

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN; the Nevada Board of Applied Behavior Analysis will hold a public hearing to consider amendments to Nevada Administrative Code (NAC) Chapter 437 related to the practice of Applied Behavior Analysis in Nevada in LCB File No. R045-19. This public hearing is to be held in conjunction with the Board of Applied Behavior Analysis meeting on March 31, 2020. The NAC 437 regulation changes will be heard in the order placed on the Board of Applied Behavior Analysis agenda.

The hearing will be conducted via videoconference beginning at 9:00 a.m. March 31, 2020, at the following locations:

Legislative Counsel Bureau 401 South Carson Street, Room 2135 Carson City, NV 89701	Legislative Counsel Bureau Grant Sawyer Building 555 East Washington Avenue, Room 4412E Las Vegas, NV 90101
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Teleconference 1-877-848-7030, Access Code 8561006

The hearing will be conducted in accordance with NRS 241.020, Nevada's Open Meeting Law.

The proposed changes will create Chapter 437 of the Nevada Administrative Code related to practice of Applied Behavior Analysis in LCB File No. R045-19.

The proposed regulations will provide for:

Section 2 of this regulation requires each applicant for licensure as a behavior analyst or assistant behavior analyst to pass an examination administered by the Division concerning laws and regulations governing the practice of applied behavior analysis. Section 2 prescribes the content and procedure for that examination and requires the Division to post a description of that content on the Internet.

Section 3 of this regulation prescribes additional requirements for such licensure or registration. Section 3 also authorizes the Division to issue a provisional license to an applicant for a license as a behavior analyst or assistant behavior analyst who meets the requirements for licensure other than passage of the examination. Section 3 also requires the Division to issue to each licensee or registrant a wallet-sized card indicating that the person is licensed or registered, as applicable.

Section 4 of this regulation requires the Division to notify a licensee or registrant before the expiration of his or her license or registration. Section 4 also: (1) requires a licensee as a behavior analyst or assistant behavior analyst to include in an application for renewal a signed form certifying that he or she has completed the required continuing education; and (2) provides that a licensee who misrepresents the completion of continuing education is subject to disciplinary action.

Section 5 of this regulation authorizes a behavior analyst or assistant behavior analyst to have his or her license placed on inactive status for up to 3 years.

Section 6 of this regulation adopts by reference the standards for continuing education of a Board Certified Behavior Analyst or Board Certified Assistant Behavior Analyst prescribed by the Behavior Analyst Certification Board, Inc., and section 8 of this regulation requires a behavior analyst or assistant behavior analyst to comply with the applicable requirements for continuing education

prescribed by that organization. Section 6 of this regulation also adopts by regulation the standards prescribed by the Behavior Analyst Certification Board, Inc., for such supervision.

Section 7 of this regulation requires supervision of an assistant behavior analyst or registered behavior analyst to comply with the applicable standards prescribed by the Behavior Analyst Certification Board, Inc. Section 7 also requires a person who provides such supervision to: (1) maintain documentation of the supervision for at least 7 years; and (2) provide that documentation to the Board or Division upon the request of the Board.

1. Anticipated effects on the business which NAC 437 regulates:

- A. *Adverse effects:* By requiring Registered Behavior Technicians (RBT) to be registered with the State of Nevada, this creates an additional fee for providers and a potential delay to begin providing direct service to individuals.
- B. *Beneficial:* By requiring Registered Behavior Technicians (RBT) to be registered with the State of Nevada, they may be paid more and have more work and the registration and licensure processes may provide added protections to businesses. In addition, aligning supervision and continuing education requirements with the Behavior Analysis Certification Board (BACB) increases the quality and integrity of services delivered to consumers protecting the field of behavior analysis and services delivered in applied settings.
- C. *Immediate:* Upon passage of the proposed regulations, providers may experience an increase in business costs due to the state registration of the RBT's. However, by requiring Registered Behavior Technicians (RBT) to be registered with the State of Nevada, they may be paid more and have more work and the registration and licensure processes may provide added protections to businesses. In addition, aligning supervision and continuing education requirements with the Behavior Analysis Certification Board (BACB) increases the quality and integrity of services delivered to consumers protecting the field of behavior analysis and services delivered in applied settings.
- D. *Long-term:* By requiring Registered Behavior Technicians (RBT) to be registered with the State of Nevada, they may be paid more and have more work and the registration and licensure processes may provide added protections to businesses. In addition, aligning supervision and continuing education requirements with the Behavior Analysis Certification Board (BACB) increases the quality and integrity of services delivered to consumers protecting the field of behavior analysis and services delivered in applied settings.

2. Anticipated effects on the public:

- A. *Adverse:* No adverse effects on the public are anticipated.
- B. *Beneficial:* By requiring Registered Behavior Technicians (RBT) to be registered with the State of Nevada, they may be paid more and have more work and the registration and licensure processes may provide added protections to businesses. In addition, aligning

supervision and continuing education requirements with the Behavior Analysis Certification Board (BACB) increases the quality and integrity of services delivered to consumers protecting the field of behavior analysis and services delivered in applied settings.

- C. *Immediate*: Upon passage of the proposed regulations provide the benefits as noted in the beneficial section.
- D. *Long-term*: Upon passage of the proposed regulations provide the benefits as noted in the beneficial and immediate sections.

3. The currently effective regulations already assess a fee to register RBT's. The fees have been calculated to cover the cost of the necessary oversight.

