



HEALTH LICENSING OFFICE

John A. Kitzhaber, M.D., Governor

Oregon
Health
Authority

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Salem, OR 97301-1287
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<http://www.oregon.gov/OHLA/Pages/index.aspx>

WHO: Health Licensing Office
Behavior Analysis Regulatory Board

WHEN: 1:30 p.m. Jan. 15, 2015

WHERE: Health Licensing Office
Rhoades Conference Room
700 Summer St. NE, Suite 320
Salem, Oregon

What is the purpose of the meeting?

The purpose of the meeting is to conduct board business. A working lunch may be served for board members and designated staff in attendance. A copy of the agenda is printed with this notice. Go to <http://www.oregon.gov/OHLA/BARB/Pages/meetings.aspx> for current meeting information.

May the public attend the meeting?

Yes. Members of the public and interested parties are invited to attend all board/council meetings. All audience members are asked to sign in on the attendance roster before the meeting. Public and interested parties' feedback will be heard as designated on the agenda.

May the public attend a teleconference meeting?

Yes. Members of the public and interested parties may attend a teleconference board meeting in person at the Health Licensing Office at 700 Summer St. NE, Suite 320, Salem, OR.

What if the board/council enters into executive session?

Prior to entering into executive session the board/council chairperson will announce the nature of and the authority for holding executive session, at which time all audience members are asked to leave the room with the exception of news media and designated staff. Executive session would be held according to ORS 192.660.

No final actions or final decisions will be made in executive session. The board/council will return to open session before taking any final action or making any final decisions.

Who do I contact if I have questions or need special accommodations?

The meeting location is accessible to persons with disabilities. A request for accommodations for persons with disabilities should be made at least 48 hours before the meeting. For questions or requests contact a board specialist at (503) 373-2049.

Items for Board Action

Approval of the Agenda



Health Licensing Office
Behavior Analysis Regulatory Board



1:30 p.m., Jan. 15, 2015
700 Summer St. NE, Suite 320
Salem, Oregon

***Meeting will be a teleconference**

Call to order

1. Items for board action

- ◆ Approval of agenda

2. Executive session-Pursuant to ORS 192.660(2)(f) for the purpose of considering information or records exempt from public inspection. (Legal advice)

3. Items for board action II

- ◆ Approval of Jan. 8, 2015, minutes
- ◆ Review of applications

4. Policy

- ◆ Petition for rulemaking – Paul Terdal
- ◆ Rules advisory committee – composition

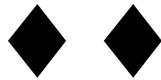
5. Public/interested parties' feedback

6. Other board business

Agenda is subject to change.

For the most up to date information visit www.oregon.gov/OHLA

Executive Session



ORS 192.660(2)(f) for the purpose of considering information or records exempt from public inspection.

Items for Board Action

Approval of Minutes



Health Licensing Office
Behavior Analysis Regulatory Board



January 8, 2015
700 Summer St. NE, Suite 320
Salem, Oregon

MINUTES

**MEMBERS PRESENT VIA
TELECONFERENCE**

Jenny Fischer, Chair
Kurt Freeman, Vice Chair
Alice Austin
Wendy Machalicek
Michele Raddish
Amy Donaldson
Harmony Miller

STAFF PRESENT

Holly Mercer, Director
Sylvie Donaldson, Fiscal Services and Licensing Manager
Joanna Tucker-Davis, Assistant Attorney General, Oregon
Department of Justice
Anne Thompson, Policy Analyst
Amanda Perkins, Executive Assistant
Debby Daniels, Qualification Specialist
Maria Gutierrez, Board Specialist
Samie Patnode, Policy Analyst

MEMBERS ABSENT

None

GUESTS PRESENT

Shane Jackson – Autism Society of Oregon
Tobi Rates – Autism Society of Oregon
Melanie Long-Shaw – Play Connections
Maria Lynn Kessler – Oregon Association for Behavior Analysis (ORABA)
Melissa Gard - Oregon Association for Behavior Analysis

Call to order

Chair Jenny Fischer called the Behavior Analysis Regulatory Board to order at 1:30 p.m. on Jan. 8, 2015. Roll was taken.

Items for board action

◆ **Approval of agenda**

Kurt Freeman made a motion, with a second by Wendy Machalicek, to approve the agenda. The motion passed unanimously.

◆ **Approval of minutes**

Kurt Freeman made a motion, with a second by Wendy Machalicek, to approve the Nov. 21, 2014, minutes. The motion passed unanimously.

