

**BEHAVIORAL SCIENCES REGULATORY BOARD
BOARD MEETING DRAFT MINUTES
MARCH 14, 2022**

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

Board Members. Board Members present by Zoom: Leslie Sewester, David Anderson, Mary Jones, Jacqueline Lightcap, Bruce Nystrom, Andrea Perdomo-Morales, 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. No Guests

- II. Agenda Approval.** David Anderson moved to approve the agenda as written. Mary Jones seconded. The motion passed.
- III. Minutes Approval:** Bruce Nystrom moved to approve the minutes from the Board meeting on January 10, 2022. Mary Jones seconded. The motion passed. Carolyn Szafran moved to approve the minutes from the Board meeting on February 17, 2022. Deb Stidham seconded the motion. The motion passed.
- IV. Executive Director's Report.** David Fye, Executive Director for the BSRB, reported on the following topics:
- A. BSRB YouTube Channel.** Currently, the BSRB has streamed or uploaded 50 videos of Board and Advisory Committee meetings that have been viewed 1,093 times
 - B. BSRB Staff.** The Governor directed most state agencies to have staff return to work in state offices full-time, unless the agencies utilized an approved telework plan. As of January 3, 2022, all licensing staff are back in the office full-time. In June 2021, the BSRB developed a telework plan that was approved by the Department of Administration. The two investigators for the BSRB are utilizing this plan to telework two days each week. The Governor has lifted the requirement for masks in state offices. We are still following the direction to continue having meetings remotely. The Executive Director noted he implemented monthly staff meetings and has invited guest speakers for staff development. The Executive Director noted the Department of Administration asks agencies to conduct yearly performance reviews for all staff members, including a beginning of the year planning meeting and a mid-year check-in meeting with each staff member. The BSRB will complete the planning meetings by the end of March, the mid-year meetings by the end of June, and the end-of-the-year performance reviews by the end of December.. The Performance Management System has changed from a paper-based system to an electronic system, so the agency will be using the new system for these reviews.

- C. Revenue and Expenditures.** The agency's revised budget estimate was submitted in the fall on September 15, 2021. The revised budget matches the same amounts approved by the 2021 Legislature for FY 2022 and FY 2023, with internal adjustments mostly attributable to savings related to the pandemic and increased costs for certain services. The Executive Director provided an update on yearly revenue, expenditures, and balance in the BSRB Fee Fund.
- D. Advisory Committee Update.** Most Advisory Committees received annual training from the Executive Director at their meetings in February. Advisory Committees were asked to review their profession's unique unprofessional conduct regulations for edits to review at their next meetings. The Executive Director noted some Advisory Committees will be reviewing accreditation standards at future meetings. The Behavioral Analyst Advisory Committee will be examining the substantial equivalency requirement for qualifications for licensure. Advisory Committee members are appointed to two-year terms; currently, 16 members are up for reappointment. The Executive Director has reached out to the individuals that are up for reappointment to determine whether those members wish to be reappointed to another term on their respective Advisory Committees. The Executive Director noted that he has reached most members that are up for reappointment and all of those members have requested to be reappointed to another term. The Board previously asked for the number of Behavioral Analysts that hold another license under the BSRB. There are 305 combined Behavior Analysts and Assistant Behavior Analysts. Currently, only 8 hold another license under the BSRB. The Executive Director noted he submitted a request to the Kansas Legislative Research Department, seeking whether a statute exists which specifies a ratio of professional members to public members on agency boards. The Executive Director will provide an update to the Board if he has received this information by the next full Board meeting. The Executive Director noted the Social Work Advisory Committee requested a survey be sent to all licensed social workers regarding supervision and other topics relevant to the profession. The Executive Director distributed this survey in December 2021, over 1,000 social workers provided information to the survey, and a 25-page report summarizing the responses was drafted and posted to the BSRB website. The Executive Director provided a brief overview of the results of the survey.
- E. BSRB Investigation Policy.** The Executive Director noted that the Investigation Policy for the BSRB has not been updated since 2009, so he will be drafting a report with recommended changes and other items for Board discussion, and presenting this report to the Board at the next full Board meeting in May 2022. The Executive Director asked Board members to review the Policy and asked Board members to send him any suggested changes to incorporate into his report. The Executive Director noted the Investigation Policy states that terms on the Complaint Review Committee (CRC) last two years and several Board members terms on the CRC will be finishing in June 2022, so he will be contacting members of the CRC to see if those Board members would like to be reappointed for another term on the CRC.

