



Newsletter of the Behavioral Sciences Regulatory Board

Complaint Review Committee

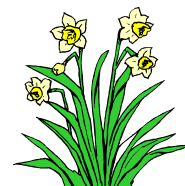
by Larry Hays, Ph.D. Psychology Board Member

In January, the Board implemented a new process for evaluating complaints against licensees for unprofessional conduct. In the past, complaints were assigned to a single licensed Board member to review the complaint, work with the board investigator to gather relevant information, make a determination of whether a violation had occurred, and then recommend appropriate sanctions. This resulted in slower processing of complaints than the Board desired. In addition, there was variability in the recommendations for sanctions for similar violations. Because of the possibility that a case might go to an administrative hearing, a Board member investigating a case could not consult with another board member, or group of members, as they might end up on a hearing panel. Thus, individual board members were required to individually evaluate reports of alleged violations, and recommend sanctions. Of the state licensing boards in Kansas, the BSRB was one of the few to use this process. Other boards utilize a complaint review committee made up of licensees and public members.

The Complaint Review Committee of the BSRB grew out of several annual retreats and a task force on sanctioning guidelines. The review and evaluation of investigated reports of alleged violations is performed by the Complaint Review Committee. The five member committee consists of a psychologist board member, a social worker board member, a board member who is either a marriage and family therapist, or a professional counselor, or a masters level psychologist or clinical psychotherapist (these disciplines will alternate a single membership slot) and two public board members. The terms of the committee are for two years. The remaining six board members are available to serve on hearing panels for any case that proceeds to an administrative hearing. The Board's executive director, special investigator, and disciplinary counsel from the Attorney General's office serve on the Complaint Review Committee in an advisory capacity. For cases that fall outside the expertise of the Committee, consultants will be utilized to assist in assessing a complaint.

Over the past year and a half the Sanctioning Guidelines Committee has worked on developing a Guide to Aggravating and Mitigating Factors in the Determination of Disciplinary Actions. This Guide helps standardize committee members thinking in considering relevant factors associated with violations. The committee is free to ask and consider other questions and factors as well. However, this way of approaching the process of reviewing and evaluating complaints helps identify the potential seriousness of a violation. Once the committee determines the seriousness of the violation, then it has a range of potential sanctions that are appropriate for the level of misconduct.

It is the goal of the Board to provide timely reviews of complaints, process violations in a manner that is fair to the licensee, and serves the Board's function of protecting the public. The unprofessional conduct regulations of the licensed disciplines of the Board are very similar. Hence, it is feasible to adopt an interdisciplinary approach to complaints as similar standards exist between the disciplines. For the purpose of public protection, it does not make sense for a boundary violation by one discipline to receive a lighter penalty than a boundary violation by a member of another discipline, given a similar context in both cases. In terms of the client who sought the licensee's services in good faith, its adverse impact is likely to be the same regardless of the licensee's discipline. Similarly, it is not fair from the licensee's perspective to potentially receive a harsh penalty for a violation based upon only one person's judgment when a committee might impose a milder sanction as a result of evaluating the complaint in a manner that insures relevant questions are addressed in determining the seriousness of the violation and in imposing equitable sanctions.



Credentialing Corner

By Jennifer Springer, Credentialing Specialist

GUESS WHAT? THE BOARD HAS A SURPRISE FOR YOU !!

The Board is currently in the process of reducing the number of required continuing education hours. The required CEU's will be as follows: Marriage and Family Therapy will require **40**, Masters Level Psychology will require **50**, Professional Counseling will require **30**, Psychology will require **50**, RAODAC will require **30**, Social Work will require **40**. We hope to have the regulations in place for the July 2003 renewals. We will post the implementation date on our website.

