

Response to Mr. Klein's questions and comments.

First, we want to thank Mr. Klein and the committee for all the very thoughtful and detailed questions about our application and profession. We believe questions and comments demonstrate a sincere concern for the Nebraska consumer and a sincere interest in determining the viability of our application. We have strived to take the time to review the Uniform Credentialing Act better and to develop a model licensure bill. We hope that we have addressed most if not all the questions presented at this time and look forward to continued discussion.

Second, we indeed admit that we do not fully comprehend Nebraska's Uniform Credentialing Act. I would suspect that most of the public is not fully aware of this Act's provisions and the procedures or regulations it encompasses. As such, members of the public are most likely to search for a professional organization or board if they have questions about the competence or scope of practice of a particular discipline. From our review of the Act, it does appear that someone with a credential other than licensure, such as a certification or registration bestowed by the state of Nebraska, may have that certification revoked or other discipline rendered.

If we read the Act correctly, any disciplinary action requires a complaint through the Attorney General's office. A search of the Nebraska Attorney General's website suggests that a consumer would make a complaint under the Consumer Protection link. As noted on the website, complaints can be made "If you experienced misleading or deceptive business practices, you can file a complaint with us. However, you need to have already contacted the business in an attempt to resolve your issue." The process is voluntary and requires the cooperation of the person making the complaint and the business. Perhaps we have misunderstood how this process works. There may be another process or person responsible for oversight and complaints of Nebraska certified and/or registered service providers. On the whole, however, it does not appear to us to be a consumer-friendly or readily apparent process if the consumer has concerns about the practice of a person purporting to be a behavior analyst. How is that person certified, who is responsible for that certification criteria and review, who provides oversight, and who does the consumer contact to make a complaint?

In our opinion, licensure and a licensure board made up of individuals who understand the profession and members of the community is a more straightforward and visible way to provide protection to the public than working through the attorney general's office to file a complaint about someone with a certificate.

Mr. Klein notes that individuals with a BCBA credential are allowed to practice ABA in Nebraska. That is true, but because BCBAs are not licensed in Nebraska, BCBAs can only provide ABA services under the supervision of a licensed professional. The licensed professional is not required to have demonstrable expertise in ABA. BCBAs cannot independently practice in Nebraska.

Mr. Klein is accurate in noting that behavior analysts are not currently credentialed in Nebraska. It is not wholly accurate to assert behavior analysts are not prohibited from practice. Behavior analysts can only practice under the supervision of another licensed professional regardless of that licensed professional's expertise in behavior analysis. This restricts practice as there is

already a shortage of licensed behavioral health providers and the capacity of the current behavioral health workforce is not capable of dividing their individual respective time to supervise behavior analysis providers and meet current behavioral health needs in Nebraska. This restricts access to those who need services, limits the time of current licensed providers to meet other mental and psychological health needs, and restricts the practice of behavior analysts who must find licensed providers to supervise their practice.

Mr. Klein concludes that the practice of ABA is not restricted by law, but there are reimbursement barriers when non-credentialed persons practice ABA is accurate.

In sum, behavior analysts are not currently credentialed in Nebraska. Board Certified Behavior Analysts (certified by a national credentialing agency, not a Nebraska agency) may practice in Nebraska and bill for those services, but only under the supervision of a licensed mental health or psychological provider. This creates barriers to reimbursement. More importantly, it creates barriers to providing needed behavioral health services to Nebraskans. We submit that a licensed behavior analyst under the oversight of a behavior analysis practice board would help meet behavioral health needs in Nebraska and protect the consumer from those who do not have the expertise or competence to provide behavior analysis services.