



STATE OF ARIZONA
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DOUGLAS A. DUCEY
Governor

HEIDI HERBST PAAKKONEN, M.P.A.
Executive Director

Committee on Behavior Analysts

REGULAR SESSION MINUTES

January 22, 2021 - 8:30 a.m.

Held via Zoom

1. CALL TO ORDER

Dr. Stenhoff called the meeting to order at 9:33 a.m.

2. ROLL CALL

Committee Members Present

Diana Davis-Wilson, DBH, BCBA
Bryan Davey, Ph.D., BCBA-D
Tisha Denton, M.Ed., BCBA
Paige Raetz, Ph.D., BCBA-D
Donald Stenhoff, Ph.D., BCBA-D

Staff Present

Heidi Herbst Paakkonen, Executive Director
Jennifer Michaelsen, Deputy Director
Kathy Fowkes, Licensing Specialist

Assistant Attorney General Present

Jeanne Galvin, A.A.G.

3. REMARKS/ANNOUNCEMENTS

• General Committee Remarks, Announcements and Updates

Dr. Stenhoff welcomed the Committee members, staff and legal counsel, and the invited stakeholders to the meeting. He thanked everyone for allocating the time to work through the topics and issues as presented on the agenda.

4. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING RECOMMENDATIONS FOR REVISIONS OF THE STATUTES THAT REGULATE THE PRACTICE OF BEHAVIOR ANALYSIS IN ARIZONA (A.R.S. TITLE 32, CHAPTER 4, ARTICLE 4)

The members reviewed and discussed the Arizona Revised Statutes regulating the practice of behavior analysis. The discussion was informed by the stakeholders present (members of the Arizona Association for Behavior Analysis or AzABA). The recommendations formulated by the Committee included:

- **A.R.S. §32-2091 Definitions**
 - Strike the second sentence of (3) for the definition of “behavior analysis”. The sentence currently reads “Behavior analysis does not include cognitive therapies or psychological testing, neuropsychology, psychotherapy, sex therapy, psychoanalysis, hypnotherapy, and long term counseling as treatment modalities.”
 - In (4), replace the language “a person” with a “client” to refer to the definition at (6) of “client”.
 - The Committee’s rationale for the proposed change is to ensure the definition of behavior analysis encompasses the totality of the scope of practice. At a future meeting the Committee will discuss whether and how to define the boundaries of the scope of practice; this process will require some research, information from subject matter experts, and possibly language defining exemptions to licensure.

- **A.R.S. §32-2091.03 Educational and training standards for licensure**
 - Strike the language “. . . except that the number of hours required for supervised experience must be at least one thousand five hundred hours of supervised work experience or independent fieldwork, university practicum or intensive university practicum. The standards adopted for supervised practice must also be consistent with the standards set by a nationally recognized behavior analyst certification board.”
 - The Committee’s rationale for the proposed change noted that the Arizona Auditor General’s Sunset review recommended this language be removed from the statute and included in administrative rule as it is more restrictive than typical statute language prescribing requirements. The discussion reflected that the Behavior Analyst Certification Board (BACB) is the entity that establishes the education and training standards for the profession; the BACB notifies regulators of changes in advance of implementing them to allow time to promulgate administrative rule changes to align with the updated national standards. The Committee further discussed the fact that currently the statutes and rules have the unintended consequence of creating a barrier for experienced behavior analysts from qualifying for licensure in Arizona when their supervised training documents are no longer accessible. However, elimination of the problematic language in statute as noted above allows for a solution in the form of a pathway to qualifying for licensure to be established in Board rule.

- **A.R.S. §32-2091.04 Reciprocity**
 - The Committee proposed no changes to this statute, but discussed the fact that the Universal Recognition in some ways align with this statute, but in other ways does not (i.e. the statute requires substantial equivalency education and training whereas §32-4302 does not; additionally, §32-4302 requires Arizona residence be established but the reciprocity statute has no such requirement). The members discussed the fact that the statute language appears to grant the authority to establish a “verification of independent practice” pathway to licensure in Board rule. The Committee brainstormed some additional strategies to include attestations of practice experience for when BACB documentation is no longer available. The stakeholders present stated support for establishing a true reciprocity option to obtain behavior analyst licensure in Arizona.

