

The Case for Licensure of Applied Behavior Analysts

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ABSTRACT

The evolution of the field of applied behavior analysis to a practice-oriented profession has created the need to ensure that the consumers of these services are adequately protected. We review the limitations of the current board certification process and present a rationale for the establishment of licensing standards for applied behavior analysts on a state-by-state basis. Recommendations for securing the passage of a licensure bill also are discussed.

Descriptors: board certification, consumer protection, licensure of applied behavior analysts

Over the past 10 years, the field of applied behavior analysis (ABA) has experienced extraordinary growth in the number of practitioners as well as those seeking services. This change appears to be related to the explosion in the number of children diagnosed with pervasive developmental disorder/autism and the recognition of the success of behavior analytic treatments. Included among those who have spurred this growth forward are the United States Surgeon General (1999), the U.S. Department of Education's Office of Special Education (2000), the National Science Foundation (Lord & McGee, 2001), and the New York Department of Health Clinical Practices (1999). One potential downside of the increased recognition of the practice of ABA is an influx of individuals seeking to prosper from this opportunity who may have little or no training or experience in ABA – placing both the consumers of their services and the field at large at risk.

What can and should the field of ABA do to protect the consumers of these services? The first step in this process began in the early 1980s when the State of Florida Peer Review Committee for Behavior Modification and the Florida Association for Behavior Analysis (FABA) developed a process for the

certification of persons deemed competent in behavior analysis and created a behavior analysts' "Code of Ethics" (Bailey & Burch, 2006). According to Bailey and Burch, the state certification process was initiated in response to the "half-baked, unregulated behavior modification" abuses by individuals professing to be behavior analysts (p. 11). The new group of professionals was identified by the State of Florida as "Certified Behavior Analysts." This process eventually evolved into the creation of the Behavior Analysis Certification Board, Inc.[®] (BACB), which now certifies behavior analysts (i.e., "Board Certified Behavior Analysts" [BCBAs]) in the United States as well as in several foreign countries.

Historically, individuals providing ABA services worked primarily in state or federally operated facilities, at public and private schools, or within academia. Today, many in our field have begun to establish a private practice model of service, opening small individual or group practices without the benefit of the built-in peer-to-peer mentoring available in the more classic service models. In this paper, we describe the standards necessary to establish a system that would allow the field to successfully move into a model of independent practitioners and, at the same time, protect the general public.

Limitations of Board Certification

As the field of ABA grows into a true profession, continued dependence on a board certification process will not be adequate to protect consumers or to prohibit the abuses described by Bailey and Burch (2006). The BACB does not appear to have the money, staff, time, or legal authority to provide the necessary ethical oversight, especially with the literally thousands of members of the Association of Behavior Analysis International (ABAI) and/or BCBAs who practice both within the United States and around the world. Although it is true, as was described by Shook (2007), that the BACB does engage in such investigations from time to time, formal investigations are generally only initiated if the accused is first held responsible for their actions by an independent body, such as a state child protection agency. Taking this reactive approach to the protection of consumers fails to meet the needs of the profession or community at large. As noted on the BACB web site,

We are concerned that all BACB certificants provide quality services in an ethical manner and we enforce adherence to the BACB Professional Disciplinary

Standards toward that end. We realize that matters may arise that may be of concern to the consumer but not fall under our Professional Disciplinary Standards (for example, the consumer may believe that a certificant is not adhering to one or more items in the Guidelines for Responsible Conduct). However, for a number of logistical reasons, the BACB can only enforce adherence to the Professional Disciplinary Standards, and it relies heavily on information from local responsible sources in reviewing allegations against certificants. (BACB, n.d.)

If the BACB cannot or will not hold certificants responsible for the Guidelines for Responsible Conduct, who should? Currently, there is no requirement, either by law or policy of any state agency (with the exception of Florida), requiring an applied behavior analyst to be certified. Fewer than 50% of ABAI members who identify themselves as “practicing applied behavior analysts” are certified by the BACB (Malott, 2009). Non-certified professionals have no responsibility to abide by the BACB Disciplinary Standards, with the exception of being prohibited from using the title “Board Certified Behavior Analyst” (or “Board Certified Assistant Behavior Analyst” [BCaBA]). There is no limitation on using the title of applied behavior analyst, conducting behavioral assessments, or providing treatments generally considered within the scope of ABA practice. Even within a state as small as Massachusetts, where there are now over 500 BCBA and BCaBAs available to provide services to the general population, practitioners without formal training or certification continue to advertise their claims to provide ABA services to the general public (Milestones, 2009).