- F. Licensing Update.** The BSRB is seeing an increase in applicants who received their education from programs that were not accredited by the recognized national accrediting body or previously approved by the BSRB. These applications are difficult to process and require assistance to determine if the program and coursework for these applicants meet the requirements for licensure. Last year, the BSRB designed an expert review process and is now contracting with four experts for the review of applicant materials. Due to the increase in applicants, the agency is seeking to contract with more experts. The Executive Director asked Board members for assistance identifying additional experts, especially in the areas of professional counseling and addiction counseling, to contract with the BSRB for this purpose. The Executive Director noted that there has been a recent delay in score reporting from certain examination companies. The agency is working with those companies to correct these issues.
- G. SPARK Taskforce.** The SPARK Taskforce received federal funding related to pandemic relief. Recently, an opportunity was advertised for agencies and other entities to submit requests for funding in the area of modernization. The Executive Director submitted a request for funding to convert the agency's paper records to electronic records. The Executive Director noted he would provide updates if the agency receives any funding.
- G. 2022 Legislative Session.** The Executive Director noted the House and Senate may run the main appropriations bills for all agencies on each chamber's floor sometime this week. SB 387 was 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 three continuing education hours in Diversity, Equity, and Inclusion (DEI) for Licensed Psychologists each license renewal period. Senate Bill 387 was heard by the Senate Public Health and Welfare Committee, and the section of the bill requiring continuing education hours for Licensed Psychologists in the area of DEI was removed when the bill was amended. The amended version of SB 387 was passed out of the Senate Committee. Senate Bill 387 was not worked on the Senate floor prior to Legislative Turnaround and died. A new House Bill was introduced as House Bill 2734, including the amended components of Senate Bill 387 that were passed out of the Senate Committee. HB 2734 is scheduled to be heard following the Board's meeting on March 14, 2022, at 1:30pm. The Executive Director noted he will be providing proponent testimony on HB 2734 and he has received communication from other groups that plan to speak in favor of the bill as well. The Executive Director provided updates on other bills having a connection with the BSRB, including Sub. for SB 34, SB 497, HB 2672, HB 2552. The Executive Director provided neutral testimony on Sub. for SB 34, noting his testimony stated the agency was supportive of agencies reviewing their statutes and regulations, but requested the BSRB be exempt from the bill and the bill's comprehensive reporting requirement as fulfilling that requirement is expected to cause operational delays.

H. 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. The Executive Director noted that as of March 1, 2022, there are 26 Licensed Psychologists practicing telehealth services under PSYPACT who identify Kansas as their homestate and there are three Licensed Psychologists practicing in-person services in compact states under PSYPACT authority.

I. 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 a 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 have used part of this funding to commence meetings of this Board. The Executive Director and Bruce Nystrom attended an organizational meeting in 2021, 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 of Associations of Regulatory Boards (FARB) conference at the end of January 2022 on the topic of "Protecting the Public through Creative Access to Information." The Executive Director reported the presentation was well received and he was contacted by several groups asking questions about the work of the Board. The Executive Director and Leslie Allen, Assistant Director and Licensing Manager for the BSRB, have been speaking with groups of students about licensure and disciplinary matters. The Executive Director recently spoke at a K-State Salina social work conference on the Art of Policies. The Executive Director reported on other meetings attended and noted there are training opportunities for Board members through ASWB, including a Training for New Board Members virtual training on June 2 and 3, 2022.

V. Staff Report. The Executive Director highlighted an updated chart of total permanent licenses under the BSRB.

VI. Complaint Review Committee Report. Cindy D'Ercole, Lead Investigator for the BSRB, highlighted a report of the number of Report of Alleged Violation (RAV) that had been received by the BSRB. The Lead Investigator discussed the number of open cases stands at 81, which has decreased from over 100 at different times last year. It was noted that the processing of complaints is improving.

VII. Professions Reports

- A. Licensed Psychology.** The Advisory Committee met in February and completed the annual training. The Advisory Committee will meet again on April 12.
- B. Social Work.** The Advisory Committee met February 15, introduced new members, and received the annual training. Members reviewed the results from the BSRB social worker survey and the Advisory Committee members will be reviewing the unprofessional conduct regulations for discussion at the next meeting on April 19.
- C. Professional Counseling.** The Advisory Committee met in February for training. The Advisory Committee will discuss possible edits to the unprofessional conduct regulations at the next meeting on April 4.
- D. Master's Level Psychology.** The Advisory Committee met on February 10, spent most of the meeting on training, and continued the discussCEUs and “in residence” requirements. The Advisory Committee’s next meeting is April 20.
- E. Marriage and Family Therapy.** The Advisory Committee met on February 11 and discussed regulatory language for supervision of supervision and residence requirements for education programs. The Advisory Committee plans to have training at the next meeting and will be discussing recruitment of new members on April 8.
- F. Addiction Counseling.** The Advisory Committee did not meet and will meet on March 18.
- G. Behavior Analyst.** The Advisory Committee met on February 9 to introduce new members and discussed the Advisory Committee’s recommendation for a Behavior Analyst to be added to the. The Advisory Committee also discussed standards for education and the Advisory Committee will meet again on April 13.

