

**BEHAVIORAL SCIENCES REGULATORY BOARD
PROFESSIONAL COUNSELING ADVISORY COMMITTEE'S
SUBCOMMITTEE ON UNPROFESSIONAL CONDUCT REGULATION REVIEW
JULY 18, 2022**

Draft Minutes

- I. Call to Order.** David Fye, Executive Director for the Behavioral Sciences Regulatory Board, called the Subcommittee meeting to order at 10 a.m.

Subcommittee Members: Subcommittee members who participated by Zoom were Jessica Allison, Michelle Fairbank, Bob Kircher, and Andrew Secor.

BSRB Staff: David Fye and Leslie Allen were present by Zoom.

- II. Review of Unprofessional Conduct Regulation.** The Executive Director noted the Professional Counseling Advisory Committee requested creation of a Subcommittee for the review of the unprofessional conduct regulations for the profession. The Board authorized the Subcommittee to meet and the Advisory Committee selected members to serve on the Subcommittee. The Executive Director asked the members of the Subcommittee to review the current unprofessional conduct regulations for the professional counseling profession so that the Subcommittee could submit recommendations for possible changes back to the Professional Counseling Advisory Committee, which could be recommended by the Advisory Committee back to the Board of the BSRB for changes to the regulations. The Subcommittee was asked to focus on areas where new unprofessional conduct regulations should be added, whether other regulations should be removed, and whether existing regulatory language should be changed to provide clarity to the regulations. The Executive Director advised the members of the Subcommittee to be mindful of regulations that may need additional language, considering changes in technology including telehealth and social media.

The Subcommittee reviewed the K.A.R. 102-3-12a(a) and (b).

For item (2)(D), Subcommittee members discussed whether “*conviction of a crime*” was sufficient” or whether other language was needed, such as “*conviction of a felony.*” It was noted that some professions under the BSRB use “*crime,*” while other use “*felony.*” The Subcommittee highlighted this item for further review at a later date.

For item (11), Subcommittee members discussed whether a more appropriate term could be included, rather than “*cruel.*”

For item (12), Subcommittee members recommended adding additional language to the regulation on discrimination to better match the American Counseling Association’s Code of Ethics.

For item (23), the Executive Director noted it may be helpful to clarify this regulation by changing the language from “*engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation*” to “*engaging in professional activities, including **but not limited to** billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation.*” Subcommittee members were supportive of the proposed change.

For item (24), the Subcommittee referenced a version of K.A.R. 102-3-12a which showed potential changes which had been considered by a past Professional Counseling Advisory Committee of the BSRB. The proposed change would strike existing language “*using alcohol or illegally using a controlled substance*” and replace that language with “*Being under the influence of any substance that impairs professional judgment.*” The new language would precede existing language “*... while performing the duties or services of a professional counselor or clinical professional counselor.*” Subcommittee members supported the proposed language.

For item (25), the Subcommittee members expressed the need to support and protect students. Subcommittee members questioned the definition of the term “*active,*” as it related to clients and students.

For item (26), the Subcommittee members discussed the current language concerning inappropriate sexual advances or physical intimacies with clients. Subcommittee members expressed support for changing the length of time from 24 months to stating that a client should never have a sexual relationship with someone who has been a client.

VII. Adjournment. The meeting was adjourned at 11:00 a.m.