

**BEHAVIORAL SCIENCES REGULATORY BOARD
BOARD MEETING AGENDA
February 23, 2021**

Due to COVID-19, 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 the Zoom platform.

You may view the meeting here:

<https://youtu.be/l492sHoaQqU>

To join the meeting by conference call: 877-278-8686

The pin: 327072

If there are any technical issues during the meeting, you may call the Board office at, 785-296-3240.

The Behavioral Sciences Regulatory Board may take items out of order as necessary to accommodate the time restrictions of Board members and visitors. All times and items are subject to change

Tuesday, February 23, 2021

8:00 a.m. Call to order and Roll Call

I. Opening Remarks, Board Vice-Chair

II. Agenda Approval

III. Review and Approval of Contract for Expert Witness Services

IV. Review and Approval of Motions Relating to Contract for Expert Witness

V. Review and Approval of Motions Relating to the Kansas Administrative Procedures Act

VI. Adjourn

KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

CONTRACT FOR EXPERT WITNESS SERVICES

This Contract for Expert Witness Services ("Contract") is made on behalf of the State of Kansas ("the State") by the Kansas Behavioral Sciences Regulatory Board ("BSRB") and PERSON ("Outside Expert"). This Contract with Outside Expert governs the following licensing matter: In re _____, Case No. _____ ("this case"). The State and Outside Expert agree as follows:

1. Credentials. Outside Expert is licensed as a _____ in Kansas and _____ agrees to maintain such license(s) in good standing throughout the duration of this Contract. Outside Expert further agrees to notify the BSRB of any complaint filed or disciplinary action (e.g., censure, fine, probation, restriction, condition, suspension, or revocation) against Outside Expert. Outside Expert acknowledges that a pending complaint or disciplinary action shall constitute grounds for the BSRB to terminate this Contract without notice to Outside Expert. In such instance, Outside Expert shall be paid for fees and expenses at stated herein as of the date of termination. Outside Expert shall provide the BSRB with an original and current curricula vita which shall become a record of the BSRB.

2. Scope. Outside Expert shall perform expert witness services on behalf of the BSRB and perform those services in a diligent and professional manner. Such services may include investigation, document review, studies, research, and such other services as may be necessary for Outside Expert to consult with and/or advise the BSRB or as may be agreed upon by the parties. Outside Expert agrees to report, verbally or in writing, such facts, conclusions, and findings to the BSRB and, upon request, to provide a written report. Outside Expert agrees to assist in preparation for and to testify as an expert witness in those areas in which they are qualified in a deposition, hearing, or trial. Outside Expert understands and agrees time of is of the essence and any case review must be completed within thirty (30) days of receipt of the complete case file from the Board.

3. Cost.

a. Case File Reviewing Fees: Subject to paragraph 4, the BSRB shall compensate Outside Expert at the rate of \$50.00 per hour for all tasks related to case file review, including but not limited to analysis, conclusions, and preparation of reports. Outside Expert shall be responsible for all costs or expenses to conduct the case file review. Outside Expert shall be paid a minimum of two (2) hours for case file review. Outside Expert agrees that if the case review is not completed within the time period stated in paragraph 2, the rate of fees shall be reduced to \$40.00 per hour for all tasks related to the case file review.

b. Testifying at a Deposition, Hearing, or Trial Fees: Subject to paragraph 4, the BSRB shall compensate Outside Expert at a rate of \$50.00 per hour for testifying at a deposition, hearing or trial. In addition to the time actually spent testifying at a deposition, hearing, or trial, Outside Expert shall be paid this rate for waiting to testify (whether at an office or court), traveling to and from Outside Expert's business office and the office or court where testifying, and taking a break or having a meal. Fees for these services for which an opposing party is liable will not count toward the total costs and condition of this Contract, as specified in paragraph 4.

Outside Expert shall be paid for a minimum of two (2) hours for testifying at a deposition, hearing, or trial or if the deposition, hearing, or trial is cancelled. Outside Expert shall be responsible for all costs and expenses to attend the deposition, hearing, or trial to testify unless the BSRB has signed a written contract or agreement to pay such costs and expenses.

4. Total Costs and Term of Contract. The total cost, including actual expenses, payable by the State or BSRB shall not exceed \$1,000.00 during Fiscal Year 2021 for this case.

5. Billing Procedure. Outside Expert shall provide to the BSRB an itemized bill for all fees, costs, and expenses at the conclusion of this Contract.

