



APPLIED BEHAVIOR ANALYSIS BOARD DRAFT MEETING MINTUES

Date of Posting: December 9, 2020
Date and Time of Meeting: December 16, 2020 1:00 PM
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.

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 775-321-6111,,701272664#](tel:+17753216111701272664) United States, Reno

Phone Conference ID: 701 272 664#

In certain situations, the option exists to declare the meeting on that agenda item to be a Closed (Executive) Session per NRS 241.030.

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. Meeting proceeded with a 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.)

Matthew Sosa gave a public comment. As it is coming to the end of the board members term, he wanted to state that it was an absolute pleasure to serve with the fellow board members. Matt also wanted to give a huge thank you to ADSD staff who have been patient, helpful, and extraordinarily competent both in their roles as well as helping them do theirs. He wanted to thank them for helping them come together to make something great.

Patrick Ghezzi gave a public comment. Dr. Ghezzi stated hello and Happy Holidays to the board members and wished them the best of luck. He explained he was part of the previous regulatory board for seven years. Dr. Ghezzi will not be renewing his license this year, which he explained is ordinarily not a big deal. However, he was the first behavior analyst to become licensed within the State of Nevada and will be retiring. Dr. Ghezzi wanted to acknowledge some people who came before the current board: Ken MacAleese who was very involved in creating a regulatory environment, Tim Fuller, Eric Dubuque, and Kimberly Barracks. Dr. Ghezzi ended his public comment by telling the board they are doing a good job and he will see them down the road.

Dr. Fronapfel stated that they usually do not respond to public comments, but out of respect, she believes they should retire the LBA0001 and not reassign the number.

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

Christy Fuller suggested a few corrections. Item 5, Christy would like the discussion of CEU numbers for LaBAs as well as the discussion on ethic numbers recorded in the minutes. Item 11, first and second paragraphs need to have the Secretary Treasurer corrected.

Dr. Fronapfel suggested to correct item 8 in the first paragraph. The third sentence, needs "the" inserted before legislature.

Dr. Milyko moved to approve the meeting minutes from November 16, 2020 with the proposed edits. Matt seconded the motion. All in favor, motion passed.

4. Presentation and Discussion of Legislative Updates by Nevada Association for Behavior Analysis

Wade Brown, the president-elect of the Nevada Association for Behavior Analysis (NABA), presented his legislative update. Please read the full statement in Attachment A.

The board members thanked Wade for his time.

5. Discussion, Update, and Possible Approval of In and Out-Of-State Applicants Seeking Waiver of Licensure/Registration Requirements in Nevada Under Governor's Declaration of Emergency, Directive 011 Including Submission of Fees and Renewal Process for Individuals Currently Licensed/Registered within Nevada **(For Possible Action)**

Dr. Fronapfel asked the Division if there had been any new updates. Laryna confirmed there have been no changes since the last meeting. Currently, there is still one Behavior Analyst practicing without a license under this Directive.

Christy stated last meeting they had discussed how RBTs must notify the Division and provide the required information to practice without state registration and asked Laryna if anyone has taken those steps. Laryna explained they only have one RBT currently that was reported to them. They initially had two RBTs. However, one became registered.

6. Review, Discussion, and Possible Approval of Bylaws, Values, Operating Policies and Mission Statement **(For Possible Action)**

Dr. Fronapfel began this item to discuss bylaws and proposed to integrate the job descriptions that they received from Shane into the job functions and the role descriptions into the bylaws themselves as well as linking back to those documents. Dr. Fronapfel explained to Christy and Rachel that she will need their help in wordsmithing their roles.

Dr. Milyko recommended to take the language under accomplishments from the job descriptions, that way it will be consistent.

Christy explained in addition to Dr. Fronapfel and Dr. Milyko's proposals for Articles 6 and 7, she would like to have an appendix to their bylaws and include their job descriptions for reference. Christy suggested to link their law, regulations, and any documents they have created so people do not have to search for them, reduce the response effort and hopefully not have documents lost along the way.