LMLP's TAKE NOTICE

Individuals wishing to obtain the masters level psychology license and the clinical psychotherapist license who graduate with their degree on and after July 1, 2003 will be required to complete 60 specified academic hours. Those individuals who graduate prior to July 1, 2003 are required to complete 36 specified academic hours. *Please review K.S.A. 74-5363 and K.A.R. 102-4-3a.*

DO YOU HAVE A TRAINING PLAN ON FILE that is requiring you to change supervisors as of July 1, 2003? Currently the post graduate supervision regulation for Marriage and Family Therapy and Professional Counseling allows for a clinical supervisor licensed at the clinical level of any BSRB profession only until July 1, 2003. **That regulation is in the process of being revised and the date is going to be removed.** The option to have a clinical supervisor who is clinically licensed in any BSRB profession will remain after the July 1, 2003 date. However, the option is only available when the supervisee/licensee can not locate a clinical licensee of his/her profession. For example an LPC must first look for an LCPC. If one is not available, then the option to cross over to another profession is available. The supervisee/licensee will submit his/her request to the Board in writing and the Board will determine if approval is granted to the supervisee/licensee to use a clinical supervisor who is licensed at the clinical level in another profession.

ON-LINE RENEWALS

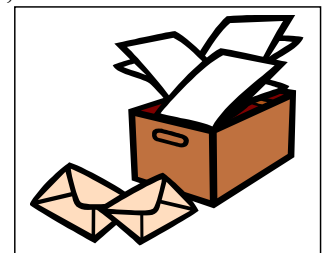
The BSRB offers an option to their licensees that allows the licensee to renew their professional license through the website www.ksbsrb.org. The board office has received excellent feedback on this service. The number of licensees using the service is increasing every day. The BSRB is using a resource outside of state government to assist with the on-line web renewal. There is an additional charge of \$1.50 to the licensee to use the on-line renewal service. The additional charge goes to the outside agency that administers the BSRB website. If you have not checked out the on-line renewal process, give it a try.

CLINICAL SUPERVISION

Those licensees that are working under a clinical supervision training plan are encouraged to request a written evaluation periodically from their clinical supervisor. The evaluation should document the stages of your progress towards the requirements for the clinical licensee. The BSRB does not have a standard form to use for this, it can be whatever the supervisee and supervisor agree to use for documentation.

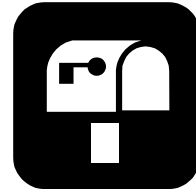
WHERE ARE YOUR CLIENT RECORDS?

The board has been researching how client records are handled once a licensee retires or leaves practice for any other reason. If the licensee is working in an agency setting, the records remain a part of the agency's files. If the licensee is working in a private setting, what happens to those records after retirement, a move or death? The current statutes and regulations that are in effect do indeed apply to every situation which includes retirement, a move or even death. Each licensee needs to have a plan in place and be sure at least one other person is aware of what that plan is. If you do not already have a plan in place, please be sure to create one right away. This will help insure that client records are not being left unattended or exposed. If you **DO** have a plan in place and are willing to share it with the board, please send a copy of your plan to the board office attention Leslie Allen. We are interested in your input and feedback for ideas regarding this issue.



E-MAIL ADDRESS

The Board is asking each licensee to notify us with an e-mail address, if applicable. We are considering sending out the newsletter via e-mail to those who have an e-mail address on file. Sending the newsletter via e-mail, would reduce staff time spent preparing the mailings as well as the cost of postage and paper. Please submit your e-mail address to the board office by e-mail to Leslie Allen at Leslie.Allen@bsrb.state.ks.us. Thank you for your assistance.



WHEN CHANGES OCCUR:

The Board office has been receiving a large volume of calls regarding the procedure for name and address changes.

Address changes can be taken by fax, telephone and written request.

Name changes should be submitted in writing with a signature. If you need a new wallet card or new wall certificate, please send your request in writing to the board office. There is a \$2.00 fee for replacement of a wallet card and a \$20.00 fee for replacement of a wall certificate.

If you have a change of name or address please be sure to notify the Board office.

NEW E-MAIL ADDRESSES:

The staff at the board office have new e-mail addresses:

Leslie.Allen@bsrb.state.ks.us

Billie.Crow@bsrb.state.ks.us

Phyllis.Gilmore@bsrb.state.ks.us

Pat.Martin@bsrb.state.ks.us

Wendy.Peters@bsrb.state.ks.us

Marsha.Schrempp@bsrb.state.ks.us

Roger.Scurlock@bsrb.state.ks.us

Jennifer.Springer@bsrb.state.ks.us

Please note the new addresses for your records.