The proposed regulations do not overlap or duplicate any other Nevada state regulations.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence may submit the material to Laryna Lewis at:

Aging and Disability Services Division
3416 Goni Road
Suite D-132
Carson City, NV 89706
FAX (775) 687-0574

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)687-5956 as soon as possible and at least one business day in advance of the meeting. If you wish, you may e-mail her at 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)687-5956, or by e-mail: Larynalewis@adsd.nv.gov

A copy of the regulations and small business impact statement information can also be found on-line by going to: Nevada Aging and Disability Services Division:

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

A copy of the public hearing notice can also be found at Nevada Legislature's web page:

<https://www.leg.state.nv.us/App/Notice/A/>

A copy of this notice has been 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 Ave., 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 Blvd., 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, NV 89706

Notice of this meeting is also posted on the Internet: <https://ADSD.NV.gov>, and <https://notice.nv.gov> and has been sent to the Legislative Counsel Bureau.

Copies may be obtained in person, by mail, or by calling (775) 684-5956.

Per NRS 233B.064(2), upon adoption of any regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

**PROPOSED REGULATION OF THE
BOARD OF APPLIED BEHAVIOR ANALYSIS**

LCB File No. R045-19

December 30, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §1, NRS 437.110; §§2 and 5, NRS 437.110 and 437.130; §3, NRS 437.110, 437.130 and 437.205; §4, NRS 437.110, 437.130, 437.205, 437.225 and 437.405; §6, NRS 437.110, 437.130, 437.225 and 437.505; §7, NRS 437.110 and 437.505; §8, NRS 437.110, 437.130 and 437.225; §9, NRS 437.110 and 437.405; §10, NRS 437.110, 437.130, 437.140, 437.200, 437.215, 437.220, 437.225 and 437.490.

A REGULATION relating to applied behavior analysis; prescribing certain requirements for the issuance or renewal of a license as a behavior analyst or assistant behavior analyst or registration as a registered behavior technician; providing for the issuance of a provisional license to certain applicants for licensure; prescribing certain requirements concerning disciplinary action against a behavior analyst, assistant behavior analyst or registered behavior technician; authorizing the placement of a license as a behavior analyst or assistant behavior analyst on inactive status; prescribing requirements governing the supervision of an assistant behavior analyst or registered behavior technician; prescribing certain fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Board of Applied Behavior Analysis to adopt regulations governing the licensure of applied behavior analysts and assistant behavior analysts, the registration of registered behavior technicians and the practice of applied behavior analysis. (NRS 437.110) Existing law also authorizes the Board to: (1) examine and pass upon the qualifications of applicants for licensure and registration; (2) license and register qualified applicants; (3) revoke or suspend licenses and registrations; and (4) delegate any of those tasks to the Aging and Disability Services Division of the Department of Health and Human Services. (NRS 437.130) **Section 2** of this regulation requires each applicant for licensure as a behavior analyst or assistant behavior analyst to pass an examination administered by the Division concerning laws and regulations governing the practice of applied behavior analysis. **Section 2**

prescribes the content and procedure for that examination and requires the Division to post a description of that content on the Internet.

Existing law prescribes certain requirements for the licensure of a behavior analyst or assistant behavior analyst and registration as a registered behavior technician. (NRS 437.200-437.210) **Section 3** of this regulation prescribes additional requirements for such licensure or registration. **Section 3** also authorizes the Division to issue a provisional license to an applicant for a license as a behavior analyst or assistant behavior analyst who meets the requirements for licensure other than passage of the examination. **Section 3** also requires the Division to issue to each licensee or registrant a wallet-sized card indicating that the person is licensed or registered, as applicable.

Existing law requires an applicant for licensure as a behavior analyst or assistant behavior analyst or registration as a registered behavior technician to be certified as a Board Certified Behavior Analyst, Board Certified Assistant Behavior Analyst or Registered Behavior Technician, as applicable, by the Behavior Analyst Certification Board, Inc. Existing law requires a license as a behavior analyst or assistant behavior analyst or registration as a registered behavior technician to be renewed biennially. (NRS 437.205, 437.225) **Section 4** of this regulation requires the Division to notify a licensee or registrant before the expiration of his or her license or registration. **Section 4** also: (1) requires a licensee as a behavior analyst or assistant behavior analyst to include in an application for renewal a signed form certifying that he or she has completed the required continuing education; and (2) provides that a licensee who misrepresents the completion of continuing education is subject to disciplinary action. **Section 6** of this regulation adopts by reference the standards for continuing education of a Board Certified Behavior Analyst or Board Certified Assistant Behavior Analyst prescribed by the Behavior Analyst Certification Board, Inc., and **section 8** of this regulation requires a behavior analyst or assistant behavior analyst to comply with the applicable requirements for continuing education prescribed by that organization. **Section 5** of this regulation authorizes a behavior analyst or assistant behavior analyst to have his or her license placed on inactive status for up to 3 years.

Existing law requires: (1) a licensed assistant behavior analyst to provide behavioral therapy only under the supervision of a psychologist or behavior analyst; and (2) a registered behavior technician to provide behavioral therapy only under the supervision of a psychologist, behavior analyst or assistant behavior analyst. (NRS 437.505) **Section 6** of this regulation adopts by regulation the standards prescribed by the Behavior Analyst Certification Board, Inc., for such supervision. **Section 7** of this regulation requires supervision of an assistant behavior analyst or registered behavior analyst to comply with the applicable standards prescribed by the Behavior Analyst Certification Board, Inc. **Section 7** also requires a person who provides such supervision to: (1) maintain documentation of the supervision for at least 7 years; and (2) provide that documentation to the Board or Division upon the request of the Board.

