



STATE OF ARIZONA
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Executive Director

Committee on Behavior Analysts

REGULAR SESSION MINUTES

June 11, 2021 - 8:30 a.m.

Held via Zoom

1. CALL TO ORDER

The meeting was called to order by Dr. Stenhoff, Committee Chair, at 8:33 a.m.

2. ROLL CALL

Committee Members Present

Donald Stenhoff, Ph.D., BCBA-D, Chair – Present

Bryan Davey, Ph.D., BCBA-D – Present

Diana Davis-Wilson, DBH, BCBA – Present

Paige Raetz, Ph.D., BCBA-D – Present

Tisha Denton, M.Ed., BCBA – Present

A quorum of the Committee was established.

3. ANNOUNCEMENTS

• General Committee Remarks, Announcements and Updates

Dr. Stenhoff thanked the Committee, staff, and community partners and guest presenters for preparing for this meeting.

4. 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

A. Remarks by Manuel Rodriguez, DBA, BCBA

B. Remarks by Nicholas Weatherly, Ph.D., BCBA-D

Dr. Manuel Rodriguez addressed the Committee and indicated his goal was to attempt to represent organizational behavior management (OBM), the foundation of which is in behavior analysis. He indicated that it often functions outside the realm of human services, and that OBM professionals work with a vast range of professions and professionals. He further noted that OBM practice is broad and have evolved over a number of years. He stated that, as an example, in his practice he and his work are highly regulated by environmental safety standards; accordingly, many OBM practitioners are challenged when

they are required to comply with state licensure requirements for their behavior analyst license, but also be subject to the industry and occupational standards that come with their work setting.

Dr. Nick Weatherly addressed the Committee, commending the members for facilitating this conversation. He stated that while OBM is in the broad scope of behavior analysis practice, he supports the Association of Professional Behavior Analysts (APBA) model of exempting OBM from state licensure regulation. He suggested that OBM should prepare to establish global standards and the focus should not be on whether to regulate it as a subset of behavior analysis. He cautioned against adopting policies that compel OBM practitioners to practice in a jurisdiction while unlicensed.

The Committee noted that this dynamic is similar to that of industrial psychologists who are exempt from licensure in many states, including Arizona. It was also noted that the current statute language in Arizona does not specifically exempt OBM practice. If someone is practicing OBM currently in Arizona, this may amount to a statute violation. This issue becomes more complex if someone who is practicing OBM is doing so in the health care arena. The question was raised how regulators can craft exemption language to be so precise as to defer to other health and safety requirements without creating regulatory gaps or loopholes for those who can present a risk to the health and safety of the public.

The guest presenters indicated that additional challenge comes in the form of the fact that OBM itself is not defined; in the absence of a definition it is very challenging to address these regulatory issues. Ideally the profession starts laying the groundwork for the parameters of scope of practice, after which regulatory exemption language may be developed.

The Committee discussed that this issue becomes more complex when supervision is involved. It was noted that while the science is inextricably linked, a reasonable person can recognize when OBM is not clinical behavior analysis. Additionally, the Board's statutes do not prevent OBM complaints from being opened, investigated and reviewed in the first place.

The guest presenters described the distinction that can be drawn between behavior analysis and OBM as behavior analysis impacts the client or patient while OBM impacts the employee or personnel in a non-clinical capacity. OBM practitioners' expertise is in system and behavior change which is removed from the industry risk.

The question was raised whether OBM practice will ever require state regulation, and under what circumstances. The discussion shifted back to the industrial psychology exemption as a possible model, acknowledging how this issue played out over several decades and involved a great deal of effort. It was noted that given ethical codes and industry codes and regulations already highly regulate their practice, it may be decades before OBM state regulation is justified – if ever. The guest presenters stated that while there is no professional certificate specific to OBM, one may exist in the future but will likely be for purposes of professional development. The point was made that regulation is necessary when there is problem or risk; in the absence of identified problems and risks it may be that OBM will never require regulation. Given the many questions and gaps in curriculum and assessment, arriving at answers and position relative to regulation will be very challenging. The guest presenters also recommended including the BACB and other stakeholders to the ongoing discussions.

The Committee and staff discussed having an expert resource available to help ascertain whether a complaint is specific to OBM; should that expert determine that it is, the complaint would not be opened due to lack of jurisdiction (assuming the exemption is established in statute). The guest presenters cited an example that the subject of a complaint will likely be someone other than the OBM practitioner and therefore it is not appropriate to implicate the practitioner.

When asked about the need to supply OBM supervision, the guest presenters explained that one solution involves serving as a subject matter expert and resource to an existing supervisory arrangement. This approach is consistent with the BACB Professional and Ethical Compliance Code. The discussion reflected that some practitioners may want to work in both worlds and therefore competencies for each need to be established and enforced somehow, and that the issue of jurisdiction over OBM will need to continue to be explored from a legal perspective. It was the consensus of the Committee to pursue a licensure exemption for OBM at a future date, but the discussion would need to address the use of the title of “licensed behavior analyst”.

MOTION: Dr. Davis-Wilson moved to recommend to the Board pursuing a statutory exemption to licensure for the practice of OBM. Dr. Davey seconded the motion.

