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Behavioral Sciences Regulatory Board

SB290 Testimony

Neutral

January 30, 2012

Chair Tim Owens and Members of the Senate Judiciary Committee:

I am offering testimony from the perspective of the Behavioral Sciences Regulatory Board regarding SB 304.

My initial concern about this bill deals with the section that lists the parts saying the “unit shall have access to all records...” and lists BSRB as the only fee funded regulatory agency.

Page 1, line 12:

(c) The purpose of the batterer intervention program certification unit is to certify and inspect batterer intervention programs in Kansas. To accomplish this purpose, upon request of the unit, **the unit shall have access to all records** of reports, investigation documents and written reports of findings related to confirmed cases of domestic violence or exploitation of persons or cases in which there is reasonable suspicion to believe domestic violence has occurred which are received or generated by the department of social and rehabilitation services, department on aging, department of health and environment, Kansas bureau of investigation or **the behavioral sciences regulatory board.**

My assumption is that the unit would only get copies of records where the Board or a Committee of the Board has made a **finding** that either 1) confirmed that one of our Licensees **committed** domestic violence or exploitation – or – 2) one of our Licensees who is a mandatory reporter **failed to report** a reasonable suspicion of domestic violence or exploitation. The way it is written does not make it clear, so I may be wrong about the mandatory reporter part.

Either way, BSRB doesn't keep records by subject matter, just name of Licensee. For example, this BIPC unit could request any records meeting one of the above criteria with regard to a specific Licensee (Joe Counselor). If such a **finding** was made about Joe Counselor, then BSRB may share those records (which would be open public records anyway – except for HIPPA & SS# info - so no big deal). It would probably be on the website anyway. But if the unit requests all complaints that had a **finding** of domestic violence / exploitation committed by any Licensee - or where any mandatory reporter Licensee failed to report – for the past three years, we could not respond as we don't keep track of complaints by subject matter of the violation.

Again, I wouldn't interpret this statute to include mere complaint allegations received in the RAVs – only formal findings of violations based on a preponderance of clear and convincing evidence. These cases would almost certainly be public anyway. I do wonder how this unit will treat victim information that is protected by HIPPA & the SS#/ID theft laws that would likely be present in these files. I also wonder about why other agencies were not listed who would have this type of information – Board of Optometrists, Board of Dentistry, Healing Arts, etc. It is not completely clear why BSRB was the only regulatory agency listed.

Sincerely,

Tom Hawk, Executive Director