To further complicate matters, the BCBA credential is not consistent with the generally accepted concept of board certification as recognized in the fields of

medicine, psychology, and other human service professions. The American Board of Examiners in Professional Psychology (ABEPP), as described by Dattilio (2002), first developed standards for the board certification of psychologists in 1947. According to Dattilio,

Board certification was designed to provide credentialing over and above that which was provided by the American Psychological Association and individual state and provincial licensing boards and to issue a certificate of proficiency that would distinguish between basic training and more advanced levels of competency. (p. 54)

Thus, the creation of a “board certification” in behavior analysis was premature to the more appropriate next step in such an evolution – that of establishing licensure standards through individual state licensing boards. Consumers and other professionals familiar with the more traditional use of the term “board certification” may assume that a BCBA holds a professional license and is board certified in the specialty of ABA.

Finally, as discussed by Dorsey (2008), the current BACB standards of possession of a bachelor’s and a master’s degree and the completion of 225 classroom hours of graduate instruction (BACB, n.d.) are not sufficient on at least two levels. First, the master’s degree requirement is not specific to any classification or course of study that is relevant to the field of ABA and includes training in ABA, allowing an applicant with a master’s degree in an unrelated field such as art history, english, or nutrition, to qualify. Second, the required 225 classroom hours, the equivalent of five 3-credit hour courses, is not sufficient to train students to the level of competency needed to practice independently, especially given the inherent risk to the consumer if such services are not implemented correctly. Certification in other professions, such as occupational therapy, physical therapy, speech

therapy, psychology, and mental health counseling, require the completion of a full graduate course of study in their respective professions. The same standard should be applied to behavior analysts.

The Case for Licensure

The concept of licensing of behavior analysts has existed for quite some time (Bailey, 1991). However, only recently has this idea emerged as a potential reality. The tradition in medicine and other human service professions is that independently licensed professionals are those who are sanctioned by their respective state boards of professional licensure to advertise their services to the public for a fee, and when applicable, bill third-party insurance carriers for their services.

Licensing of behavior analysts is important for many reasons. However, one reason stands out well beyond any of the others – the ability of the state licensure system to provide a mechanism for protecting consumers of ABA services. Services provided by applied behavior analysts (most especially, by those who are not adequately trained in ABA) include an inherent risk to those served. Therefore, consumer protection is vital. The process of licensure would result in the requirement that only those licensed by the state board could advertise themselves to the public as “applied behavior analysts,” or could provide services defined within the law as the “scope of practice” of licensed applied behavior analysts. Some consumers may not be able to discriminate between adequately and inadequately trained providers, and they may trust providers who insist that they are “just as well trained” and have “many years of experience” in ABA.

Aside from allowing consumers to easily identify practitioners with training from those without, licensure also allows for consumer protection from unethical practices. A state board of professional licensure has the staff and legal authority to respond to complaints by the general public or professionals of unethical practices by those who are licensed. The investigation of such

complaints would be conducted at the local level through interviews with those involved and through the collection and review of supporting documentation from the complainant, the accused, and any witnesses. Investigators from the state board would be on-site throughout the investigation. Additionally, once an investigation was completed, a formal hearing might be needed (which can take several days and include legal representation for both sides). The plaintiff, the accused, and investigator would all present their cases to a hearing panel comprised of licensed applied behavior analysts. State licensing boards typically conduct this time- and staff-intensive process.

Other benefits of licensing applied behavior analysts include the capability to secure third-party payment for services, protection of the profession, and the ability within state laws to define the scope of ABA practice. Third-party billing for ABA services has become an important and very public issue. The advocacy group Autism Speaks has worked hard to establish laws on a state-by-state basis that require insurance providers to cover services for children diagnosed with autism (Autism Speaks, 2009). Included in the model bill proposed by Autism Speaks, which has been passed, filed, or is currently under development in all but six states, is a provision that includes coverage for the delivery of ABA services (e.g., Massachusetts Autism Bill, 2009). Although it is true that some insurance carriers currently fund ABA services by BCBA providers, private national health insurance carriers such as United Health Care, Blue Cross/Blue Shield, and Magellan typically dictate that members of their provider panels be licensed by their respective states to practice independently. Therefore, it is critical that we work with our state legislatures to create appropriate licensure standards so that applied behavior analyst can meet the normal standards of the various private insurance carriers. This will allow the provision of ABA services to a much larger population than can currently afford to pay for such

services privately.

Finally, the need for licensing is being driven in part by the recent action of the American Psychological Association's Task Force on the Revision of the Model Act for State Licensure of Psychologists (2007). The American Psychological Association (APA) disseminated to its membership a revised set of guidelines proposed to serve as the blueprint for substantive changes in state psychology licensure laws. Among the many suggestions made by the APA is the inclusion of language that defines the scope of practice of psychology to include the fields of ABA, school psychology, and marriage and family therapy, among others (American Psychological Association Model Licensing Act, 2007).

