



HEALTH LICENSING OFFICE

Kate Brown, Governor

Oregon
Health
Authority

700 Summer St NE, Suite 320
Salem, OR 97301-1287
Phone: (503)378-8667
Fax: (503)585-9114

<http://www.oregon.gov/OHA/HLO>

WHO: Health Licensing Office
Behavior Analysis Regulatory Board

WHEN: 9 a.m. Nov. 18, 2016

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/OHA/HLO> for current meeting information.

May the public attend the meeting?

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 during that part of the meeting.

May the public attend a teleconference meeting?

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. All audience members are asked to sign in on the attendance roster before the meeting. Public and interested parties' feedback will be heard during that part of the meeting.

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 Agenda



Health Licensing Office
Behavior Analysis Regulatory Board



9 a.m. Nov. 18, 2016
700 Summer St. NE, Suite 320
Salem, Oregon

Call to order

1. Introductions

2. Items for board action

- ◆ Approval of agenda
- ◆ Approval of the Aug. 19, 2016, minutes
- ◆ Approval of 2017 meeting dates
- ◆ Approval of 2017 chair and vice chair

3. Reports

- ◆ Director's report
- ◆ Licensing and fiscal
- ◆ Regulatory
- ◆ Policy
- Report on public hearing/public comment
- Rulemaking discussion

4. Public/interested parties' feedback

5. Items for board action II

- ◆ Vote on permanent rules

***Working lunch**

6. Executive session - Pursuant to ORS 192.660(2)(f) and 192.660(2)(L) for the purpose of considering information or records exempt from public inspection. (Investigation cases 16-8145 and 16-8305)

7. Items for board action III

- ◆ Vote on cases

8. Other board business

Agenda is subject to change.

For the most up to date information, go to www.oregon.gov/OHA/HLO

Approval of Minutes



Health Licensing Office
Behavior Analysis Regulatory Board

◆ ◆ ◆
Aug. 19, 2016

700 Summer St. NE, Suite 320
Salem, Oregon

MINUTES

MEMBERS PRESENT

Wendy Machalicek - chair
Maria Gilmour – vice chair – via phone
Brenna Legaard – via phone
Carol Markovics
Michele Raddish (joined at 9:03 a.m.)
Amy Loukus
Keith Cheng
Candice Pogge

STAFF PRESENT

Sylvie Donaldson, interim director and fiscal services and
licensing manager
Anne Thompson, policy analyst
Maria Gutierrez, board specialist

GUESTS PRESENT

Alice Austin – Oregon Association of Behavior Analysis (ORABA)
Katherine (Kathi) Calouri – Declarant
Paul Terdal
Melissa Gard
Jami Cartwright
Maria Lynn Kessler
Jenny Fischer

Call to order

Wendy Machalicek called the Behavior Analysis Regulatory Board to order at 9 a.m. on Aug. 19, 2016.
Roll was taken.

Items for board action

◆ **Approval of agenda**

Amy Loukus made a motion, with a second by Carol Markovics, to approve the agenda. The motion passed unanimously.

◆ **Approval of minutes**

Keith Cheng made a motion, with a second by Candice Pogge, to approve the minutes from May 20, 2016. The motion passed unanimously.

Public/interested parties' feedback

Alice Austin of ORABA told the Board that she had submitted comparisons of professional certifications, and definitions for psychometrically valid examination and accrediting entity and urged the Board that when it came to grandfathering providers into licensure, that they adopt legally defensible

criteria.

Katherine Calouri told the Board that she was a declarant along with five or six others. She said the declarants for grandfathering are not seeking to be a Board Certified Behavior Analyst (BCBA), they were seeking to be eligible for insurance reimbursement. She said she was a member of the rules advisory committee (RAC), and the group was tasked with creating an alternate path to licensure, but the effort “was fruitless.” The RAC went with Behavior Analysis Certification Board requirements. Calouri said the declarants are prepared to participate in background checks and pay fees for licensure, but if the declarants, who are all small-business owners, cannot meet the requirements for grandfathering set by the Board, that they would all go out of business. Brenna Legaard and Loukus asked her to describe the work she does with clients. Calouri said she utilizes parent training, school consultations and job preparation. Loukus asked her for more information on what principles of behavior analysis she was using. Calouri said that her work was more fluid than discreet trial. Carol Markovics said that she and Calouri had psychology backgrounds and that allows them to use approaches that were beyond applied behavior analysis (ABA).

Paul Terdal gave the Board background on Senate Bill 696, the bill that created the current Board makeup and licensing requirements. He said the previous bill, Senate 365, didn’t work as it was intended. The previous Board didn’t consult with a RAC, did not consult with other licensing boards, and wanted other professionals to meet the requirements of the BCBA’s. Terdal said that Sen. Alan Bates was “extremely unhappy” with feedback from a number of sources, and drove through SB 696. The Board’s responsibility was scaled back, gave stronger oversight to the HLO, and Board members were removed and had to reapply. Terdal said that Bates wanted to add to the bill a specific clause “specifically reading them the riot act, basically declaring that the legislature finds the Board’s conduct to be inappropriate. We talked him out of that, told him that he didn’t need to go there, but he was that angry.” Terdal told the Board that when they were redoing the statute, they realized that there were people who were out there who were providing services but never got their BCBA or psychology license because they didn’t need it. So they put in the grandfathering clause. Terdal said he showed Bates a current draft of the rules around the grandfathering, and Bates said that was not what was intended. Terdal said Bates thought that 40 to 60 hours of supervision was fine to make sure they knew what they were doing, and if you’ve got people who have been practicing for decades that we are going to bring them in without this national certification. He left that meeting with instructions to his staff to prepare a letter to this Board expressing that, “but unfortunately, as you know, he passed before that could happen.” Terdal said that there is a statutory requirement for grandfathering and that the Board has considerably flexibility when it comes to requirements, but the Board needs to listen to the declarants and develop a reasonable path.

Jenny Fischer said she was a licensed behavior analyst from Bend and owns a company. She said she supports Austin’s comments; the people who are seeking to be grandfathered into licensure should have a legitimate credential that comes from coursework, supervised training and a legitimate exam. She said that while there is a broader definition of ABA in Oregon, the reason insurance covers ABA is because there is evidence that ABA is an effective treatment for autism. She said this is not the “autism treatment board,” it’s the behavior analysis board, and some declarants are certified in treatments that are not behavior analytic in nature. Fischer addressed Terdal’s comments, saying that the previous board reached out to different professions and that information was taken into account with SB 696. She said that Terdal’s characterization of what happened at the legislative level “is not accurate.” Markovics said

that if there wasn't a problem with the former board that the current board wouldn't exist. She said that the legislature wanted a board that understood that "we are not just recreating the national organization requirements for licensure."

Melissa Gard said that she had a PhD in behavioral psychology and practices in Oregon. She said to Terdal's point, that there was a period in which everyone who practiced behavior analysis was lumped together (in SB 365) and that the decision to separate other professions and take them out from under the BARB's authority was a collaborative agreement. She said that specific interventions mentioned by declarants have more of a psychology approach than ABA.

Maria Lynn Kessler said that she supports the statement from ORABA and Fischer's statement about the legislative process. She said the change to the board was more about the legal issues surrounding the Board's oversight of other licensed professionals than a change due to a lack of cooperation. She said she is not a BCBA. She said it's important to understand grandfathering and what it means. Kessler said that other statutes include it and that there is always the intent that those folks who have been practicing can keep practicing as the standards change, as long as you stay current. She said that these professionals was been vetted at some level. She said that the BARB's declarants who want to be grandfathered into licensure have never been credentialed at all. She gave a history of the BACB, and said that over time, the organization's standards have become more rigorous. She said that the BACB had grandfathering for a time if applicants met requirements, but that you had to take their exam. "From the beginning," she said, "you had an exam."

Michele Raddish clarified that the BACB had grandfathering options in the past for professionals who sought certification.

Reports

◆ Director's report

Sylvie Donaldson, interim director and fiscal services and licensing manager, told the Board that the HLO has gotten approval to get electronic fingerprints from the Oregon State Police and that will speed up the process for applicants.

◆ Licensing and fiscal

Donaldson used graphics to show the Board the number of licenses and registrations, as well as how they break down by age and gender. She said that authorization holders are younger and predominantly female.

Donaldson said that the Board, which was in the red since the beginning because of the start-up costs associated with the process, is projected to end the 2015-17 biennium about \$2,500 in the black.

◆ Policy

Anne Thompson presented the reports from the rules advisory committee meetings (RACs) that were held on July 28 and Aug. 3. She told the Board that the meeting on July 28 did not cover any rule language beyond the grandfathering piece. Donaldson decided to add another RAC on Aug. 3 to try to get the group to cover the rest of the materials. RAC participants Paul Terdal and Brandon Barnett also submitted written comments.

The Board took a break at 10:35 a.m.

The Board resumed work at 10:51 a.m.

Because some of the Board members had to leave the meeting before its conclusion, Machalicek opened the discussion on the rule language with Division 36 – grandfathering.

(Gilmour left meeting at 1:11 p.m.)

After extensive discussion, the Board decided on requiring at least a master’s degree in three areas of study, proof of 10 years of ABA experience, three letters of recommendation, 270 hours of coursework and 1,500 hours of supervised experience in ABA or 75 hours of direct supervision with a BCBA who signs off on their competency to practice.

Michelle Raddish moved, with a second by Brenna Legaard, to accept Division 36 as amended. Motion passed unanimously.

(Raddish left the meeting at 1:33 p.m. Loukus joined on the phone at 1:45 p.m.)

The Board made some changes to Division 40 – Registered Behavior Analysis Interventionist Training and Supervision.

Areas that required forms also allowed for business owners and supervisors to use their own forms, provided the same information was on them.

Interventionist supervision was reduced to 5 percent of the service hours, direct supervision was changed to once per calendar month in months in which services are provided and evaluations were changed to once a year. If an interventionist changes supervisors, they would have 10 business days to notify HLO in the new rules.

In Division 60, the Board chose to adopt sections 1-9 of the 2014 BACB Professional and Ethical Compliance Code for Behavior Analysts.

Donaldson told the Board about a proposed change to the behavior analysis interventionist foundational knowledge form that came from the July 28 RAC.

Calouri said she was eager to take the proposed rules to the declarants/

Public/interested parties’ feedback II

Austin asked about the interventionist requirement of a high school diploma, saying that it can be hard to acquire that in the summer or in rural areas.

Fischer said that 2(c) in the interventionist training and supervision restricted the use of fill-in interventionists for clients and limited service delivery. The Board agreed and struck that from the rule language.

Items for board action

Keith Cheng made a motion, with a second from Candice Pogge, to adopt the proposed rules as amended. The motion passes unanimously.

(Legaard left the meeting at about 2:25 p.m.)

Keith Cheng made a motion, with a second from Carol Markovics, to change the interventionist task list form, as it asked for more knowledge in one area than an interventionist would reasonable know.

Other board business

Machalicek asked that a discussion on how the declarants will move through the licensing process and how they will represent themselves to the public be on the agenda for the next meeting.

The meeting adjourned at 2:40 p.m.

Minutes prepared by Anne Thompson, policy analyst

2017 Meetings



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2017 meeting dates

BACKGROUND AND DISCUSSION

The Behavior Analysis Regulatory Board must decide on 2017 meeting dates.

ISSUE

The Board must approve 2017 meeting times and dates. The Health Licensing Office proposes:

- 9 a.m. April 7
- 9 a.m. Oct. 13

BOARD ACTION

The Board approves 2017 meeting times and dates:

2017 Chair and Vice Chair



Chair and vice chair – 2017

BACKGROUND AND DISCUSSION

Wendy Machalicek has served as chair and Maria Gilmour has served as vice chair for the Behavior Analysis Regulatory Board during 2016.

ISSUE

The Board must nominate and elect a chair and vice chair for 2017.

Role of the chair in meetings

- Officially call the meeting to order.
- Keep order and impose any necessary restrictions for the efficient and orderly conduct of the meeting.
- Direct the “flow” of the meeting and to ensure the meeting is conducted in a professional manner.
Some key points regarding meeting protocol include:
 - Board members wishing to speak must wait to be addressed by the chair.
 - Once addressed by the chair, the board member must state their last name for the record before speaking.
 - The chair guides members through the motion-making process.
 - If public comment is being accepted by the Board, audience members must wait to be addressed by the chair and state their full name and affiliation to the Board.
- Officially enter/exit executive session.
- Officially adjourn the meeting.

Role of the chair outside of meetings

- Collaborate with the director regarding the Board budget. The director may contact the chair to discuss the Board budget regarding revenue, expenditures and possible fee changes.
- Assist in generating meeting agendas. The board specialist or analyst may contact the chair to discuss the agenda for an upcoming meeting. The chair may be asked to comment on topics to be discussed and the format or order in which the topics should be presented at the meeting.

Role of the vice chair

The vice chair must assume the responsibilities of the chair if there is an absence or if the chair is no longer a member of the Board.

BOARD ACTION

The Board nominates and elects:

Chair:

Vice chair:

Director's Report

Licensing and Fiscal Statistical Reports

Health Licensing Office Behavior Analysis Regulatory Board

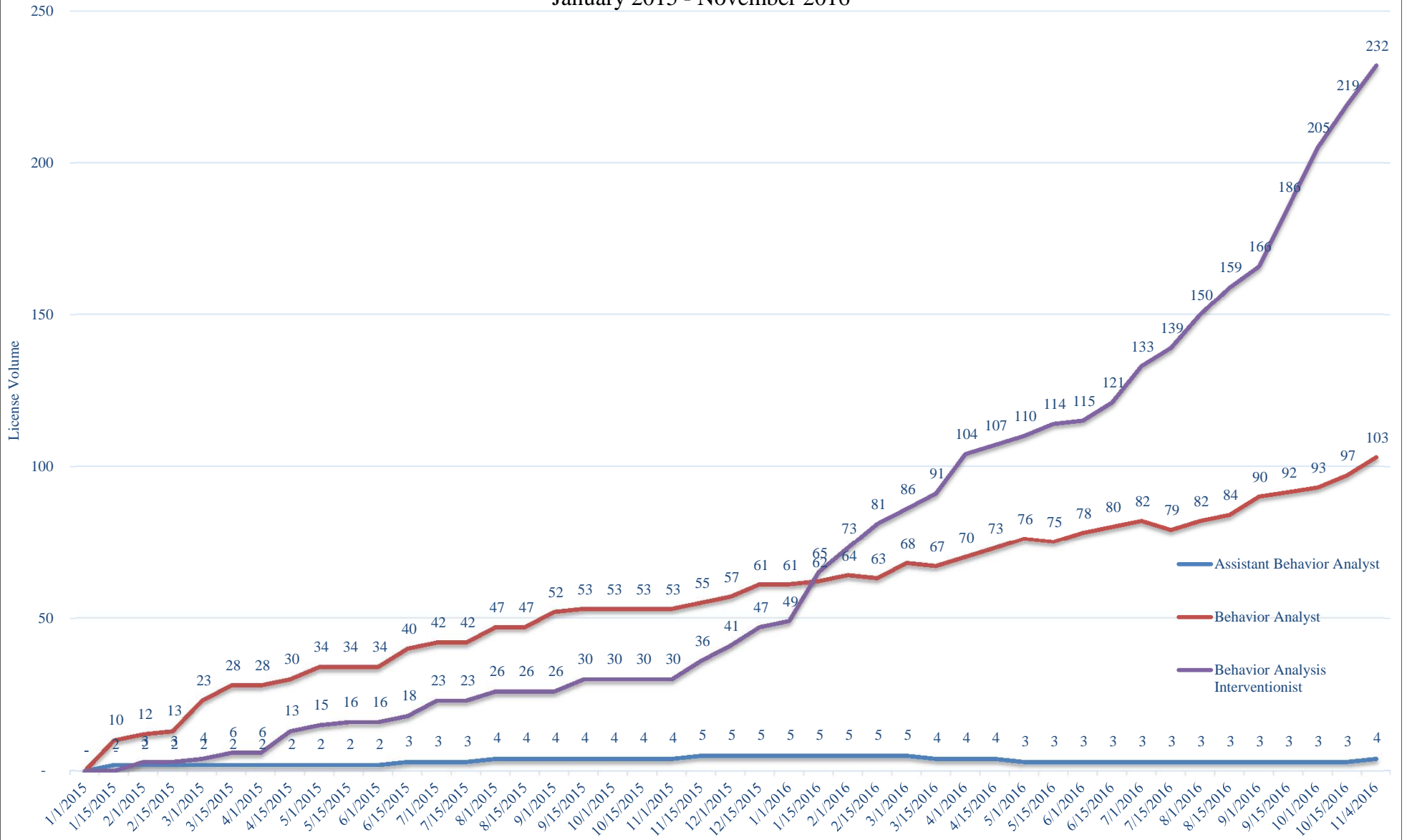
Licensing Division Statistics as of November 4, 2016

2015 - 2017 Biennium

Authorizations Issued				
Quarter	Behavior Analyst	Assistant Behavior Analyst	Behavior Analysis Interventionist	Total
1st	11	1	7	19
2nd	8	1	20	29
3rd	12	-	55	67
4th	13	-	34	47
5th	13	1	77	91
6th	7	1	31	39
7th	-	-	-	-
8th	-	-	-	-
Total:	64	4	224	292
Renewals Processed				
Quarter	Behavior Analyst	Assistant Behavior Analyst	Behavior Analysis Interventionist	Total
1st	-	-	-	-
2nd	-	-	-	-
3rd	22	2	4	28
4th	10	-	10	20
5th	14	1	5	20
6th	4	-	2	6
7th	-	-	-	-
8th	-	-	-	-
Total:	50	3	21	74

Behavior Analysis Regulatory Board

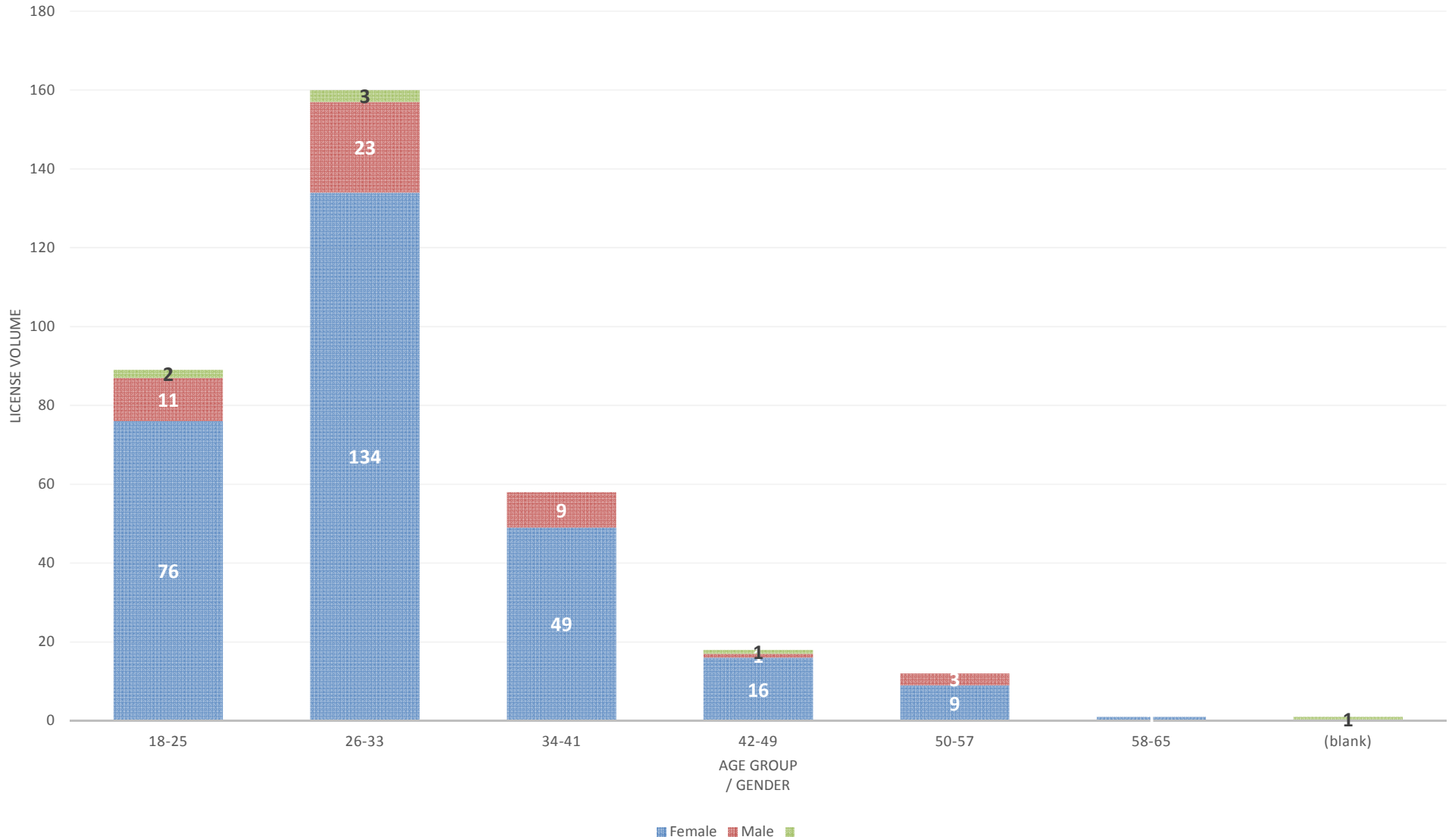
Active License Trends
January 2015 - November 2016



* Note that the bi-monthly updates in this report are temporary during the startup phase for the board, and will shift to the HLO-standard quarterly update in future reports.