VIII. Old Business

- A. Pre-Approved Continuing Education.** 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 of 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. Mary Jones moved to approve the language allowing other licensees to serve in this capacity. David Anderson seconded the motion. The motion passed. Advisory Committees were asked to discuss whether their professions would like to have pre-approved continuing education providers and pre-approved continuing education courses. The Advisory Committees were asked to report back on these discussions at the next full Board meeting

- IX. Executive Session-Format for Executive Director Annual Evaluation.** Carolyn Szafran moved for the Board to enter into executive session by making the following motion: *“Pursuant to K.S.A. 75-4319, the Board will recess into executive session for 20 minutes and reconvene the open meeting at noon. 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.kansas.gov. The justification for closure is to discuss personnel matters of non-elected personnel. The Board’s legal counsel, Assistant Attorney General Laine Barnard is to be included in the executive session. The subject to be discussed in the executive session is personnel evaluations.”* Mary Jones Seconded. The motion passed.

Upon returning from the executive session, Leslie Sewester moved to accept the position description that was used when the Executive Director was hired; to have Board members rank the performance of the Executive Director’s performance on a scale from poor to excellent; for that feedback to be provided to the Chair of the Board; the Chair of the Board would tabulate those results and any comments from Board members; the Chair would discuss the feedback with the Executive Director; then the Board would have further discussion in Executive Session at the next full Board meeting in May 2022. Deb Stidham seconded the motion. The motion passed.

X. New Business

A. Terms for Behavioral Analyst Advisory Committee Members. The Executive Director noted Advisory Committee members serve a maximum of 8 years. The Behavior Analyst Advisory Committee began meeting in September 2015 and met infrequently until the fall of 2021. Though the Advisory Committee did not meet regularly, if the terms of service continued to run from the time of the original appointment, then the original members will be completing their final terms in June 2023. Four Advisory Committee members have been added recently, but there will be a need for new Advisory Committee members at the end of FY 2023. The Board requested creation of a spreadsheet with the names of all Advisory Committee members and the terms of service. The Executive Director noted he would provide that document to the Board at the next full Board meeting.

B. Board-Approved Trainings for Clinical Supervisors. Board members discussed workforce concerns and the lack of Board-approved clinical training opportunities. Additional resources for existing supervisors was noted as a need. Board members also noted there is a need for a clearer standard definition of what supervision includes. Board members discussed whether the BSRB could offer training for supervisors. The Assistant Director and Licensing Manager for the BSRB noted that she believed any potential trainings by the BSRB for supervisors would need to be provided by professional Board members and the agency would need to ensure the training would be free to attendees. The Board did not reach a recommendation, but stated a desire to revisit this topic in the future..

- C. Executive Director Serving on Committees.** The Executive Director noted he recently received an invitation to serve on a committee for one of the association the BSRB partners with and discussed what process the Board would prefer if he receives additional invitations to serve on other committees. Board members recommended the Executive Director make those decisions independently. Board members noted the value of serving on those committees, but also wanted the Executive Director to be mindful of how those roles might affect time on work for the BSRB.
- D. Board Meeting Format.** The Board agreed to move the Board meeting time to 9am to noon and to add the 10-minute break, so long as the Board meetings are being held remotely.

XI. Preview of Topics for Next Board Meeting.

- A. Discussion Of Impaired Provider Programs.** The Executive Director noted the Board will plan to discuss Impaired Provider Programs at a future meeting. These programs assists providers who are struggling with addiction or mental health matters, who have disciplinary issues. These programs provide treatment and care and can serve as an alternative to traditional discipline.
- B. Approach to Telehealth Standards.** The Executive Director noted there is a prevalence of telehealth now with the pandemic, requiring standard guidance for telehealth for providers.
- C. Delegation of Statutory Duties.** The Executive Director noted the statutes and regulations for the BSRB include many references to “The Board” Some of these references mean the full Board and some are delegated to the BSRB, the Executive Director, the Complaint Review Committee, etc. The Executive Director noted he will review these statutes and regulations with the Board and for instances where a delegation is appropriate, the agency will bring updated delegation motions to the Board to have a clear record of delegation of authority.

- XII. Adjournment.** Carolyn Szafran moved to adjourn the meeting. Deb Stidham seconded the motion. The motion passed.