BEHAVIORAL SCIENCES REGULATORY BOARD
BOARD MEETING MINUTES
May 13, 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 were Mary Jones, David Anderson, Linda Heitzman-Powell, Donna Hoener-Queal, Jacqueline Lightcap, Richard Nobles, Andrea Perdomo-Morales, Cynthia Schendel, Laura Shaughnessy, and David Stevens. Jim Kilmartin and Jill Flessing were absent.

Staff. BSRB Staff in attendance 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. Laura Shaughnessy seconded. The motion passed.

III. Public Comment.

A. Dr. Briana McGeough Concerning Vetoed 2024 SB 233. Dr. McGeough, in her personal capacity rather than representing any group, requested that the Board take proactive action related to gender affirming care bans in the state. She noted that 2024 SB 233 had been vetoed by Governor Laura Kelly, but stated similar legislation addressing the same topics was likely to be introduced in future years. She noted 2024 SB 233 put mental health providers in a difficult position and explained some bills have caused confusion on providing care to the affected groups. She encouraged the Board to provide clarity to reduce misinformation. David Fye, Executive Director of the BSRB, provided copies of Senate Bill 233 for Board members to review.

IV. Minutes Approval: Cynthia Schendel moved to approve the minutes from the Board meetings on March 11, 2024. David Stevens seconded. The motion passed.

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

A. Operations. The BSRB has officially launched a new website through Granicus with only minor issues. The new website is targeted to provide a cleaner interface and to make information more accessible for individuals using mobile devices. The Executive Director finalized an agreement with CE Broker. The BSRB will be providing more information when the agency is ready to make CE Broker services available to licensees.

B. Outreach. The Executive Director and Leslie Allen, Assistant Director and Licensing Manager for the BSRB, have continued presenting information to students at different colleges and universities concerning licensing, disciplinary topics, and resources from the BSRB. The Executive Director also presented information to the Governor's Behavioral Healthcare Center for Excellence on major statutory and regulatory changes by the BSRB that have assisted with workforce development. The Executive Director noted that group wished to thank the Board for their hard work on so many initiatives.

C. Behavioral Health Workforce Policy Academy (BHWPA). The Executive Director announced that the BSRB partnered with representatives from the Kansas Department for Aging and Disability Services (KDADS) and the Board of Regents, to apply for a Workforce Policy Academy from the National Academy for state Health Policy (NASHP). The Executive Director announced that the Policy Academy was awarded to Kansas and he will be working with representatives from KDADS, the Board of Regents, and national partners to explore additional workforce initiatives.

D. Expenditure and Revenue. At the start of the fiscal year, the balance in the BSRB Fee Fund was at $2.1 million. So far for the current fiscal year, the BSRB's total revenue is around $651,000, and expenditures total around $877,000, so the agency continues to operate at a deficit by design, primarily due to substantial fee decreases implemented by the Board in 2019 in an effort to bring down the ending balance in the BRSB Fee Fund. The Executive Director noted he anticipates some increase in revenue in May and June, as all licensed psychologists must renew their licenses by the end of June in even numbered years. The Executive Director stated that he hopes to have the end of the fiscal year numbers at the July Board meeting so that there can be a discussion about other potential fee decreases.

E. Legislative Updates. At the last Board meeting, the Executive Director reported on a proviso that had been added to the House appropriations bill that would have prevented the BSRB from enforcing certain educational requirements for social work applicants from non-accredited schools. Following that Board meeting, the Executive Director met with legislative leadership to clarify certain information on the agency's educational requirements for licensure. As a result of these conversations, an amendment was made to the House appropriations bill when the bill was worked on the House floor, and the proviso was removed from the bill. No further adjustments were made to the BSRB budget. The Executive Director noted he appreciated legislative leadership being open to having positive conversations on the topics involved with this proviso and appreciated their willingness to remove the proviso.