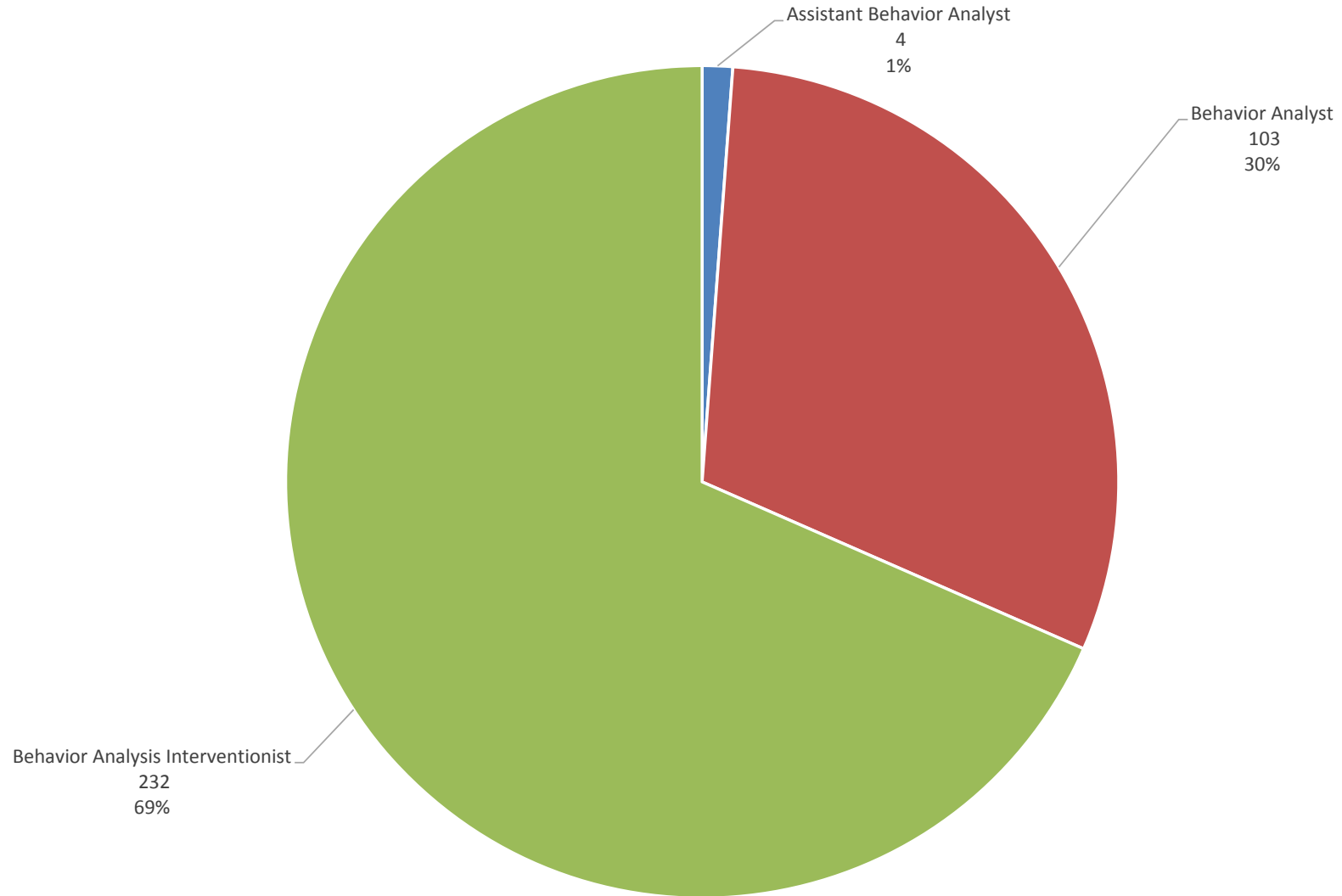
Behavior Analysis Regulatory Board

Active Licensee Volume
Statistics Grouped by Gender and Age Group as of November 4, 2016
2015-17 Biennium



Behavior Analysis Regulatory Board

License Volume by License Type as of November 4, 2016
2015 - 2017 Biennium



HEALTH LICENSING OFFICE Fund 3860 - BEHAVIOR ANALYSIS REGULATORY STATEMENT OF CASH FLOW FOR THE PERIOD 07/01/15 - 11/04/16	
CURRENT	
15-17' Beginning Cash Balance	\$ (20,635.00)
Revenues	\$ 76,340.00
Expenditures	\$ 31,246.34
Less: Accrued Expenditures	\$ -
Less: Total Expenditures	\$ (31,246.34)
Subtotal: Resources Available	\$ 24,458.66
Change in (Current Assets)/Liabilities	\$ -
Ending Cash Balance (Actual)	\$ 24,458.66
Indirect Charges are calculated using the following rates:	
* Based on average Licensee Volume	
Shared Assessment %	0.10%
Examination %	0.00%
Small Board Qualification %	1.13%
Inspection %	0.00%

HEALTH LICENSING OFFICE Fund 7860 - BEHAVIOR ANALYSIS REGULATORY STATEMENT OF CASH FLOW FOR THE PERIOD 07/01/15 - 06/30/17	
PROJECTED	
15-17' Beginning Cash Balance	\$ (20,635.00)
Revenues	\$ 124,042.09
Expenditures	\$ 59,992.97
Less: Accrued Expenditures	\$ -
Less: Total Expenditures	\$ (59,992.97)
Subtotal: Resources Available	\$ 43,414.12
Change in (Current Assets)/Liabilities	\$ -
Ending Cash Balance (Projection)	\$ 43,414.12
Indirect Charges are calculated using the following rates:	
* Based on average Licensee Volume	
Shared Assessment %	0.10%
Examination %	0.00%
Small Board Qualification %	1.13%
Inspection %	0.00%

Regulatory Report

Health Licensing Office



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Behavior Analysis Regulatory Board

November 18, 2016

2015 – 2017 Biennium

Between July 1, 2015 and October 31, 2016, 2 complaints were received by the Office. Total open 2. Total closed 0.

ANONYMOUS	CLIENTS	OTHER
0	0	2

Policy Report

DIVISION 10

GENERAL ADMINISTRATION

824-010-0005

Definitions

- (1) “Accredited college or university” means a college or university as listed in the Council on Higher Education database, or evaluated through the National Association of Credential Evaluations Services or World Education Services for equivalency.
- (2) “Affidavit of Licensure” has the meaning set forth in OAR 331-030-0040.
- (3) “Applied behavior analysis” has the definition set forth in ORS 676.802.
- (4) “Authorization” has the definition set forth in ORS 676.580.
- (5) “Autism spectrum disorder” has the definition set forth in Oregon Laws 2013, chapter 771 section 2(1)(B)(b): the meaning given that term in the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) published by the American Psychiatric Association.
- (6) “BACB” means the Behavior Analyst Certification Board.
- (7) “BCBA” means a Board Certified Behavior Analyst.
- (8) “BCaBA” means a Board Certified Assistant Behavior Analyst.
- (9) “Board” means the Behavior Analysis Regulatory Board.
- (10) “Declarant” means an individual who submitted a Declaration of Active Practice to the HLO pursuant to Oregon Laws 2013, chapter 771, section 4. For ease of reference, the note under ORS 676.806 (2015) quotes Oregon Laws 2013, chapter 771, section 4.
- (11) “Direct supervision” means the training or the observation of an interventionist or a declarant providing client services and at a minimum requires the participation of the supervisor, the interventionist or declarant and client. Participation can include remote supervision through Health Insurance Portability and Accountability Act-compliant technology, as long as it is synchronous audio and visual, and in real time.
- (12) “Indirect supervision” means supervisory functions including: training the interventionist or declarant without the client present, consulting with families or

caregivers regarding interventionist or declarant service delivery, or completing evaluations or assessments of interventionists or declarant without the client present.

(13) “Interventionist” means a Behavior Analysis Interventionist.

(14) “Licensed health care professional” has the definition set forth in ORS 676.802(2).

(15) “Office” means the Health Licensing Office.

(15) “Official transcript” means an original document certified by an accredited college or university indicating hours and types of course work, examinations and scores that the student has completed. The accredited college or university must submit the transcript by mail or courier directly to the Office in a sealed envelope.

(16) “Ongoing supervision and training” means a supervisor is monitoring the service delivery of an interventionist by direct and indirect means.

DIVISION 20

FEEES

824-020-0040

Authorization fees

(1) Fees established by the Board are:

(a) Applications:

(A) Behavior Analyst – \$150.

(B) Assistant Behavior Analyst – \$125.

(C) Behavior Analysis Interventionist – \$75.

(b) Original license or registration – valid for one year:

(A) Behavior Analyst – \$200.

(B) Assistant Behavior Analyst – \$175.

(C) Behavior Analysis Interventionist – \$100.

(c) Renewal of license or registration – valid for one year:

(A) Behavior Analyst – \$200.

(B) Assistant Behavior Analyst – \$175.

(C) Behavior Analysis Interventionist – \$100.

(d) Other administrative fees:

(A) Late renewal of license or registration – \$50.

(B) Replacement license or registration, including name change – \$25.

(C) Affidavit of Licensure – \$50.

(D) Administrative processing fee – \$25.

DIVISION 30

QUALIFICATIONS

824-030-0010

Licensing of Behavior Analyst

An individual applying for licensure as a Behavior Analyst must:

(1) Submit a completed application form, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application fees.

(2) Arrange for proof of current certification by the Behavior Analyst Certification Board, Incorporated, as a Board Certified Behavior Analyst or equivalent to be sent from the BACB to the Office;

(3) Pass a fingerprint-based nationwide criminal records check pursuant to OAR 331-030-0004.

(4) If applicable, submit an affidavit of licensure from any state where the individual holds or has held a license as a behavior analyst whether the license is active or inactive.

(5) Submit required license fees.

824-030-0020

Licensing of Assistant Behavior Analyst

An individual applying for licensure as an Assistant Behavior Analyst must:

(1) Submit a completed application form, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application fees.

(2) Arrange for proof of current certification by the Behavior Analyst Certification Board, Incorporated, as a Board Certified Assistant Behavior Analyst to be sent from the BACB to the Office;

(3) Pass a fingerprint-based nationwide criminal records check pursuant to OAR 331-030-0004.

(4) Be supervised by a behavior analyst who is licensed by the Board.

(5) If applicable, submit an affidavit of licensure from any state where the individual holds or has held a license as an assistant behavior analyst whether the license is active or inactive.

(6) Submit required license fees.

824-030-0040

Registration of a Behavior Analysis Interventionist

An individual applying for registration as a Behavior Analysis Interventionist must:

(1) Submit a completed application form, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application fees;

(2) Submit required registration fees.

(3) Submit proof of being at least 18 years old;

(4) Submit documentation of a high school diploma or General Educational Development (GED) certificate;

(5) Pass a fingerprint-based nationwide criminal records check pursuant to OAR 331-030-0004; and

(6) Submit documentation of 40 hours of professional training in applied behavior analysis on a form prescribed by the Office in the following knowledge and skill areas, as verified by an individual listed in ORS 676.802 2)(a-h) or licensed by the Board:

(a) Professional and ethical issues;

(b) Foundational knowledge of behavioral change principles;

(c) Assessment;

(d) Implementation of prescribed intervention plans;

(e) Data collection and documentation.

DIVISION 36

GRANDFATHERING

824-036-0001

Requirements for licensure

An individual applying for licensure as a Behavior Analyst through the grandfathering path must:

- (1) Have submitted a declaration of practice to the Office on or before April 30, 2016.
- (2) Submit a completed application form, which must contain the information listed in OAR 331-030-0000;
- (3) Submit required licensing fees.
- (4) Submit proof of having at least a master's degree in:
 - (a) Education,
 - (b) Psychology, or
 - (c) Applied behavior analysis; and
- (5) Submit proof of 10 years of experience in applied behavior analysis as defined in ORS 676.802 (1)(a); and
- (6) Submit three letters of recommendation that attest to the applicant's practice in applied behavior analysis as defined in ORS 676.802 (1)(a), with observation and client progress report review; two must be from a BCBA; no more than one can be from a licensed health-care professional defined in ORS 676.802 (2); and
- (7) Submit proof of having completed 270 classroom hours in applied behavior analysis as defined in ORS 676.802 (1)(a), including 45 hours in ethics and professional conduct as related to behavior analysis, 45 hours in principles of behavior analysis as defined in ORS 676.802 (1)(a), 45 hours in behavior analytic research methods and analysis, 105 hours in applied behavior analysis, and 30 discretionary hours; if the courses were completed more than 10 years ago, submit proof of having completed 50 hours of CEUs in applied behavior analysis as defined in ORS 676.802 (1)(a) that were acquired within three calendar years prior to the date of application; and

(8) Submit proof of having completed 1,500 hours of supervised experience - direct or indirect - in applied behavior analysis as defined in ORS 676.802 (1)(a), or have 75 hours of direct supervision with a BCBA who signs off on the applicant's competency to practice applied behavior analysis as defined in ORS 676.802 (1)(a); and

(9) Pass a fingerprint-based, nationwide criminal records check pursuant to OAR 331-030-0004.

DIVISION 40

REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION

824-040-0010

Training and Supervision

(1) Prior to the Registered Behavior Analysis Interventionist providing any independent service delivery to clients, the interventionist must:

(a) Enter into an agreement with each supervisor using the form available on the Office's website. A copy of the agreement must be submitted to the Office and given to the client's parent or guardian.

(b) Complete the competency assessment with one of the supervisors on the form available on the Office's website, or on another competency form with the same information. A copy of the competency assessment must be retained in the interventionist's file.

(2) After beginning independent client service delivery, a Registered Behavior Analysis Interventionist must receive ongoing training and supervision by a licensed behavior analyst, licensed assistant behavior analyst or by a licensed health care professional as defined in ORS 676.802(2), consisting of:

(a) A combination of direct and indirect supervision for at least 5 percent of the interventionist's service hours;

(b) Direct supervision at least once per calendar month in the months when services were provided.

(3) A Registered Behavior Analysis Interventionist must be evaluated by one of the supervisors at least once a year, after the initial competency assessment, on the form available on the Office's website or on another evaluation form with the same information.

(4) A Registered Behavior Analysis Interventionist must maintain a log of ongoing training and supervision on the form available on the Office's website, or on the supervisor's form that contains all the same information.

(5) A Registered Behavior Analysis Interventionist must notify the Office in writing within 10 business days if the interventionist is no longer being supervised, or has a change in supervision.

(6) A Registered Behavior Analysis Interventionist must maintain all training and supervision records for a minimum of five years after the last day of training and supervision and must make records available for inspection by the Office.

DIVISION 50

RENEWAL

824-050-0010

Renewal of license and registration

(1) An authorization is subject to the provisions of OAR chapter 331 division 30 regarding the renewal of an authorization, and provisions regarding the use of the title, identification and requirements for issuance of a duplicate authorization.

(2) Authorization renewal under this rule is valid for one year.

(3) Authorization holders must pass a state criminal background check pursuant to OAR 331-030-0004;

(4) To avoid late fees, an authorization renewal must be made prior to the authorization entering inactive status. The authorization holder must submit the following:

(a) Renewal application form;

(b) Payment of renewal fee pursuant to OAR 824-020-0040;

(5) Inactive authorization renewal: An authorization holder in inactive status cannot use the title. An authorization may be inactive for up to three years. When renewing, the inactive authorization holder must submit:

(a) Renewal application form;

(b) Payment of late and renewal fees pursuant to OAR 824-020-0040;

(6) An authorization that has been inactive for more than three years is expired and the authorization holder must reapply for authorization and meet the requirements listed in OAR 824-030-0010, 824-030-0020 or 824-030-0040.

DIVISION 60

STANDARDS OF PRACTICE, PROFESSIONAL METHODS AND PROCEDURES

824-060-0010

(1) In Oregon, the statutory definition of applied behavior analysis is stated in 676.802 (1)(a)-(b).

(2) For both behavior analysts and assistant behavior analysts, the Board adopts sections 1-9 of the 2016 “BACB Professional and Ethical Compliance Code for Behavior Analysts.”

DIVISION 70

CONTINUING EDUCATION

824-070-0005

Continuing education requirements

(1) For purposes of this rule and 824-070-0010, the licensure year begins on the day of the month that the licensee was originally licensed and extends for the following 364 days.

(2) To maintain licensure, a behavior analyst must complete a minimum of 16 hours of continuing education every licensure year. At least one hour of continuing education must relate to ethics in applied behavior analysis as defined in ORS 676.802(1).

(3) To maintain licensure, an assistant behavior analyst must complete a minimum of 10 hours of continuing education every licensure year. At least one hour of continuing education must relate to ethics in applied behavior analysis as defined in ORS 676.802(1).

(4) A licensee must document compliance with the continuing education requirement through attestation on the license renewal application. A licensee is subject to provisions of OAR 824-070-0010 pertaining to periodic audit of continuing education.

(5) Continuing education must be obtained by participation in or attendance at a course provided by an institution of higher education accredited by the Northwest Association of Accredited Schools, the Northwest Commission on Colleges and Universities, or the State Board of Higher Education; or a course or program approved by the Behavior

Analysis Regulatory Board, or other professional organizations or associations that conduct educational meetings, workshops, symposiums, and seminars where CEU credit is offered and where the subject matter meets the requirements under subsection (6) of this rule.

(6) Continuing education must address subject matter related specifically to applied behavior analysis as set forth in ORS 676.802(1)(a), the rules regulating licensed behavior analysts and assistant behavior analysts, or related applied behavior analysis practices, ethics, or business practices.

(7) Continuing education may include teaching a course sponsored by a CE provider listed in subsection (5) of this rule where the subject matter meets the requirements under subsection (6) of this rule. No more than half of the required hours shall be from teaching).

(8) Proof of participation in required continuing education is the responsibility of the licensee.

(9) The licensee must maintain documentation of compliance with continuing education requirements for a period of two years following renewal, and must make the documentation available to HLO upon request.

(10) A licensee may carry up to 10 continuing education hours forward to the next renewal cycle.

(11) For the purpose of this rule, continuing education hours mean actual academic, classroom, or course work time, including but not limited to workshops, symposiums, or seminars. Continuing education hours do not include travel time to or from the training site, registration or check-in periods, breaks or lunch periods.

824-070-0010

Continuing education audit, required documentation and sanctions

(1) The Office will audit 10 percent of licensees, to verify compliance with continuing education requirements.

(2) Licensees who are selected for audit must submit satisfactory evidence of participation in required continuing education within 30 days of the audit notice.

(3) If selected for audit, the licensee must provide documentation from sources listed in 824-070-0005(5).

(4) If documentation of continuing education is incomplete, the licensee has 30 days from the date of notice to submit further documentation to substantiate having completed the required continuing education.

(5) Failure to meet continuing education requirements shall constitute grounds for disciplinary action, which may include, but is not limited to, assessment of a civil penalty and suspension or revocation of the license.



DATE: Oct. 28, 2016

TO: Health Licensing Office (HLO), Behavior Analysis Regulatory Board (BARB)

FROM: Anne Thompson, hearing officer

SUBJECT: Report on BARB rules hearing and public comment

Background

When Senate Bill 696 was signed by the governor, it changed the makeup of the BARB, its licensees, added a “grandfathering” path to licensure, and put BARB under the authority of the HLO. Administrative rule changes were necessary to align with the statute. A RAC was held for the purpose of receiving comments regarding the set of administrative rules drafted by HLO staff with input from the BARB. The RAC included stakeholders who had filed interest forms with HLO and represented the groups the Board and the HLO felt needed to have a voice at the table. When the first RAC did not get through the rules, the HLO added a second RAC meeting, inviting all the members of the previous RAC to attend. The proposed rules were noticed in the Oct. 1, 2016 Oregon Bulletin, and a public hearing was held on Oct. 28 at the HLO in Salem.

Summary of proposed rules

The rules align the licensure qualifications for behavior analysts and assistant behavior analysts and the registration qualifications for behavior analysis interventionists with the statute. They add language around license and registration renewal, continuing education and the “grandfathering” criteria for professionals practicing behavior analysis as of Aug. 14, 2013, and who submitted a declaration to HLO by the statutory deadline.

Comments

From Lindsay Rentschler, M.A., BCBA, LBA:

My only comment relates to continuing ed credits. I do not support the proposed rule to track continuing ed yearly. I believe it should be on a two year cycle like the BACB. I find a lot of value in attending national conferences. The best researchers in the field present, and you are sure to keep your finger on the pulse of new, effective treatment protocols. However, they are very costly. The total price tag for me to attend ABAI this year (including registration fees, airline tickets, hotel, and travel expenditures) was close to \$3,000. Therefore, I attend a national conference every other year. If I am required to report CEs on a yearly basis, I will inevitably

end up pulling webinars online. If more Behavior Analysis conferences and lectures were available locally, this would be another story, however aside from a credit or two here and there from ORABA, most workshops/conferences/lectures require travelling out of state. I do not tend to find a lot of value in most available webinars. The good ones are almost always live during business hours, and that's when I see patients and thus am unavailable to watch a live webinar. The pre-recorded downloadable ones, are often old and usually meet Supervision or Ethics requirements. It's good to get a couple credits that way, but I think the most useful and valuable credits come from live workshops/conferences. So, that's my argument. Amend the rules to allow for a greater number of CE credits to be accumulated in a two year period, rather than fewer credits every year.

Kindly,
Lindsay Rentschler, M.A., BCBA, LBA
Behavior & Beyond

Analise Herrera-Minteer, BCBA
Program Coordinator
Play Connections ASD Intervention Center
1800 NW 169th Pl b100, Beaverton, OR 97006

(503) 267-1458
analise@playconnectcenter.com

10/25/2016

Dear Behavior Analysis Regulatory Board,

I am a (BCBA) licensed with the State of Oregon as a LBA. I work with children with autism and related disabilities. I conduct assessments, do program development, and supervise ABA programs for preschool and school age children. I focus on learner behaviors and emphasize school readiness to encourage future community placement.

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

Division 36

Grandfathering

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of “declarants” are

unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

(5) Submit proof of 10 years of experience in applied behavior analysis as defined in ORS 676.802 (1)(a); and

“10 years experience in ABA” has no meaningful reference. There are no objective criteria by which the BARB will determine whether someone’s experience is legitimate. One individual may have been working at the technician level for 20 years, 10 hours per week, while another may have worked full time under the direct supervision of a BCBA for the last 10 years. Each has “10 years experience” but one is likely to be more qualified than the other. While one BARB member may be satisfied with a declarant’s reported “experience” another member may disagree. Declarants will be tasked with determining what “10 years experience in ABA” means, and the BARB will be burdened by having to make licensing decisions in the absence of objective and legally defensible standards.

(6) Submit three letters of recommendation that attest to their ABA practice with observation and client progress report review; two must be from a BCBA; no more than one can be from a licensed health-care professional defined in ORS 676.802 (2); and

While professional attestations are not unheard of, the current rules do not provide guidelines for observing declarants or reviewing files. Providing a professional license without meeting objective, and legally defensible criteria places the credibility and value of the license at risk.

