

**BEHAVIORAL SCIENCES REGULATORY BOARD
BOARD MEETING MINUTES
JANUARY 10, 2022**

- I. Call to Order and Roll Call.** The meeting was called to order by Chair Leslie Sewester at 10:00 a.m.

Board Members. Board Members present by Zoom: Leslie Sewester, David Anderson, Donna Hoener-Queal, Mary Jones, Jacqueline Lightcap, Johnna Norton, Bruce Nystrom, Andrea Perdomo-Morales, Ric Steele, Deb Stidham, and Carolyn Szafran.

Staff. BSRB Staff present by Zoom: David Fye, Leslie Allen, and Cindy D'Ercole. Assistant Attorney General Laine Barnard was present by Zoom.

Guests. Grace Meikenhous and David Irwin

- II. Agenda Approval.** Deb Stidham moved to approve the agenda as written. Mary Jones seconded. The motion passed.
- III. Minutes Approval:** Carol Szafran moved to approve the minutes from the Board meeting on September 13, 2021, with a revision to note the next meeting date for the Social Work Advisory Committee Meeting would be October 19, 2021. Deb Stidham seconded. The motion passed. Deb Stidham moved to approve the minutes from the September 27, 2021, Board meeting. Mary Jones seconded the motion. The motion passed. Donna Hoener-Queal moved to approve the minutes from the Board meeting on October 25, 2021. Mary Jones seconded. The motion passed.
- IV. Executive Director's Report.** David Fye, Executive Director for the BSRB, reported on the following topics:
- A. BSRB Staff.** The Governor directed most state agencies to have staff return to working in state offices full-time, unless the agencies were utilizing an approved telework plan. As of January 3, 2022, all licensing staff is back in the office full-time. In June 2021, the BSRB developed a telework plan that was approved by the Department of Administration. The agency is utilizing an approved telework plan for the two BSRB investigators, allowing them to work remotely two days each week. The

open administrative assistant position has been filled since the end of December.

B. BSRB YouTube Channel. Currently, the BSRB has streamed or uploaded 42 videos of Board and Advisory Committee meetings that have been viewed 917 times.

C. Revenue and Expenditures. The budget was submitted in the fall on September 15, 2021. The revised budget matches the same amounts approved by the 2021 Legislature, with internal adjustments attributable to savings related to the pandemic and increased costs for certain services.

D. 2022 Legislative Session. The Governor's State of the State address will be on January 11, 2022. It is anticipated there will be no modifications to the budget of the BSRB. The Executive Director will be tracking bills that relate to mental health professionals and the Board. Legislation is being requested by the BSRB to include three recommendations by the Board: (1) allowing Master's level practitioners to test for Licensed Addiction Counselor licenses; (2) adding clean up language to correct the unintended consequences of an amendment added to 2021 House Bill 2208 that limited the types of practicums for applicants seeking a clinical level social work license, and (3) a new requirement adding 3 continuing education hours in Diversity, Equity, and Inclusion (DEI) for Licensed Psychologists each license renewal period.

E. PSYPACT. On January 1, 2022, Kansas officially became a member-state in a multi-state compact for Licensed Psychologists titled PSYPACT. Information has been posted to the BSRB site concerning the way licensees may apply to practice under PSYPACT, general information on the compact, and a link to all licensees practicing under PSYPACT. BSRB will be working with PSYPACT for verification of licensure and disciplinary matters.

F. Updates on Special Meetings. The 2021 Legislature passed legislation creating the Kansas Fights Addiction Review Board (KFARB) and the Kansas Fights Addiction Grant Fund for share of the proceeds of federal legislation concerning opioids. The KFARB is organized under the Attorney General's office. The Executive Director has been in contact with that office, but no meetings have been scheduled. The Executive Director will continue to track this. The Overdose Fatality Review Board was

proposed in legislation during the 2021 Legislative session, but the legislation did not pass. The Kansas Department of Health and Environment (KDHE) received a grant from the Centers for Disease Control and Prevention (CDC), and KDHE has used part of this funding to commence meetings of this Board. The Executive Director and Bruce Nystrom attended an organizational meeting in 2022, at which time the group indicated it would renew efforts for a bill to pass during the 2022 Legislative session. The Executive Director was invited to speak at a Federation Association of Regulatory Boards (FARB) conference at the end of January 2022 on the topic of “Protecting the Public through Creative Access to Information.”

