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ABA BOARD MEETING MINUTES

Date and Time of Meeting: May 9, 2019 9:00 AM

Name of Organization: Applied Behavior Analysis Board

Place of Meeting: Aging and Disability Services Division
9670 Gateway Drive
Reno, NV 89521
First Floor Conference Room

Nevada Early Intervention Services
1161 South Valley View, Suite 209
Las Vegas, NV 89102

Conference Line: 866-390-1828
Access Code:4894327

MINUTES

I. Roll Call and Verification of Posting

Mariana Acevedo verified posting. The five members of the Board were present Dr. Kerri Milyko, Christine Fuller, Dr. Brigid Fronapfel, Matthew Sosa and Rachel Gwin.

II. Public Comment

(No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. Comments will be limited to three minutes per person. Persons making comment will be asked to begin by stating their name for the record and to spell their last name and provide the secretary with written comments.)

Jamie Hutchison from Welfare gave public comment regarding Medicaid's position with unregistered RBTs. Medicaid will suspend enrollment of all unregistered RBTs starting on July 1st, these RBTs will not be reimbursed, through Medicaid. An email blast will be

sent to all providers registered with Medicaid to remind them of the June 30th deadline to register RBTs.

Lenise Krik from the Loovas Center suggested the creation of an email list to notify the LBA community of future meeting agendas.

III. Approval of Meeting Minutes (For Possible Action)

Discussion regarding the meeting minutes from April 9th. Dr. Fronapfel made a motion to approve the meeting minutes, second by Ms. Fuller. All in favor, motion passed.

IV. Discussion of Current Status of Applicants and Other ADSD Activities

Jennifer Frischmann stated ADSD has responded to over 400 emails on the ABA Board email, most regarding licensures and registrations. An email blast was sent the previous week reminding all LBAs of the RBT registration deadline. An exam for LBAs and LaBAs with pending applications has been scheduled for May 21st at 10:30 am. This exam will take place in a Carson City location and in a Las Vegas location; all eligible applicants have been notified via email/letter. As a reminder, ADSD cannot have background check results, before receiving applications which include the fingerprint waiver form, as this is an infraction which may result on the closure of our DPS account.

Discussion regarding adding a disclaimer regarding background checks, to notify applicants of repercussions if they fail to disclose prior criminal convictions. Discussion on adding an FAQ page to the RBT registration section on the ADSD website. Dr. Milyko requested ADSD provide an update of the hours worked by ADSD employees on ABA business, to the next Board meeting.

Mariana Acevedo gave an update regarding LBA licensures and registrations. There are currently 173 licensed LBAs, 17 licensed LaBAs and 97 registered RBTs. The pending applications consist of 15 LBA, 4 LaBA and 123 RBTs. There is a total of 7 applications pending for Board review on June 13th, which include 6 RBT and 1 LBA applications.

V. Review of Financial Status

Jennifer stated there was a total of \$88,527.77 in budget account 3207, which includes a total of \$28,550.27, of revenue that has been brought in since January 1, 2019. Around \$63,000 where originally brought in for renewals from the Board of Psychological Examiners. Fiscal calculates an estimated revenue of \$50,000 to come in from RBT registrations.

VI. Presentation from Nevada Association for Behavior Analysis on Current Bills Affecting the Practice of Behavior Analysis (For Possible Action)

SB 258- Revises provisions relating to applied behavior analysis. (BDR 39-248)

AN ACT relating to applied behavior analysis; abolishing certification as a state certified behavior

interventionist; transferring certain responsibilities concerning licensing and regulation from the Aging and Disability Services Division of the Department of Health and Human Services to the Board of Applied Behavior Analysis; authorizing the Board to delegate certain such responsibilities to the Division; requiring the Division to obtain the approval of the Board to conduct an investigation and perform certain related tasks; requiring continuing education for behavior analysts and assistant behavior analysts to meet nationally recognized standards; revising provisions relating to criminal background checks or applicants for registration as a registered behavior technician; and providing other matters properly relating thereto.

Ken MacAleese stated SB258 seems to be going forward but has not been scheduled for work session as amended.

