

**Revised MINUTES**  
**of the Second Meeting of the**  
**Applied Behavior Analysts Technical Review Committee**  
**February 10, 2022**  
**1:00 p.m. to 3:00 p.m.**

**TRC Members Present**

David Reese (Chair);  
Darrell Klein, JD;  
Denise Logan, BS, RT  
Kevin Low, DDS  
Debra Parsow  
Stephen M. Peters, BA, MA

**TRC Members Absent**

Jeffrey L. Howorth

**Program Staff Present**

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. 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 second meeting and the minutes of the first meeting.

**II. Committee Action to Allow an Amended Version of the Proposal to Replace the Original Proposal**

Since the previous meeting held on January 6, 2022 an amended version of the proposal was submitted by the applicant group for committee review and consideration. The amended version of the proposal can be found at <https://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx> .

Committee member Klein moved and committee member Low seconded that the amended version of the proposal be allowed to replace the original version of the proposal throughout the remainder of the credentialing review process.

Voting aye to allow the amended version to replace the original proposal were Reese, Klein, Logan, Low, Parsow, and Peters. There were no nay votes or abstentions. By this vote the motion passed, making the amended version of the proposal the new official version of the proposal for the remainder of the credentialing review on ABA.

**III. A Power Point Presentation by an Applicant Group Representative**

Applicant representatives Nancy Lamb and Desiree Dawson came forward to provide a power point presentation on the ABA profession and its services. Ms. Lamb began the presentation by informing the committee members about what ABA is, what services it provides, and how ABA professionals provide these services. As part of this presentation Ms. Lamb provided examples of the kind of behavior problems ABA professionals deal with on the job on a regular basis, some of which includes violent behavior on the part of persons who are severely emotionally disturbed. Ms. Lamb went on to describe how ABA professionals manage these kinds of situations and the

philosophy that underlies their approach to developing treatment plans for severely disturbed patients.

#### **IV. Committee Questions and Discussion**

Committee member Darrell Klein asked the applicants whether they would be willing to consider another amendment to their proposal pertaining to the administration of their proposal—if it were to pass, that is—to wit: that the applicants consider replacing the current provision in their proposal for an independent board with the idea of regulating ABAs under an existing board? Mr. Klein commented that the current political climate in Nebraska is not friendly to the idea of creating additional regulatory boards.

Committee Chair David Reese asked the applicants whether there are organizations in Nebraska that refuse to reimburse for unlicensed ABA services, and if so, to please name them. Applicant representative Desiree Dawson responded by stating that she would check and see if there were any organizations that refused to reimburse for unlicensed ABA services.

Committee member Darrell Klein asked the applicants how the proposal, if passed, would deal with attempts to use telemedicine to provide ABA services from outside of Nebraska. Mr. Klein continued with a follow-up question regarding how the applicants' proposal would identify "the least restrictive method consistent with public protection" would be in cases like this. Mr. Peters asked the applicants whether there would be a way in which telemedicine vis-à-vis ABA could be practiced if the proposal were to pass. Applicant representative Nancy Lamb responded to these concerns by stating that the applicant group is not seeking to prevent everyone from outside of Nebraska from providing ABA services, rather, the applicant group seeks only to prevent unqualified practice.

Mr. Peters asked the applicants to identify the source of harm to the public in the current practice situation of ABA, indicating that nothing provided so far by the applicant group has clearly identified a source of harm to the public vis-à-vis ABA services in Nebraska. Desiree Dawson responded by stating that one problem with the current practice situation is that there is no way to take action against an ABA practitioner for incompetence or inappropriate conduct, and that licensure would provide a means of taking action against incompetent or inappropriate practice.

Mr. Peters asked the applicants if there would be professionals who would be exempt from the terms of the proposal. Desiree Dawson responded by stating that the proposal would exempt any licensed providers of mental health services. Mr. Peters then asked the applicants to provide examples of providers who would not be exempt from the terms of the proposal, or, how may "problem people" are there? Desiree Dawson responded by stating that Nebraska is "prime territory" for unqualified providers looking for a place to practice.

Mr. Peters asked whether Nebraska has ever licensed a modality before. A Credentialing Review Program staff person responded by stating that Acupuncturists were licensed several decades ago by the State of Nebraska, and that their entire scope of practice consists of the application of acupuncture needles.

Darrell Klein asked the applicants to provide information regarding any example wherein a third-party payer refused to reimburse for ABA services under the current practice situation of ABA in Nebraska.

Committee members Peters and Klein stated that they would submit written questions and

comments on the amended application inclusive of questions not yet answered by the applicant group.

#### **V. Public Comments**

Amy Reynoldson with NMA expressed frustration that there was not sufficient time for them to express their concerns about the proposal, and requested that staff schedule a longer meeting next time so that all attendees who wish to speak would have time to do so.

Amy Reynoldson with NMA suggested that the applicants submit a version of the proposal in the form of an actual legislative bill, commenting that this would be helpful to both the committee and other parties interested in this review. Darrell Klein agreed with this suggestion and went on to state that it would also be helpful if the applicant group would review the practice acts of other health professions as well as the current Nebraska Uniform Credentialing Act, for example.

#### **VI. Other Business and Adjournment**

There being no further business, the Committee members unanimously agreed to adjourn the meeting at 2:55 p.m. Program staff stated that they would be in touch very soon regarding setting a date for the third meeting of the ABA Committee.