

## **CTABA Position Paper on Licensure**

Adoption Date: January 27, 2014

### **Rationale**

Behavior analysis practitioners are currently credentialed in the form of an international certificate program administered through the Behavior Analyst Certification Board<sup>®</sup> (BACB). However, there is growing interest in licensure for behavior analysis practitioners at the state level. Reasons for moving in this direction include protecting the rights of behavior analysts to practice their discipline and increased consumer protection (APBA, 2009). Licensure in behavior analysis is the act of a state or government entity mandating a license in behavior analysis, defining the scope of practice for behavior analysts in that state, overseeing the practice of behavior analysis within the state, and enforcing the rules within the practice of behavior analysis in the state (Green, 2011).

### **Existing Legislation in Connecticut**

Currently, the Department of Disability Services (DDS), Department of Children and Families (DCF), Connecticut Birth to Three (B23), the State Department of Education (SDE), and other state agencies recognize behavior analysis services as one part of their available services and provide reimbursement to Board Certified Behavior Analysts<sup>®</sup> (BCBAs) and supervised Board Certified Assistant Behavior Analysts<sup>®</sup> (BCaBAs) treating individuals with Autism Spectrum Disorders as well as children with other behavioral issues.

Additionally, the need for behavior-analytic services is underscored by the recent Connecticut legislative action proposed on behalf of children, adults and families: Special Act 08-5, Public Act 08-63, Public Act 09-115, Public Act 10-175, and Public Act 11-228. In recognition of the increasing needs of children and adults with behavioral needs and their families to have access to services provided by licensed and trained staff (including paraprofessionals), the Connecticut State Legislature has passed five bills in the past several years related to autism spectrum disorders:

1. Special Act 08-5: An Act Concerning Special Education and Instructional Methods Concerning Autism and Other Developmental Disabilities, which called for a task force to be assembled to define Autism and developmental disabilities and develop recommendations for training needs

of pre-service and in-service educators, administrators and paraprofessionals across the state and identify available resources for providing this training.

2. Public Act 08-63: An Act Concerning Expansion of the Pilot Program for Persons with Autism Spectrum Disorders created a pilot project and ensured that such a pilot project remained in effect through June 30, 2009 (this program continues today). This program aims to provide services through the Department of Developmental Services for individuals with an Autism Spectrum Disorder who do not have an intellectual disability.
3. Public Act 09-115: An Act Requiring Insurance Coverage for Autism Spectrum Disorder Therapies. The purpose of this bill is to provide insurance coverage for Autism Spectrum Disorder therapies including Applied Behavior Analysis overseen by Board Certified Behavior Analysts.
4. Public Act 10-175: An Act Concerning Special Education, which requires programs offering behavior analytic services to individuals with Autism to be overseen by professionals with proper credentials including Board Certified Behavior Analysts.
5. Public Act 11-228: This act makes it a felony to present oneself as a Board Certified Behavior Analyst or Board Certified Assistant Behavior Analyst without proper credentials. Penalties include a \$500 fine or up to 5 years of imprisonment or both.

### **States with Existing Licensure in Behavior Analysis**

A subcommittee of the CTABA Legislative Committee studied licensure in other states by contacting representatives of state affiliate chapters of the Association for Behavior Analysis International. The Subcommittee also investigated the issues each of those states faced throughout the licensure process. The Subcommittee presented the following findings to the CTABA Executive Council:

- Currently, 15 states have licensure in behavior analysis: Arizona, Kentucky, Louisiana, Massachusetts, Missouri, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Virginia, West Virginia, and Wisconsin.
- State licensing boards are housed in various departments including: Psychological Examiners, Allied Health and Human Services, Department of Financial Services, Board of Medicine, Department of Health, Department of Safety and Professional Services, and independent Behavior Analysis Boards.
- Representatives from each state reported that a variety of entities initiated licensure including the state affiliate chapters, legislators, other professional organizations, and private citizens.
- The Subcommittee also summarized the costs in each state. While the cost for a license is additional to costs associated with BACB certification, in most states, the annual cost for the license remained low, between \$0.00 and \$300.00 per year.

### **Benefits of Licensure**

Licensure in behavior analysis may provide several benefits to both behavior analysis practitioners and consumers of behavior analysis services. The following information was collected from a variety of sources, including *Position Paper on Licensure* (APBA, 2009) and the findings of the CTABA Legislative Subcommittee.

- The behavior analyst practitioner's rights to practice may be protected.
- The scope of practice for a licensed behavior analyst (LBA) would be defined within state law.
- Licensure in behavior analysis may provide behavior analysis practitioners parity with other behavioral health professionals.
- Licensure in behavior analysis may provide opportunities for third-party payouts for services, (e.g., Medicaid, insurance) for autism as well as other diagnosed conditions.
- Consumers may have better protection against unqualified persons providing behavior analysis services.
- A regulatory board may provide disciplinary action for those who do not meet training/ethical guidelines of a licensed behavior analyst. The regulatory board could set rectification-plans for persons who do not meet minimum standards for a LBA. In addition, the regulatory board could set disciplinary measures for those outside of ethical or legal boundaries, (e.g., someone who commits a felony).
- Licensure reciprocity across state lines when allow by state legislation.

