

# Kansas Behavioral Sciences Regulatory Board (BSRB) Training for Board Members and Advisory Committee Members

2024

# **BSRB Mission**

The mission of the BSRB, in accordance with the intent of the Kansas Legislature, is to protect & serve the consumers of services offered by BSRB licensees, through the issuance of licenses, resolution of complaints, & the creation of appropriate regulations, accomplished through efficiency, fairness, & respect to all those involved.

# History of the BSRB

- The BSRB was established in 1980 to license & regulate psychologists and social workers in Kansas.
  - The Legislature combined the responsibilities of the State Board of Examiners of Psychologists & the Board of Social Work Examiners.
- Over the years, the BSRB's jurisdiction has expanded to include the licensure of:
  - Professional Counselors
  - Masters Level Psychologists
  - Marriage & Family Therapists
  - Addiction Counselors
  - Behavior Analysts

# Composite Board

Rather than have separate Boards for addiction counselors, behavior analysts, marriage & family therapists, master's level psychologists, professional counselors, licensed psychologists, & social workers, there is one Board, composed of both professional & public members.

This combination of individuals on one Board is called a composite board.

**Benefits:** The agency saves on operational expenses by sharing resources & utilizing licensing & investigative staff for similar subject areas.

# Boards and Associations

## Regulatory Boards:

- Exist to protect consumers
- Created by the Legislature
- Governed by statute

## Associations:

- Exist to enhance the profession
- Created by members of the profession



# **BSRB Agency Staff**

The BSRB employs 12 staff members:

- Executive Director
- Assistant Director & Licensing Manager
- Licensing Specialists
- Investigators
- Clerical Staff

# Agency Operations

- The BSRB is a fee funded agency
- The BSRB does not receive funding from the State General Fund but, by statute, contributes 10 percent of revenue, or up to \$100,000 per year
- The agency earns its revenue from license fees
- Annual Budget: a little over \$1.1 million

# The Board

All Board members are appointed by the Governor to serve a four-year term. Board members may be re-appointed for a second term, allowing service on the Board for a maximum of eight consecutive years.

## Board Composition:

- 1 Addiction Counselor
- 1 Marriage & Family Therapist
- 1 Masters Level Psychologist
- 1 Professional Counselor
- 2 Licensed Psychologists
- 2 Social Workers
- 4 Public Members

# Functions of the BSRB

Two basic functions of the BSRB:

- Licensing
- Investigations of Complaints / Discipline



# Licensees Regulated by the BSRB

There are currently 15,997 active permanent licensees.

LP: 1,037

LASW: 4

LBSW: 1,133

LMSW: 4,148

LSCSW: 3,207

LPC: 1,200

LCPC: 1,446

LaBA: 18

LMLP: 349

LCP: 274

LMFT: 292

LCMFT: 874

LAC: 518

LMAC: 433

LCAC: 587

LBA: 477

# Investigation & Discipline

- As a public protection agency, the BSRB investigates complaints against practitioners under the authority of the Board.
- The agency has administrative authority over practitioners, but this process does not take the place of criminal or civil proceedings.
- In fiscal year 2024, the BSRB received 162 complaints / Reports of Alleged Violation (RAVs) against practitioners, 38 less than fiscal year 2023.