Dr. Fronapfel agreed with Christy and was happy she brought this topic up. Dr. Fronapfel noted in the bylaws to possibly add another article to indicate and keep track of where board developed documents are stored and wanted the board member's opinions.

Dr. Milyko explained that she has written several bylaws in the past and suggested to have bylaws separate from policies and procedures. Policies and procedures are

going to change and be editable. She continued to explain that the board may want to have the location of these documents in the policies and procedures and to have the bylaws refer to the policy and procedure manual section for the specific document referenced. This would prevent the need to update or change the bylaws.

Dr. Fronapfel moved on to discuss the Operating Policies. Dr. Milyko remembers her initial onboarding was very confusing and believes the onboarding board members should be given the Administrative Rulemaking document. Jennifer explained this can be found online. Dr. Milyko then asked to come up with an onboarding page that contains links to assist the new board member(s). She was able to pull together the suggestions in the job descriptions. One suggestion was to have the Board of ABA Communication Guidelines regarding communication amongst board members, communication towards constituents, and communication with board and staff. Dr. Milyko would also like to include guidelines for the agenda process, Licensing and Registration Report guidelines, outlining responsibilities between both entities, Guidelines for Delivering Performance Feedback, ABA Board / Division Letter Guidelines, Meeting Minutes Guidelines, Guidelines for Holding a Board Meeting, and Guidelines for a Financial Report.

Dr. Fronapfel asked the rest of the board members if they had any thoughts or feedback for Operating Policies. Christy stated the outline was very thorough and thanked Dr. Milyko. Dr. Fronapfel moved the discussion to values and mission statement.

Rachel stated the values the members had previously discussed as follows: transparency, integrity, adhering to best practices, collaborative, ethical, and protection. Dr. Milyko recommended to not have more than seven, in order to easily remember them. The board members agreed to keep the previously discussed values.

Dr. Milyko made a motion to approve the following values of the ABA board: transparency, integrity, ethical, adhering to best practices, collaborative and protection. Matt seconded the motion. All in favor, motion passed.

Dr. Milyko asked where the values would go in the bylaws. Matt recommended to place the values at the top.

Christy suggested to add a table of contents at the beginning of the bylaws for quick referencing. Dr. Milyko agreed with Christy. Dr. Milyko volunteered to create the table of contents since she will be updating the bylaws.

Dr. Fronapfel asked the board members if they would like to review the mission statement. The board members agreed and began to wordsmith the statement.

Dr. Milyko moved to use the "sandwich" language on the mission statement. Matt seconded the motion. All in favor, motion passed.

Christy asked if they would also want to make a motion to include protection. Dr. Milyko suggested once she makes the edits to the bylaws, they can move to accept the edits for the next meeting.

7. Discussion and Possible Approval of a Process to Address Complaints Brought Forward to the Board (For Possible Action)

Julie gave an update for this item. She had a discussion with the Chief of Open Boards and Commissions and discussed with Dr. Fronapfel and Jennifer Frischmann. Julie believes the suggestion was exactly what they had previously discussed in a previous meeting. When a complaint comes in, it needs to be a member of the board, with the board's approval, who works with the Division as the subject matter expert. NRS Chapter 437.130 makes it very clear that the authority is the board for enforcement, and it is the board who would suspend or revoke a license or registration. Julie continued to state that the board would need to take that action as the "judge and jury". What other boards do is they assign the complaint a number, they bring it to the board to approve an investigation, if approved, the board would assign one of their members to work with the Division. If it moves forward with disciplinary action, they could have no prior knowledge of what that complaint was. Julie hopes NABA can help clean up some of the language as well. Dr. Milyko clarify the process with Julie. Julie clarified that the appointed board member would not serve as the judge and jury but would be a witness before the board. Dr. Milyko asked Julie if they are allowed to hear the factual information and details to participate in the investigation process with the Division. Julie affirmed this was correct. Dr. Milyko then clarified that a board member would not be able to participate in the decision-making process. Julie also confirmed this was true. Julie stated as the Attorney General, she would be prosecuting the disciplinary proceeding. The licensee would also have an attorney or representation put on their defense. The four members of the board would ultimately make the decision.