- V. **Staff Report.** The Executive Director highlighted two tables created by the BSRB, each table showing the number of permanent licenses under the BSRB from January 2018 to current. One table reflects total permanent licenses grouped by profession while the other table shows the number of permanent licenses by license type.

- VI. **Request for Adjustments to Terms of Finalized Order.** The Executive Director reported the BSRB received a request for adjustments to the terms of a finalized order previously entered by the Board on Grace Meikenhous. Ms. Meikenhous previously submitted a letter with requests for adjustments, which had been distributed to the members of the Board for review. At the Board meeting, Ms. Meikenhous clarified the requests in her letter and made other requests for the Board to consider. David Irwin, the supervisor for Ms. Meikenhous, provided additional information to the Board. Board members and Laine Barnard, legal counsel for the Board from the Attorney General’s office, asked questions of Ms. Meikenhous and Mr. Irwin.

Executive Session. David Anderson, Vice-Chair for the Board, moved the following: *“pursuant to K.S.A. 75-4319, the Board recess into executive session for 20 minutes and reconvene the open meeting at 11:06 a.m. The meeting will be reconvened remotely by conference call at 1-877-278-8686, PIN 327072, and by Zoom as directed in the notice of meeting that was sent to individuals who requested notice and is published on the Board’s website: ksbsrb.ks.gov. The justification is consultation that would be deemed privileged in the attorney-client relationship with the Board’s legal counsel, Assistant Attorneys General Laine Barnard and Jane Weiler. The subject to be discussed in the executive session concerns request for reconsideration.*

Board staff who are included as the client in the executive session are David Fye and Leslie Allen.” Mary Jones seconded the motion. The motion passed.

Request for Adjustments to Terms of Finalized Order – Continued. Upon conclusion of the executive session, the Board reopened the meeting. Upon reopening the meeting, Mary Jones moved to grant permission for Ms. Meikenhous’ sixth request, which was phrased as follows:

“Allow me to be a contract employee in a "private practice": I am still required to be under close supervision with my LMFT even if I am in this type of setting - they are often private pay, and therefore I would not run into this credentialing issue. What if Eric Parks agreed to hire me on as a contract employee, or I worked in a practice where my clinical supervisor was also located?”

Carolyn Szafran seconded the motion. The motion passed. Mary Jones moved to deny the remainder of the requests for adjustments to the terms of the final order. Ric Steele seconded the motion. The motion passed.

VII. New Business

A. Behavior Analysis Advisory Committee Recommendations for New Members. The Behavior Analyst Advisory Committee recommended Allison Bell, Emily Kessler, Christine Marie Stiehl, and Alice Zhang be appointed to the Behavior Analysis Committee. The Board Chair appointed these members to the Advisory Committee.

B. Social Work Advisory Committee Recommendations for New Members. The Social Work Advisory Committee recommended Sarah Berens, Mary Gill, Catherine Rech, Eric Schoenecker be appointed to the Social Work Advisory Committee. The Board Chair appointed these members to the Advisory Committee.

C. Executive Director Evaluation. The Executive Director noted the Expectations of Board Members policy (and previously the Board Governance Policy) calls for the Board to conduct an annual review of the Executive Director’s performance, however the policy did not specify how this review should be conducted. The Executive Director noted that personnel matters may be conducted in executive session, so if the Board

chooses to do so, it could enter into an executive session for the purposes of discussion this item. The Chair of the Board noted that the Board has some flexibility in this area, ranging from a formal process to an informal process. The Executive Director noted he was unaware if a standard process was used by other Boards for the performance review of their Executive Directors. The Chair highlighted a document which had been used by the Board in the past, which provided a rough outline of criteria to be evaluated.

Executive Session. Carolyn Szafran moved the following: *“pursuant to K.S.A. 75-4319, the Board recess into executive session for 15 minutes and reconvene the open meeting at 11:38 a.m. The meeting will be reconvened remotely by conference call at 1-877-278-8686, PIN 327072, and by Zoom as directed in the notice of meeting that was sent to individuals who requested notice and is published on the Board’s website: ksbsrb.ks.gov. The justification for closure is to discuss personnel matters of non-elected personnel. The Board’s legal counsel, Assistant Attorneys General Laine Barnard, will be included in the executive session. The subject to be discussed in the executive session is personnel evaluation. Board staff who are included in the executive session is Leslie Allen.”* Deb Stidham seconded the motion. The motion passed.