i. **House Bill (HB) 2484 – Social Work Multi-State Compact Bill.** HB 2484 was signed into law by the Governor. This makes Kansas the seventh state to have passed the Compact, which is the number necessary for the rules committee to meet later this fall to begin to determine the operating rules of the Compact. The Executive Director could not provide a time frame on when the compact will be operational. The Executive Director noted

concern with the final version of the bill, as a House committee removed language which would have allowed the BSRB to set a limit for each type of fee for multi-state licenses and replaced this language with a $25 privilege fee for a multi-state license, above the fee for an application or license renewal. The Executive Director noted the agency surveyed all licensed social workers to gauge interest on social workers joining the compact. Using the percentages of social workers interested in moving from a single-state license to a multi-state license and removing out-of-state licensees (that would not be eligible to obtain a multi-state license in Kansas), a $25 privilege fee would result in revenue of $100,000 every two years, however the loss of revenue from losing out-of-state license renewal fees would be a decrease of $150,000 every two years, meaning that the BSRB will be operating at a projected deficit of $25,000 each year, once the Compact is fully operational. The Executive Director noted that he requested an amendment to fix this issue in the Senate Public Health and Welfare Committee, to ask that the Committee set the amount at $35, rather than $25, which would have allowed the agency to break even. However, on a 4-4 vote, the Senate Committee did not pass the amendment.

ii. **HB 2745.** HB 2745 exempts certain military spouses of active-duty military members, from occupational licensing fees. The effective date of this bill is publication in the statue book, which is generally regarded as July 1, so the agency is making preparations to implement this change. It was noted that passage of this bill further decreases revenue to the BSRB Fee Fund.

F. Kansas Behavior Analyst Association. The Executive Director will be providing a presentation to the Association in July 2024.

G. Kansas Fights Addiction Grant Review Board (KFAGRB). Jason Hess, the Board's appointee to the KFAGRB, provided a written report with updates.

H. Association of Social Work Boards (ASWB). The mid-year meeting was attended by the Executive Director and Social Work Advisory Committee Co-Chair Andrea Perdomo-Morales. At the mid-year meeting, the Executive Director was a presenter on the topic of supervision.

I. Association of State and Provincial Psychology Boards (ASPPB). The ASPPB midyear meeting was attended by the Executive Director and Board public member David Stevens. Discussion topics included utilization of technology, efforts to regulate artificial intelligence, and supervision.

J. Association of Marriage and Family Therapy Regulatory Boards (AMFTRB). As an appointed member of the AMFTRB Elections Committee, the Executive Director serves on the Elections Committee and reported he reviewed references for applicants for the Treasurer position.

K. AASCB. The Executive Director announced that the American Association of State Counseling Boards (AASCB) offered him a position on their Board, to serve the remaining one-year of two-year term as Treasurer. The Executive Director researched the time commitment and other issues and has accepted the appointment, which will begin on July 1, 2024. Board members congratulated the Executive Director on the appointment to the Board of AASCB, noting that appointment is a compliment on the work of the Executive Director.

VI. Staff Reports. As of the beginning of May 2024, the BSRB regulated 15,648 permanent licensees, which is an increase of 703 licensees from May 2023.

VII. Complaint Review Committee (CRC) Report. Cindy D'Ercole, Investigator for the BSRB, provided updates on the CRC. It was noted that the number of open cases has continued to rise.

VIII. Professions Reports

A. Licensed Psychology. The Advisory Committee last met on April 9, 2024, at 6 pm. The Advisory Committee concluded their conversation regarding regulation changes for documentation of continuing education. The Advisory Committee began discussion on educational requirements for nonaccredited institutions, as well as on the possibility of developing a survey for licensed psychologists. The next meeting is June 11, 2024, at 6 pm.

B. Social Work. The Advisory Committee last met on April 9, 2024. They continued reviewing survey results from a survey of licensees. As a result of the review, the Advisory Committee recommended lowering the number of required continuing education hours from 40 hours to 30 hours every two-year license period. The Advisory Committee asked the Executive Director to send a message to licensees, recruiting new Advisory Committee members, as several members' terms are coming to an end. The Advisory Committee began discussion on an alternative to requiring a jurisprudence examination and asked for a few volunteers to begin working on updating the BSRB social work supervision manual. The next meeting is June 18, 2024.

C. Professional Counseling. The Advisory Committee last met on April 1, 2024. They discussed the Professional Counseling Multi-State Compact roll out. It is hoped that the Compact will be operational by the end of the year. The Advisory Committee also discussed an alternative to requiring a jurisprudence examination and a possible questionnaire to send out to licensees. They also had conversations around supervision training. The Advisory Committee put out a request for new members, and the next meeting is June 3, 2024.

D. Master's Level Psychology. The Advisory Committee met on April 3, 2024. They discussed whether LCP applicants should be able to take the EPPP prior to completing their 3,000 hours of supervision, which Advisory Committee members support. They

continued reviewing educational requirements for licensure, discussed an alternative to requiring a jurisprudence examination, and looked at developing a survey for educators around curriculum. A member is coming off the Advisory Committee, so they are looking to appoint a new one. The next meeting is June 5, 2024.