◆ **Applications**

The Health Licensing Office received applications from:

- Austin, Alice – Behavior Analyst
- Donaldson, Yardana – Behavior Analyst
- Fischer, Jenny – Behavior Analyst
- Gard, Melissa – Behavior Analyst
- Goolsby, Kathryn – Assistant Behavior Analyst
- Herrera-Minteer, Analist – Behavior Analyst
- Hoyt, Emily – Behavior Analyst
- Knipling, Jennifer – Behavior Analyst
- Kong-Shaw, Melanie – Behavior Analyst
- Mishler, Elizabeth – Behavior Analyst
- Rentschler, Lindsay – Behavior Analyst
- Ruiz, Kaylee – Behavior Analyst
- Speicher, Corrigan – Assistant Behavior Analyst

Kurt Freeman made a motion, with a second by Harmony Miller, to approve the applications. Going forward, the Board would like a consent agenda for the behavior analyst and assistant behavior analyst applications.

Executive session

Holly Mercer, on behalf of Jenny Fischer, called for the Behavior Analysis Regulatory Board to enter executive session pursuant to ORS 192.660(2)(f) at 1:51 p.m. on Jan. 8, 2015, for the purpose of considering information or records exempt from public inspection. The Board returned to public session at 2:23 p.m. No decisions were made and no votes were taken.

Petition for rulemaking

Paul Terdal, who was scheduled to present his petition for rulemaking, did not attend. Shane Jackson took his place and asked if Terdal could speak about his petition at the next Board meeting, which is scheduled for Jan. 15, 2015. Jackson and Tobi Rates presented the petition.

Petition for rulemaking process

Assistant Attorney General Joanna Tucker Davis explained the process to the Board, saying that members had to decide whether to open rulemaking or deny the petition within 90 days of receiving it. The Board received the petition today (Jan. 8, 2015) and it must be send to the Board's interested parties.

Mercer explained that the rules petition that targets one part of the rules – the criteria for the registration of licensed health care providers – is one of two tracks that the Board could be on and has its own process. The other would be to open rulemaking in general and assemble a rules advisory committee (RAC) to look at the rules as a whole.

Freeman asked how a RAC could help the Board, and Mercer explained that since the Board was started the insurance division put out its bulletin about coverage and there has been interest from other boards and licensees. RACs are time-consuming to assemble and facilitate; Mercer said the Board has seven people and it was hard enough to get quorum and make decisions. She said she doubted if the Board could have started taking applications on Jan. 1, 2015, and met the statutory deadline with one before.

Raddish, A. Donaldson, Freeman, Miller and Austin expressed an interest in opening the rulemaking process.

Amy Donaldson moved to open rulemaking with a second by Harmony Miller. The motion passed unanimously

The Board wanted to discuss the RAC process at the next meeting, which is scheduled for Jan. 15, 2015.

(At 3:03 p.m., Miller and Raddish leave the teleconference.)

Public comment

Tobi Rates, executive director of the Autism Society of Oregon, read a letter to the Board that also was submitted for public/stakeholder feedback. Rates' concerns centered on the criteria for registering licensed health care professionals set by the Board, saying they are "unnecessary, redundant and unduly burdensome."

Maria Lynn Kessler, the vice president of ORABA, told the Board that ORABA had been working with Terdal and Rates in addressing the concerns about the rules concerning the registration of licensed health care professionals. She said she has seen the draft rule language presented by Terdal in his petition for rulemaking. Kessler said Terdal's draft – which she just saw recently – is a good start, but she has concerns about how the language identifies the scope of practice for other professionals and for identifying what is applied behavior analysis. Many professions incorporate behavioral elements into what they do, but that's different from practicing applied behavior analysis as a profession.

Melissa Gard, the president of ORABA, said there is a distinction between the field of applied behavior analysis and the implementation of behavioral interventions. She wanted the Board to make sure the rules distinguish which providers offer which services so families know what they are getting.

Other board business

None.

The Board adjourned at 3:25 p.m.

Minutes prepared by Anne Thompson, Policy Analyst

Application Review

**Items Redacted
Available via Public
Records Request**

Issue Statement



Issue Statement

HEALTH LICENSING OFFICE

ISSUE

The Behavior Analysis Regulatory Board must approve or deny licenses for Behavior Analysts. The Board agreed to approve these applications via consent agenda.

CONSENT AGENDA

The Health Licensing Office has received applications from:

- Cecilia Knight – Behavior Analyst
- Kristina Montgomery – Behavior Analyst

RECOMMENDATION

_____ moved to approve the applications, with a second by _____.

Issue Statement



Issue Statement

HEALTH LICENSING OFFICE

ISSUE:

The Behavior Analysis Regulatory Board must approve or deny registration for Interventionists.