In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants

(7) Submit proof of having completed 270 classroom hours in ABA, including 45 hours in ethics and professional conduct as related to behavior analysis, 45 hours in principles of behavior analysis, 45 hours in behavior analytic research methods and analysis, 105 hours in ABA, and 30 discretionary hours; if the courses were completed more than 10 years ago, submit proof of having completed 50 hours of CEUs in ABA that were acquired within three calendar years prior to the date of application.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list.

Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU’s in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this

licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

(8) Submit proof of having completed 1,500 hours of supervised experience - direct or indirect - in ABA, or have 75 hours of direct supervision with a BCBA who signs off on their competency to practice ABA; and

Like the prior comments on “10 years experience in ABA”, 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field.

I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

Division 40

Registered Behavior Analysis Interventionist Training and Supervision

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

Division 60

Standards of Practice, Professional Methods, and Procedures

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

Division 70

Continuing Education

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,

Analise Herrera-Minteer, BCBA
Analise Herrera-Minteer, MS, BCBA
School Support Program Specialist
Play Connections, LLC
analise@playconnectcenter.com
(503) 350-7050 (office)

Tori Lentfer
1035 Eureka St #1,
Ashland, OR 97520
541.852.6535
tslentfer@hotmail.com

October 25, 2016

Dear Behavior Analysis Regulatory Board,

I am currently a student in the MEd program jointly run by Southern Oregon University and Oregon Institute of Technology. This education program includes an emphasis in Autism Spectrum Disorders and leads to a certification in Applied Behavior Analysis.

Once I have completed the degree and become certified as a BCBA, I plan to remain in southern Oregon and pursue a career in a school district working with students with autism. Southern Oregon has one of the highest rates in the United States of autism diagnosed and a great need for appropriately educated and skilled professionals to work with individuals with ASDs.

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

**DIVISION 36
GRANDFATHERING**

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those

individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of “declarants” are unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

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“10 years experience in ABA” has no meaningful reference. There are no objective criteria by which the BARB will determine whether someone’s experience is legitimate. One individual may have been working at the technician level for 20 years, 10 hours per week, while another may have worked full time under the direct supervision of a BCBA for the last 10 years. Each has “10 years experience” but one is likely to be more qualified than the other. While one BARB member may be satisfied with a declarant’s reported “experience” another member may disagree. Declarants will be tasked with determining what “10 years experience in ABA” means, and the BARB will be burdened by having to make licensing decisions in the absence of objective and legally defensible standards.

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While professional attestations are not unheard of, the current rules do not provide guidelines for observing declarants or reviewing files. Providing a professional license without meeting objective, and legally defensible criteria places the credibility and value of the license at risk.

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and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

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**DIVISION 60
STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES**

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

Thank you for your time and consideration.

Sincerely,
Tori Lentfer

10/25/2016

Dear Behavior Analysis Regulatory Board,

I am a RBT registered with the State of Oregon. I have worked in the field of autism intervention for 11 years with the last 6 years in Applied Behavior Analysis. During that time I have worked as an interventionist, program coordinator overseeing small social groups for children under 5 years old, and as a program manager. My current role as a program manager, creating programs under the supervision of a BCBA, supervising staff, overseeing treatment efficacy, and staff and parent training now necessitates that I return to school, log a specific number and type of supervision hours, take the psychometrically valid exam, and get the appropriate certification (BCBA). My commitment to the field, my employer, and the families that I serve motivate me to acquire the necessary credentialing and become a Board Certified Behavior Analyst. As soon as the opportunity presented itself I enrolled in the joint program offered through Oregon Institute of Technology and Southern Oregon University. I also encouraged several of my peers to do the same in order for us as a team to attain the necessary credentialing to continue our vital work with children with autism. We have entered into this process while maintaining our full time work schedules and busy lives outside of both school and work.

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

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Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU's in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

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objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

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Division 40

Registered Behavior Analysis Interventionist Training and Supervision

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

Division 60

Standards of Practice, Professional Methods, and Procedures

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Division 70

Continuing Education

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,
Erin K Reed

-Erin Reed, BA, RBT
Program Manager
A Hope For Autism Foundation

I'm a BCBA, LBA in Portland. I read through the proposed rules and I do have a comment. My comment relates to continuing ed credits. I do not support the proposed rule to track continuing ed yearly. I believe it should be on a two year cycle like the BACB. I find a lot of value in attending national conferences. I often consult with colleagues on difficult cases and bring back current research to use with my clients. I have been able to balance my personal and professional life, and the finances to attend a national conference about every other year. At times when I have needed some additional credits and I am not able to plan to travel to larger conferences I do use on-line continuing ed programs. I have always felt that these do not provide the same kind of benefits to my clients. I feel it would make the most sense to line up similar requirements with the BACB so our focus can be on learning the newest and best research and collaborating with top BCBA's in the field.

Kindly,

Kristina Montgomery, M.A., BCBA
ABA Learning Solutions
www.abaportland.com

Amanda Jo Broughton
339 W Broadway #3 Eugene, OR 97401
949-326-8894
amanda.broughton@ymail.com

October 26, 2016

Dear Behavior Analysis Regulatory Board,

I am a BCBA licensed with the State of Oregon as a LBA. For the most part, I work with children with intellectual and developmental disabilities.

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

**DIVISION 36
GRANDFATHERING**

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those

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(8) SUBMIT PROOF OF HAVING COMPLETED 1,500 HOURS OF SUPERVISED EXPERIENCE - DIRECT OR INDIRECT - IN ABA, OR HAVE 75 HOURS OF DIRECT SUPERVISION WITH A BCBA WHO SIGNS OFF ON THEIR COMPETENCY TO PRACTICE ABA; AND

Like the prior comments on “10 years experience in ABA”, 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field.

I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

**DIVISION 40
REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION**

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

**DIVISION 60
STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES**

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

**DIVISION 70
CONTINUING EDUCATION**

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.
Sincerely,
Amanda Jo Broughton

Jenny Fischer, PhD, Licensed Behavior Analyst

October 25, 2016

Dear Behavior Analysis Regulatory Board,

Thank you for your efforts in creating draft rules to fulfill a very challenging legislative mandate. I am a Licensed Behavior Analyst and the Owner of Cascade Behavioral Intervention, LLC/Cascade ABA. I employ two other Licensed Behavior Analysts and nine Registered Behavior Analysis Interventionists in Deschutes and Jackson Counties. I was actively involved in the passage of SB365, the legislation that created the Behavior Analysis Regulatory Board (BARB), and I have followed rulemaking closely as a former member of the BARB, a participant in two Rules Advisory Committees, and an active member in the Oregon Association for Behavior Analysis (currently serving as an ORABA board advisor). I realize that rulemaking is a challenging process with stakeholders of widely varying viewpoints, and I appreciate your thoughtful consideration. I would like to submit the following comments regarding the draft rules:

Division 36, Grandfathering:

Legitimate professions must have legally defensible standards for recognizing qualified professionals, including coursework, supervised experience, and demonstrated competence through successful completion of a psychometrically valid exam of competency. Legitimate minimum standards for licensure are essential in protecting consumers from harm and maintaining the integrity of a field of practice.

A variety of autism interventions are available to consumers. However, the Behavior Analysis Regulatory Board is not the "Autism Intervention Regulatory Board." It is understandable that parents who value their child's autism intervention would wish to access reimbursement for those services through licensure of their autism intervention providers. However, in licensing individuals who have not met established minimum standards in the field of ABA, the BARB risks confusing and misleading consumers. Consumers will rightly expect that all individuals licensed by the BARB have met the same standards as licensees who hold a BCBA. Similarly,

organizations issuing third party reimbursement for ABA services have a right to expect that all licensed providers have met legitimate standards of practice.

I began providing ABA intervention in Oregon more than 15 years ago. I went to great lengths to obtain legitimate, internationally recognized qualifications in ABA because I wanted to ensure that I was competently providing high quality ABA services to my clients. The Behavior Analyst Certification Board®, Inc. (BACB®) has existed since 1998, so declarants have had ample time to obtain BCBA certification. Since these individuals did not take steps to obtain legitimate ABA credentials in the past 18 years, I see no reason that they should be eligible for licensure now. I could have provided autism interventions in Oregon for the past 15 years without having obtained any legitimate credentials in ABA, and would have saved myself quite a bit of effort and expense. However, had I chosen that path, I would not expect that I would now be eligible for licensure in behavior analysis, any more than I would expect to be eligible for licensure in any other field of practice without first completing the established coursework, supervised experience, and credentials for that field. The only viable option for licensing declarants is to require that they obtain BCBA credentials, or an equivalent nationally accredited professional credential in ABA, if one were to become available. Declarants have ample time to obtain a legitimate professional credential prior to 2018, and there are many options for obtaining the necessary coursework and experience required to qualify for the competency exam. Certainly this would involve some time and expense on the part of declarants, but no more than the time and expense that other Licensed Behavior Analysts have undergone. Requiring declarants to obtain legitimate professional credentials in ABA will ensure that their consumers can continue to seek insurance reimbursement for services after 2018. At the same time, this approach will ensure that consumers of ABA are not misled about the qualifications of declarants if/when these individuals become recognized as Licensed Behavior Analysts.

Division 40

Registered Behavior Analysis Interventionist Training and Supervision:

I support the revised rules for RBAI's training and supervision. The new rules reduce unnecessary burdens and barriers to treatment by creating supervision and training standards comparable to the national standards.

Division 60

Standards of Practice, Professional Methods, and Procedures:

I support the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

Division 70

Continuing Education:

I support the proposed rules for continuing education

Thank you for your time and consideration,

Jenny Fischer, PhD, Licensed Behavior Analyst
Owner, Cascade Behavioral Intervention, LLC/Cascade ABA

Brittany Henkes, BAI, A Hope for Autism Foundation.
7955 SW 19th Ave Apt D
Portland, OR 97219
303-619-3036
brittany.henkes@yahoo.com

10/26/2016

Dear Behavior Analysis Regulatory Board,

I am an RBT registered with the State of Oregon as a BAI. I provide one on one ABA interventions and therapy to children affected by autism. I also implement behavior intervention and treatment plans created by a BCBA. As a senior interventionist in my company I also work closely with BCBAs and assist with writing treatment plans, participate in goal selection, create and maintain program materials and provide training and support for other interventionists on the team.

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

**DIVISION 36
GRANDFATHERING**

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of “declarants” are unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

(5) SUBMIT PROOF OF 10 YEARS OF EXPERIENCE IN APPLIED BEHAVIOR ANALYSIS AS DEFINED IN ORS 676.802 (1)(A); AND

“10 years experience in ABA” has no meaningful reference. There are no objective criteria by which the BARB will determine whether someone’s experience is legitimate. One individual may have been working at the technician level for 20 years, 10 hours per week, while another may have worked full time under the direct supervision of a BCBA for the last 10 years. Each has “10 years experience” but one is likely to be more qualified than the other. While one BARB member may be satisfied with a declarant’s reported “experience” another member may disagree. Declarants will be tasked with determining what “10 years experience in ABA” means,

and the BARB will be burdened by having to make licensing decisions in the absence of objective and legally defensible standards.

(6) SUBMIT THREE LETTERS OF RECOMMENDATION THAT ATTEST TO THEIR ABA PRACTICE WITH OBSERVATION AND CLIENT PROGRESS REPORT REVIEW; TWO MUST BE FROM A BCBA; NO MORE THAN ONE CAN BE FROM A LICENSED HEALTH-CARE PROFESSIONAL DEFINED IN ORS 676.802 (2); AND

While professional attestations are not unheard of, the current rules do not provide guidelines for observing declarants or reviewing files. Providing a professional license without meeting objective, and legally defensible criteria places the credibility and value of the license at risk.

In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants

(7) SUBMIT PROOF OF HAVING COMPLETED 270 CLASSROOM HOURS IN ABA, INCLUDING 45 HOURS IN ETHICS AND PROFESSIONAL CONDUCT AS RELATED TO BEHAVIOR ANALYSIS, 45 HOURS IN PRINCIPLES OF BEHAVIOR ANALYSIS, 45 HOURS IN BEHAVIOR ANALYTIC RESEARCH METHODS AND ANALYSIS, 105 HOURS IN ABA, AND 30 DISCRETIONARY HOURS; IF THE COURSES WERE COMPLETED MORE THAN 10 YEARS AGO, SUBMIT PROOF OF HAVING COMPLETED 50 HOURS OF CEUS IN ABA THAT WERE ACQUIRED WITHIN THREE CALENDAR YEARS PRIOR TO THE DATE OF APPLICATION.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list. Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU's in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

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I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

DIVISION 40

REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

DIVISION 60

STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

DIVISION 70

CONTINUING EDUCATION

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,
Brittany Henkes

Shirah Dantone
A Hope for Autism Foundation
2120 SW Jefferson St. Ste. B200
Portland, OR 97206
(503) 244-4083
shirah@ahopeforautism.net

10/27/2016

Dear Behavior Analysis Regulatory Board,

I am a RBT registered with the State of Oregon as a BAI. I am a full time student, pursuing BCBA certification, while working full time, and raising a family.

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

**DIVISION 36
GRANDFATHERING**

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of “declarants” are unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

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(6) SUBMIT THREE LETTERS OF RECOMMENDATION THAT ATTEST TO THEIR ABA PRACTICE WITH OBSERVATION AND CLIENT PROGRESS REPORT REVIEW; TWO MUST BE FROM A BCBA; NO MORE THAN ONE CAN BE FROM A LICENSED HEALTH-CARE PROFESSIONAL DEFINED IN ORS 676.802 (2); AND

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In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants

(7) SUBMIT PROOF OF HAVING COMPLETED 270 CLASSROOM HOURS IN ABA, INCLUDING 45 HOURS IN ETHICS AND PROFESSIONAL CONDUCT AS RELATED TO BEHAVIOR ANALYSIS, 45 HOURS IN PRINCIPLES OF BEHAVIOR ANALYSIS, 45 HOURS IN BEHAVIOR ANALYTIC RESEARCH METHODS AND ANALYSIS, 105 HOURS IN ABA, AND 30 DISCRETIONARY HOURS; IF THE COURSES WERE COMPLETED MORE THAN 10 YEARS AGO, SUBMIT PROOF OF HAVING COMPLETED 50 HOURS OF CEUS IN ABA THAT WERE ACQUIRED WITHIN THREE CALENDAR YEARS PRIOR TO THE DATE OF APPLICATION.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list.

Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU's in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

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Like the prior comments on "10 years experience in ABA", 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field.

I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

DIVISION 40
REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

DIVISION 60
STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

DIVISION 70
CONTINUING EDUCATION

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,
Shirah Dantone

Date: 10-26-16

Dear Behavior Analysis Regulatory Board,

I am a BCBA licensed with the State of Oregon as a LBA. I co-own an ABA clinic for children with autism, serving over 100 children in the Portland area. The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

Division 36
Grandfathering

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those

individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of “declarants” are unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

(5) Submit proof of 10 years of experience in applied behavior analysis as defined in ORS 676.802 (1)(a); and

“10 years experience in ABA” has no meaningful reference. There are no objective criteria by which the BARB will determine whether someone’s experience is legitimate. One individual may have been working at the technician level for 20 years, 10 hours per week, while another may have worked full time under the direct supervision of a BCBA for the last 10 years. Each has “10 years experience” but one is likely to be more qualified than the other. While one BARB member may be satisfied with a declarant’s reported “experience” another member may disagree. Declarants will be tasked with determining what “10 years experience in ABA” means, and the BARB will be burdened by having to make licensing decisions in the absence of objective and legally defensible standards.

(6) Submit three letters of recommendation that attest to their ABA practice with observation and client progress report review; two must be from a BCBA; no more than one can be from a licensed health-care professional defined in ORS 676.802 (2); and

While professional attestations are not unheard of, the current rules do not provide guidelines for observing declarants or reviewing files. Providing a professional license without meeting objective, and legally defensible criteria places the credibility and value of the license at risk. In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants

(7) Submit proof of having completed 270 classroom hours in ABA, including 45 hours in ethics and professional conduct as related to behavior analysis, 45 hours in principles of behavior analysis, 45 hours in behavior analytic research methods and analysis, 105 hours in ABA, and 30 discretionary hours; if the courses were completed more than 10 years ago, submit proof of having completed 50 hours of CEUs in ABA that were acquired within three calendar years prior to the date of application.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list. Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU’s in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of

continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

(8) Submit proof of having completed 1,500 hours of supervised experience – direct or indirect - in ABA, or have 75 hours of direct supervision with a BCBA who signs off on their competency to practice ABA; and

Like the prior comments on “10 years experience in ABA”, 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk. The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field. I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

Division 40

Registered Behavior Analysis Interventionist Training and Supervision

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

Division 60

Standards of Practice, Professional Methods, and Procedures

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

Division 70

Continuing Education

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,

Elizabeth Mishler

BCBA, Co-Owner, Co-Executive Director

Building Bridges

Alisha Sheetz, Building Bridges
4724 SW MacAdams Ave, Portland, OR
503-235-3122
alishamsheetz@gmail.com

10/26/16

Dear Behavior Analysis Regulatory Board,

I am a registered behavior analyst interventionist (BAI) with the State of Oregon. As an interventionist I work closely with my BCBA to implement their programs which are designed based on the principles of ABA.

I have been in the field of ABA for 3 years and have been pursuing a Masters specializing in ABA. From my experience I have learned the importance of understanding the principles and fundamentals of ABA. It is through my education and my supervision that I have learned the many principles and interventions that are researched based and the importance of using strategies that are data driven. The national boards (BACB) standards help ensure that all those practicing in ABA follow a strict code of ethics. As a field ABA has worked tirelessly to ensure we meet a high standard of service to our clients.

I am very concerned in the BARB not setting clear standards for grandfathering in of declarants. Allowing declarants to be grandfathered in with no requirement to pursue an ABA education discredits our field, puts the ABA community at risk of misrepresentation and causes confusion for consumers seeking ABA services. ORABA has made many compromises in order to make the transition for declarants easier. Anyone who is able to bill for ABA should be following expectations similar or the same to the BACB.

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

DIVISION 36 GRANDFATHERING

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of “declarants” are unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

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I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

**DIVISION 40
REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION**

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

**DIVISION 60
STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES**

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

**DIVISION 70
CONTINUING EDUCATION**

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,
Alisha M. Sheetz

Natalie Perkins
Registered Behavior Technician, Building Bridges
4724 SW Macadam Ave, Portland, OR, 97239

10/27/2016

Dear Behavior Analysis Regulatory Board,

I am licensed therapist with the State of Oregon as a BAI and a student in a master's of science ABA program. I work in the early intervention autism field. Each day I focus on providing the best services to the clients I work with. Providing the best services as a student or interventionist means that I am receiving the appropriate supervision from a board certified behavior analyst. This allows the client to be treated with integrity and to access services based on scientific evidence.

As a student for one year, I have worked tirelessly full time at Building Bridges and take classes. Each day, I gain supervision and provide therapy for clients. At night, I complete my class work. Many of my coworkers are doing the same. We strive to give the most accurate ABA therapy to support the rights of our clients. The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

DIVISION 36 GRANDFATHERING

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of “declarants” are unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

(5) SUBMIT PROOF OF 10 YEARS OF EXPERIENCE IN APPLIED BEHAVIOR ANALYSIS AS DEFINED IN ORS 676.802 (1)(A); AND

“10 years experience in ABA” has no meaningful reference. There are no objective criteria by which the BARB will determine whether someone’s experience is legitimate. One individual

may have been working at the technician level for 20 years, 10 hours per week, while another may have worked full time under the direct supervision of a BCBA for the last 10 years. Each has “10 years experience” but one is likely to be more qualified than the other. While one BARB member may be satisfied with a declarant’s reported “experience” another member may disagree. Declarants will be tasked with determining what “10 years experience in ABA” means, and the BARB will be burdened by having to make licensing decisions in the absence of objective and legally defensible standards.

(6) SUBMIT THREE LETTERS OF RECOMMENDATION THAT ATTEST TO THEIR ABA PRACTICE WITH OBSERVATION AND CLIENT PROGRESS REPORT REVIEW; TWO MUST BE FROM A BCBA; NO MORE THAN ONE CAN BE FROM A LICENSED HEALTH-CARE PROFESSIONAL DEFINED IN ORS 676.802 (2); AND

While professional attestations are not unheard of, the current rules do not provide guidelines for observing declarants or reviewing files. Providing a professional license without meeting objective, and legally defensible criteria places the credibility and value of the license at risk. In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants

(7) SUBMIT PROOF OF HAVING COMPLETED 270 CLASSROOM HOURS IN ABA, INCLUDING 45 HOURS IN ETHICS AND PROFESSIONAL CONDUCT AS RELATED TO BEHAVIOR ANALYSIS, 45 HOURS IN PRINCIPLES OF BEHAVIOR ANALYSIS, 45 HOURS IN BEHAVIOR ANALYTIC RESEARCH METHODS AND ANALYSIS, 105 HOURS IN ABA, AND 30 DISCRETIONARY HOURS; IF THE COURSES WERE COMPLETED MORE THAN 10 YEARS AGO, SUBMIT PROOF OF HAVING COMPLETED 50 HOURS OF CEUS IN ABA THAT WERE ACQUIRED WITHIN THREE CALENDAR YEARS PRIOR TO THE DATE OF APPLICATION.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list. Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU’s in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one’s competency in the field of ABA and not one’s competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

(8) SUBMIT PROOF OF HAVING COMPLETED 1,500 HOURS OF SUPERVISED EXPERIENCE - DIRECT OR INDIRECT – IN ABA, OR HAVE 75 HOURS OF DIRECT SUPERVISION WITH A BCBA WHO SIGNS OFF ON THEIR COMPETENCY TO PRACTICE ABA; AND

Like the prior comments on “10 years experience in ABA”, 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk. The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field. I urge the BARB to require licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

DIVISION 40

REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

DIVISION 60

STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES

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DIVISION 70

CONTINUING EDUCATION

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Thank you for your time and consideration.

Sincerely,

Natalie Perkins

Erin Clark, BCBA, LPC, Building Bridges.

