

REVISED
MINUTES
of the First Meeting of the
Applied Behavior Analysts Technical Review Committee
January 6, 2022
1:00 p.m. to 2:25 p.m.

<u>TRC Members Present</u>	<u>TRC Members Absent</u>	<u>Program Staff Present</u>
David Reese (Chair); Darrell Klein, JD; Denise Logan, BS, RT Kevin Low, DDS Debra Parsow Stephen M. Peters, BA, MA	Jeffrey L. Howorth;	Matt Gelvin Jessie Enfield Ron Briel

I. Call to Order, Roll Call, Approval of the Agenda

Chairperson Reese called the meeting to order at 1:00 p.m. The roll was called; a quorum was present. Mr. Reese welcomed all attendees, and asked program staff and TRC members to briefly introduce themselves. The agenda and Open Meetings Law were posted and the meeting was advertised online at <https://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx>. The committee members unanimously approved the agenda for the first meeting.

II. Discussion on the Credentialing Review Process

Credentialing Review Program staff provided a brief overview of the credentialing review process including a brief discussion on the four credentialing review criteria.

III. Initial Questions and Discussion on the Proposal

Chairperson Reese asked applicant representatives in attendance to provide the committee members with a brief overview of their proposal. Mark D. Shriver, Ph.D., BCBA-D, came forward to speak on behalf of the applicants' proposal. Dr. Shriver informed the committee members that he works for the Munroe-Meyer Institute located at the Nebraska Medical Center in Omaha, and that he is a Board Certified Behavior Analyst. Dr. Shriver informed the committee members that currently there are serious service shortages vis-à-vis mental health services in Nebraska. In an effort to fill these service gaps private health care agencies—many from outside of Nebraska—have come to Nebraska to provide badly needed mental health care services including those provided by Applied Behavior Analysts. Dr. Shriver continued his remarks by stating that currently there is no way to monitor or oversee the services provided by these private agencies or the personnel they employ to do the work associated with these services. Dr. Shriver added that currently there is no way to know what amount of training those employed by these agencies possess, adding that this situation creates potential for harm to the public.

Dr. Shriver provided a brief overview of the education and training standards that would be required under the terms of the ABA proposal if it were to pass. He then summarized the scope of practice defined in the ABA proposal, stating that this scope of practice focuses around the concept of behavior modification. Dr. Shriver went on to state that the proposed ABA scope of

practice does not include diagnostic procedures or counseling services. Dr. Shriver concluded his remarks by stating that the proposal calls for the creation of an independent credentialing board for licensed Applied Behavior Analysts once the proposal passes.

Chairperson Reese then asked if there was anyone in attendance who wanted to come forward to express concerns about the proposal. Psychologist Dr. Judith Bothern, Ph.D., stated that she has concerns about the proposal and came forward to express them. Dr. Bothern stated that there are serious gaps in the education and training of ABAs that raise serious concerns about their ability to provide safe and effective services if they were to become independent licensed practitioners. Dr. Bothern went on to state that current ABA education and training does not prepare them to diagnose or recognize mental health illnesses or conditions, and that this creates great potential for misdiagnosis and inappropriate treatment regimens for misdiagnosed patients. Dr. Shriver responded to Dr. Bothern by stating that ABAs do not diagnose. ABAs only take clients that are referred to them by licensed providers such as psychologists for example.

Chairperson Reese then asked if there were committee members who had comments or questions about the proposal. Committee member Darrell Klein, J.D., asked the applicant representatives the following questions:

- Please address why under Nebraska Law, Certification or Registration is insufficient to protect the public and to help with third party reimbursement? See 71-6206 & 38-110 and 71-6217 & 38-120. This would replace or augment part of their response to “additional question 2a on page 33.
- In response to part of question 2, at page 8, listing the “practitioners of the occupations similar to or working closely with members of the occupation dealt with in the application” LMHPs are omitted although they were discussed in the 2010 407 re4view and are included in the response to question 6 at page 16. Was this intentional? And relatedly at page 10 there was no response to “any other group that would have an interest in the application.” Was this intentional?
- In your application on page 11, answering question 3, you are not presenting that ABAs are currently credentialed by Nebraska, correct? Secondly, the links cited in the application was regulations are not regulations. Please explain their source.
- In response to question 9 at page 20 can you present an answer focusing on the current situation in Nebraska, rather than in other states?
- My understanding of their answer to question 16—no prescription is required before the services can be provided, but third party insurers may require a prescription as proof of necessity. No ban on providing services, but it’s a prerequisite for payment.
- “Additional question” 1a page 33 and elsewhere: can hot links be provided to the literature cited in the application if you have them?
- Regarding your response to “additional question” 8a, page 42 is it your intention that ABA be licensed under the UCA as contemplated by the 407 statutes and so the costs of administration would be borne by the ABA licensees in accordance with the UCA?
- I saw references to a model act but did not see a link to one. Is there a model act the applicants propose?

Committee member Peters then articulated a series of question for the applicant group, as follows:

- I cannot find anywhere in your proposal where you have clearly defined the issue or issues that your proposal is intended to address. Is there a missing document? Can we ask them to provide such a comment?
- On pages 12-14 they list exemptions but exemptions to what?

- ABA is a therapy, not a profession. Why are they trying to license a therapy?
- Are ABA assessments based on rigorous evaluation of empirical data?
- Clear documentation of harm has not been provided.
- There is a need for more documentation about the efficacy of ABA treatment regimens.
- Why is licensure needed to address the issues in question? Might there be better alternatives?

Committee members Low and Peters indicated that they wanted clarification on how the referral process works vis-à-vis the delivery of ABA services. How do other health professionals such as LMHPs interface with clients who need these kinds of services? How do referral patterns work in rural areas of our state? What happens to clients in counties that currently have no mental health services at all? Denise Logan asked the applicants how many recipients for these kinds of services are there in Nebraska?

IV. Public Comments

There were no additional comments at this time

V. Other Business and Adjournment

There being no further business, the committee members unanimously agreed to adjourn the meeting at 2:25 p.m. Program staff stated that questions from committee members for the applicant group would be posted on the link as would applicant group responses to these questions and that all parties need to email their questions and comments to program staff in order to get them posted. Program staff stated that they would be in touch very soon regarding setting a date for the second meeting of this committee.

