

**BEHAVIORAL SCIENCES REGULATORY BOARD  
SPECIAL BOARD MEETING MINUTES  
OCTOBER 23, 2023**

**DRAFT MINUTES**

- I. Call to Order and Roll Call.** The meeting was called to order by Chair, Mary Jones, at 9:00 am.

**Board Members.** Mary Jones, David Anderson, Linda Heitzman-Powell, Donna Hoener-Queal, Jacqueline Lightcap, Andrea Perdomo-Morales, Cynthia Schendel, Laura Shaughnessy, and David Stevens attended in person. Jill Flessing, Jim Kilmartin, and Richard Nobles were not present.

**BSRB Staff.** BSRB Staff members David Fye, Leslie Allen, Cindy D’Ercole, Sami Barksdale, Tyla Wadsworth attended in person. Also, Time Resner, legal counsel for the Board, attended in person.

**Other Attendees.** Public attendees Crystal Hathorne and Jessica Ristich attended in person.

- II. Agenda Approval.** David Stevens moved to approve the agenda as written. Laura Shaughnessy seconded. The motion passed.

- III. Update on Operations by David Fye, Executive Director for the BSRB**  
The Executive Director provided an update on agency operations, including information on licensing, discipline, revenue, and expenditures.

- IV. Discussion and Possible Action on Items**

**A. Review and Approval of Proposed Changes to Regulations with Proposed Fee Changes: K.A.R. 102-1-13 Licensed Psychology; K.A.R. 102-2-3 Social Work; K.A.R. 102-3-2 Professional Counseling; K.A.R. 102-4-2 Master’s Level Psychology; K.A.R. 102-5-2 Marriage and Family Therapy; and K.A.R. 102-7-2 Addiction Counseling.** The Executive Director noted that following the enactment of 2023 Sub for SB 131, the Board approved temporary regulations setting fees for new license types and lowering other fees for certain license types, so that the BSRB could begin to issue new licenses prior to permanent regulations on the fees becoming effective. These temporary regulations were approved and have been in place for several months. During this time, BSRB was open to receive public comment on the permanent regulations on the fees. Comments by the Joint Committee on Administrative Rules and Regulations were summarized and Board staff noted that no other public comment on the fees had been received, including at the public open meeting at the BSRB office on October 3, 2023. At this time, the Board was being asked to take a roll-call vote to formally adopt the permanent regulations. Prior to the

vote, the Executive Director explained several issues concerning the regulations that the Board would need to be aware of prior to voting.

- a. K.A.R. 102-2-3(a)(7) should state “master” rather than “mater.” It was noted that this typographical change can and will be changed during the publication process. Also, it was noted that in K.A.R. 102-2-3, the amount for social workers 6-month reinstatement license fee should be \$25, not \$50. However, due to an error, the written document has the amounts in the regulation at \$50. It was noted that while this had verbally been described as a \$25 fee, it would not be able to be changed during the publication process by the Secretary of State’s office. The Board was informed that it may be possible to submit this as a post-hearing correction, however the entire regulation would need to be resubmitted for review and approval through the Department of Administration and the Attorney General’s office, and there was no set timeframe for that process. Also, during that time period, all of the other new fees in the regulation would not be able to be utilized after the temporary regulations expired. The Board approved for the regulation to be approved, understanding that the fee would be \$50, until the regulation could be resubmitted from the beginning of the process and fixed at a later date. Next, in K.A.R. 102-4-2 item (c)(2), the “(c)” is unnecessary and will be removed. This will be corrected during publication. In K.A.R. 102-5-2(b)(2) the word “licenses” is misspelled, so this will be corrected during publication. Finally, on page 3, K.S.A. is missing a period after the A. This will be corrected during publication.
- b. Also, the Board was informed that the temporary fee regulations are set to expire on November 14, 2023. After publication in the Kansas Register, the permanent fee regulations will be effective on November 17, 2023. Due to the two day gap in the expiration of the temporary regulations and effective date of the permanent regulations, BSRB staff requested approval to hold processing of effected fees on November 15, 2023, and November 16, 2023, so that there are no issues with the new permanent fees. Cynthia Schendel moved to not process effected fees on November 15 and November 16, 2023. Donna Hoener-Queal seconded. The motion passed. The Board took a rollcall vote to formally adopt the permanent regulations. All Board members present voted to adopt the regulations, including Mary Jones, David Anderson, Linda Heitzman-Powell, Donna Hoener-Queal, Jacqueline Lightcap, Andrea Perdomo-Morales, Cynthia Schendel, Laura Shaughnessy, and David Stevens. The motion passed unanimously.

