on any items relevant to the Advisory Committee.

V. Old Business

- A. Continued Review of Possible Regulation Changes to K.A.R. 102-4-3a.** Leslie Allen, Assistant Director and Licensing Manager for the BSRB, provided a draft copy of K.A.R. 102-4-3a reflecting changes recommended by the Advisory Committee at the previous Advisory Committee meeting. The Advisory Committee previously recommended removing the term “in residence” from K.A.R. 102-4-3a(f)(2) and recommended changing the definition of “core faculty” to “faculty” in K.A.R. 102-4-3a(a)(1) with other associated changes in K.A.R. 102-4-3a(a)(1)(A) and striking K.A.R. 102-4-3a(1)(B) and (C), to allow adjunct faculty to be able to fulfill certain educational requirements. Advisory Committee members noted with these changes, the definition of “Primary Professional Employment” could be struck in K.A.R. 102-4-3a(a)(3), as the definition was previously used in the definition of a core faculty member. By consensus, the Advisory Committee recommended striking the definition of Primary Professional Employment as well. The Advisory Committee recommended changing the reference of “core faculty” in K.A.R. 102-4-3a(f)(8) to “faculty,” for the ratio of students to faculty members requirement. The Advisory Committee approved the draft language.

VI. New Business

- A. Advisory Committee Members' Expectations for Next Term.** The Executive Director provided information on adding structure to Advisory Committee terms, including expectations of attendance. All members that are up for reappointment were contacted by the Executive Director to see if they wished to be reappointed to Advisory Committee. The Chair of the Board has authority to reappoint Advisory Committee members to new terms, so members should be reappointed at either the Board’s meeting in May or July of 2022.
- B. Adding New Members to Advisory Committee.** The Advisory Committee was supportive of adding one new member to the Advisory Committee. The Committee asked the Executive Director to contact previous applicants to see if those individuals were still interested in serving on the Advisory Committee.

C. Unprofessional Conduct Regulations. Advisory Committee members received a copy of the unprofessional conduct regulations for the professions (K.A.R. 102-4-12) at the previous Advisory Committee meeting and were asked to discuss whether any changes were needed. Members of the Advisory Committee discussed the following items:

- K.A.R. 102-4-12(b)(2)(D) concerning notifying the Board after conviction of a crime. The Executive Director noted other professions include a similar regulation, but reference reporting felonies, rather than all crimes;
- K.A.R. 102-4-12(b)(7) including knowingly aiding or abetting anyone not credentialed to represent that person as credentialed. The Advisory Committee discussed whether to continue to include the term “credentialed,” rather than “licensed.” Advisory Committee members discussed whether the term “credentialed” would be more relevant to the insurance community, rather than discussions by a regulatory board;
- K.A.R. 102-4-12(b)(10) offering to perform or performing services clearly inconsistent or incommensurate with one’s training, education, or experience or with accepted professional standards. Advisory Committee members discussed whether to add language to this regulation specifically to address providing services via tele-health;
- K.A.R. 102-4-12(b)(12) involving discriminating against any client, student, or supervisees. The Advisory Committee discussed whether to add additional categories, such as gender identity and sexual orientation;
- K.A.R. 102-4-12(b)(13) and (14) as they relate to new standards for telehealth services;
- K.A.R. 102-4-12(b)(19), (22), and (23) as the regulations relate to a standard for confidentiality, given telehealth services in the home, rather than services being provided in an office;
- K.A.R. 102-4-12(b)(24) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation. Advisory Committee members discussed whether language “including billing practices and advertising” should be changed to “including, but not limited to billing practices and advertising;”
- K.A.R. 102-4-12(b)(27) involving making sexual advances toward, engaging in physical intimacies or sexual activities with, or exercising undue influence over any person who, within the past 24 months, has been one’s client. The Advisory Committee discussed whether to add “student” and “supervisee” in addition to client;
- K.A.R. 102-4-12(b)(36) involving maintaining records for clients. The Advisory Committee discussed whether telehealth language should be added;
- K.A.R. 102-4-12(b)(45) involving supervising in a negligent manner. The Advisory Committee discussed whether to change the term “negligent” to “harmful;” and
- K.A.R. 102-4-12(b)(49) involving failing to inform the proper authorities as required by K.S.A. 39-1402, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to a resident, as defined by K.S.A. 39-1401(a) and amendments thereto: change to failing to file a

report. The Advisory Committee discussed whether to add electrotonic PHI and encryption for personal client information.

- The Advisory Committee expressed it intends to continue discussion on the unprofessional conduct regulations at the next meeting.

D. Authority to Administer and Sign Off on Assessments. Advisory Committee members discussed authority of Master's Level Psychologists to perform certain functions, noting that some functions involved whether billing could be done for those services, such as assessments. It was noted that this topic may not be under the jurisdiction of the BSRB, but billing matter would likely be under the Kansas Department of Health and Environment or the Kansas Department for Aging and Disability Services.

E. Pre-Approved Providers for Continuing Education. The BSRB currently offers optional pre-approved status for continuing education providers and continuing education programs for the social work profession (social work was the profession that had requested this ability previously). The Executive Director discussed the benefits and drawbacks involved in this process, for the providers and for the staff of the BSRB. At the last Board meeting, Advisory Committees were asked to discuss whether the BSRB should pursue similar language for their professions. The Advisory Committee expressed support for allowing this option for the Master's Level Psychology profession.

VII. Next Meeting: Wednesday, June 22, 2022, from noon to 2 pm

VIII. Adjournment. Joshua Tanguay moved to adjourn the meeting. Kari Wold seconded. The meeting was adjourned.