

These minutes have not been approved by the Board

**MINUTES OF THE MEETING**

Board of Behavior Analysts Emergency Meeting  
February 3, 2026

**1. ROLL CALL**

The meeting of the Board of Behavior Analysts was called to order by Kyle Dawson, Vice Chair, at 3:33 p.m., via Webex. In accordance with §84-1411 of the Nebraska Open Meetings Act, copies of the agenda were 1) emailed to the Board members and other interested parties, 2) posted on the DHHS web site at <https://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx>, and 3) posted on the bulletin board in the Nebraska State Office Building Lobby on January 29, 2026.

The following members answered roll call:

**Members Present:**

Kyle Dawson, Vice Chair  
Lori Nickels  
Mandi Reinders, Secretary

**Members Absent:** (if applicable)

Victoria Bock, Chair  
Steven Taylor

**Staff and Others Present:**

Maiya Baumann, Program Manager  
Jessica Dean, Health Licensing Coordinator  
Milissa Johnson Wiles, Assistant Attorney General  
Katherine Amyot, DHHS Department Legal

A quorum was present, and the meeting convened.

**2. ADOPTION OF AGENDA**

**MOTION:** Reinders moved, seconded by Nickels, to adopt the agenda for the meeting. A voice vote was taken. Voting yes: Dawson, Nickels, and Reinders. Absent: Bock, Taylor. Motion carried.

**3. PUBLIC COMMENTS**

There were no public comments.

**4. LEGISLATION – LB 911**

This meeting was called to discuss Legislative Bill 911, a bill related to Behavior Analysis introduced in the 109<sup>th</sup> Legislature and scheduled for a hearing on February 4th, 2026. The

senator introducing the bill did not notify the board or members of the profession prior to introduction of the bill. Dawson asked if the board was allowed to take a neutral stance on the bill. Amyot explained that in order for the board to make any statement at the hearing, they would need to take a vote first. Dawson asked if it was common for legislation directly impacting a licensure board to be introduced without prior notification to the board in question. Amyot explained that it was typical for the board to be notified first. Dawson said that he had already submitted a comment on the bill as an individual member of the profession. Amyot mentioned that section 4 of the bill contradicts the Uniform Credentialing Act, as the board doesn't have statutory authority to conduct its own investigations. Amyot said that if the board had a position on the bill, it would be worth having one of the members make a statement at the legislative hearing. Johnson-Wiles asked about the board's position on the section of the bill addressing child care licensure for facilities offering Behavior Analysis services. Dawson explained that the Nebraska Association for Behavior Analysis was still working on legislation related to that issue but that they did not have any input on LB 911. He said that the profession will probably have input on a bill introduced in the next legislative session. Amyot said that since LB 911 is the only bill that has been introduced during this session, the board or professional association would need to work with the senator who introduced the bill to address the child care licensing issue during the current session. Reinders suggested that since there are multiple issues with different sections of the bill, it would be a good idea for someone to attend the hearing who would be able to answer specific questions from senators if needed. Dawson agreed that it would be a good idea for someone from the board to make a statement. He asked if he could make a statement on behalf of the board if he had already submitted a comment as an individual. Amyot said that there wouldn't be an issue as long as it was clear that he was speaking on behalf of the board at the hearing. Johnson-Wiles agreed. She clarified that the board could submit a written statement rather than electing a member to speak at the hearing, but the deadline for written statements was at 8 a.m. the date of the hearing, which was the next morning. Amyot said that since Behavior Analysis is a fairly new profession which is not commonly known to the general public, it could be useful for senators to have access to someone who works in the profession. Amyot suggested that the board review the bill section by section to identify specific concerns the board might have.

- a. Section 2: "A licensed behavior analyst that supervises direct services shall maintain a physical presence in the state through: (1) A primary place of practice or residence; or (2) direct client contact or supervision conducted within the state for a minimum of five percent of the total direct service hours delivered per client per calendar month, including no fewer than two in-person supervisory observations of behavior technicians or equivalent staff during such period." Dawson said that his concern with this section was that it could be difficult to meet this requirement for clients in rural areas of the state. He was not sure of the exact statistics but thought that a majority of Nebraska licensed Behavior Analysts do not live in Nebraska. Reinders said that this requirement would lead to longer wait times and less access to care for clients in those rural areas.
- b. Section 3: "(1) Remote-only clinical supervision is prohibited for any applied behavior analysis treatment program providing more than fifteen hours of direct services per client per week. (2) Supervising clinicians shall: (a) Hold an active license under the Behavior Analyst Practice Act; (b) Conduct supervision in compliance with guidelines published by the Behavior Analyst Certification Board, including a minimum of ten percent observation of service hours; and (c) Document at least one in-person observation of treatment implementation and client progress per client per month." Dawson said that this does not match the