**B. Alternatives to 45-day Requirement for Changes to Approved Clinical Training Plans.** The Board discussed changes that could be made to the 45-day requirement for changes to approved clinical training plans. There is concern that the 45-day requirement might operate in a negative way for licensees and may not be the best method for the Board to accomplish the desired goal of licensees accruing hours in accordance with the statutes and regulations. David Anderson moved that the supervision regulations be changed so that all changes to approved clinical training plans would need to be submitted by the supervisee to the board for its approval and that the changes shall be submitted no more than 45 days after the date on which the

changes took effect, but to strike language that currently states that if a change is not submitted within 45 days, no supervised hours of practice shall be accrued or credited for any practice. This change will allow Board staff to review those hours when an applicant applies for licensure, to determine whether those hours are in alignment with what is permitted under the statutes and regulations. Cynthia Schendel seconded the motion. The motion passed.

- C. Discussion on Requirement of One Hour of Supervision for Every 15 Hours of Direct Client Contact for Individuals Pursuing a Clinical License.** In recent years, the number of hours that need to be obtained for clinical license has decreased, from 4,000 hours to 3,000 hours. The language in the supervision regulation states that individuals pursuing clinical licensure must have one hour of supervision after 15 hours of direct client contact. The Board discussed removing of the requirement or other solutions, such as allowing supervision every two weeks. Currently, supervisees must be seen twice monthly at a minimum. Board members discussed using non-consecutive days for supervision or rewording the current language to clarify the required supervision for licensees. David Anderson moved to strike language from the supervision regulations stating one hour of clinical supervision shall be provided throughout the entirety of the postgraduate supervised professional experience for each 15 hours of direct client contact, but to include language clarifying that 100 hours of supervision is still required. David Stevens seconded the motion. The motion passed.

#### **Lunch- The Board Recessed for Lunch**

- V. Continued Discussion on Possible Action on Items.** Following lunch, the Chair of the Board resumed the meeting and continued discussion of items on the agenda.

- D. Discussion on Possible Change in Minimum Length of Supervised Practice Time Required to Obtain a Clinical License.** It was noted that previously, the amount of hours for post-graduate experience towards a clinical license totaled 4,000 hours in a time period not less than 24 months. Recently, the total hours required were reduced from 4,000 hours to 3,000 hours, but the minimum time period was not adjusted proportionally, so it remains 24 months in length. The Board discussed whether it would be appropriate to shorten this time period proportionally, so that it would be no less than 18 months. The Executive Director noted that he has been reviewing recent changes in federal law, concerning Medicare eligibility for the clinical levels of the marriage and family therapy and the professional counseling professions, beginning on January 1, 2024. He noted that in his review of the language in that legislation, the definitions of both professions include language that the amount of time for post-graduate practice experience was not less than 24 months, so he had concerns whether a shortening of 24 months to 18 months may make both professions ineligible for Medicare reimbursement. He noted that he contacted a representative from the Kansas Department of Health and Environment (KDHE) and asked if they could discuss this matter and provide input. Representatives from KDHE noted they spoke with representatives from the Kansas Department for Aging and Disability Services (KDADS) and they expressed concern with any shortening of the time period to less than 2 years, for the reasons expressed previously concerning the definition of these

types of practitioners in the federal legislation. It was noted that representatives from KDHE and KDADS recognized the authority of the BSRB in making this decision, but expressed concern and wished to provide input that it may be helpful to at least delay any action on this topic until further clarification can be determined on the possible impact to federal Medicare reimbursements. Board members noted that certain employers may be in favor of a shortening of the time period, to allow individuals to reach clinical licensure in a shorter period of time, but due to concerns on possible impact in Medicare reimbursements, the Board did not make any recommended changes at this time.