E. Marriage and Family Therapy. The Advisory Committee met on April 12, 2024. They discussed educational equivalency standards and looked at preliminary questions for a survey to be sent out to marriage and family therapists. The Advisory Committee also looked at adding new members and discussed an alternative to requiring a jurisprudence examination. The next meeting is June 14, 2024.

F. Addiction Counseling. The Advisory Committee met at the end of March. They discussed a possible survey and an alternative to requiring a jurisprudence examination. At a future meeting, the Advisory Committee plans to discuss possible creation of a student temporary license for master's students. The next meeting is in June 2024.

G. Behavior Analyst. The Advisory Committee met on April 1, 2024. They discussed continuing education requirements and gender affirming care legislation. The Advisory Committee also discussed a possible survey and adding new members. The next meeting is June 14, 2024.

10-Minute Break

IX. Old Business

A. Review and Approval of Proposed Changes to Regulations: K.A.R. 102-2-6; K.A.R. 102-3-3a; K.A.R. 102-4-3a; K.A.R. 102-5-3; K.A.R. 102-5-7b; K.A.R. 102-5-10; K.A.R. 102-7-3; K.A.R. 102-7-4; K.A.R. 102-7-5; K.A.R. 102-7-7; and K.A.R. 102-7-8. Discussion on Report Back to the Joint Committee on Administrative Rules and Regulations.

The Executive Director noted there was an open meeting for public comment held for these proposed changes to regulations. No members of the public attended this meeting and there was no additional public comment. The regulations are now ready to be voted on for formal adoption. Once the Board does this, the regulations can be published in the Kansas Registrar, and they would become final about 15 days after publication.

i. **Joint Committee on Administrative Rules and Regulations (JCARR) Comments.** The Executive Director provided comments and recommendations made by the members of JCARR. It was noted that the Board is not required to implement changes based on the comments and recommendations of JCARR, however the Executive Director noted the agency has proposed possible post-hearing changes for the Board to consider to address the concerns by the members of the Committee. The members of the Board appreciated the comments and recommendations of

the members of JCARR, noting the request for additional definition information for the terms "synchronous" and "biopsychosocial." As post-hearing changes the Board voted to add additional language to clarify these terms. Those recommended changes apply to K.A.R. 102-2-6, K.A.R. 102-3-3a, K.A.R. 102-5-3, and K.A.R. 102-7-3. The members of JCARR also expressed concern in replacing "Substance use" with "Biopsychosocial needs" in K.A.R. 102-7-3, noting concern with students completing less coursework specific to addiction and substance use. The Board discussed alternative language, but also noted there was a significant interest in the regulations moving forward at this time, as this would allow more individuals to be able to be licensed by meeting the new requirements in regulation. The Board determined that the primary focus of the regulation in K.A.R. 102-7-3 in which the term "substance use" was removed was a focus on individual counseling, and the substitution of the term "biopsychosocial" would apply a broader term that was commonly used in the mental health field that would be inclusive of evaluating for not only substance use by other disorders as well. The Board also noted that K.A.R. 102-7-3 included many other courses focusing on addictions and substance use, and applicant would still need to pass a standardize test on addiction-related information, which would help verify the applicants were sufficient educated and trained on addictions.

Cynthia Schendel moved to adopt the proposed changes to regulation by roll-call vote for all proposed regulation changes. Laura Shaughnessy seconded. The role-call vote passed by a count of 10-0. Andrea Perdomo-Morales moved for the Executive Director to write a report back to the members of JCARR, explaining the reasons for the new language and the discussion concerning substance use. Richard Nobles seconded. The motion passed.

X. New Business

A. Reappointment of Advisory Committee Members. The Board Chair moved to reappoint the following Advisory Committee members who requested reappointment:

i. **Addiction Counseling Advisory Committee**
   1. **Christina Boyd**
   2. **Dulcinea Rakestraw**

ii. **Marriage and Family Therapy Advisory Committee**
   1. **Nicole Eitzen**
   2. **Chris Habben**
   3. **Marcie Lechtenberg**

iii. **Master's Level Psychology Advisory Committee**
   1. **Iris Pauly**
   2. **Josh Tanguay**

