

**BEHAVIORAL SCIENCES REGULATORY BOARD**  
**LMLP/LCP ADVISORY COMMITTEE**  
**Wednesday, October 19, 2022**

You may view the meeting on the BSRB YouTube channel: <https://youtu.be/vYNZ8liQQ7c>

To join the meeting by conference call: 877-278-8686 (Pin #327072)

Due to the COVID-19 pandemic, the Board office is practicing social distancing. The office space does not allow for a meeting while practicing social distancing, therefore the meeting will be conducted virtually on a Zoom platform and broadcast to the public using the BSRB YouTube channel. If there are any technical issues during the meeting, you may call the Board office at 785-296-3240 or send an e-mail to [BSRB@ks.gov](mailto:BSRB@ks.gov). The Advisory Committee may take items out of order as necessary to accommodate the time restrictions of Advisory Committee members and visitors. All items are subject to change.

**Wednesday, October 19, 2022, 10:00 a.m.**

- I. Call to Order and Roll Call**
- II. Approval of Agenda or Additions to the Agenda**
- III. Review and Approval of Minutes from Advisory Committee Meeting on August 24, 2022**
- IV. Executive Director's Report**
- V. Old Business**
  - A. Continued Discussion on Types of Testing/Assessments Being Administered by Psychology Programs**
  - B. Continued Discussion on Psychometricians**
- VI. New Business**
  - A. Discussion on Possible Regulation for Care of Clients in Crisis**
- VII. Possible Additional Agenda Items**
- VIII. Next Meeting: Date to be Determined, December, at Noon**
- IX. Adjournment**

**Behavioral Sciences Regulatory Board  
Masters Level Psychology Advisory Committee Meeting  
August 31, 2022**

**DRAFT Minutes**

- I. Call to Order.** The meeting was called to order by David Anderson, Chair of the Advisory Committee, at 12:00 p.m.

**Master's Level Psychology Advisory Committee Members.** Advisory Committee Members who participated by Zoom or phone were David Anderson, Donna Hoener-Queal, Travis Hamrick, Rebecca Jabara, Lauren Lucht, 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. Lauren Lucht seconded the motion. The motion passed.
- III. Review and Approval of Minutes.** Kari Wold moved to approve the minutes from the Advisory Committee meeting on June 22, 2022. Lauren Lucht seconded. The motion passed.
- IV. New Advisory Committee Member.** The Advisory Committee welcomed Travis Hamrick to the Advisory Committee.
- V. Executive Director's Report.** David Fye, Executive Director for the BSRB, reported on the following items:
- A. Agency Update.** The BSRB is still under the Governor's direction to avoid in-person meetings. The Executive Director noted he will update the Advisory Committee when that direction is changed. Until the limitation is lifted, the BSRB will continue to hold most Board and Advisory Committee meetings virtually. The BSRB hired a new part-time licensing specialist named Emma Allen. She started with the agency on July 18<sup>th</sup>. The BSRB is required to submit a revised budget for fiscal year (FY) 2023 and a new budget for FY 2024 and FY 2025 by September 15, 2022. The Executive Director will be speaking to vendors that have active contracts with the BSRB to estimate the future cost of services.
- B. Board Meeting on July 11, 2022.** The Board elected Mary Jones as the new Chair and David Anderson as the Vice-Chair. The Governor appointed Cynthia Schendel (social work) and Richard Nobles (licensed psychology) as new professional Board

members. The Governor appointed Jim Kilmartin as the new public member, beginning on July 12, 2022. At the Board meeting, the Board reviewed and made additional changes to the investigation policy. The Board will be holding an annual all-day planning meeting in Olathe, KS, on Oct 24, 2022. During FY 2022, there were 4 complaints against Licensed Master's Level Psychologists (LMLPs) and 5 complaints against Licensed Clinical Psychotherapists (LCPs) out of around 205 total complaints for that fiscal year. So far, for FY 2023, the BSRB has received 37 total complaints. Of this total, 3 have been against LMLP's and 3 have been against LCPs. The Executive Director noted the distinction between complaints and violations.

**C. Other Meetings and Events.** The Executive Director attended a conference hosted by the National Board for Certified Counselors and presented information on the topic of "Innovations in Licensing... Looking Forward and Back."

