

## MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman Jim Barnett at 1:30 p.m. on March 5, 2009, in Room 136-N of the Capitol.

All members were present except Senator Haley who was absent.

## Committee staff present:

Nobuko Folmsbee, Office of the Revisor of Statutes  
Doug Taylor, Office of the Revisor of Statutes  
Kelly Navinsky-Wenzl, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Jan Lunn, Committee Assistant

## Conferees appearing before the Committee:

Phyllis Gilmore, Executive Director, Kansas Behavioral Sciences Regulatory Board

## Others attending:

See attached list.

Doug Taylor briefed those attending on **HB 2162 - Marriage and family therapists educational requirements and psychologists application fees** which would amend the licensing requirements for marriage and family therapists in Kansas by deleting the requirement of completing a program of study with standards consistent with those of the state universities in Kansas. The bill also would increase the statutory maximum the Behavioral Sciences Regulatory Board is permitted to charge for the application fee for the licensure of a psychologist from \$150 to \$225 and would reduce the statutory maximum of the original license fee from \$200 to \$150. The bill would become effective upon publication in the *Kansas Register*.

Senator Barnett opened the hearing on **HB 2162** and recognized Phyllis Gilmore who testified in support of the legislation (Attachment 1). The first change in the bill would allow applicants who have not had a 500-hour practicum to receive a Kansas license after completion of additional, direct-client contact hours. The second change in the bill relates to licensing fees. Currently, a Licensed Psychology (LP) fee is: \$100 application fee and \$175 original license fee for a total of \$275. The change is to charge \$225 for an application fee and to charge an original license fee of \$50 for a total of \$275. There is no net increase in the total amount paid. Ms. Gilmore indicated that with a low application fee, applicants are allowed to sit for the examination without intent to come to Kansas to practice; the change in fee structure may positively impact

Considerable discussion ensued relative to the Senate Rules and Regulation Committee, Kansas criteria for licensure compared to national criteria, unlawful delegation of authority, etc. Discussion was also heard related to delineation of scope of practice, qualifications for licensure, and regulations which enact the larger structure of an agency/entity.

It was the consensus of the committee that all affected parties and the Behavioral Sciences Regulatory Board require an opportunity to respond to the concerns discussed at the meeting today. Senator Barnett requested that Terri Weber, legislative research department, furnish the testimony that was heard at the Senate Rules and Regulations Committee as well as the Rules and Regulations themselves.

Senator Barnett indicated Public Health and Welfare Committee would return to **HB 2162** at a later date.

The meeting was adjourned at 1:53pm.

The next meeting is scheduled for March 9, 2009.

# SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: March 5, 2009

NAME	REPRESENTING
Phyllis Gilmore	BSRB
Leslie Allen	BSRB
Camille Mohr	AG / BSRB

**SENATE TESTIMONY  
PUBLIC HEALTH AND WELFARE COMMITTEE  
March 5, 2009**

**HB 2162**

Mister Chair and Committee Members:

Thank you for the opportunity to testify today in support of HB 2162. I am Phyllis Gilmore the Executive Director of the Kansas Behavioral Sciences Regulatory Board (BSRB).

The BSRB is the licensing board for most of the state's mental health professionals; the doctoral level psychologists, the master level psychologists, the clinical psychotherapists, the bachelor, master and clinical level social workers, the master and clinical level professional counselors, and the master and clinical level marriage and family therapists. Additionally, some of the drug and alcohol counselors are registered with the board, although most of them are certified with SRS at the present time.

The first change in the bill is related to Marriage and Family Therapy (MFT). This amendment simply strikes the phrase "consistent with the state universities of Kansas." The marriage and family therapists are requesting this change so they may allow applicants who have not had a 500 hour practicum to receive a Kansas license after they complete some additional hours of direct client contact. Currently, if they have not had a 500 hour practicum while they were in graduate school, the applicant is forever barred from a marriage and family therapy license in Kansas. The Commission on Accreditation for Marriage and Family Therapy Education, the national accrediting body for MFT university programs, has lowered the practicum hour requirement. Thus, many universities have also lowered their hour requirement, but K-state has not. K-state is the only state university with a MFT program in Kansas. Therefore, we cannot change our regulation without the statutory change as we would be inconsistent with the K-state requirement.

The second change in the bill is also simple. The current Licensed Psychology (LP) fees are: application fee - \$100 and original license fee - \$175. Total - \$275. We want to change these fees to an application fee of \$225 and original license fee of \$50. Total -\$275. There would be no net increase in the total amount paid for an application fee and original license fee, only a shift. However, we cannot do this in regulation without the statutory change in the application fee which moves the ceiling from \$150 to \$225.