DISCUSSION:

The Health Licensing Office has received applications from:

- Lily Bonte – Interventionist
- Naomi Meulink – Interventionist
- Katherine O’Brien – Interventionist

RECOMMENDATION

_____ moved to approve the applications, with a second by _____. Board Chair Jenny Fischer recused herself from voting on the applications she is connected with.

Policy Report

Rules Advisory Committee

Petition For Rulemaking



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January 7, 2015

Behavior Analysis Regulatory Board
Department of Health Licensing
State of Oregon

Dear Board Members:

Thank you for the opportunity to provide input to the board regarding the development of rules governing the registration of licensed healthcare providers under the Behavior Analysis Regulatory Board (BARB). I will not be able to attend the meeting on January 8, 2015, and I request that you share this letter with all board members and relevant staff members in the Department of Health Licensing.

The Oregon Speech-Language & Hearing Association (OSHA) would like to express its support for Paul Terdal's proposed amendment to the BARB administrative rules relating to the registration of Other Licensed Healthcare Providers.

OSHA is the official recognized organization representing the interests of Speech-Language Pathologists (SLPs) and Audiologists in the state of Oregon. There are currently more than 1800 licensed providers in our state, the vast majority of whom are licensed by the Board of Examiners for Speech-Language Pathology and Audiology (BSPA). A small number of professionals hold licensure through the Teachers Standards & Practice Commission, through a specific exemption that applies to practitioners in the public schools. This exemption will be phased out in the coming 2-3 years, with the expected outcome that all Speech-Language Pathologists and Audiologists in the state will hold BSPA licensure as of approximately 2017.

The statutory definition of Applied Behavior Analysis (ABA) is as follows:

“Applied behavior analysis” means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce significant improvement in human social behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

The processes of evaluation and treatment of communication disorders, as practiced by licensed SLPs, involves the observation, measurement, and functional analysis of communicative behaviors in specific environments, and the planning of environmental modifications, including the use of behavioral stimuli and consequences, to produce significant improvement in human communication behavior. As such, the training of SLPs, as well as the scope of practice for the profession, as described by the American Speech-Language-Hearing Association (ASHA), contains substantial overlap with the field of Applied Behavior Analysis (ABA).

Such overlap does not mean, however, that all SLPs are automatically qualified to design and implement full programs of ABA therapy. Training programs vary in the intensity of instruction of ABA principles, and individual SLPs' experiences and continuing education vary with respect to the degree of specialized training they have received regarding ABA.

For these reasons, OSHA believes that it is relevant and appropriate for the BARB to require licensed healthcare providers to provide reasonable evidence of their training in ABA before being registered.

We were concerned, however, with the magnitude of documentation that was required in the BARB's initial statement of registration rules. For many SLPs, such requirements would pose an insurmountable barrier to being able to engage in the reasonable practice of ABA therapy for which they have been adequately trained. Mr. Terdal's proposed amendment is a useful approach, recognizing that certain aspects of ABA practice already coincide with existing scopes of practice, while still requiring documentation of adequacy of training across a range of areas relevant to Applied Behavior Analysis.

Finally, it is essential to note that the scope of practice for Speech-Language Pathologists contains specific language regarding the responsibility of each SLP to define their own "scope of competence" in addition to recognizing the broad scope of practice in the field in general:

Each practitioner must evaluate his or her own experiences with preservice education, clinical practice, mentorship and supervision, and continuing professional development. As a whole, these experiences define the scope of competence for each individual. Speech-language pathologists may engage in only those aspects of the profession that are within their scope of competence. (ASHA, 2007)

Largely similar language is repeated in the Oregon State Code of Ethics, in OAR 335-005:

Individuals shall engage in only those aspects of the professions that are within the scope of their competence, considering their level of education, training, and experience.

What this means is that SLPs are already limited by their scope of practice to engaging in clinical activities in which they have adequate training and expertise. The design and implementation of any ABA or ABA-based therapy program would be no different – a licensed professional who practices outside of their scope of competence could be charged with violations of their professional code of ethics, and duly sanctioned by the national certifying agency and the state licensing board.

It is the opinion of the Oregon Speech-Language & Hearing Association that the amendment proposed by Paul Terdal represents the best path forward regarding the registration of licensed healthcare providers, including Speech-Language Pathologists, by the Behavior Analysis Regulatory Board. Thank you again for allowing me to provide this input to the Board, and please feel free to contact me if you have any questions.