Existing law: (1) prescribes certain grounds for discipline against a behavior analyst, assistant behavior analyst or registered behavior technician; and (2) requires the Board to adopt

regulations that establish additional grounds for disciplinary action. (NRS 437.400, 437.405) **Section 9** of this regulation provides for disciplinary action against a behavior analyst, assistant behavior analyst or registered behavior technician who is convicted of certain crimes, employs a person who has been convicted of those crimes or, if he or she practices applied behavior analysis for a facility, hospital, agency, program or home that provides residential services to children, has a substantiated report of child abuse or neglect filed against him or her. **Section 9** also provides for the automatic suspension of the license or registration of a behavior analyst, assistant behavior analyst or registered behavior technician who is charged with a listed crime. **Section 9** requires the Division to hold a hearing concerning such a suspension within 14 days. **Section 9** additionally requires the notification of the Division concerning the filing of such charges. Finally, **section 9** authorizes the imposition of disciplinary action against a behavior analyst, assistant behavior analyst or registered behavior technician if the Board finds by a preponderance of the evidence that grounds for disciplinary action exist.

Existing law requires the Board to prescribe fees for the issuance, renewal or reinstatement of a license or registration and other services of the Division. (NRS 437.140) **Section 10** of this regulation prescribes those fees.

Section 1. Chapter 437 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. 1. *Each applicant for a license as a behavior analyst or assistant behavior analyst must pass an examination administered by the Division which tests the applicant's knowledge of the laws and regulations governing the practice of applied behavior analysis in this State.*

2. The Division shall post on its Internet website a description of the content of the examination.

3. To take the examination, the applicant must pay the fee prescribed by section 10 of this regulation. The fee must be paid each time the applicant takes the examination.

4. An applicant shall not:

(a) Remove any notes taken during the examination from the site of the examination;

(b) Record the examination by electronic or other means; or

(c) Otherwise copy, disclose or disseminate any content of the examination.

5. Except as otherwise provided in subsection 6, an applicant who does not achieve a passing score may retake the examination.

6. Before an applicant may retake the examination two or more times, the applicant must obtain the approval of the Board by submitting to the Board a written request to retake the examination. Such a request must include, without limitation, a written plan of specific measures the applicant will take to prepare for the examination. The Board will approve such a request upon determining that the applicant is likely to receive a passing score on the examination if he or she follows the plan.

Sec. 3. 1. *The Division shall issue a license as a behavior analyst or assistant behavior analyst or registration as a registered behavior technician to an applicant who:*

(a) Complies with the requirements of subsection 2 and NRS 437.200, 437.205 and 437.210;

(b) Has not been convicted of a crime listed in NRS 437.400 or section 9 of this regulation;

(c) Has not had any disciplinary action taken against him or her by and does not have outstanding complaints or charges pending against him or her before:

(1) A licensing, certifying or registering authority of another jurisdiction; or

(2) The Behavior Analyst Certification Board, Inc., or any successor in interest to that organization;

(d) Has not previously been denied licensure or registration, as applicable, in this State, except if the denial was based only on administrative reasons; and

(e) Submits to the Division three letters of professional reference that attest, without reservation, to the applicant's professional competence, moral character and current fitness to practice as a behavior analyst, assistant behavior analyst or registered behavior technician, as applicable.

2. In addition to the requirements set forth in subsection 1 and passing the examination required by section 2 of this regulation, an applicant for a license as an assistant behavior analyst must submit to the Division evidence to be forwarded to the Board demonstrating that the applicant will be supervised by a psychologist or behavior analyst who is qualified as a supervisor by the Behavior Analyst Certification Board, Inc., or the successor in interest to that organization, in accordance with the current requirements prescribed by that organization for the supervision of Board Certified Assistant Behavior Analysts. Upon request, the applicant must submit such additional evidence as the Board requests.

3. In addition to the requirements set forth in subsection 1, an applicant for registration as a registered behavior technician must submit to the Division evidence to be forwarded to the Board demonstrating that the applicant will be supervised by a psychologist, behavior analyst or assistant behavior analyst who is qualified as a supervisor by the Behavior Analyst Certification Board, Inc., or the successor in interest to that organization, in accordance with the current requirements prescribed by that organization for the supervision of Registered Behavior Technicians. Upon request, the applicant must submit such additional evidence as the Board requests.

4. The Division may require any applicant for a license or registration to appear before the Board to demonstrate his or her:

- (a) Moral character;*
- (b) Current fitness to practice as a behavior analyst, assistant behavior analyst or registered behavior technician, as applicable; or*
- (c) Intent to practice as a behavior analyst, assistant behavior analyst or registered behavior technician, as applicable, in a manner consistent with his or her education, training and experience.*

5. The Division may issue a provisional license to an applicant for a license as a behavior analyst or assistant behavior analyst who meets the requirements for licensure other than achieving a passing score on the examination as required by section 2 of this regulation. A provisional license is valid for the period determined by the Division, which must not exceed 1 year, and may not be renewed.

6. The Division shall, in addition to issuing a license or registration to an applicant who meets the requirements of this section, issue to the applicant a card that is sized to fit in a wallet that indicates that the person is licensed or registered, as applicable.

Sec. 4. 1. *Before the expiration of a license or registration, the Division shall notify the licensee or registrant of the need to renew the license or registration.*

2. Each notification provided to a licensee as a behavior analyst or assistant behavior analyst must include, without limitation, a form to certify completion of the continuing education required by section 8 of this regulation, which must be signed and included with the application for renewal. The Division may require the licensee to provide evidence of completion of the continuing education described on the form.

