

**Summary of Board Governance Policy Recommended Changes  
and Items for the Board's Review and Consideration**  
Behavioral Sciences Regulatory Board

The Behavioral Sciences Regulatory Board (BSRB) was created by the Kansas Legislature in 1980 by combining the then-existing regulatory bodies for social workers and licensed psychologists. In the years that have followed, additional professions have been added under the Board's jurisdiction. As a creation of the Legislature, the BSRB is bound first by statutes, then by regulations, and then by any other policies the Board or the agency chooses to adopt.

In October 2011, the Board of the BSRB adopted a revised Board Governance Policy (Governance Policy), which provides general direction concerning expectations for Board membership, Board responsibilities, advisory committees, and Board staff. The document has not been revised since that time. At the Board meeting on July 12, 2021, the Executive Director noted he would review the Governance Policy for potential updates and changes and would bring recommendations for changes back to the Board for review and consideration.

In Summary, the Governance Policy is divided in the following ways:

- Section 1 – Mission Statement (page 1)
- Section 2 – Guiding Principles (page 1)
- Section 3 – Services (page 1-2)
- Section 4 – Code of Conduct (pages 2-3)
  - A. Integrity;
  - B. Conflict of Interest;
  - C. Definitions; and
  - D. Confidentiality.
- Section 5 – Board Meetings (pages 3-4)
  - A. Board Composition;
  - B. Meeting Schedule and Agenda Formation;
  - C. Chairman Authority/Responsibility; and
  - D. Emergency Executive Succession.
- Section 6 – Board-Executive Director Relationship (pages 4-5)
  - A. Organizational Structure;
  - B. Delegation to the Executive Director;
  - C. Executive Expectations; and
  - D. Monitoring the Executive Director's Performance.
- Section 7 – Advisory Committees (pages 5-7)
- Section 8 – Complaint Review Committee Policy (page 7)

In the pages that follow, items the Executive Director has recommended be changed are highlighted in yellow and items for the Board's review and consideration are highlighted in blue. These highlighted items are not meant to be a comprehensive list of items the Board could consider changing, but is meant to aid the Board in evaluating and updating the existing language.

### Potential Change #1 – Adding Language to Clarify Authority of Governance Policy (Pg 1)

As was mentioned earlier, as a creation of the Kansas Legislature, the Board of the BSRB is subject first to applicable statutes, then to regulations, then to any other agreement the Board agrees to be bound by.

I recommend adding the following language at the beginning of the Governance Policy to clarify where the Policy fits within the structure of the other rules the Board and the BSRB are subject to: ***“Insofar as the Board Governance Policy conflicts with or limits any federal or state statute or regulation, the statute or regulation controls.”***

### Potential Change #2 – Chair Reference (Throughout Governance Policy)

Throughout the Governance Policy, the following names are used interchangeably: Chairperson, Chairman, and Chair.

I recommend that all references to “Chair,” “Chairman,” and “Chairperson” be changed to **“Chair”** and I recommend making this action consistent with references to the **“Vice-Chair.”**

### Potential Change #3 – Reference to Frequency of Board Meetings and Corresponding Reports

Language in the Governance Policy states that the Board meets each month and that the Executive Director will issue a monthly report, however the Board currently meets every other month.

I recommend the following language be modified:

On page 4, replace *“Board meetings shall take place the second Monday of **each month**, unless the Board determines otherwise”* with ***“Board meeting shall take place the second Monday of **every other month**, unless the Board determines otherwise.”***

On page 5, replace *“The Executive Director shall keep the Board advised of BSRB activities by issuing a **monthly report** to the Board, which summarizes pertinent information”* with ***“The Executive Director shall keep the Board advised of BSRB activities by issuing a **report to the Board at each full Board meeting**, which summarizes pertinent information.”***

