

**Kansas Behavioral Sciences Regulatory Board
Behavior Analyst Advisory Committee
April 13, 2022**

Approved Minutes

- I. Call to Order:** Bruce Nystrom, Chair of the Advisory Committee, called the meeting to order at 10am.

Committee Members: Bruce Nystrom, Jacqueline Lightcap, Kimberly Becker, Allison Bell, Claudia Dozier, Linda Heitzman-Powell, Emily Kessler, Pete Peterson, Christine Stiehl, Mike Wasmer, and Alice Zhang were present by Zoom.

BSRB Staff: David Fye and Leslie Allen attended by Zoom.

Guest Speaker: Holly Benincosa, Executive Director of the Qualified Applied Behavior Analysis (QABA) Credentialing Board, attended by Zoom.

- II. Agenda Approval.** David Fye, Executive Director for the BSRB, requested the addition of an agenda item so the Advisory Committee could discuss the topic of pre-approval for continuing education providers and programs. No Advisory Committee members expressed opposition to the addition. By consensus, the modified agenda was approved.
- III. Minutes Approval.** Christie Stiehl moved to approve the minutes from the meeting on February 9, 2022, with a technical amendment to reflect the date of the following meeting as April 13, 2022. Emily Kessler seconded. The motion passed.
- IV. Executive Director's Report.** The 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 limit 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 bill requested by the BSRB was passed within SB 453. The final bill included Board recommendations for the addiction counselor profession and the social work profession, but did not include 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. The Executive Director noted that a majority of current members of the Behavior Analyst Advisory Committee started serving on the Advisory Committee in 2015. While the Advisory Committee did not meet every year since that time, the maximum period for membership on the Advisory Committee is 8 years, so several Advisory Committee members will reach their maximum service at the end of June 2023. In future meetings, the Board intends to discuss impaired provider programs, telehealth standards, and other topics. Advisory Committee members asked if Behavior Analysts could practice under the authority of the multi-state compact PSYPACT. The Executive Director noted the compact was limited to Licensed Psychologists and he was not aware of a multi-state compact for Behavior Analysts, though the Executive Director provided updates on a compact for the professional counselor profession and a compact being drafted for the social work profession.
- D. 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. Presentation on the Qualified Applied Behavior Analysis (QABA) Credentialing Board.** The Executive Director noted at the last Advisory Committee meeting, the Advisory Committee discussed licensing requirements, including that Behavior Analysts and Assistant Behavior Analysts are certified by a national certifying entity, which is currently recognized as the National Accredited Behavior Analyst Certification Board (BACB), or other equivalent non-governmental entity approved by the BSRB. Currently, the BSRB recognizes the BACB, but the Advisory Committee was asked to examine

whether the Qualified Applied Behavior Analysis Credentialing Board (QABA) would meet the appropriate standard. The Executive Director provided the members of the Advisory Committee materials on the BACB and the QABA. Holly Benincosa, Executive Director of the QABA Credentialing Board, provided a presentation on the QABA Credentialing Board and answered questions from Advisory Committee members. Responding to questions, Ms. Benincosa noted that Virginia currently recognize QABA as a national accrediting body, though they anticipated other states recognizing them before the conclusion of the current legislative sessions. Ms. Benincosa provided information on insurance company and Medicaid recognition of QABA licensees. Ms. Benincosa noted QABA is not a non-profit organization, provided information on Board members, and provided other background information on the QABA and processes used by the QABA. Ms. Benincosa noted 13 individuals residing in Kansas were previously certified by QABA, though some of those individuals have let their credentials lapse.