3. A licensee who misrepresents information concerning the completion of continuing education is subject to disciplinary action, which may include, without limitation, suspension, revocation or nonrenewal of the license. A licensee whose license has been suspended or is not renewed must complete the continuing education required by section 8 of this regulation before the Board will consider reinstating his or her license.

4. If a licensee does not satisfy the continuing education requirements, his or her license will not be renewed and he or she will be subject to disciplinary action. The Board may grant a licensee an extension for 60 days if the licensee submits a written request to the Board, on or before December 1 immediately preceding the expiration of his or her license, which provides a compelling explanation for not completing the continuing education.

Sec. 5. 1. *A behavior analyst or assistant behavior analyst may have his or her license placed on inactive status for not more than 3 years by submitting a written request to the Division and paying the fee required by section 10 of this regulation.*

2. A person whose license is placed on inactive status shall not engage in the practice of applied behavior analysis while the license is inactive.

3. To renew a license that has been placed on inactive status and keep the license on inactive status, a person must submit to the Division:

(a) An application to renew the license; and

(b) The fee required by section 10 of this regulation for the biennial renewal of a license on inactive status.

4. A person whose license is placed on inactive status may apply to the Division to restore the license to active status. The Board may restore the license to active status upon the

completion of an investigation of the criminal history of the applicant in the manner prescribed in paragraph (b) of subsection 1 of NRS 437.200 which demonstrates that the applicant has not been convicted of a crime listed in NRS 437.400 or section 9 of this regulation and receipt of:

(a) The application;

(b) The fee required by section 10 of this regulation for the restoration to active status of a license on inactive status;

(c) Proof that the applicant is currently certified by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, as a Board Certified Behavior Analyst or Board Certified Assistant Behavior Analyst, as applicable;

(d) If the applicant has engaged in the practice of applied behavior analysis in another jurisdiction while his or her license was on inactive status, proof that the applicant is in good standing with no disciplinary proceedings pending against him or her in that jurisdiction or before the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization;

(e) An investigation of the criminal history of the applicant in the manner prescribed in paragraph (b) of subsection 1 of NRS 437.200; and

(f) Any other proof the Board may require to determine whether the applicant is qualified and competent to engage in the practice of applied behavior analysis.

Sec. 6. 1. *The following publications are hereby adopted by reference as they existed on December 1, 2019, and any subsequent versions issued by the Behavior Analyst Certification*

Board, Inc., or any successor in interest to that organization, which have been approved by the Board for use in this State:

(a) The continuing education requirements prescribed by the Behavior Analyst Certification Board, Inc., for a Board Certified Behavior Analyst available at no cost from the Behavior Analyst Certification Board, Inc., on the Internet at <https://www.bacb.com/bcba/>, or, if that Internet website ceases to exist, from the Division.

(b) The continuing education requirements prescribed by the Behavior Analyst Certification Board, Inc., for a Board Certified Assistant Behavior Analyst available at no cost from the Behavior Analyst Certification Board, Inc., on the Internet at <https://www.bacb.com/bcaba/>, or, if that Internet website ceases to exist, from the Division.

(c) “Standards for Supervision of BCaBAs,” available at no cost from the Behavior Analyst Certification Board, Inc., on the Internet at https://www.bacb.com/wp-content/uploads/Standards-for-Supervision-of-BCaBAs_180924.pdf or, if that Internet website ceases to exist, from the Division.

(d) “RBT Supervision and Supervisor Requirements,” available at no cost from the Behavior Analyst Certification Board, Inc., on the Internet at https://www.bacb.com/wp-content/uploads/RBT-Supervision-and-Supervisor-Requirements_190529.pdf or, if that Internet website ceases to exist, from the Division.

2. Each new version of the publications described in subsection 1 shall be deemed approved by the Board unless the version is disapproved by the Board within 60 days after the date of publication by the Behavior Analyst Certification Board, Inc., or any successor in

interest to that organization. The Board will review each version issued after the version in existence on December 1, 2019, to ensure its suitability for this State.

Sec. 7. 1. Supervision of:

(a) An assistant behavior analyst pursuant to NRS 437.505 must comply with the publication adopted by reference in paragraph (c) of subsection 1 of section 6 of this regulation.

(b) A registered behavior technician pursuant to NRS 437.505 must comply with the publication adopted by reference in paragraph (d) of subsection 1 of section 6 of this regulation.

2. A person who supervises an assistant behavior analyst or a registered behavior technician pursuant to NRS 437.505 shall:

(a) Maintain documentation of such supervision for at least 7 years after the date on which the supervision occurred; and

(b) Provide that documentation to the Board or the Division upon the request of the Board.

Sec. 8. 1. A behavior analyst must complete, before each renewal of his or her license:

(a) The continuing education prescribed by the publication adopted by reference in paragraph (a) of subsection 1 of section 6 of this regulation; and

(b) At least 2 hours of instruction on evidence-based suicide prevention and awareness, which may be completed as part of the continuing education described in paragraph (a) if practicable.

2. An assistant behavior analyst must complete, before each renewal of his or her license:

(a) The continuing education prescribed by the publication adopted by reference in paragraph (b) of subsection 1 of section 6 of this regulation; and

(b) At least 2 hours of instruction on evidence-based suicide prevention and awareness, which may be completed as part of the continuing education described in paragraph (a) if practicable.