6. Independent Contractor. The parties agree that Outside Expert shall not use or obtain assistance from any third party without prior written approval from the Board. The parties also agree that Outside Expert is an independent contractor and is not employed as or considered to be a state employee and Outside Expert shall not receive compensation, salary, or benefits as a state employee. The parties agree that Outside Expert is responsible for the payment or liability of any and all taxes, medical expenses or insurance, workers' compensation insurance, and office and transportation expenses. The parties further agree that any paper or electronic document or other tangible object produced or procured by Outside Expert, or any third party who Outside Expert employs or contracts with pursuant to this Contract, or that any paper or electronic document or other tangible object created, produced, or procured in the performance of this Contract shall be the property of the BSRB and subject to paragraph 8.

7. Confidentiality. Outside Expert, or any third party who Outside Expert employs or contracts with pursuant to this Contract, shall keep confidential any and all documents, including but not limited to an individual's education records, medical records, or therapy records, that were received or reviewed in regards to this case and shall not disclose the records or use them for any purpose other than for providing the expert witness assistance requested in this Contract.

8. Documents. Outside Expert agrees to destroy all paper documents and delete all electronic documents or data that the Board provided or sent to Outside Expert pursuant to this Contract when notified by the Board to do so or within thirty (30) days after the conclusion of this case.

9. Effective Date. This Contract shall be effective as of February __, 2021.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

OUTSIDE EXPERT

KANSAS BEHAVIORAL SCIENCES
REGULATORY BOARD

By: _____

PERSON

Date: _____

ADDRESS

ADDRESS

TELEPHONE

EMAIL

By: _____

David B. Fye, Executive Director

As authorized by and on behalf of the
the BSRB

785-296-3240

David.Fye@ks.gov

Behavioral Sciences Regulatory Board

Board Meeting – February 23, 2021

I move that the Board approve the Contract for Expert Witness Services that was discussed at the Board's meeting today. I further move that the Board authorize David Fye, the Board's Executive Director, to change any term or condition in the Contract for Expert Witness Services as necessary for a specific case after consultation with the Board's legal counsel.

Motion Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Second Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Action: Amended Adopted Failed Postponed Tabled Withdrawn

Behavioral Sciences Regulatory Board

Board Meeting – February 23, 2021

I move that the Board designate and delegate to David Fye, the Board's Executive Director, the Board's authority under K.S.A. 74-7507(a)(4) to execute and enter into a contract with an expert witness who will perform the services stated in the Contract for Expert Witnesses that the Board discussed and approved at today's meeting.

Those services include, but are not limited to, investigation, document review, studies, research, reports, and testifying as an expert witness as necessary for the Board to perform its duties and responsibilities in determining the qualifications of applicants and the compliance by licensees in the following licensing acts:

- The Licensure of Psychologists Act;
- The Licensure of Master's Level Psychologists Act;
- The Professional Counselors Licensure Act;
- The Social Workers Licensure Act;
- The Marriage and Family Therapists Licensure Act;
- The Addiction Counselor Licensure Act; and
- The Applied Behavior Analysis Act.

Motion Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Second Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Action: Amended Adopted Failed Postponed Tabled Withdrawn

Behavioral Sciences Regulatory Board

Board Meeting – February 23, 2021

(Option #1 – Agency Head)

I move that pursuant to the Kansas Administrative Procedure Act the Board designate and delegate to the Chairperson its authority as agency head under K.S.A. 77-527 to make a determination on whether to deny or grant a petition for review of an initial order and issue an order accordingly. If review is not exercised, the Chairperson is also authorized to issue any other orders regarding a petition for reconsideration and a petition for stay. If review is granted, in whole or in part, further proceedings shall be conducted by the Board.

Motion Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Second Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Action: Amended Adopted Failed Postponed Tabled Withdrawn

Behavioral Sciences Regulatory Board

Board Meeting – February 23, 2021

(Option #2 – Agency Head)

I move that pursuant to the Kansas Administrative Procedure Act, the Board designate and delegate to the Chairperson its authority as agency head under K.S.A. 77-527 to review, decide, and issue any orders concerning petitions for review, petitions for reconsideration, and petitions for stay filed with the Board and taking any other action related thereto.

Motion Made By:

- Anderson Johnson Jones Lightcap
- Norton Nystrom Perdomo-Morales
- Sewester Shaughnessy Steele Stidham
- Szafran

Second Made By:

- Anderson Johnson Jones Lightcap
- Norton Nystrom Perdomo-Morales
- Sewester Shaughnessy Steele Stidham
- Szafran

Action: Amended Adopted Failed Postponed Tabled Withdrawn

Behavioral Sciences Regulatory Board

Board Meeting – February 23, 2021

I move that, should the Chairperson be unable to serve as agency head, the Board designate the Vice Chairperson to serve as an alternate agency head with the same authority delegated the Chairperson.

