

**BEHAVIORAL SCIENCES REGULATORY BOARD
PROFESSIONAL COUNSELING ADVISORY COMMITTEE'S
SUBCOMMITTEE ON UNPROFESSIONAL CONDUCT REGULATION REVIEW
SEPTEMBER 30, 2022**

Approved Minutes

- I. Call to Order.** David Fye, Executive Director for the Behavioral Sciences Regulatory Board, called the Subcommittee meeting to order at 11 a.m.

Subcommittee Members: Subcommittee members who participated by Zoom were Andrew Secor and Bob Kircher. Michelle Fairbank was absent.

BSRB Staff: David Fye and Leslie Allen were present by Zoom.

- II. Continued Review of Unprofessional Conduct Regulation.** The Executive Director reminded the members of the Subcommittee of their charge to review the current unprofessional conduct regulations for the professional counseling profession and to submit recommendations for possible changes back to the Professional Counseling Advisory Committee, which could be recommended by the Advisory Committee back to the Board of the BSRB for changes to the regulations. The Subcommittee was asked to focus on areas where new unprofessional conduct regulations should be added, whether other regulations should be removed, and whether existing regulatory language should be changed to provide clarity to the regulations. The Executive Director advised the members of the Subcommittee to be mindful of regulations that may need additional language, considering changes in technology including telehealth and social media. At the previous Subcommittee meeting, the Subcommittee reviewed the K.A.R. 102-3-12a(a) and (b)(1-27).

The members of the Subcommittee continued to review the unprofessional conduct regulations for the professional counseling profession, beginning with K.A.R. 102-3-12a(b)(28).

For item 33, Subcommittee members questioned the use of the phrase “secret or special treatment” and considered alternative language, such as “untested or experimental.”

For item 34, Subcommittee members expressed support for replacing the term “tests” with “assessments.”

For item 35(D), Subcommittee members expressed support for replacing the term “tests” with “assessments.”

For item 37, a past grouping of the Professional Counseling Advisory Committee had considered alternative language, which was reviewed by the Subcommittee. Members indicated support for continuing to include language that the consent of each participant

be voluntary and informed. The item was highlighted for additional discussion by the full Advisory Committee.

For item 43, Subcommittee members expressed support for adding additional language to clarify whether a different length of time is necessary for retention of minor records.

For item 44, Subcommittee members asked for clarification whether the language would cover supervision of students, and expressed a desire for clarification to make sure that safety of students is covered.

For item 47, Subcommittee members expressed support for moving the term “sexual abuse” to the section of the regulation that includes “physical, mental, or emotional abuse,” rather than following “neglect.” (*Note*: Item 47 links to K.S.A. 38-2223, Reporting of Certain Abuse or Neglect of Children; Persons Reporting; Reports, Made to Whom; Penalties; Immunity from Liability. Under K.S.A. 38-2223(a)(1), the specific language in the statute currently states “...*physical, mental or emotional abuse or neglect or sexual abuse...*”)

For item 51, Subcommittee members discussed whether some of the content of this item might already be covered in item 33 and item 37 and highlighted the item for further discussion.

For item 55, Subcommittee members discussed the language of the regulation and the difficulty in differentiating between mental disorder, mental illness, or disease. Advisory Committee members expressed support for removing this regulation.

A past grouping of the Professional Counseling Advisory Committee expressed support for adding three new regulations, two specifically directed towards social media and a third directed a telehealth practices. Subcommittee members expressed support for adding the proposed language for each of the three regulations.

Additionally, Subcommittee members supported adding additional regulations based on language in the American Counseling Association (ACA) Code of Ethics, as it relates to telehealth practices. Subcommittee members discussed disclosure of practitioner telehealth credentials and training, disclosure of physical location of practice and provider contact information, mindfulness of time zone differences, expected delivery response times, and consistency of telehealth services being provided in the state.

VII. Adjournment. The meeting was adjourned at 12:05 p.m.