Sec. 9. 1. *In addition to the grounds specified in NRS 437.400 and section 4 of this regulation, the Board may take disciplinary action against a behavior analyst, assistant behavior analyst or registered behavior technician who:*

(a) Is 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 or lewdness, indecent exposure, prostitution, solicitation for prostitution or any other sexually related crime;*
- (4) A crime involving domestic violence;*
- (5) Abuse or neglect of a child or contributory delinquency;*
- (6) 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, within the immediately preceding 7 years;*
- (7) Abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person, 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;*

- (8) A violation of any provision of NRS 422.450 to 422.590, inclusive;*
- (9) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years;*
- (10) Any 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*
- (11) An attempt or conspiracy to commit any of the offenses listed in this paragraph.*
- (b) Employs in a business related to applied behavior analysis any person who has been convicted of a crime listed in paragraph (a).*
- (c) Has a substantiated report of child abuse or neglect filed against him or her and practices applied behavior analysis for a facility, hospital, agency, program or home, as defined in NRS 449.119, that provides residential services to children.*
- 2. The license of a behavior analyst or assistant behavior analyst or registration of a registered behavior technician who is charged with a crime listed in paragraph (a) of subsection 1 is automatically suspended pending a hearing to be held by the Board not later than 14 days after the suspension. At the hearing, the Board may determine to continue the suspension until final resolution of the criminal charges if it finds by a preponderance of the evidence that the behavior analyst, assistant behavior analyst or registered behavior technician committed the crime with which he or she is charged.*
- 3. A behavior analyst, assistant behavior analyst or registered behavior technician shall provide written notice to the Division within 24 hours after being charged with a crime listed in paragraph (a) of subsection 1.*

4. *The Board may impose disciplinary action upon finding by a preponderance of the evidence that any of the grounds for disciplinary action listed in this section or NRS 437.400 exist.*

5. *As used in this section, “preponderance of the evidence” has the meaning ascribed to it in NRS 233B.0375.*

Sec. 10. *The Division shall charge and collect the following fees:*

1. *Application for licensure as a behavior analyst or assistant behavior analyst..... \$100*
2. *Examination administered pursuant to section 2 of this regulation..... Actual cost to the Division plus \$100*
3. *Issuance of an initial license as a behavior analyst or assistant behavior analyst 25*
4. *Biennial renewal or reinstatement of a license as a licensed behavior analyst 400*
5. *Biennial renewal or reinstatement of a license as a licensed assistant behavior analyst 275*
6. *Biennial renewal of a registration as a registered behavior technician 70*
7. *Placement of a license on inactive status 100*
8. *Biennial review of a license on inactive status 100*

9. Restoration to active status of a license as a licensed behavior analyst on inactive status if the restoration occurs during the first year of the biennium in which the license was issued or renewed	300
10. Restoration to active status of a license as a licensed behavior analyst on inactive status if the restoration occurs during the second year of the biennium in which the license was issued or renewed.....	100
11. Restoration to active status of a license as a licensed assistant behavior analyst on inactive status if the restoration occurs during the first year of the biennium in which the license was issued or renewed.....	175
12. Restoration to active status of a license as a licensed assistant behavior analyst on inactive status if the restoration occurs during the second year of the biennium in which the license was issued or renewed	40
13. Reproduction and mailing of material for an application.....	25
14. A dishonored check	35
15. A change of name on a license or registration	25
16. A duplicate license or registration	25
17. Copies of the provisions of NRS relating to the practice of applied behavior analysis and the rules and regulations adopted by the Board	25
18. Letter of good standing	15
19. Review and approval of a course or program of continuing education	25

Default Report

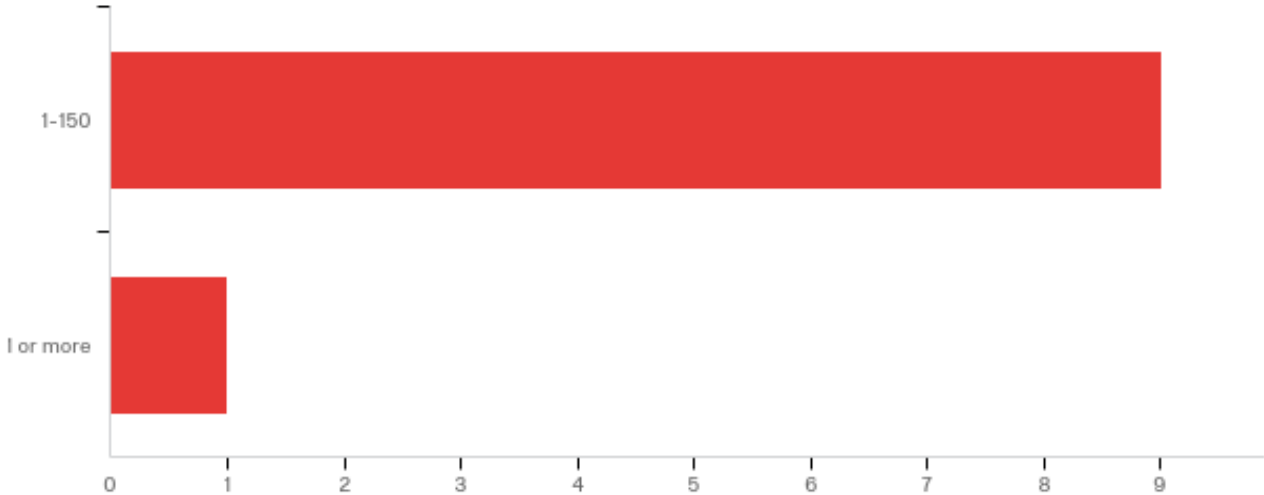
SBIQ: Applied Behavior Analysis

January 28th 2020, 12:10 pm MST

Q2 - Please provide the following information:

