

---DRAFT UNAPPROVED---

Behavior Analysis Work Group

Thursday, December 19, 2013

Department of Health Professions

Henrico, VA

CALL TO ORDER: Dr. Hoch called the meeting to order at 10:14 a.m.

ROLL CALL

MEMBERS PRESENT: Lauren-Lee M. Askew, BCaBA
Christine Evanko
Kristin Helgerson, M.S., BCBA
Theodore A. Hoch, Ed.D., BCBA-D
Eli T. Newcomb, M.Ed., BCBA
Anthony L. Pelonero, M.D., CPE
Virginia Van de Water, Ph.D.

MEMBERS ABSENT: None

STAFF PRESENT: William L. Harp, MD, Executive Director
Jennifer Deschenes, JD, Deputy Executive Director, Discipline
Alan Heaberlin, Deputy Executive Director, Licensure
Colanthia Morton Opher, Operations Manager
Elaine Yeatts, DHP Policy Analyst

OTHERS PRESENT: Kat Bennett, M.Ed. BCBA, Continuum Autism Spectrum Alliance
Erin Smydra, VDOE
Megan Sullivan Kirby, BCBA, LBA, Spectrum Transformation Group
Britney Vaccaro, BCaBA, Beyond Behavior Consulting
Dawn Adams, DHP
Melissa Union, Navigation Behavioral Consulting
Amela Dumond, BCBA, Navigation Behavioral Consulting
Jacquelyn Shaw, Peninsula School for Autism, Navigation Behavioral Consulting
Sarah Alford, Navigation Behavioral Consulting
Lisa Bragg, Virginia Autism Project and Children's Brain Health Connection
Michele Kussry, BCBA, LBA, Peninsula School of Autism
Ethan Long, LBA, BCBA-D, Virginia Institute of Autism
Matthew Osborne, BCBA, Virginia Institute of Autism
Marilyn Davis, Navigation Behavioral Consulting
Suzanna Myers, BCaBA - Navigation Behavioral Consulting
Zack Migioia, BCBA, LBA, Meá Alofa Autism Support Center
Bo Keeney, Virginia Academy of Clinical Psychologists
Kristina Turner, MEd., BCBA, LBA, Dominion ABA
Nikki Mayo, BCaBA, LABA, Dominion ABA
Rachel Ernest, BCBA, LBA, Dominion ABA

Elizabeth Nguyen, BCBA, LBA, Achieve Beyond
Laura Stacey McKane, BCBA, LBA, Navigation Behavioral Consulting
Rebecca McGlohn, BCBA, LBA, Autism Consulting and Therapy
Toni Haman, BCBA, LBA, Comprehensive Autism Partnership
Ellen Brosh, BCBA, Alternative Paths Training School
Alicia Faller, BCBA, Spiritos School
Ruth Herron, BCaBA, LABA, Centra Autism-Roanoke
Nicole Shrives, M.S., BCBA, LBA, Navigation Behavioral Consulting
Bethany Marcus, PhD., LCP, LBA, BCBA-D
Emily Callahan, PhD., BCBA-D, LBA, Virginia Institute of Autism
Cresse Morrell, BCBA, LBA, Virginia Institute of Autism
Rorie Hutt, BCBA, LBA, Virginia Institute of Autism
Courtney Keegan, BCBA, LBA, May Institute
Audrey Gibson, BCBA, LBAB, Matthews Center
Becky Bowers-Lanier, Commonwealth Autism
Peggy Halliday, BCBA, LBA, Virginia Institute of Autism
Ashley Mackall, BCBA, LBA, Virginia Institute of Autism
Jennifer Wade, BCBA, LBA, Beyond Behavior Consulting, LLC

EMERGENCY EGRESS INSTRUCTIONS

Dr. Harp welcomed the public and provided the emergency egress instructions.

ROLL CALL

The roll was called and a quorum declared.

SUMMARY OF THE MEEETING:

Dr. Pelonero moved to approve the June 12, 2012 minutes as presented. The motion was seconded and carried unanimously.

Dr. Hoch announced that public comment would not be taken as the comment period closed on December 6th.

Ms. Evanko moved to approve the agenda as presented. The motion was seconded and carried unanimously.

The Work Group then reviewed the updated summary of comments prepared by Ms. Yeatts. She noted that the majority of the comments supported the adoption of the regulations as written and presented for discussion those that suggested any change or amendment.

Comments extracted for discussion:

Association of Professional Behavior Analysts (APBA)

- 1) Require current BACB certification for renewal, reactivation or reinstatement of licensure; regulations will not have to be revised each time the BACB changes its requirements.
- 2) Delete continuing education requirements since maintenance of BACB certification requires CE.

Discussion summary: Certification is not necessarily needed to maintain licensure.

- 3) Add language from the BACB’s description of scope of practice.
- 4) Add language to require supervision activities to comply with the BACB *Policy on Supervision....* and other BACB standards, requirements and guidelines pertaining to supervision.
- 5) Consider specifying the number of ABA’s that a BA can supervise concurrently.

