BEHAVIORAL SCIENCES REGULATORY BOARD
BOARD MEETING MINUTES
JANUARY 12, 2024

APPROVED MINUTES

I. Call to Order and Roll Call. The Board meeting was called to order by Board Chair Mary Jones at 10:00 a.m.

Board Members. Board members in attendance via Zoom were Mary Jones, David Anderson, Jill Flessing, Linda Heitzman-Powell, Donna Hoener-Queal, Jim Kilmartin, Jacqueline Lightcap, Richard Nobles, Andrea Perdomo-Morales, Cynthia Schendel, Laura Shaughnessy, and David Stevens.

Staff. BSRB Staff in attendance via Zoom included David Fye, Leslie Allen, and Cindy D'Ercole. Legal counsel for the Board, Attorney Tim Resner, was present.

Guests. None

II. Agenda Approval. David Anderson moved to approve the agenda. Jim Kilmartin seconded. The motion passed.

III. Public Comment

A. Social Work Multi-State Compact Legislation (2024 HB 2484) – Tonya Ricklefs, Board President for Kansas Chapter of the National Association of Social Workers (NASW). The President for the Kansas Chapter of NASW provided public comment requesting the BSRB Board support HB 2484, a bill which would add Kansas to a multi-state compact for social workers.

IV. Minutes Approval: Jim Kilmartin moved to approve the minutes from the Board meeting on November 14, 2023. Cynthia Schendel seconded. The motion passed.

V. Executive Director's Report. David Fye, Executive Director for the BSRB, reported on the following topics:

A. Operations. Since launching the BSRB YouTube channel in January of 2021 to provide better access for individuals to follow the work of the Board and Advisory Committees, 138 meetings have been broadcast, viewed over 5,319 times. It was noted that Board meetings are being viewed an average of 84 times per meeting.

B. Expenditure and Revenue. At the end of December 2023, the fiscal year revenue was about $408,000, and the expenditures were $459,000. The balance in the BSRB Fee Fund is currently a little over $2 million.

C. **Staffing Updates**. The agency currently has 11 full-time employees and one part-time employee. The BSRB would like to convert the part-time employee into a full-time employee once she graduates from college later this year. The agency requested to reallocate expenditures from temporary staffing to permanent staffing and to add 0.5 FTE positions, to convert the part-time employee into a full-time employee, beginning in FY 2025. The Governor concurred with the request and it will be reviewed by the budget committees in the House and Senate.

D. **Legislative Updates.** The 2024 legislative session started this week. The Governor's State of the State was on Wednesday, January 10, 2024, and the Governor's Budget Report was delivered to the House and Senate on January 11, 2024. The Governor recommended the same amount that was requested and approved for 2024. Every year, the BSRB's budget is reviewed and approved by both the House and Senate committees. The Executive Director made Board members aware of: House Bill 2484 (the social work multi-state compact bill) and Senate Bill 37, which involves the Kansas Fights Addiction Act. The Executive Director reported receiving a packet of 10 regulations that have been reviewed and approved by both the Department of Administration and the Attorney General's Office. These regulations involved social work, professional counseling, marriage and family therapy, and addiction counseling regulations that involved a proposed change to the definition of "in residence," as it relates to requirements for licensure. Other proposed changes in this set of regulations include adding a national accrediting body for the addiction counseling profession, as well as removing some program requirements concerning core faculty for the master's level psychology profession. The regulations will be published in the Secretary of State's publication on January 24, 2024, and then they will be open for a 60-day public comment period.

E. **Association Updates.** The American Association of State Counseling Boards (AASCB) held an annual conference earlier in the week in Arizona, attended by the Executive Director and Board members Mary Jones and Laura Shaughnessy. Primary areas of focus included artificial intelligence and the roles regulators should have in terms of practitioner responsibilities and confidentiality, supervision and discipline, and technology utilization.

F. **Kansas Fights Addiction Grant Review Board (KFAGRB).** Jason Hess, the Board's appointee to the KFAGRB, provided a written summary of recent activities of the group.