Executive Director Evaluation Continued. Upon conclusion of the executive session, the Board took no formal action involving an Executive Director evaluation.

D. 2022 Board Member/Advisory Committee Member Training. The Executive Director noted that last spring, training for Board members and Advisory Committee members was held at each Advisory Committee meeting by legal counsel for the Board. The Executive Director asked for the Board’s input on whether a similar method should be used for training in 2022. Board members expressed comments in favor of training being conducted at Advisory Committee meetings, but requested an abbreviated training highlighting matters relevant to Board members and Advisory Committee members. Board members also requested highlights from the new Expectations of Board Members policy and other new policies.

E. Board Consideration of Bills During 2022 Legislative Session. The Executive Director noted he will be tracking bills that relate to mental

health topics, bills affecting the BSRB, and bills affecting regulatory boards. The Executive Director noted that sometimes bills are introduced and scheduled for hearings with little time for the Board to meet to take positions on those bills. The Executive Director asked the Board if they would like to use the method utilized last year or use a different process. Board members requested to use the same method as the previous year and noted that communication last year was excellent.

F. Clarification of Possible Interaction Between House Bill 2066 and Provisional Licenses. The Executive Director summarized that 2021 HB 2066 expedited the processing time for certain reciprocity applications for military members, military spouses, and other select individuals. The bill also provided a different path for reciprocity, reducing the length of practice experience in another jurisdiction down to one year, if other requirements were met. Under the agency's provisional license requirements, individuals could obtain a provisional license in certain situations when those applicants were within one year of meeting the requirements for licensure. The agency sought clarification whether these two policies should operate separately or if they should overlap. Legal counsel for the Board and Board members clarified that these two policies are separate tracks for licensure and should not be used in combination.

G. Types of Licensees Needed for Pre-Approved Continuing Education Providers. The Executive Director stated the BSRB is able to pre-approve continuing education providers, so long as a social worker is connected to the program. The Board discussed whether to allow other professions to serve in that role instead requiring participation by a social worker. Board members expressed support for changing the regulation to allow all professions to serve in the required licensee role. Staff for the BSRB will draft language to be reviewed by the Board at the next Board meeting.

H. Review Draft Guidance Document for Public Attendees of Meetings. The Executive Director noted the agency has received an increase in questions and an increase in individuals wishing to attend meetings to provide public comment, so creation of a document was necessary to clarify the role of the Board, Advisory Committees, and the BSRB for public attendees of meetings. The Executive Director drafted a guidance document which provides guidelines for public attendees at meetings; explains how public comment will operate at Board and Advisory Committee meetings; and clarifies what topics are relevant for public

comment at these meetings. The guidance document also clarifies the BSRB values receipt of other information, such as complaints against practitioners, but to ensure the agency is operating fairly and consistently in its investigative process towards both members of the public and licensees, that type of information must be received and processed using the Report of Alleged Violations (RAV) forms on the BSRB website, rather than by being aired in a public forum. Board members requested small changes to the document, then the Board adopted the Guidance Document by consensus and directed the document to be posted to the BSRB website.

VIII. Old Business

A. Review Expectations for Board Members Policy and Advisory Committee Policy. The Executive Director noted the previous Board Governance Policy has now been split into two new documents: (1) an Expectations for Board Members Policy and (2) an Advisory Committee Policy. The Executive Director provided a summary of the changes to the language in both documents. The Executive Director noted current language states Advisory Committee Chairs will be Board members appointed by the Governor to represent that profession on the Board, however the Behavior Analyst profession is not listed in statute as having an appointee on the Board. The Board recommended adding language that Advisory Committee Chairs will be members of the Board and if a profession is represented on the Board, the Chair of the Advisory Committee will be a Board member licensed in the discipline of the Committee and appointed by the Governor to represent that discipline on the Board. The Board approved both documents and authorized the documents to be uploaded to the BSRB website.

B. Continued Discussion on "In Residence" Educational Requirements. The Assistant Director noted the current regulatory language for the Marriage and Family Therapy profession requires that for any program, half of all coursework must be completed "in residence," physically at the location of the educational institution. However, the Marriage and Family Therapy Advisory Committee recommended changing the existing regulatory language to allow accredited programs by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) not to be required to meet the residency requirement. This would bring this profession in line with the requirements for the Professional

Counselor profession. The BSRB would need non-COAMFTE accredited programs to continue to have half of their coursework completed in residence. The Assistant Director noted that she would review this language with the Regulations Editor for the Office of Chief Counsel for the Department of Administration.