**E. Discussion on Supervision by Other Professions for Marriage and Family Therapy and Professional Counseling Professions.** Currently, the language in the regulations for the Marriage and Family Therapy and Licensed Professional Counseling professions call for clinical supervision to be provided by someone who is a board-approved supervisor and for that person to be licensed in that profession. However, the regulations also allow the Board to approve a supervisor from other professions, if extenuating circumstances can be demonstrated. The Board recently discussed whether the extenuating circumstances test is the correct test to remain in the regulations and whether both professions would like to retain the language in the regulations to allow for clinical supervision by licensees in other professions. The Board discussed that there is an interest in professions maintaining professional identity. Also, it was noted that previous changes to allow supervision by telehealth expand the availability of supervisor by telehealth. The Board discussed cost factors and the preference by certain employers to be able to utilize individuals from other professions. The Board did not make a recommendation, but it was noted the Marriage and Family Therapy Advisory Committee and Professional Counseling Advisory Committees will continue to discuss this topic.

**F. Information on License Hearings under the Kansas Administrative Procedures Act and Reconsideration Process by Tim Resner, Legal Counsel for the Board.** Legal counsel for the Board summarized the Kansas Administrative Procedure Act, the ability to request a hearing, and the ability to request reconsideration. Reconsideration would occur if requested after a denial at a license hearing or if someone did not request a license hearing, but requested reconsideration after the time period for a license hearing had ended and the period to request reconsideration was still open. It was noted that there is also a process to request reconsideration for certain disciplinary decisions as well. If reconsideration is requested, the options are that the request can be denied, it can be decided based on existing information or more information can be requested, or it can be referred to the full Board for consideration. The Board could also consider reconsiderations as a full Board or the Board could delegate this duty to one or more members. Board members discussed an interest in establishing a procedure for the reconsideration process. Donna Hoener-Queal moved for that license hearings, the Board designate one Board members to consider the request for reconsideration. Laura Shaughnessy seconded the motion. The motion passed. For reconsideration requests from matters originally involving a decision of the Complaint Review Committee, Cynthia Schendel moved that the reconsideration request be considered by a three-

member subset of the Board, composed of members that did not serve on the Complaint Review Committee when the matter was originally reviewed by the CRC. Laura Shaughnessy seconded the motion. The motion passed.

**G. Update on Registration for Military Members and Military Spouses Seeking to Practice Under Recent Changes to Servicemembers Civil Relief Act.** The Executive Director noted that the agency recently received information on a method by which military members or military spouses could seek to practice in Kansas if they hold a valid license that is in good standing in another state, they have orders to relocate to Kansas, and other conditions apply. This new method of practicing does not replace traditional licensure, which would still be an option for military members and military spouses. The Executive Director noted this new method of “recognition” is unclear as it relates to discipline of these individuals if they violate the unprofessional conduct regulations in Kansas and there are additional issues to work through. The Board was supportive of having these individuals sign documentation that says they will comply with the statutes and regulations in Kansas and keep the BSRB advised if their home-state license changes or they have disciplinary action against their license in a different jurisdiction or it is no longer active and in good standing.

**H. Update on Possible New Regulation on Expedited Application Review Process.** The Executive Director noted staff is attempting to work on draft language for this new set of regulations. BSRB staff asked for the Board’s direction whether there needs to be language for the newly created license types, or only the main permanent license types. The Board requested language be drafted on each of the different license types, permits, etc. BSRB staff will continue to work on this draft language and provide it back to the Board when it is ready for review.

**I. Discussion on Option of Utilizing CE Broker to Assist in Audits. The Executive Director noted that the Board previously received informational presentations by CE Broker, a company that assists licensing boards with tracking continuing education requirements when individuals are audited. It was noted that the Board was previously supportive of exploring an agreement with CE Broker, if the terms were favorable for the state of Kansas, but this item was temporarily put on hold due to other items that came up towards the end of last fall. The Executive Director has restarted conversations with the vendor and asked the Board if they would be supportive of receiving new information from CE Broker, especially as there are new Board members since the last time the company presented information to the Board. Board members recommended requesting a sample contract, as well as a recommendation to set up a presentation with CE Broker.**

**VI. Adjournment.** David Stevens moved to adjourn the meeting. Laura Shaughnessy seconded. The meeting was adjourned.