## Investigative Process:

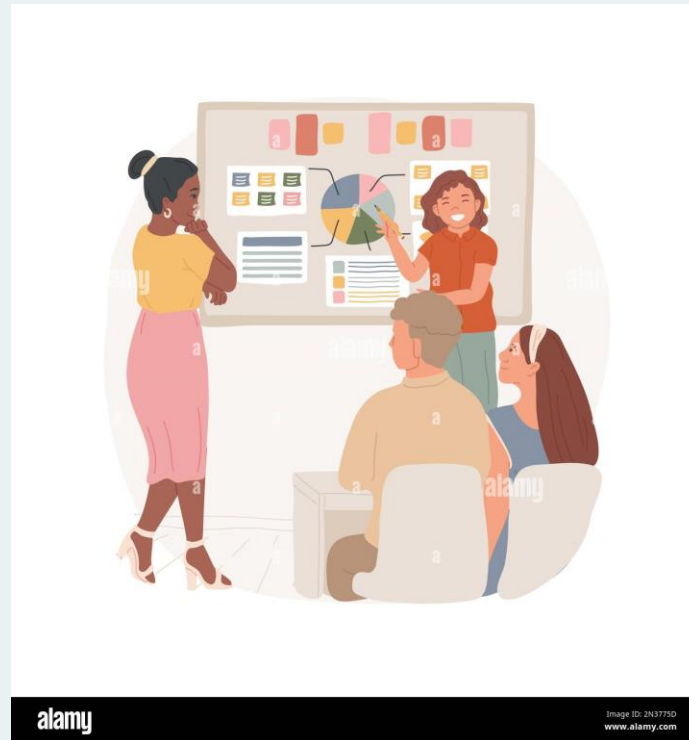
- Complaints are reviewed to determine whether the BSRB has jurisdiction over the issue & whether the matter involves a potential violation of the statutes & regulations for the profession.
- Complaints are reviewed by a subset of the Board: the Complaint Review Committee (CRC)

# Common Violations

- Falsifying continuing education requirements; audit violation
- Practicing without a license or with an expired license
- Dual relationship (conflict of interest)
- Making sexual advances towards or engaging in physical intimacies with any client
- Refusing to report termination or suspension
- Confidentiality violations
- Practice issues – performing services inconsistent with one's education or accepted professional standards

# Outreach

The Executive Director & Assistant Director & Licensing Manager speak to groups of students to provide information on licensing & disciplinary matters to provide a proactive approach to assist individuals before they become licensed.



# **BSRB YouTube Channel**

- To provide public access to Board & Advisory Committee meetings, the BSRB launched a YouTube channel in January 2021.
- Over 180 meetings have been streamed live or uploaded to the YouTube Channel with more than 10,000 views.

# BSRB Website

ksbsrb.ks.gov

## Features on the BSRB Website:

- License renewal portal
- Copies of forms & other application materials
- Statutes & regulations
- Proposed changes to statutes & regulations
- Complaint / Report of Alleged Violation forms
- Disciplinary orders
- Information on Board & Advisory Committee meetings

# Authority

## Statutes

- Board - Primarily K.S.A. 74-7501 through K.S.A. 74-7511
- Separate Statutes for Each Profession

## Regulations

- Separate Regulations for Each Profession

## Policies

- Adopted by Board or Agency to Assist with Operations

# Expectations of Board Members



# Guiding Principles

- A. Persons in Kansas shall expect that licensed mental health providers are qualified, competent, & professional.
- B. Persons regulated by the BSRB shall expect equitable & fair treatment in relation to licensing activities, disciplinary processes, & administrative regulations.
- C. The BSRB shall provide all services in a manner that is timely, cost efficient, courteous, & competent.
- D. The BSRB shall be guided & led by ethical principles, clear policies, progressive thinking, & strategic decision making.
- E. The BSRB shall respect the dignity & worth of all individuals.

# **BSRB Services**

- Process license applications & license renewals in a timely manner
- Take disciplinary action when appropriate
- Provide timely information to the public
- Maintain rules/regulations & statutes

# Code of Conduct: Integrity

A Board member of the BSRB:

1. Should have no criminal or professional misconduct record, nor commit acts that would lead to investigations or complaints
2. Possesses sound moral principles (i.e., is upright, honest, & sincere)
3. Has courage of convictions to withstand pressures to be swayed from the public protection agenda
4. Should be honest about personal agendas & leaves them outside the boardroom
5. Should reveal any actual or perceived conflicts of interest & appropriately recuse themselves from decisions or actions in those areas of interest
6. Should not represent their personal opinion as that of the Board
7. Should be limited to one unexcused absence a year

# Conflicts of Interest

- Having any interest, financial or otherwise, direct or indirect, or engaging in any business, transaction, or professional activity which is in substantial conflict with the proper discharge of the Board member's duties in the public interest
- Board & Advisory Committee members must make public & recuse themselves from any conflict of interest that exists
  - This ensures the integrity of the Board & all its decisions
- Types of potential conflicts:
  - Personal gain
  - Bias
  - Effects on personal relationships