SB174- Makes various changes relating to services provided to persons with autism spectrum disorders. (BDR S-680)

AN ACT relating to disability services; requiring the Department of Health and Human Services to seek an increase in certain reimbursement rates under the Medicaid program and the Autism Treatment Assistance Program for a registered behavior technician; requiring the Legislative Auditor to conduct an audit of the Medicaid program concerning the delivery of certain services; and providing other matters properly relating thereto.

Ken stated SB174 is most likely not going to pass.

SB370- Revises the State Plan for Medicaid and the Children's Health Insurance Program. (BDR 38- 966)

AN ACT relating to health care; requiring the State Plan for Medicaid to provide certain benefits for screening and treatment of fetal alcohol spectrum disorders; and providing other matters properly relating thereto.

Ken commented SB370 seems to be going smoothly and should be going forward.

SB216-Revises provisions relating to autism spectrum disorders. (BDR 38-33)

AN ACT relating to persons with disabilities; requiring agencies that oversee programs that provide services to persons with autism spectrum disorders to report certain information concerning such programs to the Commission; establishing the Nevada Commission on Autism Spectrum Disorders to review data and information and advise the Governor regarding the needs of persons with autism spectrum disorders and their families; revising the required contents of a plan of treatment for a participant in the Autism Treatment Assistance Program; and providing other matters properly relating thereto.

Ken stated SB216 also seems to be going smoothly and will most likely pass as amended.

AB287- Imposes certain requirements on the amount of pay an employer of practitioners of applied behavior analysis must provide to such practitioners from reimbursement received from Medicaid. (BDR 38-1078)

AN ACT relating to Medicaid; requiring an employer of practitioners of applied behavior analysis to increase the pay of such practitioners when the employer receives an increase in the amount of reimbursement received by Medicaid; and providing other matters properly relating thereto.

Ken stated AB287 will most likely not proceed or pass.

VII. Review and Possible Approval of Board Position on Legislative Bills (For Possible Action)

Dr. Milyko sent her supportive testimony for SB258 to the Board for review. Christine moved to accept the testimony without any revisions, Matthew second. All in favor, motion passed.

Dr. Milyko's recommendation for SB216, regarding a state licensed LBA be part of the commission, will be sent directly to senator supporting the bill.

Dr. Fronapfel will send her statement regarding SB370 to ADSD for distribution to the other Board members for review.

VIII. Review and Possible Approval of Board Members Draft of Permanent Regulations (For Possible Action)

Jennifer presented the timeline the Board will be working with to pass the permanent regulations by November 1, 2019. The draft regulation language should be completed by the beginning of August, in order to have the required workshop, the small business impact study open for 10 days and public hearing by October.

Discussion regarding adding a section to NAC 437 exclusively for criminal background checks restrictions and grounds for disciplinary actions. Rachel Gwin brought forth her recommendations regarding background checks (Attachment A). These recommendations were edited to end as follows:

Grounds for denial, suspension or revocation of license or registration of a behavior analyst, assistant behavior analyst, or a behavior technician.

The division may deny, suspend or revoke a license or registration or place the person on probation, require remediation for the person or take any other action specified in these regulations if the Division finds by the preponderance of the evidence that:

- a) The applicant or licensee has been convicted of:
 - (1) Murder, voluntary manslaughter or mayhem;
 - (2) Assault or battery with intent to kill or to commit sexual assault or mayhem;
 - (3) Sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure, or any other sexually related crime that is punished as a felony;
 - (4) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor
 - (5) A crime involving domestic violence that is punished as a felony;
 - (6) A crime involving domestic violence that is punished as a misdemeanor,
 - (7) Abuse or neglect of a child or contributory delinquency;
 - (8) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS

- (9) Abuse, neglect, exploitation, isolation or abandonment of children, older persons, or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;
 - (10) A violation of any provision of NRS 422.450 to 422.590, inclusive;
 - (11) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property
 - (12) Any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon; or
 - (13) An attempt or conspiracy to commit any of the offenses listed in this paragraph
- b) The licensee has, in violation of NRS 437.400, continued to employ a person who has been convicted of a crime listed in paragraph (a); or
 - c) The applicant or licensee has had a substantiated report of child abuse or neglect made against him or her and if the facility, agency, or program provides residential services to children.; or

Section 1-D tabled for home review, to be discussed in the next meeting.

