



APPLIED BEHAVIOR ANALYSIS BOARD MEETING MINUTES

Date of Posting: September 21, 2020
Date and Time of Meeting: September 25, 2020 11:00 AM
Name of Organization: The Board of Applied Behavior Analysis
Place of Meeting: Aging and Disability Services Division
Teleconference:

Please place your phone or your computer microphone on mute unless providing public comment.

In accordance with Governor Sisolak's Declaration of Emergency Directive 006; Subsection 1; The requirement contained in NRS 241.023 (1) (b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate is suspended.

Board members will be attending telephonically and via Teams. Members of the public will also participate via teleconference or Teams.

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Conference ID: 427 063 046#

All times are approximate. The Board reserves the right to take items in a different order, items may be combined for consideration by the Public Body and items may be pulled or removed at any time to accomplish business in the most efficient manner.

AGENDA

1. Roll Call and Verification of Posting

Laryna Lewis verified posting. The following board members were present: Dr. Brigid Fronapfel, Christy Fuller, Dr. Kerri Milyko, Matthew Sosa, and Rachel Gwin. The five members were present. Meeting proceeded with quorum.

2. 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 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.)

Gwen Dwiggins gave a public comment. Dr. Dwiggins stated she is very interested in the discussion and would like to put out her own concerns prior to this. The waiver of certain licensing requirements outlined by the Emergency Directive 011 poses significant harm and concern to the practice of behavior analysis in Nevada. Nevada has established the standard of qualified professionals as a Licensed Psychologist, Behavior Analyst, Assistant Behavior Analyst, and a Registered Behavior Technician certified by the Behavior Analyst Certification Board only. Determining an appropriate similar license, certificate, registration, or credential from another state, she implores the board to ensure that out of state credentials are equal to or exceed the outlined requirements. Providers holding other credentials with lesser requirements places the individuals served at risk and may negatively impact the quality of behavior analytic services delivered and indirectly may have a negative impact on the profession. Dr. Dwiggins also states that they need to be thoughtful of a plan on how initiating these services under these waivers will impact the continuity of care once the Directive ends. Post 60 days to meet the licensing requirements in the state, what happens to families and consumers of services when the said providers are no longer eligible to practice? Under sections 2 and 12, providers whose licenses stand suspended for failure to meet continuing education requirements may also fall under this waiver. This should not be an opportunity for any professional to [unintelligible] the full completion of their CEUs. She encourages the board to acquire those delinquent in their CEUs post 60 days of this Directive expiring, be required to submit both outstanding CEUs to bring them to current with the established CEU requirements to have their licenses reinstated. Lack of maintaining CEUs poses ethical and professional risks to the profession. Lastly, under section 11, waiver and deferral of fees. Waivers to new providers is unfairly biased against licensed providers. Nonpayment or deferral also may have a negative impact on the fiscal standings. Dr. Dwiggins continued to state, again, here is an opportunity for the board to set the expectation of reinstatement and licensing. Post 60 days of this order will require payment in full of all past due or current fees established.

3. Approval of Previous Meeting Minutes **(For Possible Action)**

Dr. Fronapfel moved on to the approval of previous meeting minutes. Christy stated that she did find a typo in agenda item 8 to change Direct to Director.

Christy made a motion to accept the meeting minutes from September 16, 2020 with the change in agenda item 8. Matt seconded the motion. All in favor, motion passed.

4. Discussion and Approval of Out of State Applicants Seeking Waiver of Licensure Requirements in Nevada Under Governor's Declaration of Emergency, Directive 011 **(For Possible Action)**

Dr. Fronapfel requested Jennifer to offer some background for this agenda item. Jennifer explained that an email was received from a Behavior Analyst residing in Arizona who would like to practice in Nevada under the Governor's Directive and wanted to know what was needed to be allowed to practice in Nevada. Jennifer then deferred to Julie Slabaugh for the specifics of the Governor's Directive.

Julie explained this Emergency Directive was issued under NRS Chapter 414. Based on this statute, the Governor issued Executive Directive 011 which waives the licensure requirements for any out of state professionals providing medical services which includes behavioral health professionals which also includes Applied Behavior Analysis. Julie explained the reason why the board needed to come together is because of what is stated in section four of this directive. The board will need to determine what information they will want from these individuals who are looking to practice without a license and what their direction is on how to handle this.