8512 SW 45th Ave Portland, OR 97219

503-235-3122

erin@bridgespdx.com

10/27/2016

Dear Behavior Analysis Regulatory Board,

I am a BCBA, licensed with the State of Oregon as a LBA. I work with children ages 18 month to 10 years old designing individualized treatment plans to address deficit areas.

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

**DIVISION 36
GRANDFATHERING**

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of “declarants” are unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

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Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list.

Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU's in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

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The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field.

I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

DIVISION 40

REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

DIVISION 60

STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES

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DIVISION 70

CONTINUING EDUCATION

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Thank you for your time and consideration.

Sincerely,

Erin Clark, M.A., LPC, NCC, BCBA
Building Bridges
4724 SW Macadam Ave.
Portland, OR. 97239

Emily Kearney, BCBA, LBA, Building Bridges
4724 SW Macadam Avenue
Portland OR 97239

10/27/16

Dear Behavior Analysis Regulatory Board,

I am a BCBA licensed with the State of Oregon as a LBA and the current treasurer of the Oregon Association for Behavior Analysis. I currently serve young children with autism and other developmental disabilities, supervising RBAs implementing early intensive behavioral intervention programs. I am a new BCBA, certified in November 2015. After 15 years of experience providing ABA services to a variety of clients, I went back to school to complete the BACB-approved post-graduate coursework in ABA, complete 1500 supervised fieldwork hours,

and pass the BCBA exam. Now that I am a BCBA, I am able to see how much I still had to learn despite my experience in the field before completing the certification process, and I am writing in to support changes to the rules that uphold stringent licensure laws that will protect the rights of consumers to receive the most effective services from ABA providers, and to set manageable standards for supervision of RBAs.

Thank you to all of the BARB members, HLO staff, and those who served on the Rules Advisory Committee for all of the hard work they have put into this process!

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

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DIVISION 40
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I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

DIVISION 60
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DIVISION 70
CONTINUING EDUCATION

I am in support of the proposed rules for continuing education.
Thank you for your time and consideration.
Sincerely,
Emily Kearney, BCBA, LBA

Molly Dwyer, MA, LPC, BCBA, NCC, LBA
Building Bridges
4724 SW Macadam Ave Portland OR

Thursday October 27th, 2016

Dear Behavior Analysis Regulatory Board,

I am a BCBA licensed with the State as Oregon as an LBA. I work for Building Bridges, with young children on the Autism Spectrum.

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

DIVISION 36

GRANDFATHERING

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DIVISION 70
CONTINUING EDUCATION

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Thank you for your time and consideration.
Sincerely,
Molly Dwyer, MA, LPC, BCBA, NCC, LBA

Kaitlynn Blasquez, RBT, Building Bridges
Address: 4724 SW Macadam Ave, Portland, OR, 97239

Date 10/27/16

Dear Behavior Analysis Regulatory Board,

I am a licensed RBT with the State of Oregon. I provide ABA Therapy for young children with Autism Spectrum Disorders using the fundamental principles of Applied Behavior Analysis. I am currently enrolled in the University of West Florida Exceptional Student Education, M.A. with a cognate in ABA and working on my BCBA supervision. I am also working 30-35 hours per week providing early intervention with children on the Autism Spectrum ranging from 3-9 years of age. I have been working in this field for 3 years.

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Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU’s in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in

the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

(8) SUBMIT PROOF OF HAVING COMPLETED 1,500 HOURS OF SUPERVISED EXPERIENCE - DIRECT OR INDIRECT - IN ABA, OR HAVE 75 HOURS OF DIRECT SUPERVISION WITH A BCBA WHO SIGNS OFF ON THEIR COMPETENCY TO PRACTICE ABA; AND

Like the prior comments on “10 years experience in ABA”, 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field.

I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

DIVISION 40

REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

DIVISION 60

STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

DIVISION 70

CONTINUING EDUCATION

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,
Kaitlynn Blasquez

Rachel Hathaway-Boschee, RBAI, Building Bridges
4724 SW Macadam Ave. Portland, OR

10/27/16

Dear Behavior Analysis Regulatory Board,

I am a registered interventionist and registered with the State of Oregon as a BAI. I am also currently a student working towards a masters in special education and a BCBA. These classes are in addition to my full day at work. Along with work and school, I am a mother of 3, so this extra time, energy and I take to credentialize and license myself is something I am proud to provide for myself, my future clients and for the efficacy of our field. A standard minimum competence for all practicing ABA is fundamental to our future as credible professionals. Please consider this proposal.

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

Division 36
Grandfathering

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of “declarants” are unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

(5) Submit proof of 10 years of experience in applied behavior analysis as defined in ORS 676.802 (1)(a); and

“10 years experience in ABA” has no meaningful reference. There are no objective criteria by which the BARB will determine whether someone’s experience is legitimate. One individual

may have been working at the technician level for 20 years, 10 hours per week, while another may have worked full time under the direct supervision of a BCBA for the last 10 years. Each has “10 years experience” but one is likely to be more qualified than the other. While one BARB member may be satisfied with a declarant’s reported “experience” another member may disagree. Declarants will be tasked with determining what “10 years experience in ABA” means, and the BARB will be burdened by having to make licensing decisions in the absence of objective and legally defensible standards.

(6) Submit three letters of recommendation that attest to their ABA practice with observation and client progress report review; two must be from a BCBA; no more than one can be from a licensed health-care professional defined in ORS 676.802 (2); and

While professional attestations are not unheard of, the current rules do not provide guidelines for observing declarants or reviewing files. Providing a professional license without meeting objective, and legally defensible criteria places the credibility and value of the license at risk.

In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants

(7) Submit proof of having completed 270 classroom hours in ABA, including 45 hours in ethics and professional conduct as related to behavior analysis, 45 hours in principles of behavior analysis, 45 hours in behavior analytic research methods and analysis, 105 hours in ABA, and 30 discretionary hours; if the courses were completed more than 10 years ago, submit proof of having completed 50 hours of CEUs in ABA that were acquired within three calendar years prior to the date of application.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list.

Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU’s in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

(8) Submit proof of having completed 1,500 hours of supervised experience - direct or indirect - in ABA, or have 75 hours of direct supervision with a BCBA who signs off on their competency to practice ABA; and

Like the prior comments on “10 years experience in ABA”, 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession and pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field.

I urge the BARB to require all licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

Division 40

Registered Behavior Analysis Interventionist Training and Supervision

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

Division 60

Standards of Practice, Professional Methods, and Procedures

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

Division 70

Continuing Education

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,

To whom it concerns,

Please accept this email as my submission for public comment regarding BARB rules for the 5 "grandfathered" providers.

The course requirements set forth by the BARB are both financially excessive as well as an unrealistic amount of time required to meet the BARB requirements while running a service business. In addition, considering our decades of experience the course work requirements are neither relevant to our services and are out dated strategies in a rapidly evolving field. This whole process of watching an organization attempt to create standards for services to children and families in Oregon using a single methodology as a basis for appropriate services is as restrictive and misguided as choosing a religion as "THE" religion for the citizens of the state.

The truth is I am choosing NOT to be a part of a closed system. The services our company has offered families in Oregon, nationally and internationally are recognized amongst our professionals peers as elite and ground breaking.

Our misstep in coordinating with the expectations of the BARB was to be the trailblazers that created a path decades before the BARB existed in the first place.

It will be the citizens of Oregon that will suffer the inability to access their healthcare to offset the cost of our services. We will continue to do what we have done be for the past three decades; serve the families of Oregon with a genuine ability to adapt services to meet the individual needs of each family. We will leverage our combined experience of over 60 plus years to competently support families.

We would ask this board to recognize our expertise as outside of the boards competencies and ability to oversee, which would create the need for an alternate route to remain insurance eligible indefinitely.

I appreciate your thoughtful consideration of the above.

Sincerely,
Eric Hamblen
Program Director
PACE Place and Connector Rx
[2360 SW 170th Ave.](#)
[Beaverton, OR 97003](#)

Melissa Gard, Clinical Director, Building Bridges
4724 SW Macadam Ave, Portland, OR 972239
503.235.3122
melissagard@bridgespdx.com

10/27/16

Dear Behavior Analysis Regulatory Board,

I am a BCBA-D licensed with the State of Oregon as a LBA. I provide intensive early intervention and focused interventions to children with autism, family skills training, and supervision of ABA interventions.

I also teach graduate level courses on ABA here in Oregon, and supervise students pursuing their BCBA as a part of their 1500 hours of supervised experience. I work with many committed therapists, some of who make the additional commitment not just to be a part of an effective therapy team; but to lead and supervise treatment. These individuals work diligently to recruit the education and training necessary to do so. They come from varied backgrounds and often already have advance degrees (counseling, education, special education), and all report by the end of their training that without the additional requirements of courses and supervision set forth by the BACB they would not be prepared for their role as licensed behavior analysts. The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

DIVISION 36 GRANDFATHERING

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of “declarants” are unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB). Additionally, licensing providers who have and who maintain good standing with the national certification body (BACB) ensures that ALL Oregon LBAs continue to meet the evolving requirements to provide appropriate, responsible services.

(5) SUBMIT PROOF OF 10 YEARS OF EXPERIENCE IN APPLIED BEHAVIOR ANALYSIS AS DEFINED IN ORS 676.802 (1)(A); AND

“10 years experience in ABA” has no meaningful reference. There are no objective criteria by which the BARB will determine whether someone’s experience is legitimate. One individual may have been working at the technician level for 20 years, 10 hours per week, while another may have worked full time under the direct supervision of a BCBA for the last 10 years. Each has “10 years experience” but one is likely to be more qualified than the other. While one BARB member may be satisfied with a declarant’s reported “experience” another member may disagree. Declarants will be tasked with determining what “10 years experience in ABA” means, and the BARB will be burdened by having to make licensing decisions in the absence of objective and legally defensible standards.

(6) SUBMIT THREE LETTERS OF RECOMMENDATION THAT ATTEST TO THEIR ABA PRACTICE WITH OBSERVATION AND CLIENT PROGRESS REPORT REVIEW; TWO MUST BE FROM A BCBA; NO MORE THAN ONE CAN BE FROM A LICENSED HEALTH-CARE PROFESSIONAL DEFINED IN ORS 676.802 (2); AND

While professional attestations are not unheard of, the current rules do not provide guidelines for observing declarants or reviewing files. Providing a professional license without meeting objective, and legally defensible criteria places the credibility and value of the license at risk. In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants

(7) SUBMIT PROOF OF HAVING COMPLETED 270 CLASSROOM HOURS IN ABA, INCLUDING 45 HOURS IN ETHICS AND PROFESSIONAL CONDUCT AS RELATED TO BEHAVIOR ANALYSIS, 45 HOURS IN PRINCIPLES OF BEHAVIOR ANALYSIS, 45 HOURS IN BEHAVIOR ANALYTIC RESEARCH METHODS AND ANALYSIS, 105 HOURS IN ABA, AND 30 DISCRETIONARY HOURS; IF THE COURSES WERE COMPLETED MORE THAN 10 YEARS AGO, SUBMIT PROOF OF HAVING COMPLETED 50 HOURS OF CEUS IN ABA THAT WERE ACQUIRED WITHIN THREE CALENDAR YEARS PRIOR TO THE DATE OF APPLICATION.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list. Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU's in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

(8) SUBMIT PROOF OF HAVING COMPLETED 1,500 HOURS OF SUPERVISED EXPERIENCE - DIRECT OR INDIRECT - IN ABA, OR HAVE 75 HOURS OF DIRECT SUPERVISION WITH A BCBA WHO SIGNS OFF ON THEIR COMPETENCY TO PRACTICE ABA; AND

Like the prior comments on "10 years experience in ABA", 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk. The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate

profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field. I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

**DIVISION 40
REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND
SUPERVISION**

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

**DIVISION 60
STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES**

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

**DIVISION 70
CONTINUING EDUCATION**

I am in support of the proposed rules for continuing education. If in the future, the national certification board adjusts the number, type, or allocation of CEUs required for BCBA certificants, I would hope that this rule for all LBAs would be adjusted accordingly. These changing requirements occur in order to ensure that all BCBA certificants are current with changes in the field/practice.

Thank you for your time and consideration.

Sincerely,
Melissa Gard, PhD, BCBA-D, LBA

The Center for Autism and Related Disorders (CARD) is the world's largest provider of evidence-based autism treatment with over 100 locations in the United States, including 5 locations in Oregon. CARD commends the BARB for its efforts to ensure access to top-quality treatment for Oregonians affected by autism spectrum disorder (ASD).

Through these comments, CARD seeks clarification and expresses a concern regarding BARB's proposal to adopt "sections 1-9 of the 2014 BACB Professional and Ethical Compliance Code for Behavior Analysts." First, CARD seeks clarification that the BARB is, in fact, proposing to adopt sections 1-9 of the most recent BACB Professional and Ethical Compliance Code for Behavior Analysts, which took effect on January 1, 2016, and represented an update to its 2014 document. Technically speaking, the document described as the "2014 BACB Professional and Ethical Compliance Code for Behavior Analysts" does not appear to exist.

For purposes of these comments, CARD assumes that the intent is to adopt sections 1-9 of the current BACB Professional and Ethical Compliance Code for Behavior Analysts (hereinafter "BACB Compliance Code"). If that is an accurate assumption, then CARD has two concerns:

1. In the past, some members of the BARB have expressed concerns that their actions as members of a state regulatory board placed them out of compliance with BACB ethical guidelines. Specifically, any effort to grandfather non-BCBAs as licensed behavior analysts was viewed as an action that could result in disciplinary action by BACB. Whether this concern was warranted, it seems inconsistent to adopt a code that produced such conflict among the BARB board members. CARD urges the BARB to use the BACB document to inform the development of its own compliance code or, in the alternative, to add language that clarifies that the adoption of the BACB Compliance Code is not intended to replace or restrict Oregon laws, regulations, or rules, including those rules proposed and finalized by the BARB subsequent to the adoption of the BACB Compliance Code;
2. CARD is concerned that Section 1.06(d) of the BACB Compliance Code does not allow clinicians and interventionists to attend to cultural norms. Section 1.06 states:
1.06 Multiple Relationships and Conflicts of Interest. RBT (a) Due to the potentially harmful effects of multiple relationships, behavior analysts avoid multiple relationships. (b) Behavior analysts must always be sensitive to the potentially harmful effects of multiple relationships. If behavior analysts find that, due to unforeseen factors, a multiple relationship has arisen, they seek to resolve it. (c) Behavior analysts recognize and inform clients and supervisees about the potential harmful effects of multiple relationships. (d) Behavior analysts do not accept any gifts from or give any gifts to clients because this constitutes a multiple relationship.

Section 1.06(d) is too broad and, consequently, may be interpreted to mean that accepting a plate of cookies from a patient's parent is as egregious as accepting a diamond bracelet. In many cultures, offerings of food represent traditional gestures of gratitude, and rejecting such offers may cause offense or embarrassment. Oregon's behavior analysts and interventionists must be given the latitude to attend to cultural norms and should not be constrained by Section 1.06(d) which fails to distinguish minor gestures of gratitude from lavish, inappropriate gifts. CARD urges the BARB not to adopt Section 1.06(d) barring additional clarification.

Thank you for the opportunity to comment on these proposed rules.

Respectfully submitted,

Julie Kornack | Director of Public Policy

Center for Autism and Related Disorders

21600 Oxnard Street, 18th Floor

Woodland Hills, CA 91367

Maria Lynn Kessler, PhD

4406 SE 25th Ave.

Portland, OR 97202

October 26, 2016

Dear Behavior Analysis Regulatory Board,

I appreciate the efforts of the BARB to establish rules for licensure and registration of individuals who provide ABA services in Oregon. As program director for the ABA programs at Oregon Tech, I am very familiar with the education and training of behavior analysts. I worked with community members in the legislative process that created the BARB and have actively participated in two Rules Advisory Committees related to these rules. I recognize that this is a challenging process and appreciate the opportunity to provide comment on the proposed rules. I respectfully submit the following comments in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB). Comments are divided by their respective sections.

DIVISION 36

GRANDFATHERING

The standards for licensure within a profession are established in order to ensure that licensees meet the minimum standards of the profession and served to protect consumers. Allowing individuals who have not met the standards of the profession to become licensed puts consumers at risk and undermines the credibility of the license. Consumers may be unable to readily distinguish between those individuals and professionals who have met the standards of the profession, i.e., objectively verified training and demonstrated competence in behavior analysis. The proposed rules regarding the licensing of “declarants” are unclear and are not guided by legally defensible processes. The process to create objective and legally defensible standards for licensure is long and arduous. The BARB and HLO should not be burdened with creating a different set of licensing standards, when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

The BACB was established in 1998 and is accredited by the National Commission for Certifying Agencies. The BACB adheres to international standards for professional credentialing, including systematic job analysis and psychometrically valid examination. These standards are essential for protecting consumers. Licensing individuals who have not demonstrated competency in behavior analysis places consumers at risk and undermines the credibility of the license and the BARB. The criteria that have been proposed in the draft rules are problematic because they have not been established through professional job analysis and do not include a psychometrically valid examination.

(5) SUBMIT PROOF OF 10 YEARS OF EXPERIENCE IN APPLIED BEHAVIOR ANALYSIS AS DEFINED IN ORS 676.802 (1)(A); AND

“10 years experience in ABA” cannot be reasonably evaluated. The rules do not provide objective criteria by which the BARB will determine whether someone’s experience is legitimate. The lack of objective criteria may lead to subjective evaluations of declarants’ experiences and is therefore not legally defensible.

(6) SUBMIT THREE LETTERS OF RECOMMENDATION THAT ATTEST TO THEIR ABA PRACTICE WITH OBSERVATION AND CLIENT PROGRESS REPORT REVIEW; TWO MUST BE FROM A BCBA; NO MORE THAN ONE CAN BE FROM A LICENSED HEALTH-CARE PROFESSIONAL DEFINED IN ORS 676.802 (2); AND

Objective guidelines for observing declarants or reviewing files are not provided in the rules. This may lead to subjective evaluations which are not legally defensible and place the credibility and value of the license at risk. In addition to providing objective criteria, the BARB should

clarify that current BARB members may not provide attestations for declarants in order to avoid the appearance of or any actual conflict of interest.

(7) SUBMIT PROOF OF HAVING COMPLETED 270 CLASSROOM HOURS IN ABA, INCLUDING 45 HOURS IN ETHICS AND PROFESSIONAL CONDUCT AS RELATED TO BEHAVIOR ANALYSIS, 45 HOURS IN PRINCIPLES OF BEHAVIOR ANALYSIS, 45 HOURS IN BEHAVIOR ANALYTIC RESEARCH METHODS AND ANALYSIS, 105 HOURS IN ABA, AND 30 DISCRETIONARY HOURS; IF THE COURSES WERE COMPLETED MORE THAN 10 YEARS AGO, SUBMIT PROOF OF HAVING COMPLETED 50 HOURS OF CEUS IN ABA THAT WERE ACQUIRED WITHIN THREE CALENDAR YEARS PRIOR TO THE DATE OF APPLICATION.

The coursework requirements identify the general areas to be addressed but do not identify the specific content that comprises each area. This makes it difficult to identify whether specific course work satisfies the educational requirement.

The rules regarding CEUs do not specify how declarants will demonstrate they have obtained 50 CEU's in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc.). The proposed rules lack specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

(8) SUBMIT PROOF OF HAVING COMPLETED 1,500 HOURS OF SUPERVISED EXPERIENCE - DIRECT OR INDIRECT - IN ABA, OR HAVE 75 HOURS OF DIRECT SUPERVISION WITH A BCBA WHO SIGNS OFF ON THEIR COMPETENCY TO PRACTICE ABA; AND

Like the prior comments on "10 years experience in ABA", 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field. The proposed rules for grandfathering attempt to establish reasonable criteria to allow a declarant to demonstrate competency in ABA. The rules lack objective and legally defensible criteria. Creating appropriate, legally defensible criteria is time consuming, expensive, and

burdensome. BACB certification as a behavior analyst meets international standards for professional credentialing. There has been ample time for individuals to meet the BACB requirements for certification. Indeed, many ABA providers expended considerable time and money to earn the credential even before Oregon instituted licensure. Those providers recognized that they had a responsibility to consumers to ensure that they met the professional standard in this field. These providers should not have their efforts devalued by allowing others who have not demonstrated that they meet the minimum standards of the profession to earn licensure in Oregon. I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

**DIVISION 40
REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND
SUPERVISION**

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

**DIVISION 60
STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES**

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

**DIVISION 70
CONTINUING EDUCATION**

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,

Maria Lynn Kessler, PhD

Toeknee Morales, MA
AKA Consulting

10/27/16

Dear Behavior Analysis Regulatory Board,

I am a Registered Behavior Technician (RBT) also registered with the State of Oregon as a Behavior Analysis Interventionist. I hold a Master's in Applied Behavior Analysis with a Concentration in Autism. I currently work as a behavior interventionist providing ABA-based therapy to young children with autism. I am in the final stages of meeting the competency requirements to become a Board Certified Behavior Analyst (BCBA) and practice behavior analysis as an independent clinician. Once I am certified as a BCBA, I will be eligible for licensure as a behavior analyst. The following comments are in regards to the proposed rules.

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

DIVISION 36 GRANDFATHERING

The Behavior Analyst Certification Board (BACB) recently granted me approval to take the BCBA exam. This approval was only granted because I have completed the necessary minimum educational and supervised experiential requirements as typical of any legitimate profession. Although I've worked hard to get where I am, including 17 years of working with individuals with disabilities, my education and experience alone is not sufficient for demonstrating competency to practice behavior analysis. I must pass the BCBA exam. It is unacceptable to allow a group of individuals, no matter how small, to become licensed as behavior analysts, without having demonstrated these same three minimum competencies. I urge the BARB to require that declarants meet current behavior analyst licensing standards. That is, the BARB should require declarants to become BCBCA's by July 1, 2018. This will ensure that *all* individuals licensed as behavior analysts meet the same minimum, legally defensible standards.