Christy asked how the subject matter expert would be assigned, as all the board members have different areas of expertise, when they are not allowed to anything ahead of time to be able to make the decision. Julie explained they will need to look at this a little more of a higher level. They will be looking for malpractice and if they comported with ethical standards. Julie continued to explain that it will not be possible to go through every factual detail to make sure it is someone who actually has that expertise, compared to the Division who does not have a Behavior Analyst nor the knowledge of the practice.

Matt stated that he understands there is one member who would serve as part of the investigation team and as witness to the prosecution and four members who sit as the judge and jury. Matt asked what would happen in the case where it winds up being heard and the vote splits 2/2. Julie stated she believes this would then become an acquittal.

Dr. Milyko asked if the board is allowed to hire professionals during an investigation. Julie explained if that level was needed, it would need to come back to the board for approval to expend the funds. Jennifer affirmed.

Christy suggested to appoint a board member quarterly. Dr. Fronapfel asked if the board members had anymore questions for Julie regarding the complain process. No further questions were proposed.

8. Discussion and Possible Approval of Investigations 2020-06-01 and 2020-06-02 (For Possible Action)

Jennifer explained that the Division received a complaint on two behavior analysts. Julie continued by stating the Division does not believe it is frivolous and warrants an investigation. The board now must decide if they agree to proceed with an investigation or if they believe it is frivolous and should be dismissed. If the board decided to proceed with an investigation, the board will need to appoint a board member to participate in the investigation with the Division.

Christy clarified that each complaint received will be brought to the board and if proceeding in an investigation, they must vote on who the subject matter expert will be. Dr. Milyko also clarified if this must be brought to a public meeting. Julie and Dr. Fronapfel affirmed. Christy asked if they are not assigning a member in general all the time and to have it default to someone. Julie explained it is what the board decides and recommended to wait on deciding this since they are losing two board members. Dr. Milyko stated that if it happens frequently, the assigned board member could be knee deep in investigating complaints. Julie also stated there could be a conflict. Dr. Milyko mentioned the appointed member also may not know if they are entering a conflict of interest until they review the complaint. Julie explained that some conflicts might be obvious to the Division. The first thing the Division can do is give the names to the board member to assist in identifying if a potential conflict exists. If so, the complaint would need to come back to the board. Christy confirmed that if the appointed member learns the complaint is a conflict of interest, they would need to be excluded from the entire process regarding that complaint. Dr. Milyko asked what would happen if the entire board had a conflict. Julie recommended to cross that bridge when they get there.

Dr. Milyko moved to appoint Dr. Brigid Fronapfel as the subject matter expert for 2020-06-01 and 2020-06-02. Rachel seconded the motion. All in favor, motion passed.

9. Discussion and Possible Approval of a Board of Applied Behavior Analysis Letterhead (For Possible Action)

Dr. Fronapfel thanked Rachel for her work on the letterheads. She stated there are 5 letterhead options and confirmed the members received this via email and asked if anyone had preferences. Dr. Milyko asked if Jennifer or Laryna send out more letters electronically or via mail. Jennifer stated they will probably print them out

more. Jennifer also requested to maintain the same letterhead throughout renewals to avoid confusion.

The board members deliberated their letterhead preferences.

Jennifer asked the board members what they would want their signature to be. Dr. Milyko recommended for it to state Aging and Disability Services Division on behalf of the Board. Matt recommended to have it state, “respectfully.”

Laryna clarified this letterhead will be used for all ABA correspondences.

Dr. Milyko moved to use option number 4 with the logo inserted into the middle with respectfully, Aging and Disability Services Division as the closing for the signature. Christy seconded the motion. All in favor, motion passed.

