

**74-7501. Behavioral sciences regulatory board created; composition; appointment; terms, organization; compensation and expenses; executive director and other employees.** (a) There is hereby created a behavioral sciences regulatory board consisting of 12 members appointed by the governor. The membership of the board shall be as follows: Two members of the board shall be licensed psychologists; two members of the board shall be licensed to engage in the practice of social work; one member of the board shall be a professional counselor; one member of the board shall be a marriage and family therapist and one member of the board shall be a licensed masters level psychologist; one member of the board shall be a licensed addiction counselor or a licensed clinical addiction counselor; and four members of the board shall be from and represent the general public. Each member of the board shall be a citizen of the United States and a resident of this state.

(b) The term of office of each member of the board shall be four years. No member of the board shall be appointed for more than two successive terms. Upon the expiration of a member's term of office, the governor shall appoint a qualified successor. Each member shall serve until a successor is appointed and qualified. Whenever a vacancy occurs in the membership of the board prior to the expiration of a term of office, the governor shall appoint a qualified successor to fill the unexpired term. The governor may remove any member of the board for misconduct, incompetency or neglect of duty.

(c) The board shall organize annually at its first meeting subsequent to June 30 and shall select from its members a chairperson and a vice-chairperson. Other meetings shall be held as the board designates. A majority of members appointed to the board shall constitute a quorum for the transaction of business.

(d) The board may appoint an executive director who shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary fixed by the board, subject to approval by the governor. The board may employ clerical personnel and other assistants, all of whom shall be in the classified service under the Kansas civil service act. The board may make and enter into contracts of employment with such professional personnel as necessary, in the board's judgment, for the performance of its duties and functions and the execution of its powers.

(e) Members of the behavioral sciences regulatory board attending meetings of the board, or attending a subcommittee meeting thereof authorized by the board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. [75-3223](#), and amendments thereto.

**History:** L. 1980, ch. 242, § 1; L. 1981, ch. 299, § 61; L. 1982, ch. 347, § 48; L. 1986, ch. 299, § 41; L. 1988, ch. 304, § 3; L. 1990, ch. 286, § 7; L. 1992, ch. 116, § 39; L. 1996, ch. 153, § 42; L. 2010, ch. 45, § 16; July 1, 2011.

**74-7502. Abolition of state board of examiners of psychologists and board of social work examiners; transfer of powers, duties and functions to behavioral sciences regulatory board; rules and regulations preserved.** (a) On July 1, 1980, the following boards are hereby abolished:

- (1) The state board of examiners of psychologists created by K.S.A. 1979 Supp. [74-5303](#); and
- (2) the board of social work examiners created by K.S.A. 1979 Supp. 75-5349.

(b) All of the powers, duties and functions of the boards designated in subsection (a) and all of the powers, duties and functions of the secretary of social and rehabilitation services under K.S.A. [75-5346](#) to [75-5361](#), inclusive, and amendments thereto, are hereby transferred to and conferred and imposed upon the behavioral sciences regulatory board.

(c) The behavioral sciences regulatory board shall be the successor in every way to the powers, duties and functions of the boards designated in subsection (a) and to the powers, duties and functions of the secretary of social and rehabilitation services under K.S.A. [75-5346](#) to [75-5361](#), inclusive, and amendments thereto, in which the same were vested prior to the effective date of this act, except as otherwise provided by this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the behavioral sciences regulatory board shall be deemed to have the same force and effect as if performed by the boards designated in subsection (a) or by the secretary of social and rehabilitation services under K.S.A. [75-5346](#) to [75-5361](#), inclusive, and amendments thereto, in which the same were vested prior to the effective date of this act.

(d) Whenever the boards designated in subsection (a), or words of like effect, and the secretary of social and rehabilitation services in regard to the powers, duties and functions of the secretary under K.S.A. [75-5346](#) to [75-5361](#), inclusive, and amendments thereto, are referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the behavioral sciences regulatory board.