Discussion summary: The Work Group unanimously agreed that specifying or limiting the number of ABA’s that a BA can supervise concurrently was not necessary and to take no further action on this request.

6) Revise supervision of unlicensed personnel to clarify that supervision is required. Strike last sentence to allow licensed BA’s and ABA’s to delegate ABA assessment and treatment activities to unlicensed personnel. Add that supervision activities must comply with BACB *Guidelines for Responsible Conduct of Behavior Analysts....*

7) Add to the unprofessional conduct section a requirement that licensees must comply with *Guidelines for Responsible Conduct....*

Discussion summary: The Board of Medicine takes the responsibility for determining unprofessional conduct, and it is addressed in the regulations. Dr. Pelonero moved to leave the language as is. The motion was seconded and carried unanimously.

Bethany Marcus, Ph.D.

- 1) Oversight and supervision of licensed assistant behavior analysts. ABA’s with limited levels of training and skills have almost independent clinical practice with almost no on-site supervision and no limit to the number of assistants that a licensed BA can supervise. Board should impose a maximum of 5 assistants for supervision by a BA and require at least 2 hours of face-to-face time with each patient. Licensed BA and licensed ABA should be on site or in the office suite when services are provided.

Discussion summary: previously addressed.

- 2) Oversight and supervision of unlicensed assistants implementing ABA. Unlicensed assistants should be provided direct, on-site supervision by the licensed behavior analyst and/or licensed assistant behavior analyst or at minimum be on-site in the office suite or home at the time service is delivered.

Discussion summary: Dr. Pelonero noted that this would eliminate all at-home service and moved not to act on this request. The motion was seconded and carried.

- 3) Supervision, use and billing practices for persons certified or being trained in ABA. The only services that should be billable are those rendered by a licensed professional.

Discussion summary: Billing practices and decisions about third party payment are not under purview of the Board.

- 4) Composition of an advisory panel for behavior analysis should include a licensed clinical psychologist.

Discussion summary: This would require a statutory change.

Michael Chiglinsky, Ph.D.

VACP concurs with comments by Dr. Marcus. Regulations should be amended to:

- 1) Limit the number of assistants that may be supervised by a licensed behavior analyst (BA);
- 2) Require licensed BA's to have at least 2 hours of face-to-face time with each patient;
- 3) Require BA's and assistant behavior analysts (ABA's) to be "on site" or "in the office suite" at the time services are delivered;
- 4) Require only behavior analysis services provided by a licensee to be billable as billing of services by lesser trained individuals may be misleading to the public.
- 5) The Board should seek legislation to form an Advisory Panel with seats for licensed clinical psychologists.

Discussion summary: The Work Group believed it had previously addressed these comments when it discussed Dr. Marcus' suggestions.

James Morris, Ph.D

- 1) The practice of behavior analysis does not appropriately fall under the Board of Medicine and should be regulated by the Department of Education.

Discussion summary: This request would require a statutory change.

- 2) The Behavior Analyst Certification Board (BACB) has no university or professional association affiliations.

Discussion summary: Besides having international academic programs, the BACB is an NCCA accrediting body and recognized to validate the authenticity of an individual for licensure.

3) The scope of practice of a profession is typically defined in the Code, not in regulation; the regulation does not have details about actual behaviors or interventions that the individual can perform. There is no definition of the term “environmental modifications” as used in the scope of practice.

Discussion summary: Ms. Evanko moved not to open for discussion since this issue was discussed at length at the June 2012 meeting. The motion was seconded and carried unanimously.

4) There is no scope of practice for assistant behavior analysts; the domains of competency are not listed in regulation and there is no requirement for an assistant to demonstrate competencies.

Discussion summary: Dr. Pelonero moved not to open for discussion since this issue was discussed at length at the June 2012 meeting. The motion was seconded and carried unanimously.

5) The language on supervision of unlicensed personnel appears to allow the BA to delegate any and all professional activities to unlicensed persons, in opposition to the law.

Discussion summary: The Work Group agreed that no further discussion was needed.

6) Proposed regulations are less clearly defined than for other health professions.

Discussion summary: The Work Group saw the regulations as consistent with the statutes.

At the end of the discussion, Ms. Yeatts advised that the emergency regulations will be expiring March 2014, explained the NOIRA process, and noted that using the Work Group’s recommendations, she would prepare a summary of responses that will be presented to the Executive Committee on December 27, 2013.

Dr. Pelonero moved to recommended to the Executive Committee the adoption of the proposed regulations governing the practice of Applied Behavior Analysts and Assistant Behavior Analysts as currently written. The motion was seconded and carried unanimously.

With no other business, the meeting adjourned at 10:57 a.m.

Theodore Hoch,
Chair

William L. Harp, M.D.
Executive Director

Colanthia M. Opher
Recording Secretary