- **A.R.S. §32-2091.07 Active license; issuance; renewal; expiration; continuing education**
 - The Committee discussed the language at (D) and determined it should more clearly and accurately refer to a “nationally recognized certification board”.

- **A.R.S. §32-2091.08 Exemptions from licensure**
 - It was the consensus of the Committee to propose deleting the language at (A)(1) which reads “A behavior analyst who is employed in a common school, high school, or charter school setting and who is certified to use that title by the department of education if the

services or activities are a part of the duties of that person’s common school, high school, or charter school employment”. The discussion reflected the fact that the language at (6)(B) effectively describes the intended exemption for appropriately certified teachers who have achieved their BCBA, but elected to not become licensed as a behavior analyst. It was not intended to exempt from licensure behavior analysts not certified by the Arizona Department of Education, and in fact does not. However, it has caused confusion for BCBA’s who elect to work in the school system. The discussion also acknowledged that much of the language in this statute mirrors that of the **Exemptions from licensure** statute for psychologists, and therefore may not be pertinent to the practice of behavior analysis. The stakeholders in attendance concurred with the Committee’s discussion. It was noted that this issue offers opportunities for the profession to develop further education for interested and impacted constituencies.

- The Committee members also concurred that (A)(2) making reference to “An employee of a government agency in a subdoctorate position who uses the word “assistant” or “associate” after the title and who is supervised by a doctorate position employee who is licensed as a behavior analyst, including a temporary license” should be deleted as it describes an extremely unlikely to impossible scenario.
 - The Committee determined that the language in (A)(5) should be expanded to include persons employed in all accredited universities – not just Arizona State University, Northern Arizona University, and the University of Arizona – when those persons serve as salaried faculty. Additionally the Committee emphasized the fact that the language in this subsection should state that supervised experience hours completed for purposes of meeting requirements for licensure must be completed under a licensed behavior analyst; language to this effect can be repurposed from Board rule.
 - At (A)(6), the Committee members concurred that the phrase “such as” which precedes nonprofessional status titles should be replaced with “including, but not limited to” in order to capture the many possible statuses or titles used by noncredentialed individuals.
- **A.R.S. §32-2091.09 Grounds for disciplinary action; duty to report; immunity; proceedings; board action; notice requirements; civil penalty**
 - Ms. Paakkonen informed the Committee that SB1253, filed earlier in the week, revises (D) to clarify that if information received indicates that the health, safety and welfare of the public is at risk, a complaint may bypass the Committee and be presented to the Board for purposes of considering emergency action (e.g. summary suspension).
 - The Committee explored some possible strategies to reduce the workload of the Committee members, including establishing an application review committee, seeking an expansion of the CBA membership, and other possible solutions. The Committee did not arrive at a recommendation and this matter may be revisited on a future meeting agenda.
 - **A.R.S. §32-2091.15 Committee on behavior analysts; membership; duties; board responsibilities**
 - The Committee members and stakeholders who were present discussed the history and purpose of the statute with respect to establishing a mechanism for the profession to provide input and informed perspective to the Board on regulatory issues.
 - Subsection (A) was discussed by the Committee in the context of the challenge in securing members of the profession who are able to serve. The discussion noted that the relative youth of the licensees, professional demands, and burnout concerns likely play a role in this problem. The Committee directed staff to conduct some research relative to how other boards structure similar committees under their authority. The Committee identified some possible solutions to include rotating committee members operating multiple committees, expanding the committee, or other possible solutions deriving from stakeholder input. The Committee tabled making recommendations to the existing language and further directed staff to bring this topic back on a future meeting agenda. The stakeholders stated that one of the strategic goals of the AzABA is to increase

member engagement in public policy and regulatory activities; hopefully in the future their members will increasingly be willing to serve on the Committee.

- Ms. Paakkonen advised that the agency’s 2022 appropriation request includes funding for a ½ FTE to support the application processing functions.

MOTION: Dr. Davey moved to memorialize the discussion and the recommendations to the Board to seek legislative changes as included therein, and to bring the specific discussion concerning A.R.S. §32-2091.15 Committee on behavior analysts; membership; duties; board responsibilities to the full Board on a future meeting agenda. Dr. Davis-Wilson seconded the motion.

VOTE: The motion was approved 5-0.

5. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING RECOMMENDATIONS FOR REVISIONS OF THE ADMINISTRATIVE RULES THAT REGULATE THE PRACTICE OF BEHAVIOR ANALYSIS IN ARIZONA (A.A.C. TITLE 4, CHAPTER 26, ARTICLE 4)

The Committee members discussed the appropriate timing of the review and identification of possible revisions to the rules. It was the consensus of the Committee to table this discussion until such time that a more comprehensive rule revision effort can be completed, following approval of statutory revisions.

Ms. Denton departed the meeting at 11:57 a.m.

6. DISCUSSION WITH STAKEHOLDERS, AND CONSIDERATION AND POSSIBLE ACTION REGARDING LICENSURE AND REGULATION AS IT RELATES TO THE ENTIRE SCOPE OF PRACTICE OF BEHAVIOR ANALYSIS IN ARIZONA

Ms. Paakkonen indicated this item precipitated from some previous discussions held by the Committee relative to quantifying the extent of the practice scope of behavior analysis, and whether the current statutes and rules effectively address all of that scope and in the process protect the public. Dr. Stenhoff called on the stakeholders to provide some insights into this issue, particularly where OBM (organizational behavior management) is concerned. The stakeholder discussion reflected that other groups may need to be engaged in the conversation. The Committee acknowledged that this issue will require ongoing discussion – particularly as it relates to the education and training requirements. It was noted that OBM is explicitly prohibited in other states. It was noted that the statutory definitions of “behavior analysis” and of “client” should be clearly stated and that they reflect the extent to which the profession should be regulated. The discussion reflected that there are training gaps within the field that are not being adequately addressed, and this issue may become problematic over time.

The Committee members noted that the language defining what behavior analysts do not do should be deleted from the definition, and that “a person” should be replaced with “client”. The discussion noted that that behavior analysts are increasingly providing services to diverse populations, and 3rd party reimbursement is following these expansions of scope. The Committee further noted that there are some potential pitfalls to the definition of “client” being so broad that it can be used to circumvent the responsibilities of service provision to multiple persons who are employed by the client (e.g. a company, a school, etc.); this may be effectively addressed in the licensure exclusions. Additionally, the Committee discussed the fact that OBM practitioners should be held to certain standards that are currently in place for the “traditional” practitioners (e.g. health and safety); it may be that regulatory language needs to be adopted specific to each broad area of practice.

Ms. Paakkonen volunteered the recently placed student intern to research other states’ definitions of “behavior analyst”, “practice of behavior analysis” and licensure exemptions. The Committee also

suggested the intern look at the use of these terms by the Association of Professional Behavior Analysis (APBA) and the BACB. The Committee members concurred that it might be helpful for a subject matter expert to present on the topic of variations of behavior analysis practice at a future meeting (suggested names included Nick Weatherly, Dan Sundberg, and DJ Moran).

7. DISCUSSION WITH STAKEHOLDERS, AND CONSIDERATION AND POSSIBLE ACTION REGARDING ADVANCING COMPETENCY BASED SUPERVISION

It was the consensus of the Committee to address this item on a future meeting agenda.

8. DISCUSSION WITH STAKEHOLDERS, AND CONSIDERATION AND POSSIBLE ACTION REGARDING TRAINING OPPORTUNITIES FOR THE BEHAVIOR ANALYST PROFESSION

It was the consensus of the Committee to address this item on a future meeting agenda.

9. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING OTHER REGULATORY CHALLENGES AND ISSUES SPECIFIC TO BEHAVIOR ANALYSIS

It was the consensus of the Committee to address this item on a future meeting agenda.

10. NEW AGENDA ITEMS FOR FUTURE MEETINGS

The following items were identified for inclusion on a future agenda:

- Inviting a subject matter expert to present information to the Committee on the practice scope of behavior analysis
- Reviewing the research gathered on other states' definition of behavior analysis and exemptions to licensure
- Further discussion on A.R.S. §32-2091.15 Committee on behavior analysts; membership; duties; board responsibilities

11. ADJOURNMENT

MOTION: Dr. Raetz moved to adjourn the meeting. Dr. Davis-Wilson seconded the motion.

VOTE: The motion was approved 4-0. The meeting adjourned at 12:29 p.m.