VI. Old Business

A. Consideration of Adding Behavior Analyst to the Board and Complaint Review Committee (CRC) of the BSRB. The Advisory Committee's previous recommendation to request the Board request legislation adding a Behavior Analyst to the Board is still being discussed by the Board. The Executive Director noted he contacted representatives from the Kansas Legislative Research Department, asking whether the addition of a professional member would necessitate adding another public member, due to any ratios of public members to professional members. That request is still pending with KLRD, but the Executive Director noted he will report back when he has more information. Factors to be considered on this topic that were discussed include the number of licensees for the Behavior Analyst profession compared to the other professions regulated by the Board, uncertainty whether adding a professional member would also require a public member to be added, the cost of adding additional members to the Board, and whether the Board would grow too large if Board members were added beyond the current number of 12 members. The Advisory Committee also expressed interest in a Behavior Analyst sitting on the Complaint Review Committee (CRC). The Investigation Policy for the BSRB was last updated in 2009, which was prior to both Addiction Counselors and Behavior Analysts being licensed by the BSRB, so neither profession is included as possible members. The Executive Director noted the CRC includes only 5 members of the Board, including a Licensed Psychologist, a Social Worker, two public members, and the last member of the CRC is a Board member representing Marriage and Family Therapy, Professional Counseling, or Master's Level Psychology. The Executive Director noted that the CRC was structured so there are always some professions without a representative on the CRC, to allow a majority of the Board the ability to serve on possible hearing panels for items heard by the CRC and later appealed. The Investigation Policy is scheduled to be reviewed at the May Board meeting and the Executive Director noted that he will discuss the issues raised by the Advisory Committee when the Board considers changes to the Investigation Policy and the Chair of the Advisory Committee will speak to recommendations of the Advisory Committee. The Chair of the Advisory Committee, who also currently serves as the

Chair of the CRC, noted that the two Investigators for the BSRB and the Assistant Attorney General assisting the Board provide knowledge and direction for the different rules of unprofessional conduct for all of the professions and that the public members serving on the CRC have done a wonderful job of becoming knowledgeable about each of the professions.

- B. Review of K.S.A 65-7502 Qualifications for License.** The Executive Director referenced the presentation by the Executive Director of QABA and the other materials provided to Advisory Committee members and asked members to review those materials for discussion on this topic at the next meeting.

VII. New Business

- A. Discussion on Unprofessional Conduct Regulations.** The Executive Director noted Advisory Committee members received a copy of the unprofessional conduct regulations for the profession and were asked to review the regulations to be able to discuss whether any changes were needed at this Advisory Committee meeting. The Executive Director also provided a separate statute on recordkeeping and the ethical code from the BACB. The Executive Director also offered to search for unprofessional conduct regulations from other states, if that method was requested. Members of the Advisory Committee discussed possible changes to the regulations, including:

- Adding language specific to social media, as relating to confidentiality;
- Adding language on supervision of others, regarding appropriate practices;
- Adding language in Section J concerning discrimination against others, to more closely align with the BACB ethics guidelines;
- Providing clarity to the language of Section O, regarding the responsibility to inform a client about available services from a public agency;
- Review the length of recordkeeping requirements for records for youth;
- Adding language on appropriate technology and associated concerns, such as security of connections, for telehealth services; and
- Considering changes to language of item D, which lists conviction of a crime resulting from or relating to one's professional practice of applied behavior analysis. Should this item include other crimes?

Advisory Committee members expressed interest in having a more “user friendly” version of the unprofessional conduct regulations, so practitioners and members of the public will be able to understand what constitutes a violation. The Executive Director noted that other Advisory Committees have expressed a similar interest and the agency will be looking into a possible solution to this issue.

- B. Pre-Approved Continuing Education Providers.** 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. Advisory Committee members noted the BACB already offers a similar service and stated they did not believe this process was necessary to be done by the BSRB. Leslie Allen, Assistant Director and Licensing Manager for the BSRB, clarified the BSRB standard for pre-approval of continuing education. Advisory Committee members were not in support of adding this process for the Behavior Analyst profession.

VIII. Next Meeting: The next Advisory Committee meeting was scheduled for Wednesday, June 08, 2022.

IX. Adjournment: Linda Heitzman-Powell moved to Adjourn. Emily Kessler seconded. The motion carried.