#### Potential Change #4 - Adjust Language on Board Member Code of Conduct

Under Section 4, certain language notes that a Board member of the BSRB “shall” not have certain criminal or professional misconduct, shall not represent their personal opinion as that of the Board, shall reveal any actual or perceived conflicts of interest, etc. A determination of the qualifications for membership on the Board is under the discretion of the Governor’s office, so I would recommend changing the language from “shall” to “should,” to express the expectations of Board membership, while not appearing to limit the authority of the Governor in terms of Board membership. Additionally, to avoid confusion, it may be helpful to replace “A member of the BSRB” with “A Board member of the BSRB.” Also, language under “1” states that a Board member shall not be under investigation or charges or complaints. Anyone can file a complaint against a practitioner and those complaints will be investigated, so the language should reflect avoiding actions that would lead to investigations and complaints.

#### Recommended Changes to Code of Conduct, Integrity (#4a)

On page 2, “**Section 4. Code of Conduct, A. Integrity,**” the language current states:

- “1. A member of the BSRB shall have no criminal or professional misconduct record, nor is under any investigation of charges or complaints.*
- 2. A member of the BSRB possesses sound moral principles, e.g. is upright, honest, sincere.*
- 3. A member of the BSRB has courage of convictions to withstand pressures to be swayed from the public protection agenda.*
- 4. A member of the BSRB is honest about personal agendas and leaves them outside the boardroom.*
- 5. A member of the BSRB shall reveal any actual or perceived conflicts of interest and appropriately recuse themselves from decisions or actions in those areas of interest.*
- 6. A member of the BSRB shall not represent their personal opinion as that of the Board.*
- 7. A member of the BSRB shall be limited to one unexcused absence a year.”*

I recommend the following changes:

***“1. A Board member of the BSRB should have no criminal or professional misconduct record, nor commit acts that would lead to investigations or complaints.***

***2. A Board member of the BSRB possesses sound moral principles, e.g. is upright, honest, sincere.***

***3. A Board member of the BSRB has courage of convictions to withstand pressures to be swayed from the public protection agenda.***

4. A **Board** member of the BSRB **should be** honest about personal agendas and leave them outside the boardroom.

5. A **Board** member of the BSRB **should** reveal any actual or perceived conflicts of interest and appropriately recuse themselves from decisions or actions in those areas of interest.

6. A **Board** member of the BSRB **should** not represent their personal opinion as that of the Board.

7. A **Board** member of the BSRB **should** be limited to one unexcused absence a year.”

#### **Recommended Changes to Code of Conduct, Conflict of Interest, Compliance (#4b)**

On page 2, **“Section 4. Code of Conduct, Conflict of Interest, Compliance,”** the language currently states:

*“Common components of conflicts of interest policies include, but are not limited to, some or all of the following:*

*a. A member of the BSRB shall have no personal financial benefit as a result of service to the BSRB except sustenance and mileage;*

*b. A member of the BSRB who may have a conflict of interest according to stated criteria shall refrain from voting on the matter;*

*c. A member of the BSRB shall disclose any relationship with any other agency or individual involved with the BSRB and be excluded from matters involving such a conflict;*

*d. A member of the BSRB serving as part of an organization working in any way with the BSRB shall inform the Board Chair;*

*e. A member of the BSRB or staff shall not accept any gifts or promotional items received as part of their affiliation with the agency for personal use;*

*f. A member of the BSRB or staff shall not use the agency’s name or agency information for personal gain;”*

I recommend the following changes:

**“Common components of conflicts of interest policies include, but are not limited to, some or all of the following:**

a. A **Board** member of the BSRB **should** have no personal financial benefit as a result of service to the BSRB except sustenance and mileage;

b. A **Board** member of the BSRB who may have a conflict of interest according to stated criteria **should** refrain from voting on the matter;

c. A **Board** member of the BSRB **should** disclose any relationship with any other agency or individual involved with the BSRB and be excluded from matters involving such a conflict;

d. A **Board** member of the BSRB serving as part of an organization working in any way with the BSRB **should** inform the Board Chair;

e. A **Board** member of the BSRB or staff **should** not accept any gifts or promotional items received as part of their affiliation with the agency for personal use;

f. A **Board** member of the BSRB **should** not use the agency's name or agency information for personal gain. **Staff of the BSRB shall not use the agency's name or agency information for personal gain;**