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of "declarants" are unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

(5) SUBMIT PROOF OF 10 YEARS OF EXPERIENCE IN APPLIED BEHAVIOR ANALYSIS AS DEFINED IN ORS 676.802 (1)(A); AND

"10 years experience in ABA" has no meaningful reference. There are no objective criteria by which the BARB will determine whether someone's experience is legitimate. One individual may have been working at the technician level for 20 years, 10 hours per week, while another may have worked full time under the direct supervision of a BCBA for the last 10 years. Each has "10 years experience" but one is likely to be more qualified than the other. While one BARB member may be satisfied with a declarant's reported "experience" another member may disagree. Declarants will be tasked with determining what "10 years experience in ABA" means, and the BARB will be burdened by having to make licensing decisions in the absence of objective and legally defensible standards.

(6) SUBMIT THREE LETTERS OF RECOMMENDATION THAT ATTEST TO THEIR ABA PRACTICE WITH OBSERVATION AND CLIENT PROGRESS REPORT REVIEW; TWO MUST BE FROM A BCBA;

NO MORE THAN ONE CAN BE FROM A LICENSED HEALTH-CARE PROFESSIONAL DEFINED IN ORS 676.802 (2); AND

While professional attestations are not unheard of, the current rules do not provide guidelines for observing declarants or reviewing files. Providing a professional license without meeting objective, and legally defensible criteria places the credibility and value of the license at risk.

In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants

(7) SUBMIT PROOF OF HAVING COMPLETED 270 CLASSROOM HOURS IN ABA, INCLUDING 45 HOURS IN ETHICS AND PROFESSIONAL CONDUCT AS RELATED TO BEHAVIOR ANALYSIS, 45 HOURS IN PRINCIPLES OF BEHAVIOR ANALYSIS, 45 HOURS IN BEHAVIOR ANALYTIC RESEARCH METHODS AND ANALYSIS, 105 HOURS IN ABA, AND 30 DISCRETIONARY HOURS; IF THE COURSES WERE COMPLETED MORE THAN 10 YEARS AGO, SUBMIT PROOF OF HAVING COMPLETED 50 HOURS OF CEUS IN ABA THAT WERE ACQUIRED WITHIN THREE CALENDAR YEARS PRIOR TO THE DATE OF APPLICATION.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list.

Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU's in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

(8) SUBMIT PROOF OF HAVING COMPLETED 1,500 HOURS OF SUPERVISED EXPERIENCE - DIRECT OR INDIRECT - IN ABA, OR HAVE 75 HOURS OF DIRECT SUPERVISION WITH A BCBA WHO SIGNS OFF ON THEIR COMPETENCY TO PRACTICE ABA; AND

Like the prior comments on "10 years experience in ABA", 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field.

I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

DIVISION 40
REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

DIVISION 60
STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

DIVISION 70
CONTINUING EDUCATION

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.
Sincerely,
Toeknee Morales, MA

Alice Austin, Ph.D., BCBA-D, LBA
AKA Consulting, Inc.
Portland, OR
October 27, 2016

Dear Behavior Analysis Regulatory Board,

I am a Doctoral-level Board Certified Behavior Analyst (BCBA-D), licensed as a behavior analyst with the State of Oregon. I own AKA Consulting/Anchor Academy and employ two

Registered Behavior Analysis Interventionists. I have been studying and working in the field of behavior analysis for almost 15 years. I have experience in behavior analysis as a student, researcher, educator, clinician, and advocate. I have worked with many different populations ranging from typically developing children to individuals with autism and other developmental disabilities, and ranging in ages 18 months to adulthood. I have previously served as a member of the Behavior Analysis Regulatory Board and I am currently the president of the Oregon Association for Behavior Analysis. Rulemaking over these last few years has appeared at times, to be a perpetual “Groundhog Day”. That is, rulemaking for the requirements of practitioners of behavior analysis has essentially started from scratch, twice, with a lot of repetition. In both instances, BARB members have been tasked with creating rather complex rules within the constraints of imperfect laws. This is no easy feat and I appreciate the commitment and efforts of *all* BARB members, past and present, as well as HLO staff.

The following comments pertain to the proposed BARB rules, set to go into effect January 1, 2017.

DIVISION 36 GRANDFATHERING

In order to obtain my knowledge and expertise in behavior analysis, I have attended school and obtained degrees at the bachelor’s, master’s and doctoral-level. I knew long before there were available funding sources that obtaining the BCBA credential was absolutely essential to ensuring I was at least minimally competent to practice behavior analysis. I went to great efforts to attend a program that met these standards, moving out of state because at the time, there were no Behavior Analyst Certification Board (BACB)-approved programs in the Pacific Northwest. Online options did not exist. Although my education and supervised experience was incredible, it is in no way appropriate to assume this alone was sufficient to demonstrate competency as a practitioner of behavior analysis. I had to pass an exam. Additionally, it is important to note that the education and supervised experience I received 10 years ago would *not* be sufficient by today’s standards. Appropriate practices 10, 20, or 30 years ago may not be ethical by today’s standards. Some behavior analytic procedures have evolved quite significantly. Terminology has been refined. New terminology has been added. New concepts have been introduced. The area of ethics as they pertain specifically to the practice of behavior analysis has grown significantly. However, because I am a BCBA-D, I am required to meet the most up-to-date standards through well-documented continuing education, specific to behavior analysis. It is unacceptable that a small group of individuals be allowed the privilege and responsibility of licensure without having demonstrated they meet the same minimum competency standards required of all other licensed behavior analysts in the state of Oregon. While I most sincerely empathize with their situation, I cannot support licensing standards that do not include the requirement to hold the BCBA credential. These individuals have had since 1998 (18 years) to become BCBA’s. However, they chose a different path. This does not imply they chose the *wrong* path, but rather a different one. It is unreasonable to expect that I would be grandfathered and issued a license in psychology, simply because I hold degrees in psychology, or that I have a Ph.D., or that I’ve taken courses and workshops pertaining to clinical psychology. Legitimately developed licensing standards for psychology are not designed to exclude me or punish me for becoming a behavior analyst. I simply don’t meet the requirements to be a licensed psychologist. If I wish to obtain licensure as a psychologist, I would at a minimum have to return to school, obtain supervised

experience, and pass a psychometrically valid exam in psychology. There are no short cuts to demonstrating minimum competency. You either meet the standards or you don't. Behavior analysis is no different than any other legitimate profession and should not be subject to special exceptions for a select group of people. Contrary to what some may believe, BACB standards were not developed by an insular group of individuals. These standards were developed based on empirical processes for high-stakes credentialing (Johnson, Mellichamp, Shook, & Carr, 1968). The entire process of becoming a BCBA and maintaining the BCBA credential is currently the only way to publicly verify that minimum competency in behavior analysis, as defined by the field, was met initially (through education, supervised experience and passage of a psychometrically valid exam) *and* that minimum competency is continuously updated and maintained based on current standards. It is preposterous to expect a 9-member state board to develop a separate set of standards that are legally defensible (i.e., adhere to the standards of the field of testing and measurement) within a year and without an enormous and unnecessary cost to taxpayers. Claims that requiring BACB certification for declarants is "unfair" are not supported by empirical evidence and reflect a lack of knowledge for the processes of creating legitimate credentials and standards. The fact that declarants have already been granted an additional 3-year window to allow them to legally delay becoming licensed *is* the very act of grandfathering and fulfills the legislative requirement of that portion of SB 696. It is false and inaccurate to assume that SB 696 in any way prohibits the BARB from requiring BACB certification as a prerequisite for grandfathered individuals seeking licensure as a behavior analyst. The standards for grandfathered individuals below may appear reasonable or unreasonable, based on opinion, but the ultimate litmus test will be whether these standards are legally defensible.

824-036-0001

(4) Submit proof of having at least a master's degree in:

- ***Education,***
- ***Psychology, or***
- ***Applied behavior analysis;***

I strongly support the requirement that all declarants hold at least a master's degree as this reflects the same standard required for current licensed behavior analysts. I also support restricting the degree requirements to Education, Psychology, or Applied Behavior Analysis as this eliminates degrees that are not relevant to behavior analysis (e.g., engineering).

(5) Submit proof of 10 years of experience in applied behavior analysis as defined in ORS 676.802 (1)(a);

I agree that individuals must have extensive experience in applied behavior analysis, but there are currently no parameters for determining how one must document their experience, and, whether a particular experience will count towards this requirement. For example, it would be important to specify that the experience must be 10 years of cumulative full-time practice, exclusively using ABA-based strategies and interventions vs. 10 years of part-time practice using an eclectic mix of "autism therapies". Also, it is vital to include the specific skills sets and knowledge one must have utilized during this experience (e.g., by developing an empirically-derived task list). Statutory definitions do not clearly identify the knowledge, skills, and abilities that are necessary to be competent in providing behavior analytic services and therefore are inadequate to serve as the standard for determining competency or verifying whether an

experience is behavior analytic. By specifying all parameters of what does and does not count toward experience and all the skills required, the BARB will be better able to make clear and objective decisions that are legally defensible.

(6) Submit three letters of recommendation that attest to their ABA practice with observation and client progress report review; two must be from a BCBA; no more than one can be from a licensed health-care professional defined in ORS 676.802 (2);

I recommend that the BARB define and provide guidelines for observing declarants and reviewing client files. These guidelines should include any minimum observation times and frequencies as well as objective criteria to determine whether the skills observed and files reviewed meet legally defensible standards and that procedures to ensure confidentiality are followed. In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants.

(7) Submit proof of having completed 270 classroom hours in ABA, including 45 hours in ethics and professional conduct as related to behavior analysis, 45 hours in principles of behavior analysis, 45 hours in behavior analytic research methods and analysis, 105 hours in ABA, and 30 discretionary hours; if the courses were completed more than 10 years ago, submit proof of having completed 50 hours of CEUs in ABA that were acquired within three calendar years prior to the date of application.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours in specific content areas or cover all relevant topics without an empirically-derived task list. Additionally, the rules do not specify how declarants will prove they have obtained 50 CEUs in behavior analysis. CEUs must be verified to be behavior analytic and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching). Further, CEUs for declarants should include a minimum number of hours in ethics and professional behavior. Ethics and professional behavior evolve over time. What may have been appropriate 10, 20 or 30 years ago might now be considered unethical. It is vital that declarants are aware of their ethical responsibilities as they specifically pertain to modern behavior analytic practices and not the standards of the past.

(8) Submit proof of having completed 1,500 hours of supervised experience - direct or indirect - in ABA, or have 75 hours of direct supervision with a BCBA who signs off on their competency to practice ABA; and

I recommend that the BARB define “direct or indirect” experience, including what does and does not count toward experience hours and any restrictions on the amount of time it takes to accumulate 1,500 experience hours (e.g., 5 years or less). Additionally, the BARB should specify the minimum number of hours in which supervision must have occurred including frequency, and that the experience must be documented in such a way as to ensure it meets objective and

legally defensible standards. For example, an individual running 1,500 hours of discrete trials with only one hour of supervision would meet the requirements of the current rule, but this is grossly inadequate. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk. The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. Unfortunately, many individuals may meet the minimum standards for education and experience, but fail to pass an exam. The lack of requiring passage of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to meet only some credentialing criteria while avoiding one of the critical demonstrations of competency as a professional of that field. It is unreasonable to expect that a valid exam could be developed in such a short amount of time, particularly when an exam already exists via the BACB. The simplest solution is to require declarants to become Board Certified Behavior Analysts, ensuring they are capable of passing a valid exam, in addition to coursework and experience requirements. I urge the BARB to consider the arduous effort required to further revise and specify the grandfathering rules to have them meet legally defensible standards. In contrast, I encourage the BARB to require declarants to become Board Certified Behavior Analysts. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

DIVISION 40

REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION

I support the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and aligns the supervision and training standards with the national standards.

DIVISION 60

STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES

I support the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

DIVISION 70

CONTINUING EDUCATION

I support the proposed rules for continuing education.

Thank you for your effort, time, and consideration.

Sincerely,

Alice Austin, Ph.D., BCBA-D, LBA

Reference

Johnston, J. M., Mellichap, F., Shook, G. L., & Carr, J. E. (2014). Determining BACB examination content and standards. *Behavior Analysis in Practice*, 7, 3-9.

October 28, 2016

Dear Behavior Analysis Regulatory Board,

I am one of the five declarants who have been grandfathered by Oregon Law. We are honored and grateful to be acknowledged as the pioneers of dedicated, professional services to children with ASD and their families.

All of us have 20, 30 or more years of experience with families beginning in the period of time when ABA was not recognized or approved.

We are not seeking to be BCBAs. As per Oregon Law, we are seeking to be insurance eligible so that parents who choose our services will not have to face the overwhelming financial burden of paying out-of-pocket, forgoing insurance reimbursement.

I was a member of RAC. We were given the task of creating an alternative pathway to become insurance eligible. As declarants, we propose a simple plan that acknowledges the definition of being grandfathered as highly qualified professionals. We are already highly qualified healthcare professionals.

As grandfathered professionals, moving forward we fully intend to meet the same expectations as other licensed healthcare professionals to maintain our status as insurance eligible. We agree to fulfill the continuing education requirements expected of a licensed professional, and of course renew our licenses and pay the associated fees.

The majority of the RAC members proposed item-by-item requirements that mirror exactly the requirements for a BCBA. Thus, disregarding our mandate to create an alternative path for the five seasoned professionals.

I am concerned about obtaining two letters of recommendation from a BCBA and being supervised by a BCBA. I understand that BCBAs are under pressure from their national organization to protest the Grandfather pathway to licensure, thus making it impossible for me to fulfill the requirements being proposed.

I am concerned about fulfilling the education requirements of 270 classroom hours. I finished my coursework for my Ph.D. in Learning & Behavior in 1992. It will be impossible to evaluate my coursework from 24 years ago and unreasonable to repeat coursework at this point in my professional career.

I am concerned about my ability to submit proof of my supervised experience. My supervisor was Dr. Ivar Lovaas at UCLA, who died in 2010.

Without licensure, I will not be able to continue to access insurance reimbursement for my clients. The ability to access insurance reimbursement has already positively impacted some of

the families I see. They are now able to continue services, increase services, start or restart services without devastating financial burden.

It is important to note that the five Declarants are all small business owners in Oregon, who will be adversely affected by not being licensed. Despite being far more experienced than other licensed professionals, families would be forced to change service providers who can bill insurance.

Appropriate treatment services impacts the quality of life for the entire family system. Highly qualified professional treatment impacts the prognosis of their child. Appropriate services allow families to stay together and the parents to keep jobs.

This Oregon Law gives families access to the service provider they deem best suited for their child and their family. They can chose a BCBA or they can choose one of the five Declarants, and benefit from insurance reimbursement.

Thank you for your consideration.
Very Sincerely,
Kathi Calouri, Ph.D.
Developmental Psychologist

Allison Albert Holt
11732 NE Stanton Street, Portland OR., 97220

October 27, 2016

Dear Behavior Analysis Regulatory Board,

I am a stay-at-home mother of a child with autism, and student. I am currently enrolled full-time in an accelerated graduate program through Southern Oregon University and the Oregon Institute of Technology. Upon completion of the program, I will have a Master's degree in Education with an emphasis on Autism Spectrum Disorders and Applied Behavior Analysis. This program is a BACB-approved course sequence, and it is my intent to become a BCBA/LBA. I also have 8.5 years of direct experience working in the field of Applied Behavior Analysis, under the guidance of several Board Certified Behavior Analysts.

I have read through the proposed rules set forth by BARB, and I have some very serious concerns. I am worried about the quality of services that people can expect from practitioners who are "grandfathered in," and thus lawfully allowed to provide "behavior analytic services." I know a lot of people who are in the field, and the ONLY people who would consider their services as behavior analytic, *yet* would be unwilling to put forth the effort to be certified, are people who are not really providing behavior analytic services. The BACB is the gold standard for certification for behavior analysts, and professionals who are really in the field of ABA know

that, and would not try to push for something like this (grandfathering), which could lead to a lot of problems for the state of Oregon, consumers and practitioners alike.

The BACB has a code of conduct that lists ethical guidelines that *must* be followed. Though I am not yet certified, I uphold that code. It would be unethical for me to stand aside and not fight for what I know to be right. It has been scientifically shown, that behavior analytic therapies are highly effective in the treatment of ASD. Therapies based in the principles of ABA, must be designed and implemented by people who are highly trained, who have proven proficiency, and who uphold a code for ethical conduct.

I would like to list a few more concerns specifically with “grandfathering in” non-BACB certified individuals into the Behavior Analyst Licensure. Firstly, these individuals may use and recommend interventions that are not behavior analytic or proven most effective under the rubric of ABA. This will likely confuse and mislead the public, and certainly puts the consumers at risk. It also contradicts best practices in professional credentialing, as well as ethical standards. It devalues BACB credentials and undermines the integrity of the profession. It is important to note that no other professional field would allow “grandfathering in” for the reasons listed and many more. Someone who volunteers at a hospital for 15 years isn’t going to get “grandfathered in” to function as a nurse or call themselves a doctor. Just as that would be dangerous and NOT in patients’ best interest, this too, is near ludicrous, considering all that could go wrong. My question to you, is who will the burden fall to when people are getting sued for fraud, for claiming to “do ABA” when the truth comes out that they were never qualified to be practitioners of behavior analytic services in the first place?

Personally I have seen the differences in services that were provided by BCBAs and different companies that did not have any BCBAs on staff, but claimed to provide behavior analytic services. Due to very long waitlists at all the preferred companies that provided behavior analytic services in our hometown, my son was placed in a program that claimed to be “founded in ABA,” but was in truth an amalgamation of therapies and methods that had not been proven effective scientifically. What this meant, was that this company could bill to the state (of California) or insurance companies as “ABA” but my son received no actual behavior analytic services. What he received was so different from the behavior analytic services that my employing company provided, that it was shocking. His behavior excesses like tantrum and aggression increased, and his skill acquisition was slow to non-existent. The people who worked with him would rarely take any data, and if they did, it would be anecdotal after the therapy session ended. Upon looking at the data, it was clear to see that inaccuracies abounded. He would be given credit for doing something independently, though in actuality he had done the behavior with some sort of prompt of the interventionist. My point in giving these details is this: a true behavior analyst would know that concurrent data (in the moment) is essential to an ABA program. This is how you judge skill acquisition, and more importantly the efficacy of the treatment plan. These are just a few of the many red flags that this company was not actually providing behavior analytic services.

My son only started to make marked progress when I implemented some behavior analytic therapy “lessons” myself (lessons that were designed by BCBAs). The comparatively quick difference in his behavior was startling. His behavior excesses decreased, and his skill

acquisition rate increased exponentially. The difference was that he was receiving behavior analytic services by someone who was qualified to give those services, by virtue of being supervised by a BCBA. I could also give years and years worth of examples of children and teens with ASD who flourished though participating in true behavior analytic services.

Without objective psychometrically valid tests and measures, without a code of ethical conduct, etc., who or what makes sure that these practitioners do no harm? If I didn't already work in the field, I would not have known what to look for. I would not have known that the services that my son was receiving were way off of the mark. I would not have known what to demand, or what my son was really entitled to. I would not have known what type of services were scientifically valid and sound. And finally, I would not have known that I would need to make sure that the services he received were actually based in the principles of ABA or not. It is not that this company was willfully misleading consumers, but I realized they didn't even know they were doing things wrong. And if you don't have to answer to a governing board like the BACB, you can apparently get away with a lot. I don't think we want to introduce that idea to Oregon, or be remembered for this type of error in letting people be grandfathered in.

If some individuals want to provide behavior analytic services, require them to be certified in the same way as the rest of us. I am honestly frustrated that this situation is even happening, because these individuals could have been certified by now if they went through the proper avenues instead of complaining about the supposed undue hardship it would cause. Now the state of Oregon is dealing with issues that no other state has had to deal with.

I urge the members of BARB to take these things into consideration and *think of me*. Think of me, giving up 3 nights a week to attend my classes. Think of me missing my sweet son's bedtime routine as I drive the 45 minute drive home from school. Think of me doing my homework and studying at all hours of the night, every day of the week. Think of me trying to be the best mom that I can be for my son. Think of me doing all of this to assure that my son, and all others with ASD have only access to the best services by the most qualified providers. I will value my certification and credentials because of all that I am sacrificing to *earn* them. Please do not take what I am working so hard for and give it to people who make no guarantee that they will provide quality behavior analytic services.

The following comments are regarding the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

DIVISION 36 GRANDFATHERING

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of "declarants" are unclear and are not guided by legally defensible processes. The BARB and HLO should not be

burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

(5) SUBMIT PROOF OF 10 YEARS OF EXPERIENCE IN APPLIED BEHAVIOR ANALYSIS AS DEFINED IN ORS 676.802 (1)(A); AND

“10 years experience in ABA” has no meaningful reference. There are no objective criteria by which the BARB will determine whether someone’s experience is legitimate. One individual may have been working at the technician level for 20 years, 10 hours per week, while another may have worked full time under the direct supervision of a BCBA for the last 10 years. Each has “10 years experience” but one is likely to be more qualified than the other. While one BARB member may be satisfied with a declarant’s reported “experience” another member may disagree. Declarants will be tasked with determining what “10 years experience in ABA” means, and the BARB will be burdened by having to make licensing decisions in the absence of objective and legally defensible standards.

(6) SUBMIT THREE LETTERS OF RECOMMENDATION THAT ATTEST TO THEIR ABA PRACTICE WITH OBSERVATION AND CLIENT PROGRESS REPORT REVIEW; TWO MUST BE FROM A BCBA; NO MORE THAN ONE CAN BE FROM A LICENSED HEALTH-CARE PROFESSIONAL DEFINED IN ORS 676.802 (2); AND

While professional attestations are not unheard of, the current rules do not provide guidelines for observing declarants or reviewing files. Providing a professional license without meeting objective, and legally defensible criteria places the credibility and value of the license at risk.

In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants

(7) SUBMIT PROOF OF HAVING COMPLETED 270 CLASSROOM HOURS IN ABA, INCLUDING 45 HOURS IN ETHICS AND PROFESSIONAL CONDUCT AS RELATED TO BEHAVIOR ANALYSIS, 45 HOURS IN PRINCIPLES OF BEHAVIOR ANALYSIS, 45 HOURS IN BEHAVIOR ANALYTIC RESEARCH METHODS AND ANALYSIS, 105 HOURS IN ABA, AND 30 DISCRETIONARY HOURS; IF THE COURSES WERE COMPLETED MORE THAN 10 YEARS AGO, SUBMIT PROOF OF HAVING COMPLETED 50 HOURS OF CEUS IN ABA THAT WERE ACQUIRED WITHIN THREE CALENDAR YEARS PRIOR TO THE DATE OF APPLICATION.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list.

Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU’s in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in

the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

(8) SUBMIT PROOF OF HAVING COMPLETED 1,500 HOURS OF SUPERVISED EXPERIENCE - DIRECT OR INDIRECT - IN ABA, OR HAVE 75 HOURS OF DIRECT SUPERVISION WITH A BCBA WHO SIGNS OFF ON THEIR COMPETENCY TO PRACTICE ABA; AND

Like the prior comments on “10 years experience in ABA”, 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field.

I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

DIVISION 40

REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

DIVISION 60

STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

DIVISION 70

CONTINUING EDUCATION

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,
Allison Albert Holt

Hannah Byers, RBT
415 NE 127th Avenue

October 27, 2016

Dear Behavior Analysis Regulatory Board,

I am an RBT registered with the State of Oregon as a behavior interventionist and a full time student pursuing my master's degree to become a BCBA. I work with children of all ages who have autism spectrum disorder.

I am most concerned about the potential "grandfathering" of individuals who have not taken and passed the certification exam that other professionals in our field must pass before they may begin practicing as a BCBA. I think it is important to think about a situation from each person's point of view. I have tried to think about the proposed rules from many different perspectives over the last couple of weeks, but I keep coming back to the same conclusion. There is no reason someone who wants to practice in a field should not have to take the certification exam to enter that field. I cannot think of a professional field that would allow me to enter their field and bill insurance companies for services that they went through school to master and specialize in without passing the exam that everyone else who practices in their specialized field must pass. I am unsure of the education level of each person who wishes to become grandfathered in the state of Oregon. With that being said, I can understand if a professional has already obtained a master's or doctorate degree and they wish to further their career. Having a BCBA present in any professional environment is an asset, so it is understandable why many practitioners have the desire to learn more about the field and continue to grow within the field. However, in order to be a successful behavior analysis it is essential for one to prove (by taking our certification exam and ABA CEUs) that they are up-to-date on current practices and willing to abide by the same standards that the rest of us are required to abide by.

Another reason I have had a hard time accepting the fact that someone could be given the opportunity to practice as a BCBA without having passed our certification exam is I have come a LONG way in order to be able to take a certified course sequence that will allow me to sit for the BCBA certification exam. I am originally from Alabama. I literally moved across the country to finish my degree. I did not come here as a freshman just starting school. I moved my senior year of college because I wanted to be able to work and get a quality degree in the field that will soon become my profession, so we packed our bags and we moved our entire lives 2700 miles from home to become a BCBA. For this reason, I do not understand why someone else should be able to cut corners in order to practice in a specialized field, working with vulnerable populations like behavior analysts often do?

Why did I pick Oregon? I picked Oregon because I did my research (from Alabama on the same website that anyone in the world can access) and found an awesome school in Oregon that offers all of the classes that I need to become a successful BCBA. If someone (anyone) does not meet the current national requirements to become a BCBA they can easily enroll in any classes that they need to fill the gaps or get started on a career path to helping others as a behavior analyst right here in the state of Oregon. Getting started is actually a very easy task, since all of the classes can be accessed via video conference if an individual does not live close enough to drive to campus for class meetings. Another reason that there is absolutely no excuse for not following the same path as everyone else to become a behavior analyst in the state is colleges have made the necessary classes very accommodating. I go to school in the greater Portland area and I have classmates from all over the STATE that meet with us each week. I did a couple of my undergraduate prerequisites with people from people all over the state and many different countries. These classes are offered in the evenings, so they are especially tailored to meet the needs of people who work. Most everyone in the program with me has a full- time job, kids, or other responsibilities. Our professors have full-time jobs in the field of behavior analysis and also choose to commit their time to teaching others about our field.

There is just no excuse for why someone should not be able to follow the national standard that knowledgeable individuals put many hours and much evidence-based research into creating. We already have a standard to become a professional in the field of behavior analysis, so why would anyone go through the trouble of creating another standard. I can't help but think of the saying, "If it's not broken don't fix it!" Why would anyone want to spend people's valuable time and money re-creating something that has already been established for quite a while. Not only are the current standards already established, but they also work!

If I can be determined enough to come as far as I have and take up to seven classes at a time in order to finish my degree to become a BCBA, then I do not see why others wishing to acquire the same credential, that I am working so hard for, should not have to do the same. I fear that allowing people who may not have the proper training and are not required to pass our certification exam could devalue what my classmates and I are working so hard to earn. We are all choosing to make a long term investment toward our careers in a helping profession. While my classmates and I do have a variety of interests in the field of behavior analysis, we all have one thing in common. We all want to earn a quality education that will prepare us for a successful future helping change many lives for the better. If we choose not to meet the current requirements set forth we would not be allowed to practice as a behavior analyst within the field...it is just that simple.

It is important to note that years of experience does not equal competency in the field of behavior analysis, quality training does. Also, I am required to have 1,500 hours of supervised experience overseen by a BCBA before being eligible to take the behavior analyst certification test and prior to practicing on my own as a behavior analyst, so only requiring someone to have only 75 hours of experience supervised by a BCBA seems a bit relaxed. That is 1,425 fewer than the rest of us have to have. . .

It should not matter if a person has already completed supervised hours to become a counselor, a psychologist, etc. Those professions are not the same as ABA, so a person who desires to become a behavior analyst should be required to complete the required number of supervision hours that all of the other behavior analysts are required to complete. If behavior analysis belonged in another field then we would not be a scientific discipline of its own and we would

operate under the guidelines of a different scientific discipline, but we don't and we haven't for many years.

As an RBT I think it is great that it has been proposed to remove the two hour rule with all new clients. I think this will take a lot of unnecessary stress off interventionists and supervisors, as well. Though I do think every person who wishes to practice in a professional field together should practice under ALL of the same criteria, I think proposing to adopt sections 1-9 of the BACB professional and ethical compliance code for behavior analysts is a wonderful step in the right direction. Requiring continuing education is also something that is necessary, so I was happy to see that as an integral part of the proposed rules. I fully agree with the following comments in regards to the proposed rules set forth by the Behavior Analysis Regulatory (BARB). The additional comments are divided by their respective sections.

DIVISION 36 GRANDFATHERING

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of "declarants" are unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

(5) SUBMIT PROOF OF 10 YEARS OF EXPERIENCE IN APPLIED BEHAVIOR ANALYSIS AS DEFINED IN ORS 676.802 (1)(A); AND

"10 years experience in ABA" has no meaningful reference. There are no objective criteria by which the BARB will determine whether someone's experience is legitimate. One individual may have been working at the technician level for 20 years, 10 hours per week, while another may have worked full time under the direct supervision of a BCBA for the last 10 years. Each has "10 years experience" but one is likely to be more qualified than the other is. While one BARB member may be satisfied with a declarant's reported "experience" another member may disagree. Declarants will be tasked with determining what "10 years experience in ABA" means, and the BARB will be burdened by having to make licensing decisions in the absence of objective and legally defensible standards.

(6) SUBMIT THREE LETTERS OF RECOMMENDATION THAT ATTEST TO THEIR ABA PRACTICE WITH OBSERVATION AND CLIENT PROGRESS REPORT REVIEW; TWO MUST BE FROM A BCBA; NO MORE THAN ONE CAN BE FROM A LICENSED HEALTH-CARE PROFESSIONAL DEFINED IN ORS 676.802 (2); AND

While professional attestations are not unheard of, the current rules do not provide guidelines for observing declarants or reviewing files. Providing a professional license without meeting objective, and legally defensible criteria places the credibility and value of the license at risk. In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants

(7) SUBMIT PROOF OF HAVING COMPLETED 270 CLASSROOM HOURS IN ABA, INCLUDING 45 HOURS IN ETHICS AND PROFESSIONAL CONDUCT AS RELATED TO BEHAVIOR ANALYSIS, 45 HOURS IN PRINCIPLES OF BEHAVIOR ANALYSIS, 45 HOURS IN BEHAVIOR ANALYTIC RESEARCH METHODS AND ANALYSIS, 105 HOURS IN ABA, AND 30 DISCRETIONARY HOURS; IF THE COURSES WERE COMPLETED MORE THAN 10 YEARS AGO, SUBMIT PROOF OF HAVING COMPLETED 50 HOURS OF CEUS IN ABA THAT WERE ACQUIRED WITHIN THREE CALENDAR YEARS PRIOR TO THE DATE OF APPLICATION.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list.

Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU's in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

(8) SUBMIT PROOF OF HAVING COMPLETED 1,500 HOURS OF SUPERVISED EXPERIENCE - DIRECT OR INDIRECT - IN ABA, OR HAVE 75 HOURS OF DIRECT SUPERVISION WITH A BCBA WHO SIGNS OFF ON THEIR COMPETENCY TO PRACTICE ABA; AND

Like the prior comments on “10 years experience in ABA”, 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk. The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field. I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

**DIVISION 40
REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND
SUPERVISION**

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

**DIVISION 60
STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES**

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

**DIVISION 70
CONTINUING EDUCATION**

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,
Hannah Byers

Sarah Cooper BCBA, LBA
Victory Academy
12155 SW Tooze Road

October 28, 2016

Dear Behavior Analysis Regulatory Board,

I am a BCBA licensed with the State of Oregon as a LBA. I work at Victory Academy as a classroom teacher and building BCBA supervising RBT's/BAI's and supporting teachers

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

**DIVISION 36
GRANDFATHERING**

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of "declarants" are unclear and are not guided by legally defensible processes. The BARB and HLO should not be

burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

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“10 years experience in ABA” has no meaningful reference. There are no objective criteria by which the BARB will determine whether someone’s experience is legitimate. One individual may have been working at the technician level for 20 years, 10 hours per week, while another may have worked full time under the direct supervision of a BCBA for the last 10 years. Each has “10 years experience” but one is likely to be more qualified than the other. While one BARB member may be satisfied with a declarant’s reported “experience” another member may disagree. Declarants will be tasked with determining what “10 years experience in ABA” means, and the BARB will be burdened by having to make licensing decisions in the absence of objective and legally defensible standards.

(6) SUBMIT THREE LETTERS OF RECOMMENDATION THAT ATTEST TO THEIR ABA PRACTICE WITH OBSERVATION AND CLIENT PROGRESS REPORT REVIEW; TWO MUST BE FROM A BCBA; NO MORE THAN ONE CAN BE FROM A LICENSED HEALTH-CARE PROFESSIONAL DEFINED IN ORS 676.802 (2); AND

While professional attestations are not unheard of, the current rules do not provide guidelines for observing declarants or reviewing files. Providing a professional license without meeting objective, and legally defensible criteria places the credibility and value of the license at risk.

In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants

(7) SUBMIT PROOF OF HAVING COMPLETED 270 CLASSROOM HOURS IN ABA, INCLUDING 45 HOURS IN ETHICS AND PROFESSIONAL CONDUCT AS RELATED TO BEHAVIOR ANALYSIS, 45 HOURS IN PRINCIPLES OF BEHAVIOR ANALYSIS, 45 HOURS IN BEHAVIOR ANALYTIC RESEARCH METHODS AND ANALYSIS, 105 HOURS IN ABA, AND 30 DISCRETIONARY HOURS; IF THE COURSES WERE COMPLETED MORE THAN 10 YEARS AGO, SUBMIT PROOF OF HAVING COMPLETED 50 HOURS OF CEUS IN ABA THAT WERE ACQUIRED WITHIN THREE CALENDAR YEARS PRIOR TO THE DATE OF APPLICATION.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list.

Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU’s in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in

the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

(8) SUBMIT PROOF OF HAVING COMPLETED 1,500 HOURS OF SUPERVISED EXPERIENCE - DIRECT OR INDIRECT - IN ABA, OR HAVE 75 HOURS OF DIRECT SUPERVISION WITH A BCBA WHO SIGNS OFF ON THEIR COMPETENCY TO PRACTICE ABA; AND

Like the prior comments on “10 years experience in ABA”, 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field.

I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

DIVISION 40

REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

DIVISION 60

STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

DIVISION 70

CONTINUING EDUCATION

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,
Sarah Cooper

Dear Behavior Analysis Regulatory Board,

I am an M.S., RBT in the State of Oregon, registered with the BACB. I am also a Reading Specialist and work with children on the spectrum to address their academic and social behavioral needs.

The following comments are my concerns and/or support in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

Division 36

Grandfathering

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of “declarants” are unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

(5) Submit proof of 10 years of experience in applied behavior analysis as defined in ORS 676.802 (1)(a); and

“10 years experience in ABA” has no meaningful reference. There are no objective criteria by which the BARB will determine whether someone’s experience is legitimate. One individual may have been working at the technician level for 20 years, 10 hours per week, while another may have worked full time under the direct supervision of a BCBA for the last 10 years. Each has “10 years experience” but one is likely to be more qualified than the other. While one BARB member may be satisfied with a declarant’s reported “experience” another member may disagree. Declarants will be tasked with determining what “10 years experience in ABA” means, and the BARB will be burdened by having to make licensing decisions in the absence of objective and legally defensible standards.

(6) Submit three letters of recommendation that attest to their ABA practice with observation and client progress report review; two must be from a BCBA; no more than one can be from a licensed health-care professional defined in ORS 676.802 (2); and

While professional attestations are not unheard of, the current rules do not provide guidelines for observing declarants or reviewing files. Providing a professional license without meeting objective, and legally defensible criteria places the credibility and value of the license at risk.

In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants

(7) Submit proof of having completed 270 classroom hours in ABA, including 45 hours in ethics and professional conduct as related to behavior analysis, 45 hours in principles of behavior analysis, 45 hours in behavior analytic research methods and analysis, 105 hours in ABA, and 30 discretionary hours; if the courses were completed more than 10 years ago, submit proof of having completed 50 hours of CEUs in ABA that were acquired within three calendar years prior to the date of application.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list.

Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU's in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

(8) Submit proof of having completed 1,500 hours of supervised experience - direct or indirect - in ABA, or have 75 hours of direct supervision with a BCBA who signs off on their competency to practice ABA; and

Like the prior comments on "10 years experience in ABA", 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field.

I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

Division 40

Registered Behavior Analysis Interventionist Training and Supervision

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

Division 60

Standards of Practice, Professional Methods, and Procedures

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

Division 70

Continuing Education

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,

Emily Beal Wilkinson

Emily Beal Wilkinson, M.S., R.B.T.
Academic & Learning Specialist

Please accept this email as comments to the above-referenced proposed rules.

The Autism Society of Oregon is a nonprofit organization that provides resources, education, advocacy and support to everyone impacted by autism in Oregon. We support people on the autism spectrum and their families throughout Oregon, throughout the autism spectrum and throughout their lifespan. All of our services are provided without fees. As part of our advocacy mission, we have been deeply involved in the legislative and administrative processes to obtain insurance coverage of autism therapies, including ABA.

Our concerns with the proposed rules are:

Adoption of “sections 1-9 of the 2014 BACB Professional and Ethical Compliance Code for Behavior Analysts.” We join in the call by the Center for Autism and Related Disorders (CARD) for clarification of the sections being adopted: those that took effect on January 1, 2016 or the 2014 Code reference. Assuming the intent is to adopt sections 1-9 of the current BACB Professional and Ethical Compliance Code for Behavior Analysts (hereinafter “BACB Compliance Code”), we are strongly concerned that this places BARB-licensed members who have a BCBA in a conflict. Oregon law requires that there be a path beyond a BCBA credential to be licensed under the BARB to provide ABA services in Oregon. Members of the BARB have expressed concerns that their actions as members of a state regulatory board placed them out of compliance with BACB ethical guidelines in this regard. It seems inconsistent to adopt a code that produced such conflict among the BARB board members. We urge the BARB to use the BACB document to inform the development of its own compliance code or, in the alternative, to add language that clarifies that the adoption of the BACB Compliance Code is not intended to replace or restrict Oregon laws, regulations, or rules, including those rules proposed and finalized by the BARB subsequent to the adoption of the BACB Compliance Code.

We would also echo the concern that Section 1.06(d) of the BACB Compliance Code does not allow clinicians and interventionists to attend to cultural norms, specifically by failing to distinguish between minor gestures of gratitude found in many cultures and lavish, inappropriate gifts that would be a red flag of impropriety. ASO urges the BARB not to adopt Section 1.06(d) barring additional clarification.

Proposed rule (6) requires: “Submit three letters of recommendation that attest to their ABA practice with observation and client progress report review; two must be from a BCBA; no more than one can be from a licensed health-care professional defined in ORS 676.802 (2).” The concern with this rule is that we have been told several times that BCBAs believe that this would conflict with their ethical requirements under the same ethics statement proposed to be adopted by this Board! It is incumbent on the BARB to show that they are not proposing a rule that simply cannot be complied with. The proposed rule also fails to recognize that Oregon law specifically did NOT adopt the definition of ABA recognized by the national board for BCBAs. For example, the Early Start Denver Model is not recognized by the BACB, Inc., but is within Oregon's statutory definition of ABA. Requiring an ABA provider who does ESDM to obtain at least 2 letters of recommendation from a BCBA doesn't make sense and is once again, likely to be an impossible barrier.

The grandfathered providers have also expressed concerns about the education and supervision requirements, largely because their education and supervision was completed years ago and

providing proof of these requirements may not be possible. We would urge the BARB to consider that the rules are not meant to show that a grandfathered provider has the same training as a newly minted BCBA. In fact, in every case these grandfathered providers have much more training and far more experience than a newly minted BCBA – and there is no question that a recently approved BCBA would be entitled to a license from the Board upon meeting the background review. Rather, the BARB should be working to ensure that children and adults on the autism spectrum continue to have access through their insurance to highly qualified ABA providers who meet the Oregon statutory definition of being ABA providers.

In working with the BARB and as part of the Rules Advisory Committee, it is clear that many members of the BARB have deep philosophical and even ethical reservations about grandfathering in ABA providers who do not have a BCBA credential. This is despite the incontestable fact that these are highly regarded ABA providers have been practicing in the field for years before a BCBA credential was even established. Also incontestable is that fact that Oregon law requires that a valid path for grandfathering in these providers be created. There are only 5 providers who could be grandfathered, so the BARB is not creating standards that will go forward. (See proposed rule (1) requiring a declaration of practice to have been submitted by April 30, 2016.) All of these providers have 20, 30 or more years of experience in the field. Going forward, it is reasonable to require someone entering the field to have a BCBA to receive a license to practice ABA in Oregon.

Through its proposed rules, we are concerned the BARB is making this path so unreasonable and so burdensome that in essence there is no true path. ASO's goal has always been to provide families in Oregon with access to highly qualified providers of autism therapies, including ABA, with insurance coverage. Without insurance coverage, only the wealthiest and luckiest families can afford to provide ABA services. We believe it is our duty and this Board's to retain the ability to access ABA through highly qualified providers, not to essentially close the door to these providers through unnecessary and excessive grandfathering requirements.

Thank you for considering our comments.
Very truly yours,

Tobi Rates
Executive Director
Autism Society of Oregon

Dear Behavior Analysis Regulatory Board,

I am a RBT registered nationally and a licensed or registered with the State of Oregon as a BAI. I have worked at two Oregon ABA providers and am going to school in the evenings to become a BCBA. I fully understand the time and financial stress it takes to pursue licensure, my main concerns on grandfathering in "declearance" is the lack of supervision they will receive, the

confusion to consumers and future employees, the lack of on continuing education requirements, and the lack of background knowledge on the field.

In my classes I have learned such detail about certain ethical decisions, evidence based procedures, subtleties of the practice, socially significant interventions, and so much more that I think is imperative to the practice of ABA. I can also say that before around 2010 I started working in ABA. I was captivated by the techniques and how well they worked for my students. That said, in 2013 when I started working under a licensed BCBA I learned more socially appropriate and natural interventions that served my clients more in the long term. I learned how to support families, and how to juggle so many different elements thrown at BCBA's. Supervision is a key component to the field beyond the classroom. Having a supervisor to help apply those general rules was and is an invaluable experience that helps us serve our clients. Our clientele is an extremely venerable population and we must have the highest professional standards, and checks and balances to insure they are receiving high quality care.

The following comments are in regards to the proposed rules set forth by the Behavior Analysis Regulatory Board (BARB) and are divided by their respective sections.

DIVISION 36

GRANDFATHERING

It is of utmost importance that all individuals that hold a professional license meet the same minimum standards for obtaining that license. Allowing a group of people, no matter how small, to be licensed under different standards that fall below those set by the profession puts consumers at great risk. Consumers may be unable to readily distinguish between those individuals and professionals with objectively verified training and demonstrated competence in behavior analysis. Currently, some of the rules regarding the licensing of "declarants" are unclear and are not guided by legally defensible processes. The BARB and HLO should not be burdened with the long and arduous process involved in creating a different set of licensing standards, especially when legitimate criteria already exist via the Behavior Analyst Certification Board (BACB).

(5) SUBMIT PROOF OF 10 YEARS OF EXPERIENCE IN APPLIED BEHAVIOR ANALYSIS AS DEFINED IN ORS 676.802 (1)(A); AND

"10 years experience in ABA" has no meaningful reference. There are no objective criteria by which the BARB will determine whether someone's experience is legitimate. One individual may have been working at the technician level for 20 years, 10 hours per week, while another may have worked full time under the direct supervision of a BCBA for the last 10 years. Each has "10 years experience" but one is likely to be more qualified than the other. While one BARB member may be satisfied with a declarant's reported "experience" another member may disagree. Declarants will be tasked with determining what "10 years experience in ABA" means, and the BARB will be burdened by having to make licensing decisions in the absence of objective and legally defensible standards.

(6) SUBMIT THREE LETTERS OF RECOMMENDATION THAT ATTEST TO THEIR ABA PRACTICE WITH OBSERVATION AND CLIENT PROGRESS REPORT REVIEW; TWO MUST BE FROM A BCBA; NO MORE THAN ONE CAN BE FROM A LICENSED HEALTH-CARE PROFESSIONAL DEFINED IN ORS 676.802 (2); AND

While professional attestations are not unheard of, the current rules do not provide guidelines for observing declarants or reviewing files. Providing a professional license without meeting objective, and legally defensible criteria places the credibility and value of the license at risk.