iv. **Professional Counseling Advisory Committee**
   1. **Melissa Briggs**

2. **Michael Countryman**
3. **Vanessa Perez**

v. **Social Work Advisory Committee**

1. **Mike Gillett**
2. **Lee Ann Gingery**
3. **Robin Unruh**

B. Discussion on Possible New Language for Advisory Committee Policy to Allow Former Members to Return After Gap in Service. The Executive Director noted the Advisory Committee Policy states Advisory Committee members may serve up to four 2-year terms, for a maximum length of service on an Advisory Committee of eight years. The Marriage and Family Therapy Advisory Committee recommended the Board consider a change to the Policy to allow members to come back to serve aft er a gap in service. Board members expressed support in allowing Advisory Committee members to serve more than four terms, so long as there is a two-year break. After the two-year break period, individuals would then be eligible to serve up to four additional terms. It was the consensus of the Board that the Advisory Committee Policy should be adjusted to include four additional terms of eligibility for Advisory Committee members after a two-year gap in service. The Executive Director will present a copy of the Advisory Committee Policy with the new language at the next Board meeting. During this discussion, Board members discussed possibly adding language regarding Advisory Committee member attendance and other responsibilities of participation. This topic will be added to the agenda of a future Board meeting for discussion.

C. Appointment to Kansas Fights Addiction Grant Review Board. Jason Hess is the Board's current appointed representative for the Kansas Fights Addiction Grant Review Board (KFAGRB). Mr. Hess was originally appointed as the Board's designee in the fall of 2024, and the Board determined to make appointments last two fiscal years, so this is scheduled to be revisited. Mr. Hess is interested in continuing to serve as the Board's representative. Jill Flessing, Addiction Counseling Advisory Committee Chair, wrote a message to the Board, since she could not attend the meeting, expressing support for Mr. Hess being reappointed. The Board Chair recommended having Hess, or anyone else who may serve as the Board's representative to the KFAGRB, attend at least two Board meetings annually to give Board members an opportunity to ask questions. Cynthia Schendel moved to reappoint Hess as the Board's representative to the KFAGRB for the next two fiscal years. Linda Heitzman-Powell seconded. The motion passed.

D. Appointment of Board Members to Hearing Panel for Master's Level Psychology License Applicant. When individuals are denied licensure, they have the opportunity to request a hearing in front of the Board. Five Board members are needed to serve on the panel for the hearing requested by an LMLP applicant that was denied, one being the Board member for the specific profession – in this case, David Anderson. There must also be a public member on the panel, and the remaining three Board members can be any Board members. The hearing is expected to take place in a couple months. Donna Hoener-Queal volunteered to serve as the public member on the panel. Cynthia Schendel, Mary Jones, and Laura Shaughnessy volunteered to serve on the panel as well, and Andrea Perdomo-Morales volunteered as a back-up.

E. Discussion and Possible Comments on Letters to the Board

i. **Narcan and Naloxone for Social Workers.** Lisa Wootton, a Health Systems Specialist for the National Intimate Partner Violence Assistance Program Care Management and Social Work Services, asked the Board to take a position on social workers and their use of Narcan and Naloxone. Without written support from the Board, Veterans Affairs social workers are not permitted to carry and administer Naloxone. The Board has not previously taken a stance on this matter and felt as though it was outside their jurisdiction.

ii. **National Standards of Practice for Marriage and Family Therapists.** The National Standards of Practice Team on behalf of the VHA office of Regulations, Appeals, and Policy are trying to establish a standard of practice for marriage and family therapy at VA facilities. It was noted that the requirements of the BSRB are in alignment for what the VA was considering, so no response is needed by the BSRB.

F. Consideration of Recommendations from Advisory Committees

i. **Behavior Analysts**

1. **Draft Regulation Language to Reinstate a License.** The Executive Director noted that when the statute authorizing licensure for the behavior analysis profession was enacted, it lacked language for the BSRB to be ablet to reinstate licenses. Therefore, if a licensee has an expired license, they would need to reapply for a license. SB 131 gave the BSRB authority to develop regulations on LaBAs and LBAs seeking to reinstate a license, due to it previously expiring, it having been suspended, or having been revoked. The Advisory Committee recommended draft language to be forwarded to the Board. This regulation outlined the process for reinstating licenses and the different circumstances surrounding license reinstatements, which is the same process currently used for other professions. David Stevens moved to approve the draft regulation as presented. Cynthia Schendel seconded. The motion passed.
2. **Draft Regulation Language on Location of Practitioner.** The Executive Director noted that when looking to see where services are performed, the BSRB looks at the location of the client and most professions have a regulation clarifying that point. However, the behavior analysis profession does not currently have a matching regulation on this point. This item was tabled until the next Board meeting to ensure the language is drafted correctly on that issue.
3. **Draft Regulation Language on Requesting More Time to Complete Continuing Education Hours.** The Executive Director noted that all other professions regulated by the BSRB received new language in 2023 SB 131 to allow licensees to request additional time to complete continuing education hours, if they meet certain requirements. However, based on the way the behavior analyst statute is written, this language would need to be added in the regulations for that profession. The Behavior Analyst Advisory

Committee previously reviewed and recommended forwarding to the Board draft language on that topic. David Anderson moved to approve this draft regulation as presented. Jacqueline Lightcap seconded. The motion passed.

