



October 16, 2020

BY EMAIL (ABABoard@adsd.nv.gov)

Nevada Department of Health and Human Services
Aging and Disability Services Division
3416 Goni Road, Building D-132
Carson City, NV 89706
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Dear Members of the ABA Board:

Proud Moments ABA (“Proud Moments”) is a leading provider of Applied Behavior Analysis (“ABA”) services, proudly furnishing high quality and meaningful care to children with Autism Spectrum Disorders (“ASD”) in Nevada. We write to express our deep concern regarding the impact of the ABA Board’s Registered Behavior Technician (“RBT”) registration requirements during the COVID-19 public health emergency. The agency’s understandable but significant delays in approving pending applications for registration of RBTs is curtailing access to ABA services during this time when children and their families require services more than ever. Governor Sisolak’s Emergency Directive 011 directed professional licensing agencies to exempt licensed *and certified* behavioral health professionals from licensing and certification requirements during the COVID 19 public health emergency. The ABA Board has exempted Board Certified Behavior Analysts (“BCBAs”) and Board Certified Assistant Behavior Analysts (“BCaBAs”) from licensure requirements for the duration of the COVID 19 public health emergency. However, it has not exempted certified Behavior Technicians from the Board’s registration requirements. Consistent with the Governor’s Emergency Directive, we strongly urge the ABA Board to exempt RBTs from its registration requirements during the duration of the COVID-19 public health emergency period.

Proud Moments’ BCBAs, Licensed Behavior Analysts, and certified Behavior Technicians work with children and their families, caregivers, schools, and communities in one-on-one and group settings, to help children with ASD learn positive behaviors through reinforcement and refrain from problem behaviors. During the COVID-19 pandemic, Proud Moments has encountered significantly increased demand for its services and has sought to augment its workforce in response to the increased demand. This has involved hiring, among others, many additional certified Behavior Technicians each month. Behavior Technicians, referred to as RBTs in Nevada, are certified by the national Behavior Analyst Certification Board (“BACB”). Nevada, however, requires RBTs to be registered by the Nevada ABA Board in addition to receiving

BACB certification.¹ Many of the RBTs that Proud Moments seeks to employ are from Nevada and are nationally certified by the BACB but have not yet obtained registration from the Nevada ABA Board. Out-of-state Behavior Technicians also do not commonly possess state licensure, since most states do not require a further level of state registration beyond the national BACB certification. Although Proud Moments has submitted applications and payment to the Nevada ABA Board for registration of the RBTs whom it has hired, and is continuing to do so as it hires new RBTs, the circumstances of the pandemic have caused delays in the agency's processing of the applications. In fact, the ABA Board's website recognizes this delay, as it states that, because of the COVID-19 pandemic, "there may be lulls in registering RBTs with the state [and that] there will likely be delays."² As a result, these delays have meant that Proud Moments has been unable to hire a sufficient number of RBTs in Nevada and thus can neither sustain its clients' needs nor meet the needs of new children and their families seeking services. This has had a significant detrimental impact on children with ASD in Nevada: many are not receiving the ABA services they so desperately need, especially during this stressful period of the pandemic.

Governor Sisolak recognized the impact that licensure and certification requirements have on the delivery of care during the public health emergency. His Emergency Directive 011 thus directed that "[p]rofessional licensing boards regulating providers of medical services shall temporarily waive certain licensing requirements to allow the practice of currently unlicensed skilled medical professionals during the pendency of the COVID-19 crisis . . . [which includes] licensed or *certified behavioral health professionals*."³ While the Governor's Emergency Directive is intended to require agencies to issue broad exemptions for licensed and certified behavioral health professionals, the ABA Board's licensure exemption extends only to *licensed* (and not *certified*) behavioral health professionals – BCBA's and BCaBA's.⁴ Because RBTs are nationally certified behavior health professionals, they fall within the Governor's Emergency Directive as a category of professionals that were intended to be exempted temporarily from the professional licensing board's requirements during the public health emergency.

Governor Sisolak directed licensing agencies to exempt certified behavioral health professionals from the registration requirements to allow for continued delivery of care during the public health emergency. The ABA Board's failure to grant an exemption applicable to RBTs falls short of that directive and already has led to reduced access to care. For this reason, Proud Moments respectfully urges the ABA Board to waive its RBT registration requirements for the period of the public health emergency and allow RBTs certified by the BACB, but not yet registered in Nevada, to provide ABA services to Nevada residents, as explicitly permitted by the Governor's Emergency Directive.

¹ See NRS 437.050.

² *ABA Board Statement on COVID-19*, NEVADA DEP'T HEALTH & HUM. SERVS.: AGING & DISABILITY DIVISION, <http://adsd.nv.gov/Boards/ABA/ABA/>.

³ State of Nevada – Declaration of Emergency Directive 011 (Apr. 1, 2020), available at https://gov.nv.gov/News/Emergency_Orders/2020/2020-04-01_-_COVID-19_Declaration_of_Emergency_Directive_011/ (emphasis added).

⁴ *Exemption to Practice Applied Behavior Analysis (ABA) in the State of Nevada*, NEVADA DEP'T HEALTH & HUM. SERVS., [http://adsd.nv.gov/uploadedFiles/adsdnvgov/content/Boards/ABA/Exemption%20to%20Practice%20Applied%20Behavior%20Analysis%20\(002\).pdf](http://adsd.nv.gov/uploadedFiles/adsdnvgov/content/Boards/ABA/Exemption%20to%20Practice%20Applied%20Behavior%20Analysis%20(002).pdf).

Thank you for your consideration.

Sincerely,

Naomi Davidowitz
Regional Director, Proud Moments ABA

Cc: Ms. Deena Schmidt [Adminstrator]
Mr. Richard Whitley [Director]