The attached graph shows the number of out of state applicants who apply and never actually get a license. Only 20% of the 2008 out of state applicants requested Kansas licensure. They apply to get approval to sit for the national psychology examination prior to completing their post doctoral hours. Kansas allows this and most other jurisdictions do not. The applicants are willing to pay our application fee even when they do not intend to get a Kansas license, so they can go ahead and take the examination early. The review of the application is time consuming, especially with out of state applicants. Obviously, by increasing the application fee, we hope to slow down the number of out of state applicants who are not planning to practice in Kansas. This would not penalize Kansas applicants because there will be no net change in the cost of a license.

Thank you. I will be happy to stand for questions.

Respectfully submitted,

Phyllis Gilmore  
Executive Director  
Kansas Behavioral  
Sciences Regulatory Board

Public Health and Welfare

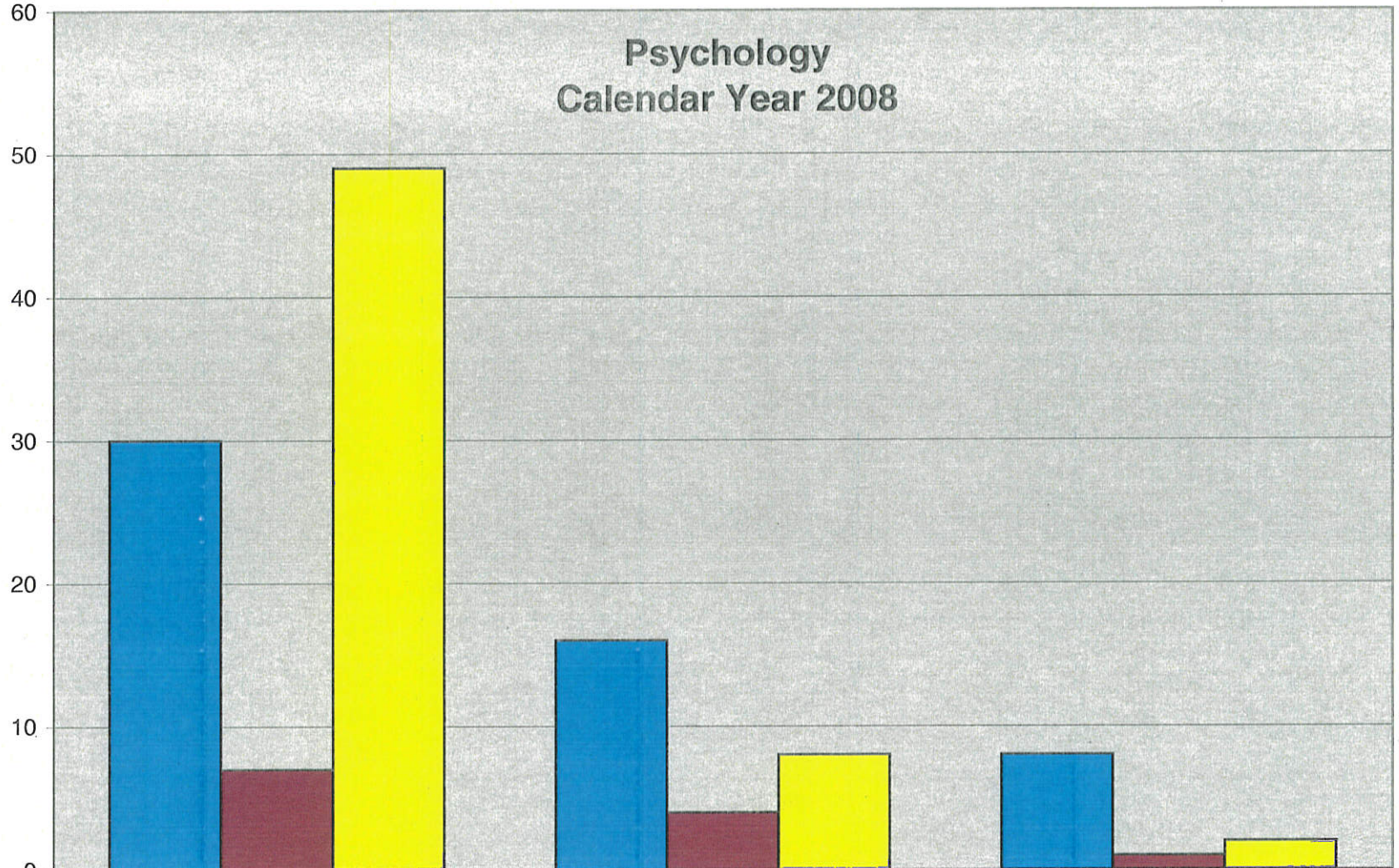
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Attachment:

03/05/09

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### Psychology Calendar Year 2008



■ KS  
■ MO  
■ Other

	Applications	Permanent license	temporary license
■ KS	30	16	8
■ MO	7	4	1
■ Other	49	8	2

**SENATE TESTIMONY  
PUBLIC HEALTH AND WELFARE COMMITTEE**

**HB 2162**

**ADDENDUM**

Mister Chair and Committee Members:

The Behavioral Sciences Regulatory Board (BSRB) met on March 9, 2009. It is my understanding that I am to relay back to the committee the Board's response to the proposed amendment to HB 2162. Therefore, I am submitting this addendum to my original testimony.