Motion Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Second Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Action: Amended Adopted Failed Postponed Tabled Withdrawn

Behavioral Sciences Regulatory Board
Board Meeting – February 23, 2021

I move that pursuant to the Kansas Administrative Procedure Act, the Board designate and delegate to the Board’s Complaint Review Committee its authority to act as Presiding Officer in emergency proceedings under K.S.A. 77-536, and amendments thereto, including conducting any hearing and issuing an order in matters that are being or have been investigated for any alleged violation of or compliance with the following acts or regulations promulgated thereunder:

- The Licensure of Psychologists Act;
- The Licensure of Master’s Level Psychologists Act;
- The Professional Counselors Licensure Act;
- The Social Workers Licensure Act;
- The Marriage and Family Therapists Licensure Act;
- The Addiction Counselor Licensure Act; and
- The Applied Behavior Analysis Act

Motion Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Second Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Action: Amended Adopted Failed Postponed Tabled Withdrawn

Behavioral Sciences Regulatory Board

Board Meeting – February 23, 2021

I move that, in matters regarding applications filed under the following acts:

The Licensure of Psychologists Act;
The Licensure of Master’s Level Psychologists Act;
The Professional Counselors Licensure Act;
The Social Workers Licensure Act;
The Marriage and Family Therapists Licensure Act;
The Addiction Counselor Licensure Act; and
The Applied Behavior Analysis Act

the Board designate and delegate to the Chairperson its authority as Presiding Officer under the Kansas Administrative Procedure Act to:

Issue any Notice of Prehearing Conference or a Notice of Hearing;
Conduct a Prehearing Conference;
Issue any subpoenas;
Issue any orders concerning the prehearing conference, prehearing matters, or a hearing conducted by the Board; and
Sign any final order after a hearing conducted by the Board and
Sign any orders on a petition for reconsideration or a petition for stay.

Motion Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Second Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Action: Amended Adopted Failed Postponed Tabled Withdrawn

Behavioral Sciences Regulatory Board

Board Meeting – February 23, 2021

I move that, should Chairperson be unable to serve as Presiding Officer, the Board designate the Vice Chairperson to serve as an alternate Presiding Officer with the same authority delegated to the Chairperson.

Motion Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Second Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Action: Amended Adopted Failed Postponed Tabled Withdrawn

Behavioral Sciences Regulatory Board

Board Meeting – February 23, 2021

I move that in matters involving complaints or reports of alleged violations under the following acts:

The Licensure of Psychologists Act;
The Licensure of Master’s Level Psychologists Act;
The Professional Counselors Licensure Act;
The Social Workers Licensure Act;
The Marriage and Family Therapists Licensure Act;
The Addiction Counselor Licensure Act; and
The Applied Behavior Analysis Act;

the Board designate and delegate to the Board’s Complaint Review Committee its authority under the Kansas Administrative Procedure Act to act as the Presiding Officer, such delegation includes but is not limited to:

- Making a reasonable grounds determination regarding any complaints alleging a violation of or compliance with the above acts or a regulation adopted thereunder;
- Investigating any alleged violation of or compliance with the above acts or a regulation adopted thereunder;
- Conducting pre-hearing proceedings and hearings;
- Issuing subpoenas;
- Entering into settlement agreements;
- Issuing decisions, prehearing orders, or summary proceeding orders that censure, revoke, limit, condition, or suspend any license, certificate, or authorization to practice under the above acts,
- Assessing fines,
- Sending warning or reprimand letters, and
- Taking any other action related thereto

unless the Complaint Review Committee determines that the matter should be sent to the Office of Administrative Hearings for conducting further proceedings and issuing an initial order or the matter should be considered and decided by the Board.

Motion Made By:

<input type="checkbox"/> Anderson	<input type="checkbox"/> Johnson	<input type="checkbox"/> Jones	<input type="checkbox"/> Lightcap
<input type="checkbox"/> Norton	<input type="checkbox"/> Nystrom	<input type="checkbox"/> Perdomo-Morales	
<input type="checkbox"/> Sewester	<input type="checkbox"/> Shaughnessy	<input type="checkbox"/> Steele	<input type="checkbox"/> Stidham
<input type="checkbox"/> Szafran			

Second Made By:

- | | | | |
|-----------------------------------|--------------------------------------|--|-----------------------------------|
| <input type="checkbox"/> Anderson | <input type="checkbox"/> Johnson | <input type="checkbox"/> Jones | <input type="checkbox"/> Lightcap |
| <input type="checkbox"/> Norton | <input type="checkbox"/> Nystrom | <input type="checkbox"/> Perdomo-Morales | |
| <input type="checkbox"/> Sewester | <input type="checkbox"/> Shaughnessy | <input type="checkbox"/> Steele | <input type="checkbox"/> Stidham |
| <input type="checkbox"/> Szafran | | | |

Action: Amended Adopted Failed Postponed Tabled Withdrawn