REMINDER-VIDEO

The BSRB has a video that can be checked out and viewed for 4 CEU hours.

The video reviews the regulations regarding supervision for clinical licensure.

If you are interested in checking out the video, please contact Leslie Allen either by phone or e-mail.

www.ksbsrb.org

Don't forget about the BSRB website. Once you are licensed, there is still a lot of information available to you on the BSRB website. Renewal information, unprofessional conduct, legislative information plus all forms are available on the website. There is also a link for each profession's association at the state and national level.

Address of Record

If you have not placed an "address of record" on file with the Board office, please do so. The address of record is not required. It is a separate address that will be kept on file to be given out when requested by the public through the Kansas Open Records Act. You may use your home, work or any other address for the address of record. If you do not indicate an address of record with the Board office, your primary address will be used.

Please contact the Board office with your address of record. If you already have done so, thank you.

Welcome Newly Appointed Board Members

We would like to take this time to recognize our newly appointed Board members. Dr. Wes Jones Ph.D. Licensed Clinical Marriage and Family Therapist, Ron McNish, Ph.D. Licensed Psychologist and Mr. Jim Williams, MSW Licensed Master Social Worker. Dr. Wes Jones is currently the Director of Child Services and Director of Program Development and Evaluation at Mental Health Center of East Central Kansas where he has been for 26 years. Prior to MHCECK he was employed at Menninger Clinic for 8 years. Dr. Jones received his Ph.D. in Marriage and Family Therapy from Kansas State University. Dr. Ron McNish is currently the Director of Clinical Services for Johnson County Mental Health Center where he has worked since 1994. His experience also includes 17 years in private practice and 5 years working in an inpatient setting with adult and juvenile offenders.

Continued of page 4



Open Cases Breakdown
February 28, 2003

Profession	Number Of Cases Open	Number of Licensees
LP	04	654
LMLP	01	412
LCP	03	286
LMFT	00	177
LCMFT	01	274
LPC	01	287
LCPC	01	256
LASW	00	53
LBSW	08	1979
LMSW	09	1942
LSCSW	14	1555
RAODAC	00	81
No License	04	0
Total	42	7956

Board Members Continued....

Dr. McNish obtained his doctorate in Psychology at the State University of New York in Buffalo.

Mr. Jim Williams is an LMSW who has been in the social work field for 30 years. He has worked in a variety of social work settings including the military, adoptions, foster care, children’s residential facilities, social work administration, and school social work. Presently he is employed with USD #475 Geary County Schools where he has been serving children, youth and their families for 13 years. Mr. Williams received his MSW from the Jane Addams School of Social Work at the University of Illinois –Chicago. Please help us welcome these three new members to the Behavioral Sciences Regulatory Board.

Thank you to all of the board members for all of the volunteer time they dedicate to the citizens of Kansas.

**Behavioral Sciences Regulatory Board
712 South Kansas Avenue
Topeka, Kansas 66603-3817**

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BEHAVIORAL SCIENCES REGULATORY BOARD

APRIL 2003 NEWSLETTER INSERT

LEGISLATIVE UPDATE 2003

By Phyllis Gilmore, Executive Director

The Behavioral Sciences Regulatory Board requested introduction of two bills this legislative session.

The first Bill is House Bill 2234. HB 2234 allows for out-of-state licensed professionals, when applying to the BSRB for licensure, to obtain Kansas licensure through a simplified process if certain criteria are met.

In our society today people are quite mobile and move from state to state. Under our present system of licensing individuals who move into Kansas, the board requires information from previous supervisors that many people cannot obtain, as well as coursework not required in previous years. This bill is an attempt to remove unnecessary barriers to obtaining a Kansas license from our board by individuals moving into the state, while still maintaining a high level of professionalism by our licensees.