# Common Components of Conflicts of Interest

- A Board member of the BSRB should have no personal financial benefit as a result of service to the BSRB except sustenance & mileage
- A Board member of the BSRB who may have a conflict of interest according to stated criteria should refrain from voting on the matter
- A Board member of the BSRB should disclose any relationship with any other agency or individual involved with the BSRB & be excluded from matters involving such a conflict
- A Board member of the BSRB serving as part of an organization working in any way with the BSRB should inform the Board Chair
- A Board member of the BSRB should not accept any gifts or promotional items received as part of their affiliation with the agency for personal use
- A Board member of the BSRB should not use the agency's name or agency information for personal gain

# Personal Conflicts

- Actions that may ultimately have a personal consequence that is a direct or indirect effect of a decision or action
- No decisions should be made that will advance the personal benefits of a Board or Advisory Committee member

# Confidentiality

- Protected information must remain confidential during & after Board membership
- Board discussion involving any of the following matters shall remain confidential, unless the Board expressly agrees to the contrary:
  - Any discussion that occurs during executive session
  - Any discussion concerning actual or potential litigation
- Examples of times when confidential information could be discussed:
  - Executive sessions during open meetings
  - Deliberations after a hearing

# Authorities

## Board Chair:

The Chair of the Board shall:

- Preside at all meetings
- Appoint members of the Advisory Committees
- Appoint members of the CRC
- Appoint members to other ad hoc committees

**Vice-Chair:** The Vice-Chair shall discharge the duties of the Chair in his/her absence, disability, resignation, or death.

# Board-Executive Director Relationship

## Organizational Structure:

1. The Executive Director will communicate any personnel matters that should be addressed by the Board to the Chair of the Board
2. The Chair of the Board will present these Board-related issues to the Board
3. The Executive Director will communicate to the staff the Board's wishes, intentions, policies, etc.

## Executive Expectations:

1. 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.
2. The Executive Director shall prepare the agenda for Board meetings in consultation with the Board Chair.
3. The Executive Director shall prepare the agenda in consultation with the Board Chair for an annual Board retreat which shall allow for issues before the Board that require in-depth consideration.

# Board-Executive Director Relationship

## Delegation to the Executive Director:

- The Executive Director:
  - Shall be the administrative head of the organization, serving under the Board at all times
  - Is responsible for implementing & executing the policies & activities approved by the Board
  - Shall recommend policies & activities for consideration by the Board
  - Shall have sole authority to employ, eliminate, & fix the duties & salaries of other employees or independent contractors of the organization, subject to policies, regulations, & limitations approved by the state of Kansas

# Board-Executive Director Relationship

## Monitoring of the Executive Director's Performance:

- The Board shall, when necessary, utilize executive session to discuss issues concerning the Executive Director
- The Board shall formally evaluate the performance of the Executive Director each calendar year & on an annual basis thereafter, with emphasis on whether set outcomes are attained.

# Advisory Committee Policy



# Advisory Committees

**Advisory Committee Purpose:** Support the Board in carrying out its mission to protect the public

## Process:

- Advisory Committees fulfill their purpose by addressing issues referred to them by the Board
- Advisory Committees may suggest issues it believes the Board should consider by referring them through the Chair of the Advisory Committee

Once an issue is referred to the Board, the Board has three options”

1. Address the issue at the Board Level
2. Refer the issue back to the Advisory Committee for additional information
3. Not take any action on the issue

# Structure of Advisory Committees

- Chairs of Advisory Committees are Board members
- A public Board member will be a member of Advisory Committees
- There may be a minimum of three & a maximum of 10 additional Advisory Committee members
- The Executive Director is a non-voting, ex officio member
- The Assistant Director or Licensing Manager is encouraged to attend Advisory Committee meetings
- Legal counsel representing the Board should attend meetings when their attendance is requested

# Terms for Advisory Committee Members

- Advisory Committee members serve two-year terms
- Advisory Committee members are appointed by the Board Chair and can serve up to eight terms, with a two-year break in between the fourth & fifth term
- It is recommended that appointments to Advisory Committees are staggered to avoid too many members reaching their maximum length of service at the same time

