



P.O. Box 6785 ♦ Lincoln, NE 68506 ♦ 402-475-0709
877-355-9234 (fax) ♦ npa@nebpsych.org ♦ www.nebpsych.org

To: Members of the 407 Technical Review Board

Re: 407 Application for Applied Behavior Analyst

Date: August 12, 2022

The Nebraska Psychological Association (NPA) would like to submit the following concerns related to the current ABA application before the 407 Technical Review Board.

- NPA continues to support the need for any practitioners who provide ABA services be required to obtain education and training inclusive of “mental health focus” (172 NAC 94) relating to mental health practitioners. Or, as is currently in practice to date, be under the supervision of such qualified practitioner to oversee treatment. The current ABA proposal does not address the lack of mental health training, and inability to diagnose independently. ABA’s lack of education and training to diagnose an individual’s mental health condition limits their ability to respond to and/or refer for appropriate interventions based on the complex presentation of needs within these neuro-diverse individuals and their families. Although the applicant states they do not seek the ability to diagnose, this does not remove potential endangerment to the public concerns as this lack of training in mental illness, identification and treatment expertise would not provide the training and awareness to recognize and refer clients who are multiply involved.
- The application indicates “members of the board shall be appointed by the director upon recommendations submitted by the Nebraska Association for Behavior Analysis.” This appears to establish a licensing board outside of the statutory authority of the Nebraska Uniform Credentialing Act and is in sharp contrast to current practice where the State Board of Health appoints members to the boards. What would warrant establishing a separate regulatory process for this applicant group?
- The application presents the need for independent licensure for ABA services in Nebraska due to there being no recourse for individuals to report their concerns. However, any professional currently practicing in Nebraska has a licensing board for oversight. Examples offered regarding abuses of ABA in other states where ABA has independent licensure status was provided by the applicant. However, it appears the examples provided would result in some form of action by the licensing board a practitioner is already practicing under in Nebraska (e.g., guilty plea to a class C felony or failing to file a response to a complaint of previous discipline). The additional examples noted included “*practicing ABA without a license*”, of which Nebraska licensed psychologists, practicing ABA within their scope of practice, would not qualify for, under this application.
- The application’s list of exclusions to the scope of practice for behavior analysis appears limited. For example, would assessment and treatment of substance abuse disorders, biofeedback, psychoeducation evaluations be excluded? In addition, the scope of practice is narrow but the application does not require the behavior analysts to refer a client with co-occurring mental disorders.
- The Behavior analysis and therapy is already regulated in Nebraska statute (The Psychology Practice Act, 38-3108). In addition, there is a section that exempts Licensed psychologists from their licensure as long as it is in the scope of practice section of the Nebraska psychology licensure law. However, there is concern that the long-term consequences and next logical step of this independent licensure is that insurance companies will refuse to pay for any form of behavior analysis and intervention

not provided by a “Licensed Behavior Analyst”. Essentially, it would limit if not impair qualified clinicians providing or implementing behavioral analysis interventions such as doctoral-level licensed psychologists, physicians, nurse practitioners, licensed mental health practitioners, speech pathologists, teachers, and other professionals. This would in turn have an impact of creating barriers to services not consistent with public welfare and interest.

- ABA is a narrow approach to therapy and ***not the only one considered effective in treating autism***. It had been noted by the applicants that due to the lack of ABA service providers in the state of Nebraska, there is a long waiting list for families and children diagnosed with autism. Individuals with Autism Spectrum Disorders are a heterogeneous group with diverse needs. As such, a comprehensive developmental and diagnostic assessment that considers symptom severity, cognitive ability, and considerations for additional services including mental health, is important. In addition, interventions for individuals with ASD are “not equal” and there should be careful assessment as to which services and supports are best for the individual as well as their family. The intervention noted as “applied behavioral analysis” is one intervention that is noted within this application. However, importantly, it should be noted that the autism-based interventions that can be utilized which are considered to be evidence-based are numerous. Examples can be found under the following categories: Pro-Social, Play-Related interventions (e.g., RDI); Language and Communication based interventions (e.g., Augmentative Communication, PECS, Verbal Behavior Approach); Sensory and Motor interventions (e.g., Sensory Integration Therapy, Neurodevelopmental therapy, Auditory Integration Training); Interventions for challenging behaviors (e.g., ABA, Positive behavioral supports), and General Skill Building (e.g., behavioral teaching, social training).
- It appears there continues to be no evidence suggesting a failure to protect the public under the current regulatory structure. Currently, trained ABA clinicians with the ability to treat mental disorders independently can be licensed under the board of psychology or under the board of mental health practice. Additionally, trained ABA clinicians with “limited supervision but not full independence”, can qualify as a mental health practitioner under the Mental Health Practice Act. The Mental Health Practice Act was created to address situations specifically suited for the current application.

Thank-you for the opportunity to review and highlight concerns related to the current ABA proposal.

Sincerely,



Dr. Diane C. Marti, Ph.D.
Licensed Psychologist
Nebraska Psychological Association, Past President