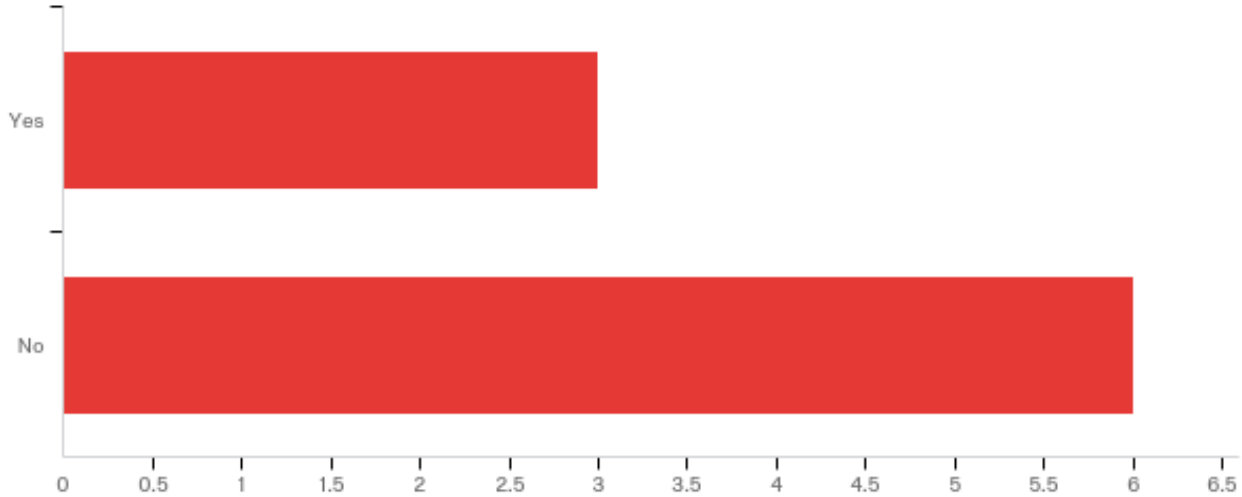
Name:	Organization:
Jennifer Castellanos-Bonow, PhD, BCBA-D, LBA	The Learning Consultants
Johanna Nagel-Kim	Behavior and Education Inc
Kelly Upp	Sport Social, LLC
Ken MacAleese	Advanced Child Behavior Solutions, LLC
Robert Johnson	Nevada Behavior and Autism
Samantha Lemons	Little Lemons Therapy
Darla Dion, BCBA, LBA	ABA Consulting, LLC
Christy Fuller	Advanced Child Behavior Solutions
Gwen Dwiggin	Accelerated Learning Clinic
Julie Kornack	Center for Autism and Related Disorders

Q4 - 1. How many employees are currently employed by your business?



#	Answer	%	Count
1	1-150	90.00%	9
2	151 or more	10.00%	1
	Total	100%	10

Q5 - 2. Will a specific regulation have an adverse economic effect upon your business?



#	Answer	%	Count
1	Yes	33.33%	3
2	No	66.67%	6
	Total	100%	9

Q6 - Please list each regulation and explain the impact.

Please list each regulation and explain the impact.

Requiring additional testing and fees to complete the state registration portion of the RBT process will impact Sport Social directly as we cover all fees for our RBT's. These fees not only include the actual National and State fees, but additional payroll hours to train and supervise the RBT's as well as admin payroll hours to maintain all licenses, etc. It may seem small but it does have a large impact on our small business.

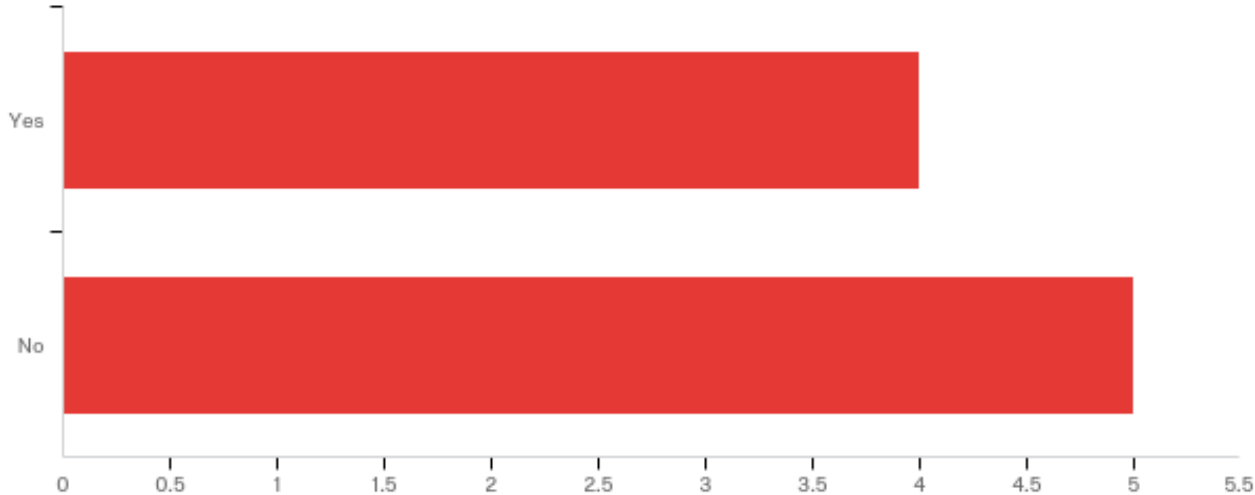
It costs more to register RBTs with the state and to perform background checks than having these credentials alone. However, this isn't going to change as the law is set-so we will make it work!