It is the understanding of the Board the amendment was introduced as a result of a hearing before the Joint Committee on Administrative Rules and Regulations regarding amendments to K.A.R. 102-2-6. A response related to that hearing is also being prepared and will be sent to the Joint Committee.

However, one point of concern at that hearing was the Board's procedure for promulgating a regulation without a formal vote. *At yesterday's meeting the Board formally agreed to take an official vote in the future prior to sending a regulation forward.*

A second concern from the committee related to the belief that the Board had concerns about the quality of social work programs at the state universities of Kansas. That simply is not true. The Board has no concerns about the educational standards of social work programs at Kansas state universities. In fact, the Board assumed that all of the universities would be in compliance with the proposed regulation since the request for the amendment originated from a request of the Kansas Council on Social Work Education. *Yesterday the Board voted unanimously to withdraw the motion. The universities will have an opportunity for input/review of future amendments coming forth from the social work advisory committee/Board regarding social work programs.*

Thus, the Board would hope that the committee would no longer wish to proceed with the amendment. However, should that not be the case, the Board does have specific thoughts related to the proposed amendment.

- The board has concerns about delegating the authority of licensure to an entity other than the state of Kansas. In addition to questioning the wisdom of such a decision, the Board would also question its constitutionality and whether it is the "unlawful delegation of legislative authority" as mentioned in the Kansas Constitution in Article 2; Section 1.
- The credentialing criteria of CSWE are a moving target and one over which Kansas would have no input when changes are made.
- There could be a logistical problem of knowing when changes are made and being able to notify applicants that there has been a change. Without knowledge of CSWE changes, the Board would be out of compliance with Kansas Statute.

There could also be a lag in compliance due to the possible need to change regulations, forms, and/or processes related to requirement changes of CSWE.

- A recent example of this is HB 2162. COMFTE is moving toward outcome measurements and lowered the practicum hour requirement to 300 from 500. Kansas State University has not as yet implemented such a change. This has posed a problem for some out of state applicants requesting a license in Kansas. Therefore, the Board has opted for a compromise, with the blessing of KSU, to allow folks with a 300 hour practicum to become licensed if additional practicum hours are completed post gradutely. If HB 2162 passes, the Marriage and Family Therapy committee has discussed offering a regulation change that would allow individuals who have less than a 500 practicum to double the deficit hours in the work setting since work supervision is less intense that practicum supervision. This would mean, as an example, for the 200 hours not completed in school, they would need to have 400 client contact hours completed in a post graduate work setting prior to receiving a permanent license.

This seems to the Board a fair and reasonable solution which helps individuals to become licensed, but more importantly also protects the public. Such flexibility would not be allowed for social work under the proposed amendment.

- A question arises related to the status of an applicant from a non-accredited CSWE program. Currently, one can be licensed if they meet the criteria stated in regulation. This would no longer be possible unless the criteria are equal to or less stringent than CSWE. Obviously, they could not be equal to CSWE requirements if they are not accredited by CSWE, so then they would have to be less stringent. Currently, the committee requests a professor from the University of Kansas and in the past we have used professors from Washburn and Ft. Hays to evaluate the non-accredited programs. How this would work under the proposed amendment is unclear.
- One specific example differences between current Kansas law and CSWE requirements of which we are aware is in clinical coursework requirements. An applicant for a clinical license must have completed a 3 credit hour course in psychopathology as part of the 15 credit hours supporting the diagnosis or treatment of mental disorders referred to above. (K.S.A. 65-6306(d)(1)(B)) CSWE does not require this course. Thus, under this amendment, Kansas could issue an independent level license to a social worker who would legally allow the individual to diagnose and treat mental disorders independently when he/she has never had a course in psychopathology. We are not clear at this time if any of the 15 credit hours of clinical coursework are a requirement of CSWE. We are also not sure at this time how it would affect other requirements such as those related to supervision.
- The purpose of a national credentialing body is very different from that of a state licensing board. The social work credentialing body looks at a course of study for the broad field of social work. It is focused on the education of the social worker. Whereas a licensing board is charged with protecting the

public when an individual chooses to enter into that field. The role of the Board then becomes a determination of whether the education and training received by an individual and the role to be performed by that individual when granted a license are congruent. The question a licensing board must answer, "Is the education and training sufficient for what the applicant wants to do".

Therefore, the Board would respectfully request House Bill 2162 be passed out of committee favorable for passage without the proposed amendment.

Respectfully submitted,  
Phyllis Gilmore  
Executive Director  
Kansas Behavioral Sciences  
Regulatory Board