(e) All rules and regulations of the boards designated in subsection (a) and rules and regulations of the secretary of social and rehabilitation services adopted under K.S.A. [75-5346](#) to [75-5361](#), inclusive, and amendments thereto, shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the behavioral sciences regulatory board, until revised, amended, revoked or nullified pursuant to law. The board shall review such rules and regulations and shall adopt new rules and regulations, if necessary, pursuant to K.S.A. [77-415](#) et seq., and amendments thereto.

- (f) The behavioral sciences regulatory board shall be a continuation of the boards designated in subsection (a).

**History:** L. 1980, ch. 242, § 2; July 1.

**74-7503. Transfer of certain officers and employees to board; civil service and retirement rights preserved; transfer of records and property; disposition of conflicts.** (a) On July 1, 1980, officers and employees who were engaged prior to such date in the performance of powers, duties and functions of the boards designated in subsection (a) of K.S.A. [74-7502](#) or in assisting the secretary of social and rehabilitation services to carry out the provisions of K.S.A. [75-5346](#) to 75-5361, inclusive, and amendments thereto, and who, in the opinion of the behavioral sciences regulatory board are necessary to perform the powers, duties and functions of the behavioral sciences regulatory board shall become officers and employees of the behavioral sciences regulatory board and shall retain all retirement benefits and all rights of civil service which such officer or employee had before July 1, 1980, and their service shall be deemed to have been continuous. All transfers and any abolishment of positions of personnel in the classified civil service shall be in accordance with civil service laws and rules and regulations.

(b) All books, records and other property of the boards designated in subsection (a) of K.S.A. [74-7502](#) and of the department of social and rehabilitation services maintained in the course of administering the provisions of K.S.A. [75-5346](#) to 75-5361, inclusive, and amendments thereto, are hereby transferred to the behavioral sciences regulatory board on the effective date of this act.

(c) Whenever any conflict arises as to the proper disposition of any property or records as a result of any abolishment or transfer made under this act, or under authority of this act, such conflict shall be resolved by the governor, and the decision of the governor shall be final.

**History:** L. 1980, ch. 242, § 3; July 1.

**74-7504. Rights preserved in legal actions and proceedings.** (a) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any board designated in subsection (a) of K.S.A. [74-7502](#) or under the provisions of K.S.A. [75-5346](#) to 75-5361, inclusive, and amendments thereto, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the taking effect of this act. The court may allow any such suit, action or other proceeding to be maintained by or against the behavioral sciences regulatory board.

(b) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

**History:** L. 1980, ch. 242, § 4; July 1.

**74-7505. Abolition of fee funds; transfer of moneys and liabilities to behavioral sciences regulatory board fee fund.** The psychologists fee fund, established by K.S.A. 1979 Supp. [74-5346](#), and the social work examiners fee fund, established by K.S.A. 1979 Supp. 75-5359, are hereby abolished. On the effective date of this act the director of accounts and reports shall transfer all moneys in such funds to the behavioral sciences regulatory board fee fund established by this act. On the effective date of this act, all liabilities of the psychologists fee fund, established by K.S.A. 1979 Supp. [74-5346](#), and the social work examiners fee fund, established by K.S.A. 1979 Supp. 75-5359, existing immediately prior to the effective date of this act are hereby transferred to and imposed on the behavioral sciences regulatory board fee fund.

**History:** L. 1980, ch. 242, § 5; July 1.

**74-7506. Disposition of moneys received; behavioral sciences regulatory board fee fund established; approval of expenditures.** The behavioral sciences regulatory board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. [75-4215](#), and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the behavioral sciences regulatory board fee fund, which is hereby established. All expenditures from the behavioral sciences regulatory board fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the behavioral sciences regulatory board or by a person or persons designated by the chairperson.