*The policies & procedures under which the BSRB Board Members are expected to operate will apply also to the Advisory Committee Members.*

# Selection of Advisory Committee Members

- Nominations can be made by the public, committee members, members of a professional organization, & through self-nomination
- Committees should ensure diverse representation, including geographic setting, gender, culture, ethnicity, & licensing levels
- Members should represent both public & private sectors, as well as educators in the discipline
- The Committee reviews nominees' resumes, letters of interest, & their alignment with the Board's mission & goals
- The Committee Chair submits recommendations to the BSRB Board Chair for approval
- Once appointed, the Executive Director informs the new member & may provide orientation to familiarize them with the Board & Committee's roles & functions

# Guidelines for Attendees of Meetings



# Guidelines for Attendees of Meetings

- The official policy is posted on the BSRB website
- Public comment is not entitled to individuals, but may be approved
- Outlines the processes that should be followed during comments to the Board or Advisory Committees & topics relevant for public comment

# General Guidance for State Agencies



# Professional Licensing Boards

- Kansas regulates many professions through licensing boards or commissions created by the Legislature to ensure professional competence & public safety
- Boards are considered “Creatures of Statute”
  - This means that a Board’s power is dependent upon its authorizing statutes
  - A Board can only exercise authority granted explicitly or implicitly by Kansas statutes
  - Boards cannot act beyond their statutory authority or on matters not addressed by law
- Boards must adhere to constitutional protections, including Equal Protection, Due Process, & freedoms such as speech & privacy
- Actions that are arbitrary, discriminatory, or that violate rights (i.e., revoking a license based on personal dislike) are prohibited

# Legislative Authority Over the BSRB

- The Kansas Legislature has control over certain aspects of licensing boards, such as:
  - Modifying the enabling legislation, which would change the purpose of the Board
  - Limit expenditures in an appropriation bill
  - Enact new legislation to change the makeup, scope, and/or powers of the Board

# Functions & Duties of Licensing Boards

## Executive Authority:

- Follows Kansas Open Meeting Act (KOMA)
- Follows Kansas Open Records Act (KORA)

## Judicial Authority:

- Quasi-judicial hearings in reviewing facts when law violations have occurred
- Follows Kansas Administrative Procedures Act (KAPA) when appropriate

## Legislative Authority:

- Adopt regulations to implement or interpret statutes with more detailed or specific requirements
  - This process involves holding an open hearing on proposed regulations, allowing feedback
  - There is oversight by a legislative committee

# Statutes, Regulations, & Policies

- Regulatory boards protect the public by ensuring practitioners are competent & authorized through the implementation & enforcement of statutes, regulations, & internal policies
- Board members must understand the differences between statutes, regulations, & policies to effectively carry out their duties

## Statutes:

- Laws passed by the Kansas Legislature, signed by the Governor, & derived from the Kansas Constitution
- Generally become effective on July 1 of the session year (“publication in the statute book”), unless another date is specified by Legislature
- Define the scope of a Board’s authority & override any conflicting regulations or policies
- If a Board requires additional authority (i.e., investigative subpoena power), it must seek new legislation

# Regulations

- Rules adopted by a Board to implement & enforce specific statutes
- A Board's authority to adopt regulations is derived from statute
- Developed under the Rules and Regulations Filing Act, ensuring public & legislative input, consistency, & legal compliance
- Fill in details of statutes, affecting the rights & responsibilities of third parties outside the Board
- Once adopted in accordance with the Rules and Regulations Filing Act, regulations have the force & effect of law & are legally enforceable
- For a regulation to be valid, it must:
  - Fall within the Board's statutory authority
  - Implement a specific statute
  - Comply with legal requirements & constitutional standards
- Regulations that exceed authority or conflict with statutes or the Constitution will be voided

# Policies & Guidance Documents

**Policies:** may be adopted by a Board only to guide its internal operations, such as prioritizing staff workload or explaining the investigative process

**Guidance Documents:** documents that state a Board's current approach to, interpretation of law, or general statements of policy that describe how & when the Board will exercise discretionary functions