guidelines published by the Behavior Analyst Certification Board, which specify a minimum of five percent, not ten percent as written in the bill. There was a discussion of the difference between supervisory observation and clinical supervision as referenced in Sections 2 and 3 of the bill. Reinders asked about a study that had been referenced in previous board discussions which showed that remote supervision could be as effective as in-person supervision. Dawson verified that there were multiple studies, including one using samples from different countries, which showed efficacy of treatment with remote supervision. Amyot said that the board's objections to Sections 2 and 3 both seemed to be based on the lack of practitioners physically located in rural Nebraska. The additional requirements for in-person supervision could result in a lack of care for rural clients and do not provide a benefit to Nebraska clients since remote supervision has been shown to be effective. Dawson said that the board had tried to address concerns about remote-only supervision when they were drafting the regulations by including a requirement for a meeting every six months between the licensed behavior analyst and the client and/or client's parent or guardian every six months.

- c. Section 4: "The board shall have authority to investigate complaints, audit supervision records, and take disciplinary action against licensees that violate the Behavior Analyst Practice Act." Amyot said that this section does not comply with the Uniform Credentialing Act. The UCA grants disciplinary authority to the Attorney General and the Department of Health and Human Services. The board serves in an advisory capacity only and does not investigate licensees or take disciplinary actions against them. She said that the Department will address that section in their comments on the bill.
- d. Section 6: "The department shall establish clinical review protocols for applied behavior analysis services under the Behavior Analyst Practice Act that exceed (1) twenty hours per week of direct service per client or (2) twelve consecutive months of ongoing authorization without documented functional progress to ensure continuing medical necessity and prevent program overutilization." Amyot explained that this section is specific to Medicaid services as provided under the Medical Assistance Act. Amyot asked if it was common for services to exceed 20 hours per week and Dawson said that it was, especially for younger clients.
- e. Section 8: "(1) No facility, practice, or service location shall be required to obtain licensure as a child care program under the Child Care Licensing Act solely on the basis that: (a) It provides medically necessary applied behavior analysis; (b) It serves clients younger than twenty years of age during billable therapeutic sessions; and (c) It does not provide custodial care or recreational supervision outside the scope of a client's prescribed treatment plan. (2) A facility, practice, or service location providing applied behavior analysis shall be subject to the requirements of the Child Care Licensing Act if it (a) offers or permits naps, meals, or nonclinical recreational programming not associated with a treatment plan or (b) retains one or more children onsite for more than ten cumulative hours per week of nonbillable, nontherapeutic time per child. (3) For purposes of this section, nontherapeutic time means any time that is not (a) billable as medically necessary applied behavior analysis under medicaid or private insurance or (b) used for required caregiver training or active case supervision documented by a licensed behavior analyst. (4) The department shall adopt and promulgate rules and regulations to specify when a dual licensing arrangement, waiver, or exemption is necessary for applied behavior analysis programs that operate extended day, summer, or wraparound care components. Sec. 9. Original

sections 38-4401 and 68-901, Revised Statutes Cumulative Supplement, 2024, and section 71-1908, Revised Statutes Supplement, 2025, are repealed.” Amyot said that the Department had commented on subsection (4) because applied behavior analysis programs are not currently required to be licensed. Reinders said that the reference to naps and meals in subsection (2) could be problematic because naps or meals might be provided separate from clinical services and are not included in billing for those services, but children at the facility for a certain amount of time per day might still need to eat or take a nap. Dawson said that was his objection to that section as well. Amyot asked if the section would be acceptable if the reference to naps and meals was removed and Dawson said yes. Johnson Wiles asked if there were nonclinical recreational activities that were associated with a treatment plan and Dawson said yes. An example would be a child whose plan included requesting items from peers and they might do this during recreational time by asking another child for a ball or another toy. Dawson said that he wasn’t sure how often ten cumulative hours of nontherapeutic time would be provided and Amyot explained that because it is cumulative, a trip by ten children to the park for an hour once a week would meet that description. Amyot said that the Department does have concerns about children receiving services in facilities that are not regulated and are not held to any standards, because it is possible for a facility that provides behavior analysis services but also functions as a child care center to avoid meeting child care facility licensure requirements. Reinders said that facilities providing behavior analysis services are providing a medically necessary service, and Amyot pointed out that was true, but that those facilities also employ behavior technicians, who are not licensed, and are not required to complete a federal background check. Dawson asked if a background check was required for national certification of behavior technicians and Amyot said that she did not believe so. Nebraska law currently requires a federal background check for child care providers and child care staff.

Reinders moved, seconded by Nickels, for Dawson to speak on behalf of the board and in opposition to LB 911 as written, with comments specific to sections 2, 3 and 8. A voice vote was taken. Voting yes: Dawson, Nickels, and Reinders. Absent: Bock, Taylor. Motion carried.

## **5. ADJOURNMENT**

The meeting was adjourned at approximately 4:51 p.m.

Summarized by:  
Jessica Dean, Licensure Unit