G. **PSYPACT.** PSYPACT is a multi-state compact for the licensed psychology profession that Kansas officially joined in January of 2022. Their annual meeting took place on November 16 and 17, 2023, which the Executive Director attended. The major takeaway was that PSYPACT provides a method for licensed psychologists to be able to practice primarily telehealth in other PSYPACT states. In Kansas, there are close to 100 individuals practicing under PSYPACT authority.

H. Professional Counseling Compact. There are currently 30 states that are part of the compact. The compact is not yet operational, but the compact commission has been meeting and passing rules. It is hopeful that the compact will become operational later this year.

I. Social Work Multi-State Compact. One aspect of this compact that is unique from other compacts is that it establishes a new license type rather than providing privilege to practice. With this compact, states would begin offering multi-state licenses which would allow licensees to practice in any state that is part of the compact. In Kansas, there are currently 8,288 licensees in the social work profession, with 6,494 living in Kansas and 1,794 living outside of Kansas. The Executive Director anticipates a drop in the BSRB's social work licensee count if Kansas joins the compact and it becomes operational, as it is anticipated that out-of-state licensees will choose to let their license in Kansas expire and will choose to practice under multi-state licenses issued by their home states. The bill associated with this compact sets the cap for how much the Board could charge for certain fees.

VI. Staff Reports. The Executive Director reviewed historical information on licensing trends, which shows that the agency continues to see growth in overall licensees.

VII. Complaint Review Committee (CRC) Report. Cindy D'Ercole, Investigator for the BSRB, provided updates on the CRC.

VIII. Professions Reports

A. Licensed Psychology. The Advisory Committee last met on Tuesday, December 12, 2023. They discussed the unprofessional conduct regulation and plan to make additional edits at their next meeting. The Advisory Committee also discussed making changes to the continuing education regulation, specifically in lowering the number of required continuing education hours from 50 hours to 40 hours every two years. The Advisory Committee is recommending that the accreditation system, PCSAS, be added as another national accrediting body recognized for licensing purposes in Kansas. The next meeting is Tuesday, February 13, 2024, at 6 p.m.

B. Social Work. The Advisory Committee last met on December 5, 2023. One of the non-board members is resigning, which will bring the Advisory Committee down to nine members. There will be a notice sent out to licensees in April seeking new members. The Advisory Committee discussed the 2023 ASWB annual meeting that took place in November 2023, as well as survey questions for a survey that will be sent out to all licensed social workers regarding interest in the multi-state compact license and other topics. The Advisory Committee also reviewed final language on proposed changes to the unprofessional conduct regulation. The next meeting is February 13, 2024, at 10 a.m.

C. **Professional Counseling.** At their last meeting, the Advisory Committee discussed unprofessional conduct regulations, the educational review process, and supervision issues. The next meeting is on February 5, 2024.

D. **Master's Level Psychology**. The Advisory Committee met on December 11, 2023. They discussed having APA accredited LP programs satisfy educational requirements for LMLP licensure. The Advisory Committee also discussed whether individuals should be able to sit for the EPPP examination with a score over a 400, but less than 500. They plan to begin reviewing the educational criteria for licensure at their next meeting on February 7, 2024.

E. **Marriage and Family Therapy**. The Advisory Committee met on December 12, 2023. They continued reviewing continuing education and unprofessional conduct regulations. They also discussed members of other professions serving as board approved supervisors. The Advisory Committee plans to start discussion on educational equivalency standards at their next meeting on February 9, 2024.

F. **Addiction Counseling.** The Advisory Committee was unable to meet in December 2023. At the next meeting in March 2024, the Advisory Committee plans to discuss new topics for 2024.

G. **Behavior Analyst.** The Advisory Committee met on December 8, 2023. They discussed unprofessional conduct regulations, documentation of continuing education, reinstatement of licenses, and location of client when services are being provided. The next meeting is February 9, 2024, at 1 p.m.