# Effectiveness as a Board or Advisory Committee Member

**Watch for Conflicts:** Be alert to agency policies or internal procedures that may conflict with statutes or regulations, or that impact applicants or licensees

**Initiate Action:** If statutes or regulations are unclear or problematic, take steps to amend them or propose changes

## Discipline:

- The purpose of discipline is to promote compliance & protect the public
- Discipline should not be vindictive or disproportionate to the severity of the violation(s); ensure that discipline is fair & proportional

**Remember:** The primary responsibility of the Board is to protect the public, not the licensees

# Professional Activities

- Board members may hold office in a professional or trade association but cannot lobby for or vote on matters that affect both the association & their role on the Board
- Board members must not use their position to promote the interests of the professional association
- Board members may attend professional conferences & social events but must avoid discussing Board business
- If a majority of the Board is present, they must not discuss the business, affairs, or matters related to a particular pending application or disciplinary matter

**Remember:** Comply with open meeting laws (KOMA)

# Conduct

- A Board member should not represent themselves as a spokesperson for the Board unless authorized by a vote of the Board to do so
- If unauthorized to give the Board's position on an issue, members must clarify that any opinions are personal, not official Board positions
- Board members should not ask Board staff or counsel to provide legal advice or preferential treatment to any applicant or licensee

# Kansas Open Meetings Act (KOMA)

- KOMA ensures public access to governmental meetings to promote an informed electorate (K.S.A. 75-4317)
- The purpose is to benefit the public, so KOMA is interpreted liberally & exceptions are applied narrowly to carry out its purpose
- Applies to all state legislative & administrative bodies, as well as to subordinate groups funded by public money (K.S.A. 75-4318)
- “Subordinate groups” are likely subject to the KOMA if created or extended by a covered entity
- KOMA does not apply to:
  - Quasi-judicial functions or proceedings under the Kansas Administrative Procedures Act (KAPA) (K.S.A. 75-4318(g)(1); K.S.A. 77-523(f))
  - The judiciary
  - Private organizations
  - Staff meetings of covered entities
- Goal of KOMA: ensure transparency in government decision-making for the public

# Kansas Open Meetings Act (KOMA)

## Meetings:

- Definition: Any gathering or assembly in person, through the use of a telephone, or any other medium for interactive communication by a majority of the membership of an agency or public body subject to KOMA for the purpose of discussing the business or affairs of the public body or agency
- Can be held via telephone or electronic mediums (i.e., Zoom, Skype, etc.) if all KOMA requirements are met
- Includes:
  - Informal discussions before, after, or during recesses of a public meeting
  - All gatherings at any stage of the decision-making process
- “Work sessions” & “retreats” are subject to KOMA

# Kansas Open Meetings Act (KOMA)

## Discussions:

- Does not require binding action or voting
- Can occur at social gatherings, retreats, & meetings held in private, & educational conferences/seminars
- When traveling to such meetings, members of the Board should avoid discussing agency affairs or business

# Kansas Open Meeting Act (KOMA)

- The presiding officer must provide meeting notice but can delegate this duty (K.S.A. 75-4318(b))
- Notice is not required to be published in the paper or on a website; individuals must request it
- Requests for notice can be verbal or written and are valid for one fiscal year
- The notice must include the meeting's date, time, and location, provided in a "reasonable time" before the meeting

# Kansas Open Meetings Act (KOMA)

## Meeting Procedures:

- KOMA does not require following Roberts Rule of Order or any similar formal rules of procedure
- KOMA does not require that a Board creates an agenda but, if one exists, it must be made available to the public
- Meetings may be recorded if doing so is not disruptive
- The public does not have the right to speak; they do have the right to listen & observe
- Secret ballots are prohibited

# Kansas Open Meetings Act (KOMA)

## Minutes:

- A Board's policy may require minutes to be kept, but the KOMA does not require minutes unless an executive session occurs
- The motion to enter executive session must be included in the minutes

## Executive Session:

- Permits discussion of certain enumerated matters outside of public view
- Cannot result in binding actions, but a consensus is allowed
- Any consensus reached must be formalized in an open session vote