10. Discussion of Current Status of Applications and other ADSD Activities Pertaining to Applied Behavior Analysis Including the Online Certemy Application

Laryna Lewis gave the application status update beginning with currently licensed and registered. The total numbers completed are as follows: 1,496 RBTs, 37 LaBAs, and 314 LBAs. The pending numbers are as follows: 121 RBTs, 1 LaBA, and 35 LBAs. In November, there were 55 RBTs and 4 LBAs completed. So far in December, 48 RBTs, 1 LaBA and 11 LBAs have been processed. Laryna stated there are 483 RBTs, 8 LaBAs, and 131 LBAs who have completed their renewals which does include individuals that recently received their credential. There were also 12 individuals so far that have deferred their renewal payment.

Jennifer explained that she and Laryna had completed a large portion of the renewed RBTs last week and completed all paper renewal applications through December 9th. Jennifer thanked the Board and NABA for volunteering. Unfortunately, any of the NABA members and others who wanted to volunteer would have needed to go through a background check. The Board is exempt from the background check and the Division will let them know how it goes. Jennifer stated that Laryna is very resourceful and brought home the rolls of renewal stickers and envelopes and had her daughter cut up the stickers and stamp the envelopes.

Jennifer began to discuss the Certemy update. She stated they went live last Monday. It was understood that there are some issues with the CEUs requiring 34 [for LBA renewals] which has been updated. If the online renewal was previously accepted, the update will not show until the next renewal season. Jennifer also included the LaBAs and understands they are a little different as well. The logo has been updated. Jennifer explained with a new system there is going to be some kinks. Some individuals have tried to renew up through 2028 because it had not been processed. They are working with Certemy so that they can only do one. They are finding these types of things as they come up and some things they could not have avoided. In addition, they are seeing people upload documents rather than

completing the boxes. They kindly request to fill everything out. The Division has also seen individuals who completed their renewal using the paper version and in Certemy. If they have already submitted a paper renewal application, it will be migrated into Certemy. Beginning Friday, they will be sending over weekly batches to Certemy to have them migrate the updated information into the software. The individuals renewing have been given an account. If they create a new account, they will be starting as a new applicant. Jennifer and Laryna are going through and deleting those accounts.

Jennifer turned over the Certemy update to Laryna. Christy notified the public to log in to Certemy to update their passwords since all new accounts currently have the same password. Laryna stated that is correct and if they are having issues with logging on, they can contact support@certemy.com and Certemy will assist them with that issue. Laryna explained there is always a learning curve and things they may need to change, fix, or tweak. Certemy is customizable and easy to change things. There were CEU issues regarding a limit of how many could be logged. This issue is as easy as checking a box to allow as many CEUs as they want. Laryna then reached out to the board for their feedback. She explained they created several workflows to assist in the special things they do such as provisional licenses. She had mirrored these workflows, to the best of her ability, to the current process of applications. Jennifer stated if they members do not have any thoughts right now, they can send an email. For the public, if they have questions, or notice something as they go through, please reach out to the ababoard@adsd.nv.gov. They try to get responses to emails quickly. However, the Division has been busy with stuffing envelopes to mail out the renewal seal stickers and on some days, are not available to respond and ask for their patience. Laryna continued the update explaining everyone needed a unique email address to access their Certemy account. There are 52 people who were assigned a temporary email. They can contact the ABA Board email as well as support@certemy.com. Once they log in to the account, they will be able to change their email address on their end. Jennifer also explained that it is common for agencies to pay for their employees and stated these agencies can submit just one bulk check but be sure to include the names of who and what the check is for.

Christy explained they can have a separate sheet referencing the names to cross check. Christy also noticed a comment in the chat asking if it is possible to make a corporate account. This is not something they are doing and explained that it is important to note the registration is the RBTs' and not the company's so that registration or license would go with that person just like with the BACB. Jennifer told Christy that she brought up a good point. If the RBT leaves the company, the company should give the original certificate to that individual as it costs \$25.00 to receive a new duplicate certificate.

Matt suggested to the CEU button language that currently states to submit hours and recommended to change it to say begin submission, or something along those lines, to avoid the confusion. Jennifer stated they would reach out to Certemy to

have this updated. Laryna asked to let her know exactly what they want it to say and she will relay that to Certemy.