## **VI. Old Business**

**A. Continued Discussion of Possible Changes to "In Residence" Requirement in K.A.R. 102-4-3a.** The Executive Director noted that K.A.R. 102-4-3a, educational requirements, requires that certain educational credit hours must be received "in residence," defined as being physically present at a university/school in face-to-face contact with core faculty. The Executive Director noted other Advisory Committees have discussed potential changes to the physical presence requirement and many of the other Advisory Committees have recommended allowing the face-to-face contact with core faculty members to be satisfied either by screen or in the same physical proximity. It was noted the licensed psychology profession is not considering this change, due to trainings on certain testing and differences between the scope of practice for the profession. Advisory Committee members did not recommend a change to the current physical presence requirement for the master's level psychology profession. Joshua Tanguay will gather information on types of testing/assessments that were being covered in psychology programs at different schools and will provide this information at a future Advisory Committee meeting.

## **VII. New Business**

**A. Discussion on Licensed Psychology K.A.R. 102-1-15(g).** The Executive Director discussed K.A.R. 102-1-15(g), which is a regulation for the licensed psychology profession on continuing education requirements, that allows licensed psychologists to be able to request an extension of time to complete their continuing education hours, if they can show good cause for needing additional time. This extension is limited to six months. Licensees would still need to renew their licenses prior to the expiration dates but could be granted additional time to complete any remaining continuing education hours. The other Advisory Committees are discussing whether to add this regulation for their professions. The Executive Director noted that some Advisory Committee have questioned whether six months is too long or whether a

smaller time frame might be sufficient. Other possible changes included changing the standard of showing “good cause” to extenuation circumstances, which is a term that is more frequently used by the Board. The Advisory Committee expressed support for adding a similar regulation with a shorter period of time. By consensus, the Advisory Committee recommended adding the language with a shorter period of time. The Executive Director will forward the recommendation to the Board for the Board to determine the specific language to be added for professions.

**B. Discussion on Administration of Psychological Evaluations by Psychometricians.**

Josh Tanguay discussed long wait times for psychological evaluations and whether could be addressed through the use of Psychometricians. The Executive Director noted the statutes and regulations for the BSRB professions do not include a definition for psychometricians. Members of the Advisory Committee discussed services currently provided by psychometricians, which included having students serving as psychometricians administer certain testing and having a licensed professional sign off on certain reports. Members discussed whether language was needed under the BSRB concerning the authority of psychometricians and requested to continue discussing authority of psychometricians at a future meeting.

**VII. Possible Additional Agenda Items.** None.

**VIII. Next Meeting:** The Executive Director will poll members to determine the date of the next Advisory Committee meeting.

**IX. Adjournment.** Kari Wold moved to adjourn the meeting. Lauren Lucht seconded the motion. The meeting was adjourned.

**102-4-12. Unprofessional conduct.**

- (a) Any license may be suspended, limited, conditioned, qualified, restricted, revoked, not issued, or not renewed upon a finding of that unprofessional conduct has occurred.
- (b) Any of the following acts by a licensed master's level psychologist, a licensed clinical psychotherapist, or an applicant for licensure at the master's level of psychology shall constitute unprofessional conduct:
- (1) Obtaining or attempting to obtain a license or registration for oneself or another by means of fraud, bribery, deceit, misrepresentation, or concealment of a material fact;
  - (2) except when such information has been obtained in the context of confidentiality, failing to notify the board, within a reasonable period of time, that any person regulated by the board or applying for a license or registration, including oneself, has met any of the following conditions:
    - (A) Had a professional license, certificate, permit, registration, certification, or professional membership granted by any jurisdiction, professional association, or professional organization that has been limited, conditioned, qualified, restricted, suspended, revoked, refused, voluntarily surrendered, or allowed to expire in lieu of or during investigatory or disciplinary proceedings;
    - (B) has been subject to any other disciplinary action by any credentialing board, professional association, or professional organization;
    - (C) has been demoted, terminated, suspended, reassigned, or asked to resign from employment, or has resigned from employment, for some form of misfeasance, malfeasance, or nonfeasance;
    - (D) has been convicted of a crime; or
    - (E) has practiced the licensee's or registrant's profession in violation of the laws or regulations regulating the profession;
  - (3) knowingly allowing another person to use one's license or registration;
  - (4) impersonating another person holding a license or registration issued by this or any other board;
  - (5) having been convicted of a crime resulting from or relating to the licensee's practice of master's level psychology;
  - (6) furthering the licensure or registration application of another person who is known or reasonably believed to be unqualified with respect to character, education, or other relevant eligibility requirements;
  - (7) knowingly aiding or abetting anyone who is not credentialed by the board to represent that individual as a person who is credentialed by the board;
  - (8) failing to recognize, seek intervention, and otherwise appropriately respond when one's own personal problems, psychosocial distress, or mental health difficulties interfere with or negatively impact professional judgment, professional performance and functioning, or the ability to act in the client's best interests;
  - (9) failing or refusing to cooperate in a timely manner with any request from the board for a response, information, or assistance with respect to the board's investigation of any report of an alleged violation filed against oneself or any other applicant or professional who is required to be licensed or registered by the board. Any person taking longer than 30 days to provide the requested response, information, or assistance shall have the burden of demonstrating that the person has acted in a timely manner;
  - (10) offering to perform or performing services clearly inconsistent or incommensurate