# Kansas Open Meetings Act (KOMA)

- Prosecutions under the KOMA are civil, not criminal
- Any person, attorney general, or county/district attorney may bring an action in district court
- The county/district attorney & attorney general have subpoena power
- Enforcement actions take precedence over all other cases & are assigned for trial at the earliest practical date

## Remedies for a KOMA Violation:

- Voiding any action taken if prosecuted by the attorney general or county/district attorney
- An injunction (stopping the action)
- A mandamus (forcing action)
- A declaratory judgment

# Kansas Open Meetings Act (KOMA)

Penalties for a KOMA Violation (K.S.A. 75-4320; K.S.A. 75-4320a):

- A fine of up to \$500 per Board member for each violation
- Ousted from office
- Recall from office
- Court costs assigned to the person seeking enforcement of KOMA
- Court costs assigned against plaintiff if maintained action frivolously, not in good faith, or without reasonable basis in law or fact

# Kansas Open Records Act (KORA)

- K.S.A. 45-215 et seq. mandates that public records be “Open for inspection by any person unless otherwise provided”
  - KORA is designed liberally to promote such policy (K.S.A. 45-216(a))

**Public Agency:** Include the state, political & taxing subdivisions, offices, officers, entities, etc. receiving public funds

**Instrumentality:** While not explicitly defined in KORA, entities created or extended by a covered public agency are typically subject to KORA

# Kansas Open Records Act (KORA)

## Public Records:

- Includes any recorded information that is made, maintained, kept by, or is in the possession of any public agency
- Do not include records that are owned by a private person or entity

## KORA does not apply to:

- Private companies (even if publicly funded for services)
- Judges & courts
- Individual legislature or governing body members
- Private individuals

# Kansas Open Records Act (KORA)

- Under the KORA, the Board must:
  - Appoint a Freedom of Information Officer to assist with KORA requests
  - Provide a brochure outlining requester rights, agency responsibilities, & procedures for inspecting or obtaining copies of public records
  - Include contact details for the records custodian, fees, & office hours (K.S.A. 45-226; K.S.A. 45-227)

# Kansas Open Records Act (KORA)

- Anyone, regardless of residency, can request records
  - Individuals do not need to provide a reason for requesting records
- The Board may require requests to be written, with the requester's name, address, and proof of identification
  - The Board may also require that requesters sign a written certification that the requester will not use names & addresses obtained from the records to solicit sales or services
- The Board cannot deny a person the right to review public records unless closed by law
  - If portions of a record are closed, the remainder must be made available to the requester (redaction)

# Kansas Open Records Act (KORA)

- The Board is not required to make copies of the following unless shown at a public meeting:
  - Recording tapes or discs
  - Video tapes or films
  - Pictures
  - Slides
  - Graphics
  - illustrations

# Kansas Open Records Act (KORA)

Requests must be responded to within three business days, with three possible response:

1. The record is provided (in the form requested, if possible)
2. The request is under review & the records will be provided if permitted
3. The request is denied, with a detailed explanation for the denial

# Kansas Open Records Act (KORA)

- Public records must be released unless an exemption to disclosure applies
- The burden is on the Board to provide exemptions
- Exemptions can be discretionary or mandatory

## Enforcement:

- KORA is a civil act
- Any person, a county/district attorney, or the attorney general may bring a civil prosecution
- The county/district attorney & attorney general have subpoena power
- Fines up to \$500 per violation may be imposed for a knowing violation or an intentional failure to furnish information
- Costs & attorney fees may be imposed if a denial is found to be in bad faith & without a reasonable basis in fact or law (K.S.A. 45-222; K.S.A. 45-223)
- Violations are subject to trial at the earliest possible date (K.S.A. 45-222(e))

# Kansas Administrative Procedures Act (KAPA)

- Establishes procedural rights & duties (K.S.A. 77-503(b))
- Does not provide substantive law
  - Substantive laws are governed by the Board's enabling & licensing acts
- Applies only when explicitly stated by other statutes (K.S.A. 77-503(a))
- Governs procedures for Board decisions when specified in the licensing or enabling statutes (K.S.A. 77-503(a))
- Ensures that the Board operates efficiently & in accordance with the law, while balancing public access where appropriate
- Licensing Boards must conduct business under KOMA (open meetings)
  - When statutes direct decisions to be made under KAPA, the Board follows KAPA, rather than KOMA, procedures
  - KAPA & KOMA are mutually exclusive