The adoption of the standards recommended by the APA would virtually eliminate the ability of applied behavior analysts who are not licensed as psychologists to practice independently. The implications for those only certified by the BACB would be that they could no longer practice without direct supervision by a licensed psychologist. Continuing to practice independently as non-licensed applied behavior analysts might result in legal action against certificants by state psychology licensing boards adopting the revised APA Model Act. To make matters worse, no specific training or qualifications would be required of licensed psychologists to practice in our field. The only viable solution to this threat is to establish state licensing laws that allow independently licensed applied behavior analysts to continue their practice.

Effect of Applied Behavior Analysis Licensure on Other Professions

The recent actions of the APA appear to suggest that they have identified a need to lay claim to certain areas of service or therapy. However, ABA is not a new field, nor is it one that would have an immediate and detrimental effect on the current practice of psychology if a license standard was adopted. In fact, the adoption of a license standard would likely reduce the number of people

representing themselves to the public as qualified to provide ABA services because only those who meet the license standard would be able to do so. Additionally, doctoral-level BCBAs trained in psychology departments represent only a small portion of the total number of BCBAs (Shook, 2005). The field has seen radical changes in the background and training of those who identify themselves as behavior analysts. According to Shook (2005), the greatest number of BCBAs today graduated with a terminal master's degree in special education, not in psychology. These data are consistent with those reported by the ABAI with respect to both membership and conference attendees (Malott, 2009). Finally, the number of BCBAs now exceeds 6,000 worldwide, serving people within many diverse professional applications. This number likely will continue to grow, regardless of whether the licensure of behavior analysts becomes a reality.

Navigating the Licensure Process

Given the importance of licensure, practitioners and consumers of ABA will need a blueprint for the successful filing of legislation to make licensure a reality. Citizens and members of state behavior analysis organizations, such as ABAI affiliated chapters, must persuade governors and legislators to pass licensing laws for applied behavior analysts. Effective and efficient advocacy is essential to accomplish this goal. Before proceeding with recommendations for public policy advocacy, it is worth discussing three common myths about this activity. The first myth is that a lobbyist is needed to accomplish legislative advocacy effectively. The second myth is that one can only garner support if one is physically present in the capitol. The third myth is that one person cannot make a difference.

Although professional lobbyists are valuable, they are not absolutely necessary. State behavior analysis organizations can partner with advocacy groups that represent the various populations served by their efforts, such as the state Association for Retarded

Table 1. *Blueprint for the Successful Filing of Legislation*

1. Members of your state ABAI affiliate chapter begin to attend meetings held by advocacy groups that represent the populations you serve.
2. Begin a dialogue with these advocacy groups, creating a shared agenda for your bill and how it will benefit their constituency.
3. Identify any groups that may oppose your bill, and attempt to resolve your issues with them through compromise.
4. Use your state chapter's e-mail system or website to share information about state and national policy issues (e.g., opportunities to testify, exciting/troubling developments, upcoming votes).
5. Distribute a list of experts in particular disabilities or issues from your chapter who are willing to provide trainings or offer testimony to support legislation important to the advocacy group.
6. Write letters to policymakers that are endorsed by your chapter on chapter letterhead.
7. Include policymakers in your work to help them see the importance of what you do and the challenges facing the clients you serve. Invite policymakers to meetings, presentations, or events, or to tour your facility.
8. Send policymakers resource materials produced by your agency to help them become familiar with your work.
9. Include the policy implications of your work in presentations and in resource materials.
10. Build ongoing, trusting relationships with legislators and legislative staff.
11. Encourage public dialogue regarding the tangible effects of policy choices on the individuals you serve.
12. Identify key legislators who demonstrate a particular interest either in applied behavior analysis or the populations you serve.
13. Send a member of your staff to testify at legislative hearings.
14. Draft your licensing bill.
15. Present your bill to the various advocacy groups that the bill will affect and seek their endorsement. Many create a legislative platform of endorsed bills.
16. Invite representatives from the advocacy groups to attend the hearings with your members to offer testimony in support of your bill.