**History:** L. 1980, ch. 242, § 6; L. 2001, ch. 5, § 339; L. 2011, ch. 53, § 53; July 1.

**74-7507. Powers, duties and functions of board.** (a) The behavioral sciences regulatory board shall have the following powers, duties and functions:

(1) Recommend to the appropriate district or county attorneys prosecution for violations of this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act or the addiction counselor licensure act;

(2) compile and publish annually a list of the names and addresses of all persons who are licensed under this act, are licensed under the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act or the addiction counselor licensure act;

(3) prescribe the form and contents of examinations required under this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act or the addiction counselor licensure act;

(4) enter into contracts necessary to administer this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act or the addiction counselor licensure act;

(5) adopt an official seal;

(6) adopt and enforce rules and regulations for professional conduct of persons licensed under the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act or the addiction counselor licensure act;

(7) adopt and enforce rules and regulations establishing requirements for the continuing education of persons licensed under the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act or the addiction counselor licensure act;

(8) adopt rules and regulations establishing classes of social work specialties which will be recognized for licensure under K.S.A. [65-6301](#) to [65-6318](#), inclusive, and amendments thereto;

(9) adopt rules and regulations establishing procedures for examination of candidates for licensure under the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act, the addiction counselor licensure act and for issuance of such certificates and such licenses;

(10) adopt rules and regulations as may be necessary for the administration of this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act and the addiction counselor licensure act and to carry out the purposes thereof;

(11) appoint an executive director and other employees as provided in K.S.A. [74-7501](#), and amendments thereto; and

(12) exercise such other powers and perform such other functions and duties as may be prescribed by law.

(b) If an order of the behavioral sciences regulatory board is adverse to a licensee or registrant of the board, the actual costs shall be charged to such person as in ordinary civil actions in the district court. The board shall pay any additional costs and, if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed in accordance with statutes governing taxation of witness fees and costs in the district court.

**History:** L. 1980, ch. 242, § 7; L. 1986, ch. 299, § 42; L. 1987, ch. 315, § 17; L. 1991, ch. 114, § 15; L. 1992, ch. 184, § 7; L. 1996, ch. 153, § 43; L. 2004, ch. 16, § 5; L. 2010, ch. 45, § 15; L. 2016, ch. 92, § 79; July 1.

**Source or Prior Law:**  
74-5308, 75-5350.

**74-7508. Investigations by board; access to documents and other evidence; oaths and testimony; subpoenas; confidentiality of information; exceptions; client or patient communications; violations; remedies; disciplinary action.** (a) In connection with any investigation, based upon a written complaint or other reasonably reliable written information, by the behavioral sciences regulatory board, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination, and the right to copy any document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic or office of a practitioner of the behavioral sciences, or other public or private agency if such document, report, record or other physical evidence relates to practices which may be grounds for disciplinary action.

(b) In all matters pending before the behavioral sciences regulatory board, the board shall have the power to administer oaths and take testimony. For the purpose of all investigations and proceedings conducted by the behavioral sciences regulatory board:

(1) The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents, reports, records or any other physical evidence if such documents, reports, records or other physical evidence relates to practices which may be grounds for disciplinary action. Within five days after the service of the subpoena on any person requiring the production of any documents, reports, records or other physical evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the documents, reports, records or other physical evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the allegation which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the documents, reports, records or other physical evidence which is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such documents, reports, records or other physical evidence.

(2) The district court, upon application by the board or by the person subpoenaed, shall have jurisdiction to issue an order:

(A) Requiring such person to appear before the board or the board's duly authorized agent to produce documents, reports, records or other physical evidence relating to the matter under investigation; or

(B) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the allegation which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the documents, reports, records or other physical evidence which is required to be produced.

(3) (A) If the board determines that an individual has practiced without a valid license a profession regulated by the board for which the practitioners of the profession are required by law to be licensed in order to practice the profession, in addition to any other penalties imposed by law, the board, in accordance with the Kansas administrative procedure act, may issue a cease and desist order against such individual.

(B) Whenever in the judgment of the behavioral sciences regulatory board any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of K.S.A. [65-6301](#) to [65-6320](#), inclusive, and amendments thereto, [74-5361](#) to [74-5374](#), inclusive, and K.S.A. [74-5375](#), and amendments thereto, the licensure of psychologists act, the marriage and family therapists licensure act or the alcohol and other drug abuse counselor registration act, or any valid rule or regulation of the board, the board may make application to any court of competent jurisdiction for an order enjoining such acts or practices, and upon a showing by the board that such person has engaged, or is about to engage in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court without bond.