G. Board Input on Application of Licensing Statutes and Regulations

i. **Evaluating "Respiratory Therapy" as "Related Field" for Student Temporary Addiction Counseling Applicants.** The Assistant Director and Licensing Manager noted that nursing has been considered a "related field" for meeting certain educational requirements. The BSRB is seeking clarification from the Board whether respiratory therapy should also be considered a "related field." After discussion, it was the consensus of the Board that respiratory therapy would not be considered a "related field."

H. Discussion on Possible New Licensing System. At a previous Board meeting, the Executive Director noted that Accela had been awarded a contract with the state to develop an enterprise licensing system for any state agencies wanting to move to that platform. At the previous meeting, representatives from Accela presented information on the licensing system. The Executive Director noted that he has been in communication with the Office of Information Technology Services (OITS) and received information that the implementation costs to the new system would be covered by federal American Rescue Plan (ARPA) federal dollars and ongoing licensing costs would be covered through new money approved by the Legislature through legislation passed during the 2024 legislative session. Also, following the previous meeting, the Executive Director spoke to representatives from other states who use the Accela system and the reports were positive. The BSRB is currently paying about $72,000 a year for their licensing system, and it is estimated that ongoing costs under Accela would total around $30,000, if they were to be passed to the agency at some time. David Stevens moved for the BSRB to begin the process of moving to the Accela enterprise licensing system. Laura Shaughnessy seconded. The motion passed.

I. Delegation Motion on Unavailable Practicum References. BSRB staff noted there are some instances where applicants do not have a reference from the on-site practicum supervisor because of a long time-period between completing their practicum and applying for licensure. In the past, these applications were taken to the Board for review, but the Executive Director requested that BSRB staff be given the ability to move these applications forward, granting an accepting for these individuals, without having to bring it to the Board. David Stevens moved to allow this. Cynthia Schendel seconded. The motion passed.

J. Delegation Motion for Board Member Panels for Military Reciprocity Decisions after Complete Applications and Board Member Panels for Other Urgent Decisions after Complete Applications Received. The Executive Director noted the BSRB is trying to be diligent in processing applications as quickly as possible and there may be instances when a decision is needed on a case prior to the Board meeting under a KAPA proceeding at the end of each month. For example, once BSRB staff have a complete military reciprocity application, the BSRB is charged to issue a decision within 15 days. The Executive Director requested that the Board allow for three member panels to review applications as needed, as opposed to the entire Board,

to approve these applications to ensure that time frames are met. David Anderson moved to allow this. Cynthia Schendel seconded. The motion passed.

K. Discussion on Jurisprudence Examinations Proposal. The Executive Director noted he brought a proposal to most Advisory Committees, that rather than requiring completion of a jurisprudence examination for a fee, the BSRB could launch an optional jurisprudence program that licensees, applicants, and students could voluntarily take. For licensees, they could earn an hour of continuing education for completion of the one-hour webinar. The Executive Director noted most Advisory Committees were able to hear the proposal and were receptive to the idea. He will continue to speak to Advisory Committees and report back to the Board.

L. Referred to Advisory Committees. The Board determined to refer two topics to the Advisory Committees for discussion and possible recommendations: (1) discussion on the regulation of artificial intelligence; and (2) adding a description of each regulated profession to BSRB website to inform the public of the differences between the professions.

XI. Recognition of Outgoing Board Member Jacqueline Lightcap. Public Board member Jacquie Lightcap is not seeking reappointment to the Board, so her term on the Board will end at the end of June 30, 2024. The Board recognized Jacqueline Lightcap and thanked her for her service to the BSRB.

XII. Date for Next Meeting: Monday, July 8, 2024, at 10 am.

XIII. Adjournment. Donna Hoener-Queal moved to adjourn the meeting. Cynthia Schendel seconded. The motion passed.