DISCUSSION: The discussion affirmed that the revision would be consistent with the language in the APBA model practice act and that Board staff and legal counsel will prepare proposed language for Board review. The discussion also acknowledged the collaborative spirit between the psychology and behavior analyst professions in Arizona will help facilitate both current and future discussions on this topic.

VOTE: The motion was approved 5-0.

5. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING PROPOSED NEW CONTINUING EDUCATION REQUIREMENT SPECIFIC TO DIVERSITY TOPICS AND RELATED CONTENT

Ms. Paakkonen reported that in May the Board adopted a motion modifying the continuing education requirement to require 4 hours specific to a range of diversity topics. Jessica Belokas, representing AzABA, was present for this discussion and reported that the association has formed an Equity, Diversity and Inclusion Committee and has made a multitude of strides toward addressing these topics. She noted that sustainable programming on these topics is being developed, and that the Annual Conference will feature at least 5 units of related continuing education. She has also discussed with Dr. Evelyn Burrell, President-Elect of AzPA, some collaboration opportunities between the two associations. Finally Ms. Belokas indicated AzABA is also exploring programming on topics such as neuro-diversity, gender identification and income inequality; they are excited to share this information and support this shift by the Board.

Mr. Van Meerten, co-chair of the aforementioned committee, expressed his excitement to support this initiative, and asked for guidance relative to how to ensure developed content meets the requirements of the planned rule. The Committee responded that while the criteria has not yet been determined, learners should retain all documentation for the course if audited by the Board. It was noted that activities fulfilling this requirement for purposes of licensure renewal may not be accepted by the BACB for maintenance of certification. Ms. Paakkonen advised the Committee that she will augment with more detail the previously drafted continuing education cross-walk document she had prepared. The Committee also suggested she notify the BACB of Arizona’s shift in this direction as the BACB may be doing something similar, or it may inspire the certification board to consider it. Dr. Davey indicated that the Licensing and Regulatory Affairs (LARA) agency in Michigan recently announced a similar continuing education requirement has been implemented. The discussion noted that the majority of behavior analysts typically complete their continuing education requirements on disability-related topics; given this, the Committee members indicated they would need some time to think about whether this would violate the spirit of the proposal, and how to address that possibility. The Committee noted some additional thought will need to be given to how to make the distinction between diversity-related content and ethics-focused content given the topics are not mutually exclusive. Ms. Paakkonen advised the Committee that

in the coming months the Board will be asked to consider making some modifications and reforms to the continuing education verification process which may usher in some more flexible approaches than have been established in the past.

6. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING APPLICATION EFFICIENCIES PROJECT

Ms. Paakkonen reported to the Committee that this group will hold its initial meeting sometime the week of June 21, 2021. She reiterated that the topics she hopes the group will address include the development of application job aides (as a bridge solution to the implementation of the new management system), recruiting a group of user-acceptance testers pre-launch, and deployment of a survey to measure the level of satisfaction for past applicants relative to the level of those using the job aides and also those who will use the new system. The AzABA leaders who were present expressed interest in participating in the project and also sharing any resources that are generated. It was noted that any effective job aides that are created ideally are integrated into the new system.

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

The discussion reflected that the next stakeholders meeting will consist of a methodical review of the statutes and administrative rules to identify possible recommendations for revisions. Any proposed revisions ideally are ready by the end of September so the Board can approach potential bill sponsors. Additionally, work on certain administrative rules can be initiated soon while other revisions will need to be addressed at a later date due to the timing of the enabling legislation.

Finally, the Committee directed Board staff to invite representatives of the BACB to present an overview of their investigative process for purposes of understanding how Board and the BACB effectively coordinate their separate processes and where they intersect. The concerns expressed by the Committee noted that if the BACB requires the licensure board's investigation to be completed prior to initiating theirs, an unsafe licensee may continue to engage with clients for a considerable period of time. The members agreed that prior to the presentation, exploring the BACB website would be a useful exercise.

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

Ms. Paakkonen advised the Committee that recently Board staff and AzABA partnered for purposes of sharing two presentations with members of the profession: one specific to licensure and regulation, and another that provided an overview of serving as a practice monitor for behavior analysts who are Board-ordered to successfully complete guided corrective action. AzABA leaders spoke in favor of the licensure and regulation presentation being an ongoing program for the benefit of new certificants who are planning to pursue licensure in Arizona, and expressed appreciation for the collaborative relationship between the Board and its staff and the association. Ms. Paakkonen also suggested offering an annual update on public policy issues, particularly when statutes and rules change, as well as an overview of the Arizona legislative and rulemaking processes. Another topic suggested by the Committee would focus on organization ethics given that some behavior analysts are starting their own agencies very early in their careers and may not yet possess the competencies to operate such a business in accordance with the established business ethics; AzABA leader affirmed that this is one educational focus area that has been discussed recently.

9. NEW AGENDA ITEMS FOR FUTURE MEETINGS

Ms. Paakkonen affirmed that she will contact the BACB to arrange a presentation to discuss their investigations processes, and that the Committee will be doing a next conduct a comprehensive review of the statutes and rules in light of the discussions and exploration of various topics that have been held in 2021.

The Community partners were thanked for attending these special meetings and for sharing their ideas and perspectives.

10. ADJOURNMENT

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

VOTE: The motion was approved 5-0. The meeting adjourned at 10:50 a.m.