This Bill (HB 2234) has passed the House and is currently under consideration in the Senate. For a complete and/or current update on HB 2234 check out the legislative website at www.accesskansas.org and select Legislative 2003.

The second bill that was introduced by the BSRB is **House Bill 2170**. HB 2170 creates a uniform confidential and privileged communication act for all of the BSRB licensees.

The placement of confidential relations and communications between a licensed professional¹ and the professional's client on the same basis as those between an attorney and the attorney's client involves two distinct bases:

- (1) The lawyer client privilege: This refers to a statutorily created right that exempts a client of a lawyer, under most circumstances, from having their confidential communications revealed in a court proceeding without first granting permission to do so.
- (2) The confidential information rule: This refers to a judicial rule that denotes an obligation of a lawyer, under most circumstances, not to reveal client information in an out-of-court setting without the client's permission.

A licensed professional must understand this statute and these rules because these, and not a professional code of ethics, establish the requirements and exceptions with which licensed professional legally must comply.

The attorney-client privilege and the confidential information rule are designed to protect communications made in the context of an attorney-client relationship. Since the role of an attorney is functionally different from the role of a licensed professional, neither basis "fits" the relationship of a licensed professional and the professional's client, and both are problematic to apply.

Under the lawyer client statutory privilege, a "client" is a person who consults a lawyer for the purpose of securing legal services or advice, and "communication" is understood primarily in terms of "advice" given by the lawyer in the course of "representing" the client.

The terms are not descriptive of the relationship between a licensed professional and his or her client, which is understood generally as assessment and treatment of mental disorders or problems of living. This process involves much more than obtaining "just the facts" and the giving of advice.

Legislative Update 2003 *Continued*.....

House Bill 2170 Continued

Placement of a licensed professional's client under these attorney-client rules strains the purpose of the rules by including separate unrelated relationships. Clients of licensed professionals deserve a privilege and confidentiality, but rules devised specifically for those relationships. They should not be made to share a privilege statute and a confidentiality rule designed for clients of lawyers.

Under the proposed law regarding confidential and privileged communications, the following benefits would accrue to both licensed professionals and their clients:

1. Licensed professionals would no longer need to be familiar with attorney-client privilege statute and attorney-client confidential information rule.
2. The rule of confidential and privileged communications and the included definitions are designed to fit and be applicable to the relationship between a licensed professional and client.
3. The exceptions to confidentiality are designed to address public policies that are appropriate to a licensed professional's practice.
4. Instead of practicing in relation to a privilege statute and a separate confidential information rule, with differing exceptions, licensed practitioners would practice in relation to a single statute that addressed confidentiality and privilege, with the same exceptions, whether in relation to court proceedings or an out of court setting.
5. All of the rules relating to confidentiality and privileged communications, and all of the exceptions, would be found within one statute.
6. This would facilitate greater clarity and certainty as to the legal limits of confidential information and communications, making a licensed professional's "informed consent" or other information disclosure document easier to draft and easier for the client to understand.
7. The law of confidentiality and privileged communications would be consistent across professions, thus benefiting clients who would no longer be subject to differing laws depending on whether they were being treated by a marriage and family therapist or another licensed professional.
8. A greater consistency would be established with Confidential Communications and Information Act which is applicable to treatment facility patients and licensed professionals employed by treatment facility.
9. The authority of a licensed professionals to warn persons of threats of violence made by a client would be a clearly permissive "allowed to warn" instead of a perceived "duty to warn," thus substantially reducing the licensed professional's risk of liability for failure to warn.

The House Health and Human Services Committee held hearings on this bill and the bill is currently in a sub-committee for further review. For a complete and/or current update on HB 2170 please visit www.accesskansas.org under "Legislation 2003".

¹"Licensed professional" means a licensed psychologist, a licensed clinical psychotherapist, a licensed masters level psychologist, a licensed specialist clinical social worker, a licensed masters social worker, a licensed baccalaureate social worker, a licensed associate social worker, a licensed clinical professional counselor, a licensed professional counselor, a licensed clinical marriage and family therapist, and a licensed marriage and family therapist.