#### **Potential Change #5 - Code of Conduct. C. Definitions (Pg 3)**

The Definitions section of the document contains definitions of "Direct Financial Interest" and "Indirect Financial Interest," however these definitions are not included elsewhere in the document. The Governance Policy also defines Pecuniary Benefit, though this term is only mentioned in the Governance Policy within the definition of "Direct Financial Interest." Other statutes exist which indicate the limits by which

I recommend modifying the language in this section as follows: **Strike the Definitions section.**

#### **Item for Board Review and Discussion #1 – Yearly Formal Evaluation of Executive Director (Pg 5)**

In the Governance Policy, Section 6, Board-Executive Director Relationship, "Monitoring of the Executive Director's Performance" includes language that "*The Board shall also formally evaluate the Executive Director on an annual basis, with emphasis on whether set outcomes are attained.*"

**Item for the Board's review and consideration: Is it the will of the Board for this language to remain in the Governance Policy?**

#### **Advisory Committees**

Section 7 of the Governance Document includes language on Advisory Committees, including separate sections on the Purpose, Process, Structure of Committee, and Selection of members. Advisory Committee are not mentioned specifically in statute or regulation, though there is reference to subcommittees, which advisory committee should fall under.

#### **Potential Change #6 – Structure of Committee – Professional Board Members**

Language in the Governance Policy “Structure of Committee” section states “*The Chairperson of the Committee will be a Board member licensed in the discipline of the committee. A public member of the Board will also be a member.*” No other language is included regarding Board members serving on Advisory Committees. However, two BSRB Advisory Committees, Licensed Psychology and Social Work, have two professional Board members on the Advisory Committee.

I recommend modifying language in this section as follows: “***The Chairperson of the 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. Any other Board members appointed by the Governor to represent that discipline on the Board will serve as a member of that advisory committee. A public member of the Board will also be a member.***”

#### **Potential Change #7 – Structure of Committee - References of Certain Attendees**

Language in the Governance Policy “Structure of the Committee” section states “*The Credentialing Specialist and the Assistant Attorney General representing the Board are encouraged to attend.*” Currently, no employee for the BSRB holds the title “Credentialing Specialist,” however I believe the current position that most closely would fit this reference is the Assistant Director and Licensing Manager. Additionally, while it may be helpful to have a representative from the Attorney General’s office attend meetings when needed, recommending that individual attend all Advisory Committee meetings would seem unnecessary for most meetings and would likely cause the amount for the yearly contract to escalate quickly.

I recommend modifying the language in this section as follows: “***The Assistant Director or Licensing Manager is encouraged to attend. The Assistant Attorney General representing the Board should attend meetings when their attendance is requested.***”

#### **Item for Board Review and Discussion #2 – Number of Non-Board Members on Advisory Committee**

Language in the Governance Policy, “Structure of the Committee” section, states (in addition to Board members on the Advisory Committee) “*There will be a minimum of three additional members appointed.*” The Governance Policy does not list a maximum number of non-Board members on the Advisory Committee. I have heard it mentioned that there has been discussion in the past that the number of non-Board members on the Advisory Committee should not exceed 10 individuals, however this language is not in the Governance Policy.

**Item for the Board’s review and consideration: Should there be a maximum number of non-Board members on the Advisory Committee? If so, what should the limit on non-Board members be?**

**Item for Board Review and Discussion #3 – Former Board Members on Advisory Committees**

Language in the Governance Policy, “Structure of the Committee” section, states “*BSRB Board members may serve on the Advisory Committee.*” This sentence appears to be vague. It appears a past practice in certain situations has been that when a Board member ends their service on the Board, membership on an Advisory Committee may be offered. If this is the intent of this phrase, it would be helpful to clarify that understanding in the language of the Advisory Committee policy.