(c) Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the behavioral sciences regulatory board shall be confidential and shall not be disclosed by the board or its employees in a manner which identifies or enables identification of the person who is the subject or source of the information except the information may be disclosed:

(1) In any proceeding conducted by the board under the law or in an appeal of an order of the board entered in a proceeding, or to any party to a proceeding or appeal or the party's attorney;

(2) to the person who is the subject of the information or to any person or entity when requested by the person who is the subject of the information, but the board may require disclosure in such a manner that will prevent identification of any other person who is the subject or source of the information; or



(3) to a state or federal licensing, regulatory or enforcement agency with jurisdiction over the subject of the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct which would constitute grounds for action under this act. Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be redisclosed by the receiving agency except as otherwise authorized by law.

(d) Nothing in this section or any other provision of law making communications between a practitioner of one of the behavioral sciences and the practitioner's client or patient a privileged or confidential communication shall apply to investigations or proceedings conducted pursuant to this section. The behavioral sciences regulatory board and its employees, agents and representatives shall keep in confidence the content and the names of any clients or patients whose records are reviewed during the course of investigations and proceedings pursuant to this section.

(e) In all matters pending before the behavioral sciences regulatory board, the board shall have the power to revoke the license or registration of any licensee or registrant who voluntarily surrenders such person's license or registration pending investigation of misconduct or while charges of misconduct against the licensee are pending or anticipated.

(f) In all matters pending before the behavioral sciences regulatory board, the board shall have the option to censure the licensee or registrant in lieu of other disciplinary action.

**History:** L. 1980, ch. 242, § 8; L. 2001, ch. 154, § 1; L. 2004, ch. 16, § 6; L. 2016, ch. 92, § 80; July 1.

**Source or Prior Law:**

74-5309.

**Revisor's Note:**

Section was not amended in the 2016 session.

**74-7509. Existing certificates and licenses continued in effect.** All licenses issued prior to the effective date of this act under K.S.A. [75-5340](#) to 75-5361, inclusive, and amendments thereto, shall continue in force and effect until the expiration thereof as provided immediately prior to the effective date of this act under the provisions of the act under which such license was issued. All certificates issued prior to the effective date of this act under the certification of psychologists act of the state of Kansas shall continue in force and effect until the expiration thereof as provided immediately prior to the effective date of this act under the provisions of the act under which such certificates were issued.

**History:** L. 1980, ch. 242, § 26; July 1.

**74-7510. Immunity from liability in civil actions for reporting, communicating and investigating certain information concerning alleged malpractice incidents and other information; conditions.** (a) No person reporting to the behavioral sciences regulatory board in good faith and without malice any information such person may have relating to alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against, a person licensed or registered by the board shall be subject to a civil action for damages as a result of reporting such information.

(b) Any state, regional or local association composed of persons licensed or registered to practice in a field governed by the behavioral sciences regulatory board and the individual members of any committee thereof, which in good faith and without malice investigates or communicates information pertaining to fitness or character of, or disciplinary action taken against, any licensee, registrant or certificate holder to the behavioral sciences regulatory board or to any committee or agent thereof, shall be immune from liability in any civil action that is based upon such investigation or transmittal or information if the investigation and communication was made in good faith and without malice and did not represent as true any matter not reasonably believed to be true.

**History:** L. 1989, ch. 276, § 6; July 1.

**74-7511. Fingerprinting of applicants to practice profession regulated by board; procedure; collection and disposition of fees.** (a) As part of an original application for or reinstatement of any license, registration, permit or certificate or in connection with any investigation of any holder of a license, registration, permit or certificate, the behavioral sciences regulatory board may require a person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or another jurisdiction. The behavioral sciences regulatory board is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The behavioral sciences regulatory board may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, registration, permit or certificate.

(b) Local and state law enforcement officers and agencies shall assist the behavioral sciences regulatory board in the taking and processing of fingerprints of applicants for and holders of any license, registration, permit or certificate and shall release all records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country to the behavioral sciences regulatory board.

(c) The behavioral sciences regulatory board may fix and collect a fee as may be required by the board in an amount equal to the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the behavioral sciences regulatory board fee fund. The behavioral sciences regulatory board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. [75-4215](#), and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the behavioral sciences regulatory board fee fund.

**History:** L. 2016, ch. 92, § 34; July 1.