In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants

(7) SUBMIT PROOF OF HAVING COMPLETED 270 CLASSROOM HOURS IN ABA, INCLUDING 45 HOURS IN ETHICS AND PROFESSIONAL CONDUCT AS RELATED TO BEHAVIOR ANALYSIS, 45 HOURS IN PRINCIPLES OF BEHAVIOR ANALYSIS, 45 HOURS IN BEHAVIOR ANALYTIC RESEARCH METHODS AND ANALYSIS, 105 HOURS IN ABA, AND 30 DISCRETIONARY HOURS; IF THE COURSES WERE COMPLETED MORE THAN 10 YEARS AGO, SUBMIT PROOF OF HAVING COMPLETED 50 HOURS OF CEUS IN ABA THAT WERE ACQUIRED WITHIN THREE CALENDAR YEARS PRIOR TO THE DATE OF APPLICATION.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours or cover all relevant topics without an empirically-derived task list.

Additionally, the rules do not specify how declarants will prove they have obtained 50 CEU's in behavior analysis. All CEU material must be based on principles in applied behavior analysis, and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education) or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching).

(8) SUBMIT PROOF OF HAVING COMPLETED 1,500 HOURS OF SUPERVISED EXPERIENCE - DIRECT OR INDIRECT - IN ABA, OR HAVE 75 HOURS OF DIRECT SUPERVISION WITH A BCBA WHO SIGNS OFF ON THEIR COMPETENCY TO PRACTICE ABA; AND

Like the prior comments on "10 years experience in ABA", 1,500 hours of supervised experience in ABA is not grounded in any meaningful or empirically-derived criteria. Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of

specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. From doctors and dentists, to architects and plumbers, each professional must meet the educational and experience requirements of that profession *and* pass an exam. Unfortunately, many individuals may meet the minimum standards for education, and experience, but fail to pass the exam. The lack of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to only meet some criteria while avoiding one of the critical demonstrations of competency as a professional of that field.

I urge the BARB to require *all* licensed behavior analysts to be certified with the BACB as a Board Certified Behavior Analyst. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

DIVISION 40

REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION

I am in support of the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and makes the supervision and training standards comparable to the national standards.

DIVISION 60

STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES

I am in support of the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

DIVISION 70

CONTINUING EDUCATION

I am in support of the proposed rules for continuing education.

Thank you for your time and consideration.

Sincerely,
Shaun Goodman

Three additional documents:

1. ORABA with highlighted peer-reviewed article
2. Comments from Paul Terdal

3. ORABA documents submitted at the hearing by Alice Austin

Oral comments

Alice Austin spoke on behalf of ORABA:

Austin thanked the past and present Board and the Health Licensing Office.

Grandfathering – Austin said the proposed master’s degrees were solid. But the 10 years of proof of experience in ABA lacked parameters around the documentation. Is it full time, exclusive to ABA or part time using an eclectic mix of strategies? Austin said it’s vital to identify what knowledge and skills that are necessary to be competent in ABA. She said including that information will be important for declarants to know what needs to be included in an application.

Letters of recommendation: Austin said that the BARB needs to define and provide guidelines for observing declarants and reviewing client files. The rules need minimum observation times and frequency and objective criteria to determine whether the skills observed meet the legally defensible criteria while protecting client confidentiality. She said that to avoid potential conflicts of interest, current BARB members should not provide attestations for declarants to avoid conflict of interest.

Coursework and continuing education: She said there is no specified process so declarants and other parties don’t have the task list they need to be competent. CEUs are not defined – how will declarants prove they have obtained CEUs in ABA? Sign-in sheets? What kind of documentation? Are there limits on CEUs that are obtained through teaching? She said that in CEUs, a minimum numbers of hours should be in ethics and professional behavior as that is an evolving field.

Supervised experience: Direct or indirect needs to be defined. It is defined for interventionist, but not at the behavior analyst level. Are there limits on direct or indirect hours? How will this be documented? What about frequency? What counts? What doesn’t count? The 75 hours of supervision with a BCBA with no objective standards or criteria puts the credibility of the license and the BARB at risk.

Austin said that passing a psychometrically valid exam is necessary for any legitimate professional credential, including a license in behavior analysis. Many individuals in BACB course sequences get good grades and do their supervised experience, but they fail the exam. That’s a third and final component of demonstrating competency. She said that no legitimate profession would allow some individuals to meet some credential criteria while avoiding one of the critical demonstrations of competency and that HLO can’t develop a valid exam in this short amount of time. The simplest solution to do is for the declarants to become board-certified behavior analysts. She submitted a document on credentialing.

Austin then spoke on behalf of herself – a BCBA-D, Oregon licensee, business owner, employs

two interventionists: She said she has 15 years of experience in behavior analysis as a student, researcher, educator, clinician, advocate in populations from developing children to someone in their 60s. She said she served on the last BARB and that she learned a lot. The rulemaking over the last few years has felt like the movie “Groundhog Day,” living the same day over and over. She said the Board has been asked to create complex rules based on imperfect laws. She said the law is vague regarding grandfathering and puts a lot of responsibility on the BARB. She said that to have knowledge in behavior analysis, she has obtained degrees and had to move out of state to attend a master’s program because there were no BACB-approved programs in the Pacific Northwest. There were no online programs. But all of that was not enough for competency without the exam. “And what I did 10 years ago would be insufficient by today’s standards,” she said. The requirements are increasing. Some procedures have evolved significantly, and ethics have grown and become more detailed.

She said that because she is board-certified, she keeps up through well-documented continuing education and that it’s unacceptable that a small group of individuals are allowed the privilege and responsibility of licensure without having demonstrated that they meet the same competency standards as other licensed behavior analysts in Oregon.

She said she empathizes with their situation, but can’t support licensing standards that don’t include the requirement to hold a BCBA credential. They have had 18 years to get this credential, but “They chose a different path; it’s unreasonable to expect that I would be grandfathered into a psychology license because I hold a degree in psychology, or that I have a PhD or that I have taken courses and workshops in clinical psychology – which is all true.” She said that the psychology standards are not there to punish her; she doesn’t meet the requirements to be a licensed psychologist.

“If I wanted that license, I would have to go back to school, obtain a different kind of supervised experience, and pass a psychometrically valid exam in psychology. There are no shortcuts to demonstrating minimum competency. You either meet the standards or you don’t. And behavior analysis is no different than any other legitimate profession, and shouldn’t be subject to special exceptions for a select group of people,” Austin said.

Becoming a BCBA is the only verifiable way that minimum competency in behavior analysis is met and continually updated. It’s preposterous to expect a nine-member state board to develop a separate set of standards in a year that are legally defensible. It’s not unfair to expect declarants to obtain a BCBA – it reflects a lack of knowledge.

Declarants were granted a three-year window to allow them to legally delay getting licensed, and that’s the act of grandfathering. It fulfills the legislative requirement of that portion of SB 696. It’s false and inaccurate to assume SB 696 prohibits the BARB from requiring BACB certification as a prerequisite for grandfathered individuals seeking licensure. She said she went through the hearings and Sen. Bates’ testimony for SB 696, and the testimony of others. Nowhere was it said that “you cannot require these declarants to be board certified by the BACB.” The BARB will be given the responsibility of determining what those criteria are. Austin said that in her personal interactions with Sen. Bates as SB 696 was going through the process, he told her “Don’t worry about it. If the BARB wants to make these guys go get board

certified, so be it. That's up to the BARB.”

Maria-Lynn Kessler

Professor at the Oregon Institute of Technology, but I am speaking as a private citizen. My comments are informed by role as program director for ABA programs, master's degree in behavior analysis, PhD in psychology with an emphasis in behavior analysis and I was once certified in Florida as a behavior analyst; that has rolled into the BACB program. She said she support the comments of ORABA and Austin's comments about the standards for creating a credential. My comments are around the grandfathering. If we allow individuals who have not demonstrated their competencies in ABA to be awarded a license, we are undermining the legitimacy of the license, and opening up consumers, the BARB and the Health Licensing Office to risk because we don't know for sure that these people have met the standards of the profession. It's also unfair to all the people who went out and sought the national credential at considerable expense and effort. To allow others who haven't gone through the same thing the same license undermines that effort.

Hannah Byers

I'm a licensed interventionist. I moved from Alabama to get my RBT credential, and I've been in the field for two years. You have to know what you are doing. My credential puts me above others in the field. I made sacrifices. Wanting to do this work is great, but you need to respect the field and take the right path. Classes are accessible; they are online. If you are a few classes short, enroll. When a child has autism, early intervention is so important. If they are not getting the right therapy, you could be wasting crucial time in a child's development.

Joshua Johnson

Johnson said he is new to the field, but the logic of behavior analysis spoke to him. He said he was concerned that the grandfathered group would not have the same ethical standards as BCBA's. He said grandfathering those who have not taken the time and effort to get board certified undermines the profession and does clients a disservice.



The Oregon Association for Behavior Analysis would like to thank the Health Licensing Office and the Behavior Analysis Regulatory Board (BARB) in their attempts to develop and revise rules regarding licensed and registered practitioners of behavior analysis. We appreciate the difficulty the BARB has faced in determining standards for unlicensed individuals and are grateful for their efforts to ensure consumer safety and the integrity of behavior analysis. We are writing to respectfully provide feedback regarding the proposed rules that will go into effect on January 1, 2017.

**DIVISION 36
GRANDFATHERING**

824-036-0001

(4) *Submit proof of having at least a master's degree in:*

- *Education,*
- *Psychology, or*
- *Applied behavior analysis;*

ORABA strongly supports the requirement that all declarants hold at least a master's degree as this reflects the same standard required for current licensed behavior analysts. We also support restricting the degree requirements to Education, Psychology, or Applied Behavior Analysis as this eliminates degrees that are not relevant to behavior analysis (e.g., engineering).

(5) *Submit proof of 10 years of experience in applied behavior analysis as defined in ORS 676.802 (1)(a);*

ORABA agrees that individuals must have extensive experience in applied behavior analysis, but there are currently no parameters for determining how one must document their experience, and, whether a particular experience will count towards this requirement. For example, it would be important to specify that the experience must be 10 years of cumulative full-time practice, exclusively using ABA-based strategies and interventions vs. 10 years of part-time practice using an eclectic mix of "autism therapies". Also, it is vital to include the specific skills sets

and knowledge one must have utilized during this experience (e.g., by developing an empirically-derived task list). Statutory definitions do not clearly identify the knowledge, skills, and abilities that are necessary to be competent in providing behavior analytic services and therefore are inadequate to serve as the standard for determining competency or verifying whether an experience is behavior analytic. By specifying all parameters of what does and does not count toward experience and all the skills required, the BARB will be better able to make clear and objective decisions that are legally defensible.

(6) Submit three letters of recommendation that attest to their ABA practice with observation and client progress report review; two must be from a BCBA; no more than one can be from a licensed health-care professional defined in ORS 676.802 (2);

ORABA recommends that the BARB define and provide guidelines for observing declarants and reviewing client files. These guidelines should include any minimum observation times and frequencies as well as objective criteria to determine whether the skills observed and files reviewed meet legally defensible standards and that procedures to ensure confidentiality are followed.

In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants.

(7) Submit proof of having completed 270 classroom hours in ABA, including 45 hours in ethics and professional conduct as related to behavior analysis, 45 hours in principles of behavior analysis, 45 hours in behavior analytic research methods and analysis, 105 hours in ABA, and 30 discretionary hours; if the courses were completed more than 10 years ago, submit proof of having completed 50 hours of CEUs in ABA that were acquired within three calendar years prior to the date of application.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours in specific content areas or cover all relevant topics without an empirically-derived task list.

Additionally, the rules do not specify how declarants will prove they have obtained 50 CEUs in behavior analysis. CEUs must be verified to be behavior analytic and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education)

or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching). Further, CEUs for declarants should include a minimum number of hours in ethics and professional behavior. Ethics and professional behavior evolve over time. What may have been appropriate 10, 20 or 30 years ago might now be considered unethical. It is vital that declarants are aware of their ethical responsibilities as they specifically pertain to modern behavior analytic practices and not the standards of the past.

(8) Submit proof of having completed 1,500 hours of supervised experience - direct or indirect - in ABA, or have 75 hours of direct supervision with a BCBA who signs off on their competency to practice ABA; and

ORABA strongly recommends that the BARB define “direct or indirect” experience, including what does and does not count toward experience hours and any restrictions on the amount of time it takes to accumulate 1,500 experience hours (e.g., 5 years or less). Additionally, the BARB should specify the minimum number of hours in which supervision must have occurred including frequency, and that the experience must be documented in such a way as to ensure it meets objective and legally defensible standards. For example, an individual running 1,500 hours of discrete trials with only one hour of supervision would meet the requirements of the current rule, but this is grossly inadequate.

Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. Unfortunately, many individuals may meet the minimum standards for education and experience, but fail to pass an exam. The lack of requiring passage of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to meet only some credentialing criteria while avoiding one of the critical demonstrations of competency as a professional of that field. It is unreasonable to expect that a valid exam could be developed in such a short amount of time, particularly when an exam already exists via the BACB. The simplest solution is to require declarants to become Board Certified Behavior Analysts, ensuring they are capable of passing a valid exam, in addition to coursework and experience requirements.

ORABA urges the BARB to consider the arduous effort required to further revise and specify the grandfathering rules to have them meet legally defensible standards. In

contrast, ORABA encourages the BARB to require declarants to become Board Certified Behavior Analysts. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

To emphasize and provide further information on the importance of accepting vetted credentials versus creating a new set of standards, we have attached a peer-reviewed article that describes the extensive process of developing legitimate standards and exam content (Johnston, Mellichamp, Shook, & Carr, 2014). Please review this article as it provides an empirical basis for ORABA's recommendations to require declarants to become BCBA's.

DIVISION 40
REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION

ORABA supports the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and aligns the supervision and training standards with the national standards.

DIVISION 60
STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES

ORABA supports the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

DIVISION 70
CONTINUING EDUCATION

ORABA supports the proposed rules for continuing education.

Thank you for your effort, time, and consideration.

Sincerely,

The Oregon Association For Behavior Analysis Board

Alice Austin Ph.D., BCBA-D, LBA	President
Sarah Cooper BCBA, LBA	Vice President
Jen Bass, BCBA, LBA	Secretary
Emily Kearney, BCBA, LBA	Treasurer
Melissa Gard, Ph.D., BCBA-D, LBA	Public Policy Chair

Determining BACB Examination Content and Standards

James M. Johnston · Fae H. Mellichamp ·
Gerald L. Shook · James E. Carr

Published online: 8 April 2014
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Abstract The standards associated with high-stakes professional credentialing are well established in the field of testing and measurement and are well supported by antitrust, administrative, and contract law. These standards have evolved to assure that the scope of work for a field's practitioners is appropriately reflected in the content of credentialing examinations and that the means by which credentials are earned include practitioners and other stakeholders throughout all phases of the credentialing process. This article describes the procedures by which the content of credentialing examinations is determined. The certification programs administered by the Behavior Analyst Certification Board are used as an illustration throughout. The article also considers the implications of these procedures and mechanisms.

Keywords Certification · Certification standards · Certification examination content · Behavior Analyst Certification Board

The procedures used by the Behavior Analyst Certification Board® (BACB®) to develop its certification examinations are used for certification and licensure examinations worldwide. The science of test development is a professional field in

its own right, and many educational institutions offer advanced degrees in testing and measurement. The testing field's professional associations (e.g., Institute for Credentialing Excellence; Council on Licensure, Enforcement, and Regulation; and Association of Test Publishers) have developed an extensive body of literature describing best practices in measurement and evaluation (e.g., American Educational Research Association, American Psychological Association, and National Council on Measurement in Education 1999). Furthermore, formal standards have been developed for evaluating credentialing programs through third-party audit processes such as those of the National Council of Certifying Agencies (NCCA) and the American National Standards Institute (ANSI). To date, 112 credentialing organizations have had programs accredited by NCCA (Institute for Credentialing Excellence 2014), including the BACB, and 48 organizations have had programs accredited by ANSI (2014).

The legal foundation for high-stakes credentialing procedures evolved out of the interaction of a variety of legal principles. Significant legal implications for certification bodies are found in antitrust, administrative, and contract law. In antitrust law, certification programs offering credentials that are considered prerequisites to practice must demonstrate that those credentials are reasonable. Failure to demonstrate reasonableness of the credentialing requirements could result in claims of unlawful restraint of trade. In administrative law, certification programs must also meet the requirements of minimal due process. Notice to candidates about the testing specifications and certification requirements, along with opportunities to appeal denials, are founded in best practices arising out of due process laws and procedures. In contract law, the application for certification and any rules and requirements relating to how to apply, standards for qualifying, renewal and recertification, and examination requirements constitute a contractual relationship between the certifying body and the candidate/certificant.

This paper is dedicated to the memory of Dr. Jerry Shook, whose contributions to credentialing applied behavior analysts have had a profound impact on the field and those it serves.

J. M. Johnston
Auburn University, Auburn, AL 36849, USA

F. H. Mellichamp · G. L. Shook · J. E. Carr
Behavior Analyst Certification Board, Littleton, CO 80127, USA

J. M. Johnston (✉)
493 Cherokee Blvd., Knoxville, TN 37919, USA
e-mail: jjohnston356@comcast.net

With regard to actual test questions, the most significant legal concern is “reasonableness” under the antitrust considerations identified above. There is a long line of precedence finding reasonableness to be grounded in the process followed to develop and score a test item. An example of how this test is applied in court cases appeared in the US Supreme Court decision in *Ricci v. DeStefano* (2009). This case is informally referred to as the “Connecticut firefighter” lawsuit. In this case, the Supreme Court of the USA reinstated examination results even though those results had a substantial negative impact on minority firefighters. The examination results were reinstated because the processes used when developing the examination items and “cut score” (passing score) were demonstrated to be valid and reasonable. The courts reviewing this case took into consideration the extent to which the examination questions followed generally accepted best practices for development, including a foundation in job task analysis, with procedures in place to ensure unbiased item writing, administration, scoring, and post-examination review. The best practices for certification examinations often mirror best practices for employment testing (United States Equal Employment Opportunity Commission 1978).

Consider the following question previously used on an earlier version of the BACB examination for Board Certified Behavior Analyst® (BCBA®) certification.

Charmaine has sporadic incontinence. Recently, incontinence has increased to two or three occurrences per day. The change appears to coincide with a change in her medication, which was adjusted when she was last seen by her physician about three weeks ago. What should the behavior analyst do FIRST?

- A. Have Charmaine keep an incontinence log
- B. Conduct a functional analysis
- C. Advise caregivers to contact her physician
- D. Review all records

Did you answer it correctly? In case you are not sure, the best answer is option “C.” This is the best answer because the change in Charmaine’s incontinence seems to coincide with a medication change. Having Charmaine keep a log is not helpful because we already know the rate is two to three times per day. Conducting a functional analysis is premature given that there is a potential cause, which can be evaluated by contacting the physician. Reviewing all records goes beyond what is necessary and could be an invasion of Charmaine’s privacy.

Thousands of questions similar to this one comprise the item pool for BACB examinations. This item pool is a continually updated collection of questions that have survived item analysis evaluations from previous examination

administrations. An item analysis is a routine statistical evaluation of each item used in an examination that confirms that each item adequately discriminates between candidates who perform well on the exam and those who perform poorly (Livingston 2006). Items that are problematic are either revised or discarded. As with all new items, revised items are included on future examinations to determine if they perform well and can therefore be included in the pool. Such items are scored and analyzed but not counted in the candidate’s performance. Generally, this process is described as “pre-testing” items.

This item pool constitutes one part of a set of contingencies that influence what authors include in textbooks, what instructors incorporate into course syllabi, and what students study in taking these courses and preparing for the certification examination. These contingencies are therefore an important part of determining the competencies assessed by BACB examinations. **The focus of this article concerns from where examination questions come and the elaborate process underlying the determination of standards used by the BACB and similar high-stakes professional credentialing programs. High-stakes credentialing programs are those that have significant consequences for not just the candidate and the credentialing body but for the public, which can be put at risk by unqualified candidates. Protecting the public from this risk is the rationale underlying all facets of the credentialing process.**

How Examination Items are Developed

Items may be written by a variety of individuals under varying circumstances. Most professional credentialing programs rely on individuals who hold the credential for which the examination is being developed. By virtue of having obtained and maintained the credential, these people are deemed to be “subject matter experts” or SMEs. SMEs are usually volunteers who have been working in the profession for a while and now wish to give something back to their field. As an example of this general approach, items in the pool from which BACB examinations are constructed are written by BACB certificants who have participated in a 2-h workshop presented by the BACB’s psychometrician (an expert in testing and measurement; the second author). This workshop teaches participants how to develop good multiple-choice test questions. The workshop also provides an overview of the steps required to develop fair, valid, and reliable examinations. Upon completion of the workshop, these certificants are assigned specific tasks for which to draft test items. The tasks assigned are determined based on an inventory of the pool of questions, which is conducted prior to each workshop to identify areas in need of additional items. Depending on the nature of the workshop, the SMEs may write their items on site or submit items online using a secure website designed for

this purpose. All submitted items are entered into the BACB item pool as “draft” items. The BACB conducts periodic item-review workshops during which a panel of BACB certificants is convened to review, revise, and approve the draft items for use as “pilot” items on an examination. The pilot items are not included among the scored items on the examination because the pilot items are being tested to gather data on how they might perform if included on future examinations. Only items that “pass the test” will become eligible for use as scored items on future examinations. To “pass,” an item must be answered correctly by the majority of candidates and must appropriately discriminate between candidates who do and do not possess sufficient knowledge to obtain the credential. In other words, answering the item correctly should be positively correlated with overall examination scores. After being pilot tested, the statistical data that have been gathered on the items are reviewed by the psychometrician. In the event of questionable statistical performance, the item will be reviewed, revised, or discarded by another panel of SMEs.

Construction of questions is driven by specific knowledge, skill, and ability statements (KSAs). These are detailed statements, much like operational definitions, that expand on the tasks that appear in the published task list describing the content of credentialing examinations. For the BACB, the KSAs are designed to serve as “prompts” for the certificants who will draft items for the examinations. Although not an exhaustive list of every concept or activity pertinent to the practice of applied behavior analysis (ABA), they cover key points that should be included in the examinations.

