

**NEUTRAL TESTIMONY ON HB 2209
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
MARCH 24, 2021**

Mister Chairman and Committee Members:

Thank you for the opportunity to provide neutral testimony on HB 2209. I am David Fye, Executive Director for the Behavioral Sciences Regulatory Board (BSRB), and I am providing this testimony on behalf of the BSRB.

The BSRB is the licensing board for most of the state's mental health professionals and the agency is charged to protect the consumers of services offered by BSRB licensees. To this end, the Board is continually reviewing ways for the citizens of Kansas to receive necessary services, while making sure practitioners who provide these services do so in a safe and secure way. The 12 members who serve on the Board for the BSRB support progressive ideas and innovative solutions, but these solutions must not come at a cost to the safety and security of those the Board is tasked to protect. The Board generally meets every two months, with advisory committees assisting the Board by meeting on the months in between meetings, but so far this year, the Board has been aggressive in meeting 6 times for the purpose of reviewing policies relating to the citizens of Kansas and to provide the opportunity to be heard to different groups proposing alternative solutions.

HB 2209 would add Kansas to Psypact, a multi-state compact which would allow licensed psychologists in Kansas to provide telehealth services in other compact states and would allow licensed psychologists in other compact states to provide telehealth services in Kansas. Also, the compact would allow up to 30 days of in-person practice in compact states each year. The Board of the BSRB has met several times to discuss Psypact and the Licensed Psychologist Advisory Committee also met to discuss Psypact. While the concept of Psypact has been discussed in the past, this is the first legislative session that Kansas has had a bill to consider Psypact, so there have been many questions from the Board when carefully evaluating this legislation. While the BSRB is able to provide oversight to licensed psychologists practicing in Kansas through the issuance of permanent licenses, temporary licenses, and out-of-state temporary permits, oversight for individuals practicing under the compact would be shared between states and in other cases would be delegated to a non-state entity. Psypact would be a big change to the way Kansas currently provides oversight on individuals practicing in the state. Also, Psypact has only been operational for a brief time period, so there is not much data to review in analyzing the impact to participating states for comparison purposes.

The Board appreciates the need to increase availability of mental health services (particularly in rural areas), but should Psypact become enacted, the Board expresses the following concerns:

- **Economic Impact on Agency Operations.** The BSRB is primarily funded through licensure fees, which are divided between the licensure program and the investigative and disciplinary program. Right now, there is a balance in that the revenue received by the agency supports these two important operations. Under Psypact, licensed psychologists in other compact states would be able to practice telehealth service without

obtaining a license from the BSRB. The funding for participation in Psypact would go directly to Psypact. However, as additional individuals are practicing in the state of Kansas, the number of complaints against providers is expected to increase accordingly, and these complaints would need to be investigated by the BSRB investigative team. So, under Psypact, the balance does not exist, as more complaints will need to be investigated, but less revenue will be coming into the agency to cover the cost of investigations. It is currently unknown how large of a financial impact Psypact would be, without knowing how many individuals would choose to participate in Psypact, however we will need to carefully monitor the additional fiscal impact to the BSRB and may need to approach the Legislature concerning this issue in the future;

- **Complaint Process Against Out of State Practitioners.** Currently, licensed psychologists practicing in Kansas are regulated by the BSRB, so complaints against practitioners are submitted to the BSRB in a formalized process and investigated by BSRB staff. Under Psypact, the Board expressed concerns that individuals from the public may not know how or where to file a complaint against an out-of-state practitioner. The Board has been able to receive additional information on this topic from representatives from Psypact, but still expresses some concern on this issue and encourages efforts to share greater information with the public on this topic; and
- **Concerns Regarding the Investigative Process.** Right now, investigation of licensed psychologists practicing in Kansas is performed by BSRB staff. Under Psypact, there was concern on how investigations against out-of-state practitioners would proceed, who would have authority, and how would cooperation work between states. While the BSRB has received additional helpful information on this topic, there are still concerns in the lack of specificity regarding several aspects of how the BSRB would be able to utilize an effective investigation process for out-of-state psychologists who would provide services to Kansas under the provisions of the bill.

The testimony from the agency is neutral, however the Board wanted to bring forward these concerns now as the agency continues to work with representatives from Psypact to make sure that services being offered to the citizens of Kansas are being done in a safe and secure way. I would be happy to stand for questions at the appropriate time.