# Kansas Administrative Procedures Act (KAPA)

- Sets out a procedure to follow when the Board is deciding what to do in cases involving individual licensees
  - In these cases, the Board conducts a quasi-judicial function in deciding the outcome of the case
- Does not require public notification for licensure application reviews or CRC meetings (including probable cause determinations & summary orders)
- Only hearings need to be open to the public under KAPA
- Decisions are made upon issuance of a license or order; public voting is not required
- During KAPA proceedings, relevant Board staff & legal counsel may attend to provide necessary information & legal advice to Board members

# Kansas Administrative Procedures Act (KAPA)

Board activities that are not covered by the KAPA & must be acted on in an open meeting under the KOMA:

- Approving board minutes
- Deciding whether to renew contracts or change the way contracted services are provided
- Delegating authority to a Board member or Executive Director for a particular action
- Discussions & votes to approve or amend regulations or guidance documents
- Policy decisions affecting the way the Board operates internally
- Receiving agency updates regarding:
  - The budget
  - Legislation
  - Statistics on complaints & CRC activity
  - Education
  - The Executive Director's report

# Kansas Administrative Procedures Act (KAPA)

## Applications for Licensure:

- Applicants have the burden of proof
- Staff will collect the necessary information for the Board to assess whether the applicant qualifies for licensure or if conditions or restrictions apply
- If the Board conditions, denies, or restricts a license, the applicant may request a hearing, unless agreed to in a consent agreement & order

# Kansas Administrative Procedures Act (KAPA)

## Investigations:

- The Board has the burden of proof to show a licensee has violated statutes or regulations
- Licensing Boards can investigate complaints, with the investigator presenting findings to the CRC
- The CRC determines if there is probable cause to believe a violation has occurred based on “reasonable grounds”
  - Reasonable grounds: information that would lead a reasonably prudent person to believe that the licensee violated one of the Board’s statutes or regulations

# Kansas Administrative Procedures Act (KAPA)

## Investigations:

- The CRC must ensure that the licensee's conduct that they are accused of actually violates one of the Board's statutes or regulations
- A licensee doing something that made someone angry, violated a professional association's ethical code, or did not follow an employer's policy does not necessarily mean that they violated a statute or regulation
- Licensees can request a hearing within a certain prescribed time period
  - Once a petition or request for a hearing is filed, the KAPA guides the proceedings & hearing
- In cases where there is immediate danger to public health, safety, or welfare, the CRC may suspend a license without giving the licensee notice or an opportunity for a hearing
  - A licensee may appeal an emergency order to the district court

# Kansas Tort Claims Act (KTCA)

- The KTCA governs the liability of the State of Kansas & its agencies & employees, including Board members, elected or appointed officials, & others acting on behalf of the government (K.S.A. 75-6102(d)(A))
- The KTCA establishes vicarious liability for wrongful acts or omissions within the scope of employment, with potential case-by-case immunity
- If sued for actions within your duties as a Board member, the state will defend you at no cost

# Kansas Tort Claims Act (KTCA)

To obtain representation by the state, you must:

1. Submit a written request within 15 days after service of a process (must include a copy of the petition & summons)
2. Cooperate in your defense

The state may choose not to defend you if you:

1. Acted with actual fraud or malice
2. Failed to make a timely request for representation
3. The judgment is for an act or omission that occurred outside the scope of your duties as a Board member

# Conclusion

- Become familiar with statutes and regulations for the professions
- Review policy documents, including Expectations for Board Members, Advisory Committee Policy, and Guidance for Attendees of Meetings
- Become familiar with the BSRB website, YouTube channel, and other resources available for you to use as a Board or Advisory Committee member ([ksbsrb.ks.gov](http://ksbsrb.ks.gov))
- Strive to uphold the values for Board members and Advisory Committee members
- Be mindful of laws and requirements related to state agencies, such as KOMA, KORA, and KAPA

# Questions?

For more information, please contact:



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