Christine brought her revisions for sections regarding supervision. Her first recommendation is to separate RBT and LaBA supervisory sections, as these should require different levels of supervision. She recommended the RBT section specify supervision should take place at least 5% of the hours worked as an RBT per month, this must include two face to face, live time contacts (needs to be discussed and defined at the next Board meeting).

Dr. Milyko tabled the supervision requirements discussion for the next meeting. She asked the Board members to send their regulation research/homework, to ADSD three days prior to the next meeting. ADSD staff will distribute to all the Board members for their review, before discussion at the meeting.

IX. Review and Possible Approval of Travel for Board Members and Staff to go to Las Vegas for June Board Meeting for Purposes of the Closed Meeting **(For Possible Action)**

Jennifer Frischmann recommended the next Board meeting be held in Las Vegas, due to the upcoming discussion of 7 applicants, with criminal records who failed to disclose. This meeting will be held on June 13th and the 7 applicants have been informed/invited via certified letter.

Julie Slabaugh explained how this meeting would begin as a normal meeting and then would have to be a closed meeting with the Board and each individual applicant to be able to discuss their application/background check. After this the meeting would have to reopen for the Board to make their decisions public and continue with their meeting.

Discussion on the cost the Board would incur for this trip and the necessity of the trip due to the nature of the meeting and this being the first time the Board will have this type of open/closed meeting.

Matthew made a motion for the Board members and ADSD staff to travel to Las Vegas for the June 13th Board meeting, second by Christine. All in favor, motion passed.

X. Determine Future Agenda Items (For Possible Action)

Christine made a motion to include the items on this agenda, except 6 and 9, and to add an item for Press Release from the Board. Second by Matthew, all in favor, motion passed.

XI. Determine Future Meeting Dates (For Possible Action)

Future meeting date set to June 13, 2019 per Agenda Item 9.

XII. Public Comment

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No public comment.

XIII. Adjournment

Dr. Milyko adjourned the meeting.

NOTE: Items may be considered out of order. The public body may combine two or more agenda items for consideration. The public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time. The public body may place reasonable restrictions on the time, place, and manner of public comments but may not restrict comments based upon viewpoint.

NOTE: We are pleased to make reasonable accommodations for members of the public who have disabilities and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Mariana Acevedo at (775) 684-5956 as soon as possible and at least one **business** day in advance of the meeting. If you wish, you may e-mail her at MAcevedo@adsd.nv.gov. Supporting materials for this meeting are available at 3416 Goni Road, D-132, Carson City, NV 89706, or by contacting Mariana Acevedo at 775-684-5956, or by email MAcevedo@adsd.nv.gov.

Agenda Posted at the Following Locations:

1. Aging and Disability Services Division, Carson City Office, 3416 Goni Road, Suite D-132, Carson City, NV 89706
2. Aging and Disability Services Division, Las Vegas Office, 1860 East Sahara Avenue, Las Vegas, NV 89104
3. Aging and Disability Services Division, Reno Office, 9670 Gateway Drive, Suite 200 Reno, NV 89521
4. Aging and Disability Services Division, Elko Office, 1010 Ruby Vista Drive, Suite 104, Elko, NV 89801
5. Nevada State Library and Archives, 100 North Stewart Street, Carson City, NV 89706
6. Desert Regional Center, 1391 South Jones Boulevard, Las Vegas, NV 89146
7. Sierra Regional Center, 605 South 21st Street, Reno, NV 89431
8. Rural Regional Center, 1665 Old Hot Springs Road, Carson City, NV 89706
9. State Legislative Building, 401 S. Carson Street, Suite 3138, Carson City, NV 89701
10. Grant Sawyer State Office Building, 555 E. Washington Ave., Suite 4401, Las Vegas, NV 89119
11. Department of Health and Human Services, 4126 Technology Way, Suite 100, Carson City 89706

Notice of this meeting is also posted on the Internet: <https://ADSD.NV.gov> and <https://notice.nv.gov/>