I

The delay in licensure due to background checks, testing, and character references may be impactful because if there are barriers to obtaining licenses then there are barriers to providing services which contribute to the economic health of the business.

The proposal to require an exam will add another cost that is unique to Nevada. In addition to the cost of the exam, providers will have to absorb the time during which behavior analysts travel to and sit for the exam. We anticipate that such a requirement will also increase delays and hinder provider efforts to grow to meet the needs of individuals affected by autism spectrum disorder. Since the licensure process already requires licensure candidates to have passed a BACB exam, the proposed exam seems unlikely to benefit consumers. If other licensed professionals are not subjected to a similar exam, it would seem to discriminate against behavior analysts and the population they serve.

Q7 - 3. Will the regulation(s) have any beneficial effect upon your business?



#	Answer	%	Count
1	Yes	44.44%	4
2	No	55.56%	5
	Total	100%	9

Q8 - Please explain.

Please explain.

There will be no additional content learned by our trained RBT's that they are not already completing now. They learn all the content during the National RBT portion of the process. It seems it will simply add additional steps and cost for both the RBT and our administrative team to get our staff through the completed RBT state portion process.

It creates RBTs that can be paid more and have more work.

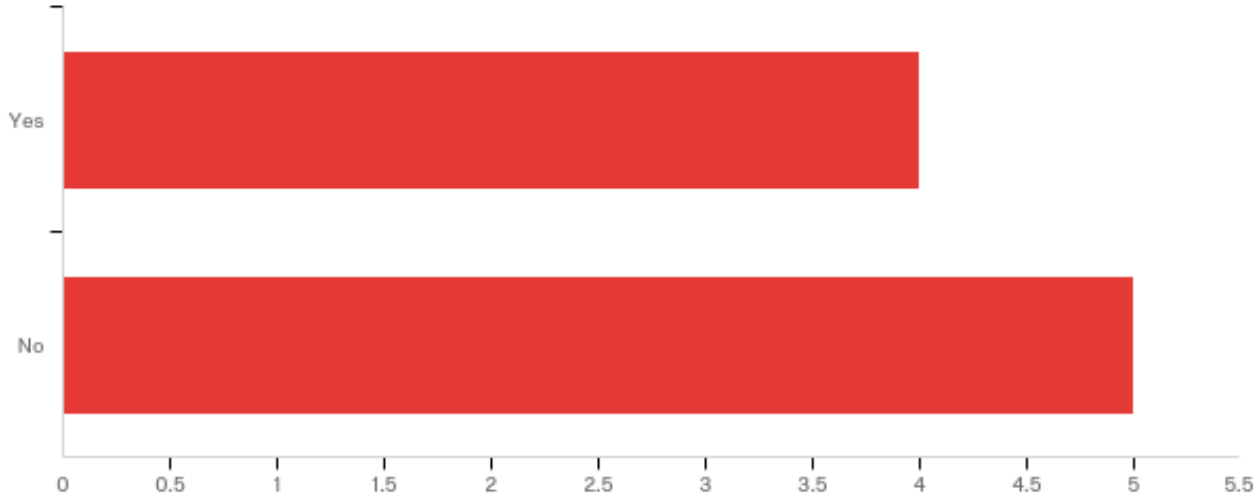
None of the regulations appear to have a substantial affect upon the way I conduct business now or in the future. The cost of examination appears incredibly high for a 60 minute 40 question examination.

Licensure and registration may provide added protections to the business.

Aligning supervision and continuing education requirements with the BACB increase the quality and integrity of services delivered to consumers protecting our field and services delivered in applied settings.

The proposal to require an exam will add another cost that is unique to Nevada. In addition to the cost of the exam, providers will have to absorb the time during which behavior analysts travel to and sit for the exam. We anticipate that such a requirement will also increase delays and hinder provider efforts to grow to meet the needs of individuals affected by autism spectrum disorder. Since the licensure process already requires licensure candidates to have passed a BACB exam, the proposed exam seems unlikely to benefit consumers. If other licensed professionals are not subjected to a similar exam, it would seem to discriminate against behavior analysts and the population they serve.

Q9 - 4. Do you anticipate any indirect adverse effects upon your business?



#	Answer	%	Count
1	Yes	44.44%	4
2	No	55.56%	5
	Total	100%	9

Q10 - Please explain.

Please explain.

