

Statement to ABA Community in Nevada

With a fully formed Board of Applied Behavior Analysis in the State of Nevada, please take this as our first official outreach for us to say we are excited and humbled to represent this field in our great state. As a group of four providers and one community member, we are honored to have been selected by the governor for the challenge to write the regulations around applied behavior analysis licensure. A brief introduction:

President: Dr. Kerri Milyko, BCBA-D (2009), LBA (Reno)

Director of Research and Development and Senior Consultant with the Learning Consultants (a behavioral services agency in Northern Nevada). She is also adjunct professor at University of West Florida and mom to 3 little ones.

Secretary/Treasurer: Christine Fuller, BCBA (2012), LBA (Reno)

Training and development, and clinical supervisor at Advanced Child Behavior Solutions (a behavioral services agency in Northern Nevada). She is also the mom to 1 little one.

Board Member: Dr. Brigid Fronapfel, BCBA-D (2008), LBA (Reno)

Assistant research professor and faculty in the special education master's program and verified course sequence with the Nevada Center for Excellence in Disabilities at the University of Nevada, Reno. She is also the mom to 2 little ones.

Board Member: Matthew Sosa, BCBA (2017), LBA (Las Vegas)

Board Certified Behavior Analyst at Settle Down ABA in Las Vegas, NV and is adjunct faculty at the University of Nevada, Las Vegas.

Board Member: Rachel Gwin – Community Member (Las Vegas)

Mother to 3 children. Received her bachelor's degree in Early Childhood Education from Brigham Young University and previously taught Kindergarten in Las Vegas.

We, as a board, share the similar goals to ensure the safe, ethical practice of applied behavior analysis within the state. Further, it is our sole purpose to write regulations of ethical practice that is in accordance with the NRS 437 statute. We hope that given the perspective of 3 clinicians, 1 academic, and 1 parent, we will be able to curb the conflicts or fill the gaps between policy and practice to make sure our consumers of our service are protected.

We have heard the frequent requests for a call-in number for our meetings. Please know that we want all providers attending and active during our meetings. However, given the timeline of the 'emergency' turned 'temporary' statutes, any disruption in that timeline would result in expired regulations. If we have no regulations governing our practice, that means we cannot practice, and our clients would go unserved. This takes us to 'open meeting law'.

We also want to review Open Meeting Law (OML) with the field. OML helps ensure that we are held to high and professional standards of transparency with all members of the public being

aware of our actions and decisions. Since discussions often lead to decisions, we err on the side of caution and are directed by our attorney general to not discuss regulations or any board business outside of our meetings because that could lead to decisions, which is breaking the law. OML also dictates what is discussed/decided at the meetings. OML also mandates formulation of and posting of the agendas. The agenda for the meeting is publicly posted 3 business days prior to the meeting, and only the items on the agenda can be addressed during the meeting. If something else is brought up and it doesn't fit anywhere on the agenda, we cannot talk about it.

Our agenda also specifies the times during the meeting when the public can make a comment. This is at the very start of the meeting and at the very end of the meeting. What we have found to be helpful is if you already have a comment about anything, make it at the start of the meeting. It is not of common practice to engage in a question – answer session during public comment, as it is a 'comment' not question. But, if during the meeting, the board can elaborate on your comment, they will find an opportunity to do so. The public comment at the end of the meeting is a good opportunity to provide a comment in reply to what was addressed during the course of the meeting. This could be a reply in support or opposition, or a completely separate comment asking for additional consideration.

We will embrace any additional team effort from our community as we write the permanent regulations.

OML also has mandates related to call-in numbers for meetings. Too often, during a large call-in meeting, a caller puts the call on 'hold' to answer another call, which results in everyone listening to the 'hold' music. We are in violation of OML with the hold music because people are unable to hear what is being said during the meeting and we are unable to record the meeting for accurate minutes, which is a requirement for OML. Further, it violates OML if we kick the 'hold' caller off the call to stop the music. This is also applicable to a crying baby, a loud barking dog, or any other disruption to the meeting making it impossible to continue. So, if you need to take another call, please hang up and call back in – and always mute your phone. If we run into a situation where we cannot hear, we will have to stop the meeting, repost the agenda, wait 3-4 days (hopefully the space is available), and try again. We now have a bit more flexibility in our timeline to do this. However, for public workshops, OML requires a 14-day posting of the agenda. The public hearings require a 30-day posting of the agenda. If we would have to reschedule either one of those, it would have to push back the meeting for that exact same amount of time (14 or 30 days, respectively).

Some of the requests or comments that have been directed our way can be categorized in a few different ways. We understand that the changes that went into effect in 2019 are new and change brings about uncertainty and frustration. Hopefully a bit more description can help – and unfortunately some of it is simply out of our hands as board members and have been out of our control since 2017 when the bill was written.

- 1) Read NRS 437 before you ask us to change anything because we likely cannot. If you want to change any of the following, the law would have to be changed through the legislative process:

- a. We cannot get rid of registering RBTs;
 - b. We cannot go to yearly registration fees;
 - c. The law requires FBI background checks;
 - d. ADSD sets the fees – and the fees are set and locked into the NAC;
 - e. We cannot change your renewal schedule. The schedule for renewal is “on or before the first day of January of each odd-numbered year”.
- 2) If it is in the law, it costs money for us to enforce the law and that comes from our fees
 - a. For the few states that require their RBT’s to be registered, Nevada’s fees are some of the lowest. We don’t even know if our current RBT fees will sustain the costs over the two years. We hope so, but the other states had to make it more.
 - 3) While many times it seems that open meeting law restricts the efficiency to get things done, it also ensures that changes are thoughtful and legal.
 - 4) If anyone puts a call on hold, and we are out of compliance with open meeting law, we will not issue a call-in number again for a long time. Please be mindful as this will make everyone extremely grumpy. We cannot stress this enough.

Please do not wait to provide insight and suggestions about regulations until after we have written and discussed them. You have access to the current regulations: <http://adsd.nv.gov/Boards/ABA/ABARegulations/> Give us your thoughts via email (ABABoard@adsd.nv.gov) about any language. Should we delete a section? Should we add a section? What about training? Is supervision properly defined? Do we need to regulate more or less? Remember, everything that we can do has to be in alignment with NRS437.

Another thing to note due to OML, the board does not have access to the ABABoard@adsd.nv.gov email account. This is operated by Division personnel. The Board rarely ever gets to see the contents of the inbox or summaries of specific emails unless it requires a BCBA-level, content-specific question. So, if you would like to make a ‘written statement’ for the board to consider about regulations, please make that clear in your subject line so that the Division representative can send it to the Board. Something like “Written Testimony for the Board” should suffice. Lastly, and most importantly, even though board members may not directly receive the vexing emails sent to the Division, we are aware of them, and at times, know of them specifically. It does our field a disservice when members engage in unkind and unprofessional behavior.

Finally, we encourage you to be a part of the process. Being a part of the discussion and collaborating with your peers mitigates potential squabble or extra revisions down the road. We know you are busy; we are too. However, we want to do this as a community to get it right. Please reach out, we are eager to listen.

All the best,
The Board of Applied Behavior Analysis:
Brigid, Christy, Kerri, Matt, and Rachel