10-Minute Break

IX. Old Business

A. **Continued Discussion on Supervision by Practitioners from Different Professions for Marriage and Family Therapy and Professional Counseling Professions.** The Chairs of the Marriage and Family Therapy and Professional Counseling Advisory Committees reported back to the Board that their Advisory Committees felt strongly that their professions should be supervised primarily by professionals in their professions due to the unique aspects of their professions. However, both Advisory Committees wanted to continue allow for representatives from other professions to provide supervision under extenuating circumstances, so the final recommendation for both Advisory Committees was to make no changes to the regulations.

B. **Continued Discussion on Possible Agreement with CE Broker.** CE Broker contracts with licensing boards in several states. If it is decided to contract with CE Broker, there would be no cost to the BSRB nor to individual licensees who choose to opt in. With CE Broker, the BSRB would be able to review records more quickly when licensees get audited. The Executive Director expressed benefits for working with CE Broker. Other states that work with CE Broker have expressed positive feedback. By

consensus, the Board decided to move forward with the agreement with CE Broker, if acceptable language could be worked out in the agreement.

C. Continued Discussion on Requiring Background Checks for Licensees. K.S.A. 74-7511 provides the BSRB authority to require fingerprinting and background checks as part of the application, reinstatement, and investigation processes. Several multi-state compacts require background checks for individuals to be able to practice under the compact. The cost for background checks and fingerprinting would be about $48 per person. The requirement would only apply to individuals who want to practice under a compact. The information obtained from the background check would not be releasable under Kansas Open Records Act. The Board will continue to discuss this item at a future meeting.

D. Continued Discussion on Educational Requirements for Student Temporary Addiction Counseling Licenses. One of the ways in which individuals can meet educational requirements is by providing an education plan signed by an official of the institution of higher education that includes the steps to obtain coursework necessary to receive an addiction counselor license. One of the questions was whether pursuing a social work degree, to obtain a Licensed Bachelor's Social Work (LBSW) license, then using the LBSW to satisfy the educational requirements to take the examination to become a Licensed Addiction Counselor (LAC), would be sufficient for the Student Temporary Addiction Counselor license, as long as the individual meets the other requirements. It was the consensus of the Board to allow the education under this scenario to meet the requirement for the Student Temporary license.

E. Continued Discussion on Educational Requirements for Licensure Including Standardized Admissions Criteria (Example: K.A.R. 102-3-3a(f)). The Executive Director noted each profession has a regulation which includes educational standards for licensure (highlighting K.A.R. 102-3-including program and coursework requirements. The Executive Director noted that the program level requirements should be reviewed by each Advisory Committee to make recommendations back to the Board to update any outdated language.

X. New Business

A. Consideration of Recommendations from Advisory Committees

i. Social Work Advisory Committee

1. **Request for Support of Multi-State Compact Legislation.** The Executive Director expressed that this compact would be beneficial for licensee and client mobility, but there would also be an economic impact in terms of the BSRB losing revenue from out of state licensees. He also expressed that the Board may want to look at charging a higher amount for multi-state licenses to compensate for the revenue loss from out of state licensees. Board members supported charging more for these licenses, because they would greatly expand practitioners' client bases. It was the consensus of the Board that if

this bill receives a hearing, the Executive Director should provide proponent testimony in support of it.

ii. **Licensed Psychology**

1. **Request for Support of Recognition of CPQ.** One of the requirements to become CPQ is that individuals must have practiced post-degree for five years. Richard Nobles, Chair of the LP Advisory Committee, expressed that it would be advantageous to support Kansas being part of the CPQ because of its benefits with respect to credentials. 45 of the 50 states are doing it, so being part of the CPQ could reduce barriers for practitioners if they want to practice in other states. From a licensing perspective, CPQ would help speed up the process for individuals coming from other states. It was the consensus of the Board to move forward in favor of this.
2. **Request for Support of Recognition of PCSAS as National Accrediting Body.** Chair of the LP Advisory Committee supported recognizing PCSAS as an accrediting body. PCSAS is largely based out of programs that adhere to research-based and clinical scientist models of clinical psychology. A number of programs are beginning to drop APA as their accreditation source, and PCSAS is expected to grow significantly in the coming years. If Kansas does not recognize PCSAS, then individuals graduating from schools dropping APA will not be able to get licensed. From a licensing board perspective, there is a growing number of states that are recognizing both APA and PCSAS. Board members expressed approval and consensus for recognizing both APA and PCSAS.