Citizens, the governor's Developmental Disability Council, and Autism Speaks. Technology like the internet provides the tools necessary to launch an effective advocacy campaign without the expense of a professional lobbyist (e.g., mass e-mailing, access to contact information). Certain activities, such as testifying at a hearing, require the physical presence of a representative in the capitol. However, the internet allows anyone to identify and track legislative activity and to respond to support or oppose pending changes in the progress of bills. Technology also makes it easier for advocates to organize and stay connected. Partnering with other organizations can reduce advocacy costs and expand the impact of the organization's advocacy. An example of this is the recent application filed by the ABAI to become a member of the Consortium for Citizens with Disabilities (CCD). The CCD is a coalition of approximately 100 national disability organizations working together to advocate for national public

policy. The CCD's corporate offices and staff are located in Washington, DC. Through this new affiliation with the CCD, ABAI will be at the forefront of national legislative activities related to the individuals we serve.

Finally, it is true that each person working as a member of a group or individually can make a difference and further the progression of the field of ABA. Different members of state organizations have unique strengths and abilities. Some can identify and track key legislative initiatives affecting ABA. Some can organize grass-roots advocacy efforts, while others can spread the word and respond to action alerts. When working together as a group, state organizations can be extremely effective in the legislative arena.

The process involved in passing a formal licensing bill is one that requires a logical and orderly process to avoid the potential pitfalls that might be encountered. Many steps must be taken prior to filing a bill. These steps are detailed

in Table 1. Following this plan will help to minimize delays and avoid having the bill defeated either by overt opposition or lack of attention. Because legislators respond to input from their constituents, it is critical that a bill has the support of the individuals served and their families. There are not enough applied behavior analysts in any one state to move such a bill through the legislative process without advocacy support from the community.

Current Status of Licensure for Applied Behavior Analysts

In the fall of 2007, the ABAI Executive Council created the ABAI Practice Board. The mission of the Practice Board is "to meet the needs of ABAI members and members of its affiliated chapters providing behavior analytic services to various constituencies consistent with the scientific foundations of behavior analysis" (ABAI Newsletter, 2008). At the core of this mission is the Board's responsibility to promote the

professional provision of evidence-based, ABA services and to protect the public. Members of the Practice Board have proposed to pursue licensure for ABA practitioners, and the ABAI Executive Council approved in principle to move forward with this proposal.

In the past year, we have seen two state legislatures, Pennsylvania and Arizona, pass licensing bills for applied behavior analysts and the creation of behavior analyst licensing boards. In both states, those licensed as applied behavior analysts (“behavior specialists” in Pennsylvania) may practice independently and are not required to be supervised by a licensed psychologist or other licensed professional. In addition, those licensed to practice ABA in Pennsylvania will be able to join managed care panels and bill for third-party payments for their services. It should be mentioned that the services must be provided to individuals with autism and related developmental disabilities. Furthermore, those licensed in these two states to practice ABA are not required to maintain certification with the BACB or to pay any related renewal or re-certification fees. A similar bill, filed in the Commonwealth of Massachusetts, is being considered in the state legislature and will be voted on within the next 2 years. This bill would include independent practice for licensed applied behavior analysts, with no requirement for supervision by a licensed psychologist or requirement that those licensed maintain their BCBA status. As was the case in Pennsylvania and Arizona, a provision for the creation of a separate board of registration for applied behavior analysts was included in the bill.

Conclusions

As applied behavior analysts, we are facing a very difficult time in the development of our profession. Licensure will benefit the consumers of our services by improving their ability to choose between appropriately trained professionals and those who are not. Having a formal licensing system will

hold those who practice ABA to enforceable ethical standards and give individual state boards of registration the discretion to establish educational standards commensurate with other human service professions. The membership of ABAI has evolved into much more of a practitioner organization, with students and graduates from many diverse fields. The membership of the ABAI Practice Board, in concert with the other ABAI Boards and with the support of the members of the ABAI Executive Council, has recognized ABA as a true “profession” in the greater community of helping professions. Many outside entities such as the United States Surgeon General (1999) and The National Science Foundation (Lord & McGee, 2001) have recognized ABA as a superior form of therapy for individuals diagnosed with autism. There is clearly a turf battle ahead that is predicated on guild issues being fought by the APA to vie for market share by licensed psychologists. The APA fears that the practice of psychologists will be impacted by independently practicing applied behavior analysts. The ABAI Executive Council has taken the initial steps to protect the profession of ABA from both untrained persons posing as behavior analysts as well as other professions acting as guilds to protect their stake in this arena.

While it is now up to professional applied behavior analysts to establish their field as a true and unique profession, the recruitment of advocacy groups that represent the individuals served by the profession of ABA to assist in this debate will strengthen the position of ABAI and help deflect the apparent aspirations of the APA. Applied behavior analysts must take the further steps necessary to delineate the parameters of this debate and to protect the profession from those outside the field whose intent it is to claim ABA as their own. The requirement for applied behavior analysts to be licensed by their respective states is one of the critical steps in the evolution and ownership of our field.

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