with one's training, education, or experience or with accepted professional standards;

- (11) treating any client, student, or supervisee in a cruel manner;
- (12) discriminating against any client, student, or supervisee on the basis of color, race, gender, religion, national origin, or disability;
- (13) failing to advise and explain to each client the respective rights, responsibilities, and duties involved in the professional relationship;
- (14) failing to provide each client with a description of what the client can expect in the way of services, consultation, reports, fees, billing, therapeutic regimen, or schedule, or failing to reasonably comply with the description;
- (15) failing to provide each client with a description of the possible effects of the proposed treatment when the treatment is experimental or when there are clear and known risks to the client;
- (16) failing to inform each client, supervisee, or student of any financial interests that might accrue to the master's level psychologist or clinical psychotherapist from referral to any other service or from the use of any tests, books, or apparatus;
- (17) failing to inform each client that the client is entitled to the same services from a public agency if one is employed by that public agency and also offers services privately;
- (18) failing to provide each client or the client's legal representative with access to the client's records following the receipt of a formal written request, unless the release of this information is restricted or exempted by law, or when the disclosure of this information is precluded for a sufficiently compelling reason;
- (19) failing to inform each client, supervisee, or student of the limits of client confidentiality, the purposes for which the information is obtained, and the manner in which the information may be used;
- (20) revealing information, a confidence, or secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records, except when at least one of these conditions is met:
  - (A) Disclosure is required or permitted by law;
  - (B) failure to disclose the information presents a clear and present danger to the health or safety of an individual or the public; or
  - (C) the master's level psychologist or clinical psychotherapist is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of psychology, in which case disclosure is limited to that action;
- (21) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of the following actions:
  - (A) Electronically recording sessions with that client;
  - (B) permitting a third-party observation of their activities; or
  - (C) releasing information concerning a client to a third person, except as required or permitted by law;
- (22) failing to protect the confidences of, secrets of, or information concerning other persons when providing a client with access to that client's records;
- (23) failing to exercise due diligence in protecting the information regarding and the confidences and secrets of the client from disclosure by other persons in one's work or practice setting;
- (24) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

- (25) using alcohol or illegally using any controlled substance while performing the duties or services of a master's level psychologist or clinical psychotherapist;
- (26) making sexual advances toward or engaging in physical intimacies or sexual activities with one's client, supervisee, or student;
- (27) 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;
- (28) exercising undue influence over any client, supervisee, or student, including promoting sales of services or goods, in a manner that will exploit the client, student, or supervisee for the financial gain, personal gratification, or advantage of oneself or a third party;
- (29) directly or indirectly offering or giving to a third party or soliciting, receiving, or agreeing to receive from a third party any fee or other consideration for the referral of the client or in connection with the performance of psychological or other professional services;
- (30) directly receiving or agreeing to receive a fee or any other consideration from a client or from any third party for or in connection with the performance of psychological services, other than from an authorized employer in an employment situation as specified in this act;
- (31) soliciting or assuming professional responsibility for clients of another agency or colleague without attempting to coordinate continuity of client services with that agency or colleague;
- (32) making claims of professional superiority that one cannot substantiate;
- (33) guaranteeing that satisfaction or a cure will result from the performance of psychological services;
- (34) claiming or using any secret or special method of treatment or techniques that one refuses to disclose to the board;
- (35) continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the condition, best interests, or preferences of the client;
- (36) failing to maintain a record for each client that conforms to the following minimal requirements:
  - (A) Contains adequate identification of the client;
  - (B) indicates the client's initial reason for seeking the master's level psychologist's or clinical psychotherapist's services;
  - (C) contains pertinent and significant information concerning the client's condition;
  - (D) summarizes the intervention, treatment, tests, procedures, and services that were obtained, performed, ordered, or recommended and the findings and results of each;
  - (E) documents the client's progress during the course of intervention or treatment provided by the master's level psychologist or clinical psychotherapist;
  - (F) is legible;
  - (G) contains only those terms and abbreviations that are comprehensible to similar professional practitioners;
  - (H) indicates the date and nature of any professional service that was provided; and
  - (I) describes the manner and process by which the professional relationship terminated;
- (37) taking credit for work not personally performed, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information;