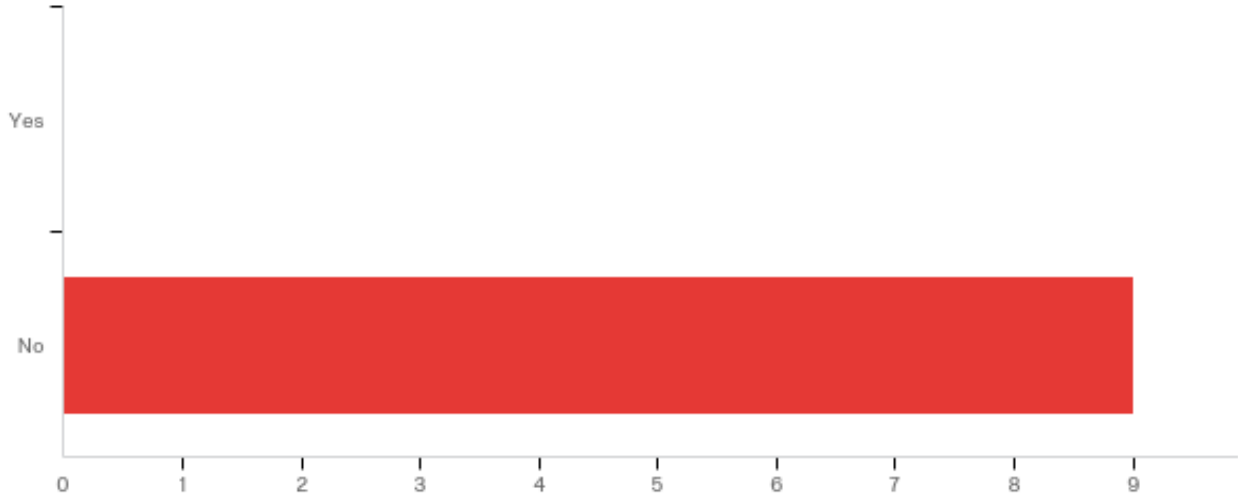
The regulations for RBTs are impacting us by substantially delaying how quickly we can have an RBT ready to begin services. Even when they have provided all information ahead of time, there has still been a delay once the RBT submits their BACB exam information. This has an impact on customer satisfaction, quality of services, and cash flow.

Additional cost on our small business as well as additional time (payroll) that we are asking our staff to go off site to complete additional tests or paperwork.

Sometimes the slow down that occurs with either a) registration with the state or b) the fingerprinting results can limit or delay child treatment, which would indirectly impact the ability to provide and bill for services. Again, this is in the law-so we will work with it.

Behavior analysts who are unable to pass the exam -- which is unrelated to their professional expertise -- will leave Nevada and practice in other states where such an exam is not required. This regulation puts Nevada -- which already struggles to attract behavior analysts -- at an even greater disadvantage. Providers who are working to meet the need of the autism population will be much less likely to establish a presence in Nevada when other states are far less burdensome.

Q11 - 5. Do you anticipate any indirect beneficial effects upon your business?



#	Answer	%	Count
1	Yes	0.00%	0
2	No	100.00%	9
	Total	100%	9

Q12 - Please explain.

Please explain.

How can a regulation that adds requirements that don't serve our patient population have a beneficial effect on business?

Errata – LCB File No. R045-19

Blue italic = Proposed language found in LCB File No. R045-19

Green italics = New proposed language added to LCB File No. R045-19 Errata.

~~*Red italic bold bracketed strikethrough*~~ = Proposed omission in Errata to current LCB File No. R045-19draft.

Sec. 2. 1. Each applicant for a license as a behavior analyst or assistant behavior analyst must pass an examination administered by the Division which tests the applicant's knowledge of the laws and regulations governing the practice of applied behavior analysis in this State.

2. The Division shall post on its Internet website a description of the content of the examination.

3. To take the examination, the applicant must pay the fee prescribed by section 10 of this regulation. The fee must be paid each time the applicant takes the examination.

4. An applicant shall not:

(a) Remove any notes taken during the examination from the site of the examination;

5. Record the examination by electronic or other means; or

6. Otherwise copy, disclose or disseminate any content of the examination.

5. Except as otherwise provided in subsection 6, an applicant who does not achieve a passing score may retake the examination.

*6. Before an applicant may retake the examination ~~two or more times~~ *more than two times*, the applicant must obtain the approval of the Board by submitting to the Board a written request to retake the examination. Such a request must include, without limitation, a written plan of specific measures the applicant will take to prepare for the examination. The Board will approve such a request upon determining that the applicant is likely to receive a passing score on the examination if he or she follows the plan.*

Sec. 6. 1. The following publications are hereby adopted by reference as they existed on

December 1, 2019, and any subsequent versions issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, which have been approved by the Board for use in this State:

(a) The continuing education requirements prescribed by the Behavior Analyst Certification Board, Inc., for a Board Certified Behavior Analyst available at no cost from the Behavior Analyst Certification Board, Inc., on the Internet at <https://www.bacb.com/beba/> <https://www.bacb.com>, or, if that Internet website ceases to exist, from the Division.

(b) The continuing education requirements prescribed by the Behavior Analyst Certification Board, Inc., for a Board Certified Assistant Behavior Analyst available at no cost from the Behavior Analyst Certification Board, Inc., on the Internet at <https://www.bacb.com/beaba/> <https://www.bacb.com>, or, if that Internet website ceases to exist, from the Division.

(c) “Standards for Supervision of BCaBAs,” available at no cost from the Behavior Analyst Certification Board, Inc., on the Internet at <https://www.bacb.com/wp-content/uploads/Standards-for-Supervision-of-BCaBAs-180924.pdf> <https://www.bacb.com> or, if that Internet website ceases to exist, from the Division.

(d) “RBT Supervision and Supervisor Requirements,” available at no cost from the Behavior Analyst Certification Board, Inc., on the Internet at <https://www.bacb.com/wp-content/uploads/RBT-Supervision-and-Supervisor-Requirements-190529.pdf> <https://www.bacb.com> or, if that Internet website ceases to exist, from the Division.

Rationale for Errata

Section 2 is updated to require that applicants that do not pass the state jurisprudence exam after two attempts, must obtain approval from the Board to attempt again. In Section 9, specific website links were changed to the general Behavior Analysis Certification Board website to prevent any broken links in the future.