Dr. Milyko explained that not every state has a license for ABA and asked if this would be applicable to someone who does not have a license, such as California. Julie stated section 2 of the directive indicating that a license is required. Dr. Milyko stated her concerns with section 7. Julie stated they would still need to practice within their competency.

Christy explained they have an opportunity to request documentation or information from these people to ensure that they are still protecting consumers of behavior analytic services in this state. Christy continued by stating the discussion can be what the board wants to request from them. Dr. Milyko stated that she had put down a letter of good standing from their licensing body and to verify if they are in good standing with the BACB. Christy suggested to also include the individual to sign an attestation for criminal history. Matt suggested to request the long-term care plan they will be providing to ensure continuity of care. Dr. Milyko agreed with Matt. Dr. Fronapfel shared concerns regarding when the Directive is over. She questioned how they will ensure that they are pursuing a license in Nevada or if they will terminate the services and how will they ensure consistent communication as far as what is going on in terms of service delivery. Dr. Milyko suggested they would need to come up with a plan for when the Directive is over. Christy suggested to list out criteria for the ADSD staff. Dr. Milyko stated that she would want this for board member review. Dr. Milyko nominated Christy to be the board member that reviews and approves these documents. Christy stated that she would be happy to take this on. Christy would also like to add a criminal history disclosure to the attestation and their state license number. Christy stated this is for licenses and asked if this also includes people who would hold an RBT registration through the BACB. She continued to explain that Nevada is unique than in most places since in Nevada, RBTs are registered but not in all states. If they plan on having a team of RBTs, what would they do? Dr. Milyko suggested if it is an all in one approach, to have the BCBA list the team members who would also be out of state. Matt stated in most states, RBTs are not licensed and questioned if they are part of

the Directive. Dr. Milyko stated that is fine but they are registered with the BACB and explained they would not need a letter of good standing with the state, but they need to know who is practicing with the client. Christy asked Julie if they need to worry about RBTs and asked if they are included in this Directive. Julie asked if all RBTs that are practicing in this country registered with the BACB. Dr. Milyko stated yes. Julie explained that a national licensing or certification would qualify. Christy then explained they would need all the same things as what they are requesting from the BCBA in this case. Christy stated they would also want a letter of good standing. Dr. Milyko stated they would want info from the BACB but they would not have a letter of good standing with the state. Dr. Milyko stated that they may want the attestation and disclosure document. She also believes the care plan would be a team care plan. Dr. Fronapfel stated they would also want to know all RBTs the BCBA would be supervising. Dr. Milyko suggested to have guidelines as to what the board members want to see in the care plan.

Dr. Milyko asked Julie what this Directive means regarding fees. Julie cited the Directive which explains that all applying to practice pursuant to this Directive shall have the fees waived. Julie then continued to cite the Directive which explained the currently licensed providers may elect to delay submitting their fees although these fees must be paid in full within 60 days after the Directive ends. If fees are not paid in full within the timeframe, the license will be suspended. Dr. Milyko indicated that she would like to address this in future meetings.

Jennifer Frischmann wanted to clarify what the process will look like once a request is received through the ABA Board email from someone that is out of state. Once the inquiry from out of state is received, ADSD staff will respond by requesting a letter of good standing from the state they are licensed in, the attestation and disclosure form that ADSD will develop, and the continuity of care plan. Once this is all received from that individual, it will be given to Christy for review. Jennifer also wanted to clarify that ADSD will not be giving them a license but rather permission to practice which would be similar to how the provisional licenses are issued. Julie explained the Directive does not say ADSD will give permission to practice, just that they need to provide any requested information. Julie also suggested to put this on the website to indicate what is required from the individual seeking to practice in Nevada. Jennifer also clarified that if individuals are seeking licensure in Nevada, they will need to complete the regular process. If they only want to practice while the Directive is in effect, then they will only need to submit the requested information. Dr. Milyko added that they can only do so if they are licensed in another state. Jennifer asked Julie if they would need to be licensed in another state because for the RBTs she had said the national board is ok and Behavioral Analysts are also certified by the national board. Julie explained if they are that would not be good enough if they are in fact licensed in another state. She is not certain if any state just says the BCBA is good enough. They have to show they have a license that is in good standing if they're licensed in another state. Jennifer asked if the board would want to request any personal information. Christy

suggested to consider having them fill out the application for licensure which would also include the disclosure and attestation. The board members agreed.