Dr. Milyko shared her concerns when she goes to log in to her account. She noted that she sees the logo was updated at the top but not within renewal workflow. Laryna explained that this could be because she started the renewal, and the update should show next time. Dr. Milyko shared what the continuing education step looks like and stated the view is meaningless and asked Laryna if there is an option to change the view. Christy suggested for one of the members to have a meeting with Laryna to show her what it is they are looking for. Jennifer explained that she understands Christy could not make it to their meeting with Certemy last Friday, but they can set up another meeting that works for her schedule if the board is OK with it. Laryna asked for the board show an example to demonstrate to Certemy what they are looking for so they can see if that is within their ability to make those changes. She explained that she is not sure what their limitations are. Dr. Milyko asked if checks are made out to ADSD and not the board. Laryna explained the checks must be made out to ADSD, otherwise it cannot be deposited into the account. Jennifer confirmed and explained that it has been that way since January 1, 2019. Christy advised the individuals when sending their check payment to include their license/registration number and their name to avoid processing delays. Jennifer stated this is something that can be updated so that there can be a reminder. Laryna explained as a she would not recommend to new licensing boards to stand up a new software during renewals as it was very challenging. Laryna asked Christy if she could send over her availability to set up the meeting with Certemy to discuss CEUs.

11. Review of Financial Status with Discussion and Possible Approval of Spending Board Funds for Conference/Training or other Potential Expenditures **(For Possible Action)**

Christy gave the financial status update. They currently have \$171,400. Their revenue is currently \$109,459, total expenses are \$29,023, making the net operating amount \$80,436. Dr. Milyko asked if the \$394,567 is the projected total by the end of the biennium. Jennifer explained that is the projected number for June 30, 2021, not the end of the biennium.

Christy will update the numbers from renewals in the spreadsheet Dr. Milyko helped create. Christy assumes until they have new board members, they may need to continue their current roles. Christy would like to look into attrition rate, so they know what to expect with projections. Dr. Milyko would like to see a more detailed list to see the story. Jennifer will provide Christy the DAWN report which is the state accounting system to see all the expenses that have come out of the budget account 3207 and it will tell you exactly what it was for. Jennifer also wanted to clarify that the funds for the 3207 budget account cannot be used for anything else and stays within its budget strictly for the board.

Dr. Fronapfel asked Christy for a FARB update. Dr. Milyko sent Laryna the FARB email update which was distributed to the board members. Christy's concern for the conferences dates is that it is a live conference and they do not have times or time zones. Jennifer also reminded Dr. Fronapfel the Legislative Budget Subcommittee Hearing starts early January and Jennifer has one scheduled on January 27th. Dr. Fronapfel asked Christy if she can look into it more to see what time it starts, in what time zone and if it will be taped or recorded so they can decide how many will go.

12. Determine Future Agenda Items (For Possible Action)

Jennifer announced the next board meeting will be on January 13, 2020 at 10 AM. Dr. Fronapfel stated they will keep all their standing agenda items as well as bringing back the bylaws. Jennifer stated if they have new board members by then she will be sure to include it on the agenda. Christy asked if they should have an agenda item to assist in finding new board members. Dr. Fronapfel asked Jennifer if the governor's office is just running behind. Jennifer will reach out and add it as an agenda item.

Christy moved to include the standing agenda items, review and possible revision of the bylaws, and a discussion of the status of new board members. Rachel seconded the motion. All in favor, motion passed.

13. 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.)

Christy Fuller gave a public comment. Ms. Fuller thanked Dr. Kerri Milyko and Matthew Sosa for their participation and contributions these last couple of years. To throw your name in a hat and be nominated by the governor and not knowing what you were getting in to. Christy stated that it has been a pleasure working with them both and it is not goodbye, it is see you later.

Dr. Kerri Milyko gave a public comment. To view the full public comment from Dr. Milyko, please see Attachment B.

14. Adjournment

Dr. Fronapfel adjourned the meeting.

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/>