**Item for the Board’s review and consideration: What is the will of the Board?**

**Item for Board Review and Discussion #4 – Representation of Advisory Committee Members**

Language in the Governance Policy “Structure of Committee” and “Selection” sections include three specific statements concerning the criteria that should be considered when individuals are being reviewed for potential Advisory Committee membership:

- “*These members shall provide representation of the **levels of licensing** for that discipline;*”
- “*It is suggested that those members be selected from among **public and private practitioners and educators;***”
- “*In reviewing nominations the Committee should work to ensure that there **is representation based on geographical, gender, and public vs. private settings.***”

While it may be implied that candidates for membership should hold a general level of competence in their discipline and be ethical practitioners, due to language in the “Structure of the Committee” section that states “*The policies and procedures under which the BSRB Board Members are expected to operate will apply also to the Advisory Committee Members,*” it would be helpful to clarify whether this is the intent of the Board by adding such a sentence to the “Selection” of the Governance Policy when discussing the selection process for recommending candidates.

Items for the Board’s review and consideration: **(1) should language be added to clarify that the criteria for evaluating candidates for the advisory committee should include the policies and procedures under which the Board is expected to operate? (2) Is the bulleted list of criteria above sufficient or should other areas of representation be mentioned?**

**Item for Board Review and Consideration #5 – Two-Year Terms, Four Term Maximum**

Language in the Governance Policy “Structure of the Committee” section states that terms for Advisory Committee members will be two years and that members may serve up to four terms. In the past, terms of service have run together, however if the Board would like to keep this language concerning the

length of term being two years, then we will begin submitting all reappointments to the Chair of the Board whenever a two-year term ends.

**Item for the Board’s review and consideration: Does the Board wish to keep terms at two years in length? Does the Board wish to keep the current limit of four terms?**

#### **Potential Change #8 – Staggering of Advisory Committee Terms**

Language in the Governance Policy “Structure of the Committee” section states “*Appointments to the committee should be staggered so that approximately one third of the committee terms will be expiring each year.*” While staggering of appointments is a preferred practice, if Advisory Committee members serve two-year terms, and members can serve up to four terms, it would be impossible for one third of the committee terms to be expiring each year.

I recommend the following modified language “**Appointments to the committee should be staggered to avoid having too many members of the Advisory Committee reach their maximum length of service at the same time.**”

#### **Potential Change #9 – Changing Terminology of “Nomination” to “Recommendation”**

Language in the Governance Policy “Selection” section states “*Members for the Committee may be nominated by anyone, including the public, committee members, members of a professional organization — either the discipline’s own or other’s — or through self-nomination.*” The language further states “*The Committee as a whole discusses the nominations.*” The section then states “*The Chairperson of the Committee will submit the names of the nominee(s) to the BSRB Board Chairperson at the Board meeting.*” The overuse of the term “nominations,” creates some confusion, as in the first two sentences, it is used to identify individuals who were nominated for consideration of becoming Advisory Committee members, but in the last sentence, it is used to mean the recommendations of the Advisory Committee.

I recommend the following modified language “**The Committee as a whole discusses the nominations and reaches recommendations on new members**” and “**The Chairperson of the Committee will submit the Committee’s recommendations for new members to the BSRB Board Chairperson at the Board meeting.**”

#### **Potential Change #10 – Notification of Advisory Committee Membership**

Language in the Governance Policy “Selection” section states “After the appointment has been approved the Executive Director will inform the Advisory Committee appointee by letter.” Currently, for most licensees, the preferred method of communication is e-mail.

I recommend the following modified language “**After the appointment has been approved the Executive Director will inform the Advisory Committee appointee by letter or e-mail.**”