Christy agreed to draft an outline for the guidelines of the continuity of care plan. Christy stated they have not discussed a question as to why they would be the best provider to continue services with a particular client as opposed to transitioning them to another provider. Christy asked Rachel for her perspective as a consumer, if there might be something they missed. Rachel explained that she believes they would say they have established a relationship. Dr. Milyko would like to verify that telehealth was an accepted form of service modality for the family. Rachel added to Dr. Milyko's statement that they may want to see if the family had requested to use telehealth.

Dr. Milyko made a motion to collect a letter of good standing including the applicant's license number with the state if applicable, attestation and disclosure document, BACB number, and a care plan for them to practice temporarily in Nevada. Matt seconded the motion. All in favor, motion passed.

5. Public Comment

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Dr. Amy Kenzer gave a public comment. Dr. Kenzer wanted to thank the board for covering this topic today. In terms of the care plan component, she does ask to take into consideration of times the treatment services provided may be a short term or temporary service in nature such as a parent training consultation model for families who are suddenly without services or school supports and need that additional help in the home as opposed to more comprehensive services in which someone is continuing with an existing provider and just needs more options to give that short term focus support.

Megan Walker gave a public comment. Ms. Walker explained that she is the out of state provider which caused this emergency meeting. She stated that a lot of what she heard was regarding the concern for medical necessity and the appropriateness of services. She explained ninety-nine percent of insurance carrier of the families they serve do require an authorization for services. They are required to be credentialed with them which includes a background check, up to date licensing, ability to provide the telehealth services, and in order to be credentialed, they must have malpractice insurance. Ms. Walker asked for a way to alleviate some time of background checks. Just by providing confirmation of that provider being contracted would cover basically everything that they would have to investigate.

Linda Kurianas gave a public comment. She had a question regarding section 11. Linda stated all licensing fees assessed on providers by the State of Nevada shall

be waived for person applying to practice but not for a person who is already currently licensed. She asked if they are favoring out of state versus in-state people that are going for their BCBA's? Please interpret if people in-state can apply for this Directive or if it is only out of state people.

Julie recommended for Linda to read the second sentence in section 11 which applies to in-state.

6. Adjournment

Dr. Fronapfel thanked everyone for their participation and adjourned the meeting at 11:59 pm.

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 Laryna Lewis at (775) 687-0503 as soon as possible and at least one **business** day in advance of the meeting. If you wish, you may e-mail her at larynalewis@adsd.nv.gov. Supporting materials for this meeting are available at 3416 Goni Road, D-132, Carson City, NV 89706, or by contacting Laryna Lewis at 775-687-0503, or by email larynalewis@adsd.nv.gov.

In accordance with Nevada Governor Sisolak's Declaration of Emergency Directive 006 there will not be a physical location for the Nevada Board of Applied Behavior Analysis. The public is strongly encouraged to participate by phone or Teams link and download any material provided for the meeting at the website addresses below.

- As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 3: The requirements contained in NRS 241.020 (4) (a) that public notice agendas be posted at physical locations within the State of Nevada are suspended.
- As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 4: Public bodies must still comply with requirements in NRS 241.020 (4)(b) and NRS 241.020 (4)(c) that public notice agendas be posted to Nevada's notice website and the public body's website, if it maintains one along with providing a copy to any person who has requested one via U.S. mail or electronic mail.
- As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 5: The requirement contained in NRS 241.020 (3)(c) that physical locations be available for the public to receive supporting material for public meetings is suspended.
- As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 6: If a public body holds a meeting and does not provide a physical location where supporting material is available to the public, the public body must provide on its public notice agenda the name and contact information for the person designated by the public body from whom a member of the public may request supporting material electronically and must post supporting material to the public body's website, if it maintains one.

Agenda and supporting materials posted online on the following sites:

<http://adsd.nv.gov/Boards/ABA/ABA/>

<https://notice.nv.gov/>