Sincerely,

Andy McMillin, MA, CCC-SLP
President, Oregon Speech-Language & Hearing Association

Clinical Associate Professor
Portland State University



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January 7, 2015

Behavior Analysis Regulatory Board
Department of Health Licensing
State of Oregon

Dear Board Members:

The recently created mandate that insurance companies provide optimal services to children with autism is an amazing step forward in providing services to children with autism in Oregon. Personally, I have provided services to children in both a private practice setting as well as at OHSU. The principles of Applied Behavioral Analysis is key to all kinds of services we provide and help us serve children in a systematic, accountable, and scientific manner. We have extensive experience and knowledge in guiding behavioral changes using a variety of interventions as speech language pathologists.

However, the rules as proposed by the BARB severely limit the services to children with autism to a single rigid and proscribed methodology available only from a few providers. The principles of scientific and careful treatment of children on the spectrum must include providers who use developmental and behavioral approaches with proven validity and careful documentation. In the interest of families who have children with autism, to work toward a collaborative rule-making process with all providers who have the training and expertise to work with children with autism is critical to serving families. Speech-language pathologists are already licensed work with children with disabilities, including children with autism, by statute. The new registration rules proposed by the BARB are in conflict with those existing statutes. All licensed professionals providing services to children with autism must be allowed to provide and bill for the services they provide. I would like to express my support for Paul Terdal's proposed amendment to the BARB administrative rules relating to the registration of Other Licensed Healthcare Providers.

A handwritten signature in black ink that reads "G. Robert Buckendorf PhD". The signature is written in a cursive style.

G. Robert Buckendorf, PhD
Speech-Language Pathologist, CCC
Buckendorf Associates, LLC

Dear Ms. Mercer:

We are writing this letter in support of the rules for registration being revised to include professionals who have extensive experience but do not have the BCBA certification. Families need options AND highly qualified and experienced professionals to provide therapy to a broad range of children on the spectrum.

When our son was two we began to research therapies for our son who is high functioning and met with a school in the Portland area who could provide our son therapy using the ABA approach. We were told our son would be at the school 8 hours a day with a one on one therapist. I might add it was going to cost us \$15k every 6 months for this therapy and we were with Kaiser at the time who in 2005 was not covering any therapies for autism except for 12 sessions of Occupational Therapy for his lifetime per diagnosis. We discussed this therapy and what didn't feel right for our family was that our son would benefit surely from this therapy, but my husband and I wanted to establish a relationship with our son, we needed to know how to take him to the grocery store without a full on tantrum, how to teach him to interact with us his family.

We heard from a co-worker about Relationship Development Intervention (RDI) and met with Barb Avila. What struck us about RDI was that WE the parents would work and teach our son with Barb guiding us. When our son had behavioral difficulties at home or school, Barb would observe our son in either setting and provide us with behavioral interventions to help him. Barb also has spent the first 75% of her career as an ABA trained teacher, consultant, and provider. When the BCBA (Board Certified Behavior Analyst) certificate was created (mid 2000's), Barb chose to forward her training via Relationship Development Intervention, in order to better serve families and those with autism. RDI helps guide parents and professionals to optimally provide interventions for their children that are EITHER behavioral or developmental, based on their family's goals, values, and needs, using Applied Behavioral Analysis principles.

RDI focuses on cultivating the building blocks of social connection—such as referencing, emotion sharing, coreregulation and experience sharing—that normally develop in infancy and early childhood to which our son did not have. Our son is now in the 5th grade, main stream with some pull out services for math, reading and social skills. He would not be where he is today without RDI and Barb. The other nice feature with RDI, are the summer camps which teach kids of the same age or development to interact with one another with a RDI consultant going out on field trips, cooking together, building Legos, etc.

I am an Officer on the Board of Directors for the Autism Society of Oregon and was a strong proponent to getting the SB365 Autism Insurance Reform Bill passed and fully understand why at the time were just working to get ABA approved. I do however, believe that families in Oregon should have options in different therapies for their child, what one therapy works for one child and family, may not work for another. I respectfully request that the Behavior Analysis Regulatory Board consider reviewing other therapies regarding the registration of licensed health care professionals to provide ABA services, such as RDI.

Please feel free to contact either myself or husband should you have any further questions. Thank you for your consideration.

Michelle & Jonathan Ayers

Public/Interested Parties' Feedback

Other Board Business



**Health Licensing Office
Behavior Analysis Regulatory Board
Teleconference Board Meeting
January 15, 2015**

****PLEASE PRINT****

Name (First, Last)	Representing	Request to Comment (yes/no)