IX. Complaint Review Committee Report. Bruce Nystrom, Chair of the Complaint Review Committee (CRC), reported that the complexity of cases has increased and he complimented the BSRB investigators for their work summarizing cases for the CRC. Cindy D’Ercole, Lead Investigator for the BSRB, reported that the agency has recently seen an increase in complaints / Report of Alleged Violations (RAVs) against licensees, following an unusual decrease in RAVs during the first year of the pandemic in FY 2021. It was noted that some of the reason for the increase in RAVs may be due to the license renewal process being reinstated for all licensees, following the expiration of the Governor’s Executive Orders that delayed enforcement of expiration of licenses during the first year of the pandemic. Board members noted it would be helpful to identify the most common areas where violations have occurred. The Executive Director noted the RAV tracking process traditionally used by the agency includes linking each RAV to the primary license held by the licensee, to avoid double counting of RAVs by practitioners who hold more than one license. However, the Executive Director noted he has been working on a separate list so that Board member can see how many RAVs were received against each separate license type, which will be available for Board members to review at the next Board meeting.

X. Professions Reports

A. Licensed Psychology Advisory Committee. No news to report.

B. Social Work Advisory Committee. Carolyn Szafran, Co-Chair for the Social Work Advisory Committee, reported the Advisory Committee met on October 19, 2021, and November 3, 2021, and reviewed 30 applicants who has requested consideration to be added to the Advisory Committee. The Advisory Committee also discussed whether to recommend requiring continuing education hours in diversity, equity, and inclusion. The next meeting of the Advisory Committee is on February 15, 2022.

C. Professional Counselor Advisory Committee. No news to report.

D. Masters Level Psychology Advisory Committee. David Anderson, Chair of the Master's Level Advisory Committee, reported the Advisory Committee met on November 4, 2021, and recommended adding three new members to the Advisory Committee. The Advisory Committee discussed whether to recommend a continuing education requirement for hours in diversity, equity, and inclusion; whether a change was needed for the in-residence educational requirements for the profession; and whether a change should be recommended to allow licensees with more than one license to sync their expiration dates. The Advisory Committee recommended allowing licensees the ability to request the expiration dates by synced as an optional change that could be requested. The next meeting is February 10, 2022.

E. Marriage and Family Therapy Advisory Committee. No news to report.

F. Addiction Counselor Advisory Committee. Deb Stidham, Chair of the Addiction Counselor Advisory Committee reported the Advisory Committee met on December 17, 2021, to welcome new Advisory Committee members. New Advisory Committee members received some basic information on the Kansas Open Meeting Act and received general guidelines for new Advisory Committee members, as well as updates from the BSRB. The next meeting for the Advisory Committee is March 18, 2022.

G. Behavior Analyst Advisory Committee. Bruce Nystrom, Chair of the Behavior Analyst Advisory Committee, reported the Advisory Committee met on October 27, 2021, to recommend new members to be added to the Advisory Committee. The Advisory Committee recommended that a member be added to the Board to represent the Behavior Analyst profession on the Board. The Executive Director noted that membership on the Board is specified in statute, which states that there are 8 professional members on the Board and 4 public members. Of the 8 professional members, the statutes outline specific other professions to be represented on the Board, but does not state a Behavior Analyst is to hold a Board seat. Therefore, for a Behavior Analyst to be added to the Board, the BSRB statutes would need to be changed, which would require a bill to be passed by the Legislature for this change to be put into law. Board members discussed that the Behavior Analyst profession makes up the

smallest number of practitioners under the BSRB and so long as a Board member serves as the Chair of that Advisory Committee and reports recommendations back to the Board, there could be representation to that group of practitioners without changing law. Board members asked whether a significant number of Behavior Analysts hold other licenses under the BSRB. Board members asked the Executive Director to research the number of Behavior Analysts who hold another license under this BSRB and to provide this information at the next full meeting of the Board.

XI. Adjournment. Bruce Nystrom moved to adjourn the meeting. Deb Stidham seconded the motion. The motion passed.