### **Risk of Licensure**

Despite the many benefits to licensure in behavior analysis, there are risks. The following list of potential risks was collected from a variety of sources, including *Position Paper on Licensure* (APBA, 2009) and the research compiled by the CTABA Legislative Subcommittee. This list should not be considered all inclusive or suggestive that all of these are likely outcomes when pursuing licensure.

- Pursuing a license in behavior analysis requires a law to be passed. There are inherent risks with the pursuit of a law including, lack of time, preparation, and knowledge of law making.
- There may be a lack of sponsorship by legislators.
- Other professional groups may oppose the passage of the law.
- Other professional groups may try to control the regulatory board, adding the risk of persons untrained in behavior analysis determining regulations for the licensed behavior analyst.
- Development of a law and regulatory board may be costly (e.g., lobbying).
- Additional costs to the licensed behavior analyst (e.g., license fees in addition to the fees they already pay to credentialing body).
- Licenses vary across states, which may pose problems for a licensed behavior analyst attempting to practice across state lines.

### **Common Misconceptions**

Finally, there are common misconceptions about the behavior analysis credential. The following information was collected from a variety of sources, including *Position Paper on Licensure* (APBA, 2009) and the research compiled by the CTABA Legislative Subcommittee.

- *Behavior analysis practitioners are only qualified to work with individuals on the autism spectrum.* Applied behavior analysis is based on the principles of learning and operant conditioning. These principles can be applied to all behavior across all populations. Behavior analysis is not aligned to any one diagnosis, and has been found effective treating a variety of behavioral conditions.
- *Licensure will ensure the behavior analysis practitioner's right to practice.* This is not always the case. Although legislation for licensure may succeed, the outcome may not be desirable. Qualified individuals may not be eligible to practice if there are additional regulations imposed by the legislature or licensing board (e.g., additional education or experience hours or supervision requirements for master's level behavior analysts).
- *Licensure is required for third-party reimbursement.* In Connecticut, BCBA's are already billing insurance companies for reimbursement of services provided to individuals who have insurance policies originating in Connecticut, with autism services as a benefit. Additional reimbursement opportunities for behavior analysis practitioners depend on the language in the insurance statutes, the Medicaid waiver, and specific arrangements with third-party payers.
- *Licensure will resolve regulatory issues with state governments.* This depends more on factors such as political influence and pressure from professional interests than on the type of professional credential involved.
- *Licensure represents a more respected type of credential than certification.* The primary difference between the two credentials is their origin. For certification, the profession administers the credential; for licensure, a government entity administers the credential.

### **Proposed Scope of Practice**

A scope of practice, used by national and state/provincial licensing boards for various professions, defines the procedures, actions, and processes permitted for the licensed individual. In the discussion of licensure in behavior analysis, it is essential to define the scope of practice for behavior analysis, as it would be included into any proposed practice act legislation in addition to specific education, experience, and demonstrated competencies. The following scope of practice is modeled after the Model Licensure Act proposed by the BACB and with wording consistent with other scopes of practice in current Connecticut legislation.

The practice of behavior analysis means provision of professional services under the title or description of services incorporating the words applied behavior analysis, behavior analyst, behavior analysis, or ABA to the public or any public or private organization for remuneration. Behavior-analytic services means the application of empirically established principles of learning and motivation derived from operant conditioning in the design, implementation, and evaluation of instructional and environmental modifications by persons trained in behavior analysis per the requirements outlined by the Behavior Analyst Certification Board® to address behavioral excesses or deficits. It includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis, and interventions based on scientific research and the direct observation and

measurement of behavior and the environment to produce socially significant improvements in human behavior in clinical, school, work, home, and community settings. Behavior analysts utilize contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help individuals and groups of people develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions. The practice of behavior analysis expressly excludes psychological testing, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, sex therapy, psychoanalysis, and hypnotherapy as treatment modalities.

### **Summary**

After a thorough review of the research from the Legislative Committee Subcommittee, the benefits, risks, and common misconceptions associated with a license for behavior analysis practitioners, the CTABA Executive Council voted to support such a license within the State of Connecticut, under the following conditions:

- The move for licensure should be initiated by CTABA and its membership to prevent outside entities from creating regulations regarding the practice of behavior analysis.
- The standards for the behavior analysis license follow the guideline put forth in the Behavior Analysis Certification Board's *Model Licensure Act*.
- All applicants who possess a current certification issued by the BACB qualify to be licensed.
- The requirements to obtain a state license to practice behavior analysis should be equal to or no less rigorous than those standards established by the BACB.
- All licensed behavior analyst must meet or exceed the continuing professional educational requirements established by the BACB.
- An independent regulatory board will be housed in the Department of Public Health and comprised of licensed behavior analysts, members of the public, and consumers of ABA.
- The costs associated with a license are reasonable and similar to the cost for other behavioral health professionals within the Department of Public Health.

*This position paper was developed by the Chairs of the Legislative Committee after a vote for approval by the CTABA Executive Council on November 25, 2013.*

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## Resources

Association of Professional Behavior Analyst (2009). Position statement on licensure. (available at [www.apbahome.net](http://www.apbahome.net))

Behavior Analysis Certification Board, Inc. (2012). Model act for licensing/regulating behavior analysts. (available at [www.BACB.com](http://www.BACB.com))

Green, G. (2011). How to evaluate alternative credentials in behavior analysis. *APBA Reporter #31*. (available at [www.apbahome.net](http://www.apbahome.net) )