iii. **Master's Level Psychology**

1. **Request to Recognize APA Accredited Education Programs.** David Anderson, Chair of the LMLP Advisory Committee, noted it may be helpful for the Master's Level Psychology Advisory to discuss whether PCSAS should be added to the regulation along with the APA, so this recommendation was tabled and will considered at a later date after the LMLP Advisory Committee can discuss adding PCSAS.
2. **Request to Allow Multiple EPPP Examination Attempts.** Currently, if an individual passes the EPPP at the master's level, they are not authorized to take the examination again to attempt to pass at the clinical level until they have accrued 3,000 hours of postgraduate experience. Some individuals have requested the ability to take the EPPP prior to waiting two years, as they believe sitting for the EPPP earlier may positively impact individuals' abilities to pass the examination at the 500 level. The Executive Director has contacted ASPPB to see if this option is something allowable, but he has not yet heard back from them. Due to this, this item was tabled until a response is received and will be revisited at the next Board meeting.

B. Board Input on Application of Licensing Statutes and Regulations

i. **Evaluating "Other Related Fields" for Doctoral Programs.** The regulations for certain professions allow situations in which a certain number of hours can be waived if an individual has attained a doctoral degree. The regulations make reference to "other related fields," so BSRB staff asked the Board to consider what areas should be considered "other related fields" for this purpose, as some possible fields labeled under this have not had an internship or post-graduate hours. The Board tabled this item until the next meeting.

ii. **Possible Delegation Motion for BSRB to License Applicants Following Receipt of Expert Report in Support of Licensure.** Richard Nobles made the following motion: "*I move that for licensed applicants whose educational materials necessitate by an expert, if the expert report recommends licensure or approval to take the licensing examination and BSRB licensing staff determine no further issues need to be reviewed by the Board, the BSRB may move forward the applicant's materials without the matter being reviewed by the Board in a closed session under the Kansas Administrative Procedures Act*." Laura Shaughnessy seconded. The motion passed.

C. Discussion on Possible New Licensing System. The Executive Director noted the legislature passed a bill last session to create a unified verification portal. The bill also authorized Accella to create an enterprise licensing system for any state agencies wishing to move under that system. There is currently an opportunity for the BSRB to move to that platform. Currently, the BSRB is paying about $73,000 per year for the hosting and maintenance of our licensing system. If the BSRB moves to the new licensing system, there would be an upfront cost of about $200,000 and a yearly estimated cost of around $36,000. Long-term, it would save the agency money to switch to the new licensing system. The Executive Director has asked the Office of Information Technology Services to provide a presentation or invite Accella to come speak to the Board about their system, which will probably take place in the March Board meeting.

D. Discussion on Preference for BSRB Testimony on Relevant Bills During 2024 Legislative Session. The current preference of the Board is that the Executive Director will not assume the position of the Board and provide testimony on a topic before having the Board meet to discuss such topic. The Board supported the Executive Director in continuing to handle this matter as he has in the past.

XI. Executive Session for Communication with Counsel that would be Attorney-Client Privileged Communication. Jim Kilmartin made the following motion to enter executive session "*Pursuant to K.S.A. 75-4319, I move that the Board recess into executive session for 25 minutes and reconvene the open meeting at 12:50 pm. Justification for this closure is communication with legal counsel that be attorney client privilege communication. David Fye, Executive Director of the BSRB, and Tim Resner, the Board's legal counsel, are to be included in the executive session. The subject to be discussed in the executive session is attorney client privileged communication.*"

Cynthia Schendel seconded. The motion passed.

XII. **Date for Next Meeting:** Monday, March 11, 2024.

XIII. **Adjournment.** Cynthia Schendel moved to adjourn the meeting. Jim Kilmartin seconded. The motion passed.