- (38) if engaged in research, failing to fulfill these requirements:
- (A) Consider carefully the possible consequences for human beings participating in the research;
  - (B) protect each participant from unwarranted physical and mental harm;
  - (C) ascertain that the consent of each participant is voluntary and informed; and
  - (D) preserve the privacy and protect the anonymity of each subject of the research within the terms of informed consent;
- (39) making or filing a report that one knows to be false, distorted, erroneous, incomplete, or misleading;
- (40) failing to notify the client promptly when termination or interruption of service to the client is anticipated;
- (41) failing to seek continuation of service, or abandoning or neglecting a client under or in need of professional care, without making reasonable arrangements for that care;
- (42) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;
- (43) failing to terminate the master's level psychology or clinical psychotherapy services when it is apparent that the relationship no longer serves the client's needs or best interests;
- (44) if the master's level psychologist or clinical psychotherapist is the owner or custodian of client records, failing to retain those records for at least two years after the date of termination of the professional relationship, unless otherwise provided by law;
- (45) supervising in a negligent manner anyone for whom one has supervisory responsibility;
- (46) failing to inform a client if master's level psychology or clinical psychotherapy services are provided or delivered under supervision;
- (47) engaging in a dual relationship with a client, student, or supervisee;
- (48) failing to inform the proper authorities as required by K.S.A. 38-2223, and amendments thereto, that one knows or has reason to believe that a client has been involved in harming or has harmed a child, whether by physical, mental, or emotional abuse or neglect or by sexual abuse;
- (49) 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:
- (A) Has been or is being abused, neglected, or exploited;
  - (B) is in a condition that is the result of abuse, neglect, or exploitation; or
  - (C) is in need of protective services;
- (50) failing to inform the proper authorities as required by K.S.A. 39-1431, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to an adult, as defined in K.S.A. 39-1430 and amendments thereto:
- (A) Is being or has been abused, neglected, or exploited;
  - (B) is in a condition that is the result of abuse, neglect, or exploitation; or
  - (C) is in need of protective services;
- (51) intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing the filing of a report or record required by state or federal law, or inducing another person to take any of those actions;

- (52) offering to perform or performing any service, procedure, or therapy that, by the accepted standards of professional practice in the community, would constitute experimentation on human subjects without first obtaining the full, informed, and voluntary written consent of the client or the client's legal representative or representatives;
  - (53) practicing master's level psychology or clinical psychotherapy in an incompetent manner;
  - (54) practicing as a master's level psychologist or clinical psychotherapist after one's license expires;
  - (55) using without a license, or continuing to use after the expiration of a license, any title or abbreviation prescribed by law for use solely by persons currently holding that type or class of license;
  - (56) offering to provide or providing services in an employment situation other than that which is permitted by K.S.A. 74-5362, and amendments thereto, as an independent, contract, or private provider of psychological services;
  - (57) practicing without adequate direction from a person authorized in K.S.A. 74-5362 and amendments thereto; and
  - (58) violating any provision of this act or any regulation adopted under the act.
- (Authorized by K.S.A. 2007 Supp. 74-7507; implementing K.S.A. 74-5362 and K.S.A. 2007 Supp. 74-5369; effective Dec. 19, 1997; amended Jan. 9, 2004; amended Aug. 8, 2008.)