The BACB’s KSAs are developed by a panel of certificants shortly after the task list is approved by the BACB’s Board of Directors. The KSAs comprise an internal document that is used as a guide during item writing. For example, the task statement for the above item was “G-02: Consider biological/medical variables that may be affecting the client.” (BACB 2012). The specific KSA statement for the above item was “Seek consultation to identify potential medical issues causing behavior problems.” Each KSA serves as the basis for several items. Although these items focus on the same KSA, each may take a slightly different approach to probing the candidate’s understanding of the material.

An important benefit of this redundancy is to increase the size of the overall item pool. The necessary size of the pool is determined based on the frequency with which the examination is administered, the number of candidates who sits for the examination during each testing window, and the number of examination forms that is used during a given testing window. An examination form is a unique collection of items (150 items for the BCBA and 130 items for the Board Certified Assistant Behavior Analyst®, BCaBA®) selected to cover the content identified by the task list. For security reasons, the BACB administers multiple examination forms during the testing windows each year. The item pool contains over 10

times the number of items required to create one examination form for each credential.

The KSAs are in turn derived from task statements. In the case of the BACB, these are descriptive statements that identify the work activities performed by BCBA and BCaBA. Each task statement consists of a verb describing the action that takes place, an object receiving that action, and one or more qualifiers if needed for clarification. Task statements covering related material are organized into logical content areas, which represent the major job functions of an applied behavior analysis practitioner. For instance, there are presently 11 content areas covering the material that both BCBA and BCaBA candidates are responsible for knowing. These content areas contain from 3 to 21 task statements, although some tasks involve multiple statements. Collectively, these content areas and their tasks are called the task list. The *Fourth Edition Task List* includes 115 tasks (BACB 2012).

How the Task List is Developed

Task lists result from an elaborate process called a job analysis (Raymond and Neustel 2006; Shook et al. 2004). A job analysis identifies the key functions and basic job duties of a profession at a particular point in time. By design, they represent not the latest practices or trends, but the mainstream activities generally accepted by practitioners. This conservative approach protects against including content that is not yet established by research or broadly accepted within a field and that may yet fall by the wayside. This caution means job analyses must be periodically updated by repeating the effort, typically every 5 to 10 years depending on the needs of the profession, to accommodate advances that eventually pass muster.

A job analysis consists of specific components. First, the credentialing organization convenes a representative panel of SMEs. Individuals are selected based on their experience and expertise in broad areas of the field represented by practitioners. The resulting panel membership typically considers dimensions such as gender, geography, type of employment, area of expertise, professional contributions, and so forth. The goal is to bring together a diverse group of panel members that provides a good cross-section of the field as a whole. In the case of the BACB’s most recent job analysis, for example, this panel included university faculty, as well as practitioners working in different areas within the USA and in other countries, with training from different educational institutions, working in a variety of applied settings, and with various levels of supervisory experience.

The panel is brought together for a multi-day meeting to review and consider possible content or organizational revisions to the existing task list, as well as changes to educational, practice, or other requirements for certification. Given the

intentional diversity of panel membership, it is important that panelists feel free to argue for whatever changes each finds appropriate. This meeting is typically coordinated by a professional in the field of testing and measurement who is skilled in facilitating productive discussion and encouraging the group to systematically probe all aspects of the existing task list and to consider all points of view. The BACB's most recent panel was coordinated by its psychometrician. The process focused on inclusion of new content, elimination of outdated and redundant content, and reorganization of content into different task areas.

The product of the expert panel is a set of revisions to the existing task list agreed to by majority vote of the panel. The next step involves professionals in testing and measurement turning these revisions into an electronic survey instrument asking respondents to rate the frequency and importance of each task. Other questions may probe the level of supervision needed and the potential for harm that would result from lack of competence. The details of survey questions vary based on the needs of the field in which survey is done. This survey may be tested as a draft instrument with a preliminary cohort of experts in the field to insure that its design and other features will yield useful information. Based on this feedback, minor edits may be made to the survey that does not conflict with the panel's revisions. A draft of the BACB's most recent job analysis survey instrument was sent to 282 experts in behavior analysis around the world. The final form of the survey is then sent electronically to a large sample of the field's membership.

As an example of the survey process, the BACB's most recent job analysis survey was administered using a web-based survey tool. Survey participants were asked to provide some background information and to then respond to the survey based on their current credential. Due to the extensive time and effort required to accurately complete the survey and given the importance of the survey results to the BACB, five type 5 continuing education credits were offered to individuals who completed the entire survey. Using the BACB database, the effective sample size of the 2009 survey was 7,067. Of these, 2,236 (31.64 %) responded to the survey. The number of responses was sufficient to be considered a representative sample of the certificant population and to permit appropriate analyses to be performed. In fact, the response rate was consistent with industry standards (Henderson and Smith 2009). We refer the reader to the May 2011 issue of the *BACB Newsletter* for additional information about this survey and its findings (BACB 2011).

Survey data are then thoroughly analyzed. This analysis typically includes evaluating responses across various demographic categories, including age, gender, race, geography, training and experience, employment, and other dimensions. However, the primary focus of the analysis lies in the respondents' evaluations of each of the task statements in terms of its

importance and frequency of performance. In preparing respondents to rate the tasks, survey instructions may encourage respondents to consider factors such as (a) the frequency with which the specified activity is performed, (b) the risks associated with performing the activity poorly, and (c) whether the activity should be tested on the certification examinations. In the case of the BACB, this analysis is conducted separately for BCBA and BCaBA certificants.

A report of the job analysis survey is prepared by testing and measurement professionals and submitted to the credentialing agency. The centerpiece of this report provides descriptive statistical measures of respondent ratings of each task statement in terms of their importance for practitioners. The governing body of the credentialing organization (in the case of the BACB, its Board of Directors) or an assigned committee sets a cutoff for these ratings to determine whether any of the proposed task statements should be eliminated from the task list. The agency also considers recommendations of the expert panel regarding possible changes in educational, practice, or other requirements for certification. The final result of this process is a decision by the organization to promulgate a revised set of task statements and associated requirements for how practitioners must prepare to qualify for the field's credentials.

These requirements are scheduled to take effect at a specified future date to allow the field to prepare for the changes. Before they are implemented, however, several steps are necessary. The KSAs must be reviewed and revised to match the new task list, with new KSAs being written to cover any new content that was added. The pool of test items must be reviewed and compared to the new task list and KSAs to determine which items can be retained and where they fit. An inventory must then be conducted to identify tasks and KSAs that require more items. The inventory will be used to guide the efforts of item writers who will draft new items based on the new task list. As already described, new items are pilot tested and reviewed to ensure that they meet acceptable performance criteria. After the item pool has been sufficiently updated, new test forms can be generated that match the updated task list requirements.

How the Examination's Passing Score is Determined

At this point, a cut score used to determine whether a candidate passes or fails the examination must be established. There are different approaches to this task, but most of them involve bringing in a panel of practitioners to systematically review and assess the difficulty of each test item on a "base" examination form. The BACB uses a modified Angoff approach in which panel members estimate the proportion of entry-level practitioners (i.e., those who have sufficient competency to obtain the BCBA or BCaBA credential) who will know the

answer to each item (Angoff 1984). The estimates from all panel members are averaged to arrive at a recommended cut score, which is then presented to the BACB Board of Directors for approval.

How the Task List is Turned into an Examination

Actual examinations are created by selecting items from the pool that match the specifications for the base examination form that resulted from the job analysis study. These specifications are referred to as the examination blueprint because they provide detailed information on the content that will be covered in each examination form even down to the number of questions that will be asked about each task. The item selection process is basically a stratified random sampling of the item pool with the strata representing the tasks. Each “active” item that is eligible for use on an examination form has a detailed statistical history, which includes information on the number of people who answers the item correctly, how answering the item correctly relates to the overall test performance, and information on the number of people who selects each of the wrong answers. In addition to statistical performance, other factors that are considered when selecting items include how frequently the items have been used and whether the items are “enemies” of other selected items (i.e., giving answers to other items or asking the same question as another item).

Once the examination form has been selected, it is reviewed by a panel of SMEs to ensure that it meets the blueprint requirements and that all of the selected items are accurate and reflect current practices. In addition, each form is statistically equated to the base examination form to ensure that any differences in difficulty level across forms are taken into account. As a result of the equating process, the pass rates generally remain quite stable throughout the life span of each base examination form. New base examination forms are created approximately every 5 years or whenever there is a significant change to the examination content, such as the introduction of a new task list.

After the experts have approved an examination form, it is administered to candidates during a testing window. After the testing window ends, an item analysis is conducted. This analysis includes an evaluation of the number of candidates who selects each answer choice and the relationship between selecting that answer choice and overall test scores. Items that perform poorly (e.g., those that many candidates answer incorrectly or those that have a negative relationship to test scores) are flagged for review by another panel of SMEs. On rare occasions, the panel may determine that the flagged items have flaws, such as more than one correct answer or even no correct answer. In these cases, the panel may recommend adjustments to the scoring key so that candidates are not adversely affected by the flawed items. Once this review

process is completed, scores for the examination are finalized and reported to candidates. Thus, every examination form is subjected to the scrutiny of multiple experts in the field throughout the development cycle. This ensures that any variations in quality and difficulty of the items are accounted for in the scoring process so that candidates have an equal opportunity to demonstrate their knowledge of applied behavior analysis.

The Foundation of High-Stakes Credentialing Procedures

Many other fields use the processes described here to develop credentialing programs that identify competent practitioners and protect the public health, safety, and welfare. For example, Cardiovascular Credentialing International offers ANSI-accredited certifications in eight different specialty areas for technicians working in the cardiovascular field. The National Registry of Food Safety Professionals certifies over 100,000 food safety managers annually through an ANSI-accredited program. (ISC)² offers an ANSI-certified credential held by almost 100,000 professionals working in the field of information security. The Dental Assisting National Board certifies over 33,000 dental and orthodontic assistants through its two NCCA-accredited examinations. Accreditation of a credentialing body’s practices by ANSI or NCCA is a demanding process which indicates that they rely on appropriate job analysis studies to define the scope of work for their practitioners and include practitioners and other stakeholders throughout all phases of the credential development process in accordance with testing and measurement industry standards (see American National Standards Institute 2003; National Commission for Certifying Agencies 2003).

There are a number of advantages to adhering to national accreditation and best practices in the field of certification. Certificants gain assurances that their examination, application, and related documentation are fairly reviewed in accordance with current psychometric and legal standards for credentialing. The requisite appeal process for denied applications and disciplinary actions also helps to ensure fair enforcement of certification requirements. Consumers, employers, and legislators benefit from a uniform basis to help assess qualifications of service providers. Certificants, universities, and the overall community can depend on a mechanism for notice of proposed changes. Finally, there is comfort in knowing that the certification procedures undergo independent and unbiased review by standard-setting professionals.

Influence over Credentialing Content

The focus of BACB credentialing standards is to produce ABA practitioners that meet the minimum competencies

necessary to serve consumers as effectively as the field's science and technology will allow. It is understandable that there might be disagreement within the field regarding these minimum competencies. Indeed, it is appropriate that such a discussion be ongoing because it reflects a vibrant discipline with genuine interest in its practitioner community. For example, pressure from those with expertise in the basic research literature for greater representation of their interests in practitioner credentialing standards is important in helping to maintain the relationship between the science and its technology. Some understandably push for task standards that better reflect the value of conceptual issues in the work of practitioners. Still, other interests appropriately argue that different treatment populations and settings should be represented by increasing specialization in practitioner credentials.

Such diverse voices are important because, although the standards for credentialing a field's practitioners may emerge from all of the field's interests, there is no a priori best answer for what those standards should be. Each interest group may offer its recommendations with unyielding conviction, but it is important that the inevitable conflicts are not settled by political processes. An approach based on the political power of one interest or another might create a clear set of standards, but it can result in a variety of problems. For instance, there may be few educational programs that can meet standards created in this manner. Though its proponents may be pleased with this outcome, a small and slowly growing practitioner cohort may only assure that the credential has limited impact in the marketplace and little value. Another possible problem is that practitioner training may provide broad and deep expertise in certain areas, acquired at considerable expense to students, even though some of this expertise may have little practical value in the daily work of practitioners. A curriculum too strongly biased toward one interest may also limit training in other areas, resulting in certain deficits in practitioner skills. Of course, each community of interest may argue that this is already the case and that the problem can be rectified by modifying the standards so that academic curricula properly reflect its particular concerns.

At the least, all parties to this important debate might agree that the desired outcome of credentialing standards is the production of an adequate supply of credentialed practitioners that have the minimum competencies needed to represent the best of what the field has to offer. However, what does the phrase "minimum competencies" mean? It is tempting to focus on the pejorative connotation of the term "minimum" and argue that we should be aiming at a higher standard, but this misunderstands the term's application to credentialing standards. Any credentialing examination sets some minimum standard for the competencies of those who pass. That standard may be quite high by some criteria, but it is still a minimum because those who fail to achieve a passing score do not earn the credential. Physicians, lawyers, dentists,

accountants, and other credentialed professionals all pass exams that define the minimum competencies targeted by the task statements underlying their exams.

Across practitioners within a field, there is always variation in expertise above this minimum. There will always be some credentialed practitioners who know more or are more effective than others. If some advanced level of expertise above an existing minimum standard were defined by the profession through the above described job analysis process as minimally necessary for its desired standard of competence, it would then be included in the task statements designating minimum competencies. Of course, there would still be some practitioners whose skills exceeded even this new standard. The challenge in determining appropriate task statements is to identify the minimum competencies needed by practitioners to reflect what the field has to offer the society.

These and other issues are part of an important and healthy ongoing debate in behavior analysis. It is important that this discussion should not be hampered by a "let us determine the task list" remedy proposed by one interest or another in the field that conflicts with the processes described in this article, which adhere to the standards of the field of testing and measurement and are consistent with their legal foundation.

The primary purpose of these established methods is to ensure that the content of credentialing examinations is broadly based in the mainstream views within a field and is not the agenda of a particular organization, group, or interest. In other words, these methods have evolved to protect consumers by insuring that credentialed practitioners in a field have demonstrated the minimum competencies resulting from a process that prevents any one group or interest from having excessive influence on the designation of those competencies. For the field of behavior analysis, these methods serve the function of producing task standards guiding academic training requirements and exam content that comes from a mix of academics, researchers, and practitioners. Practitioners must be well represented because they are in the best position to respond to the job analysis survey question of how important each task is in their work. To argue that practitioners who have already earned their credential would be inclined to respond to the importance of proposed tasks in a way that lowers credentialing standards for future candidates not only insults these professionals but also reveals a perspective that is out of touch with the contingencies of practice.

Our description of established credentialing procedures should make it especially clear that no organization should play a standard-setting role by establishing its own procedures without subject matter and psychometric guidance. In this regard, it is important to understand that the BACB's Board of Directors and Chief Executive Officer do not control the content of its task statements or credentialing exams. They do not create the task statements, selectively modify them, or pick and choose among them, aside from setting a floor for evaluating job

analysis task rating data in a manner consistent with established credentialing procedures. By following such established procedures, the BACB's certification programs have achieved a status of legal and professional defensibility and parity with how other profession's credentials are developed.

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October 28, 2016

To: Anne Thompson, policy analyst, Health Licensing Office, Oregon Health Authority
From: Paul Terdal
Re: Public Comment on Behavior Analysis Regulatory Board proposed administrative rules

Dear Ms. Thompson and members of the Behavior Analysis Regulatory Board,

Please accept these public comments regarding the proposed administrative rules for the Behavior Analysis Regulatory Board, which were published in the Oct. 1, 2016, edition of the Oregon Bulletin.

824-036-0001 Grandfathering – Requirements for Licensure

General comments:

As we have discussed at length, in previous BARB meetings and in the Rules Advisory Committee, the Rules should be consistent with legislative intent, which was to provide a one-time path to licensure for those unlicensed / uncertified individuals who have been practicing ABA therapy in Oregon for many years, that respects their experience while ensuring appropriate standards of professionalism.

This decision – to create an alternate path for these existing, experienced, ABA providers – was made by unanimous vote of the Oregon legislature, and the BARB must develop rules consistent with that decision. The BARB cannot set the legislature’s decision aside by requiring these grandfathered providers to now obtain a BCBA, or to set requirements that would be the defacto equivalent of a BCBA, such as a requirement to pass a proprietary exam obtainable only from the Behavior Analyst Certification Board,[®] Inc.

The BARB’s decision in August to remove the proprietary exam requirement, and to streamline the supervision requirements, was an important step towards fulfilling the legislative mandate.

I remain concerned, however, that the rules remain very burdensome, even for very highly qualified grandfathered providers with advanced degrees and decades of experience. Many of the rules closely mirror the BACB’s requirements for new providers first joining the profession without any experience at all, which is inconsistent with legislative intent.

Further, some of the rules specifically require endorsements from or supervision by individuals with a BCBA[™] certificate from the Behavior Analyst Certification Board,[®] Inc. National organizations have been applying considerable pressure on individuals with the proprietary BCBA[™] certificate to oppose implementation of the grandfathering provisions in Oregon law (despite the fact that the Behavior Analyst Certification Board,[®] Inc.’s own website features a model licensure for licensing / regulating behavior analysts that provides for licensure of “non-BACB certified individuals” including

“grandfathered practitioners.”¹ Members of this BARB have even been warned, during official Board meetings, that carrying out their official duties to adopt rules to implement grandfathering as required by statute could result in sanctions by the Behavior Analyst Certification Board,[®] Inc.² It is therefore likely that it may be difficult or impossible to find an individual with a BCBA™ certificate to provide the endorsement or supervision, given the threat of retaliation.

All of these grandfathered providers are in small Oregon businesses, and the rule will have a very significant adverse effect upon them: they may be required to undertake hundreds of hours of new classroom hours in ABA, for instance, at considerable expense and to the neglect of their business operations. A failure to do so would mean a permanent loss of their opportunity to be reimbursed by insurance or Medicaid for ABA therapy.

ORS 183.540 specifically requires the BARB to mitigate the economic impact of rules on small businesses like these declarants:

183.540 Reduction of economic impact on small business

If the statement of cost of compliance effect on small businesses required by ORS 183.335 (Notice) (2)(b)(E) shows that a rule has a significant adverse effect upon small business, to the extent consistent with the public health and safety purpose of the rule, the agency shall reduce the economic impact of the rule on small business by:

- (1) Establishing differing compliance or reporting requirements or time tables for small business;
- (2) Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business;
- (3) Utilizing objective criteria for standards;
- (4) Exempting small businesses from any or all requirements of the rule; or
- (5) Otherwise establishing less intrusive or less costly alternatives applicable to small business. [1981 c.755 §4; 2003 c.749 §7; 2005 c.807 §6]

The BARB should comply with ORS 183.540 by seeking “less intrusive or less costly alternatives” for these small businesses that are consistent with the legislative intent.

Specific Recommendations:

824-036-0001(6): Submit three letters of recommendation that attest to their ABA practice with observation and client progress report review; two must be from a BCBA; no more than one can be from a licensed health-care professional defined in ORS 676.802 (2); and

¹ Behavior Analysis Certification Board, Inc., Model Act for Licensing / Regulating Behavior Analysts, Revised September 2012, page 3. http://bacb.com/wp-content/uploads/2015/05/BACB_Model_Act.pdf: “Where non-BACB certified individuals will also be licensed, it may be preferable to use an alternative title to distinguish between those who have meet the BACB’s standards and those who qualify for licensure based on other standards (e.g., grandfathered practitioners and/or temporary licensees)”

² Behavior Analysis Regulatory Board, Meeting Minutes, April 1, 2016. “Alice Austin told the Board that if the Board Certified Behavior Analysts (BCBAs) on the Board lowered the standards for licensed behavior analysts below that of the national standard (the BACB), that it would be “problematic” for them....”

- The basic requirement for letters of recommendation is reasonable. However, the rules should not require the letters to be from an individual with a BCBA™ certificate from the Behavior Analyst Certification Board,® Inc. As noted above, it may be difficult or impossible to find an individual with a BCBA™ certificate to provide the endorsement or supervision, given the threat of professional retaliation by national organizations.
- The rule should be changed to read:
 - *(6) Submit three letters of recommendation that attest to their ABA practice with observation and client progress report review; the letters must be from a licensed behavior analyst or a licensed health-care professional defined in ORS 676.802 (2); and*

824-036-0001(7): Submit proof of having completed 270 classroom hours in ABA, including 45 hours in ethics and professional conduct as related to behavior analysis, 45 hours in principles of behavior analysis, 45 hours in behavior analytic research methods and analysis, 105 hours in ABA, and 30 discretionary hours; if the courses were completed more than 10 years ago, submit proof of having completed 50 hours of CEUs in ABA that were acquired within three calendar years prior to the date of application.

- The requirement for 270 classroom hours in ABA, with a very specific breakdown of the course hours, is copied from the Behavior Analyst Certification Board,® Inc.'s proprietary requirements for the BCBA™ certificate. It is reasonable and appropriate for a new entrant with no prior experience, but isn't reasonable for a veteran of the field such as the declarants.
- Declarants should provide proof of some recent formal continuing education in ABA to ensure that they are current with modern developments in the field. I'm concerned, however, that formal CEU opportunities in ABA may be difficult for an individual without a proprietary BCBA™ certificate to participate in or receive documentation for. My suggestion is that you proceed with the CEU requirement, but monitor the situation and be prepared to revise the rules if declarants report that they have been denied access to participate in formal CEU in ABA.
- The rule should be changed to read:
 - *(7) Submit proof of having completed 50 hours of CEUs in ABA that were acquired within three calendar years prior to the date of application; and*

824-036-0001(8): Submit proof of having completed 1,500 hours of supervised experience - direct or indirect - in ABA, or have 75 hours of direct supervision with a BCBA who signs off on their competency to practice ABA; and

- As noted above, it is likely that it may be difficult or impossible to find an individual with a BCBA™ certificate to provide the supervision, given the threat of retaliation.
- Further, Oregon law recognizes a broader range of ABA techniques than commonly practiced by individuals with a BCBA™ certificate, such as the Early Start Denver Model. Some declarants practicing ABA as it is legally defined in Oregon may be unable to find an individual with a BCBA™ certificate with expertise in the form of ABA that they practice.

- This should be changed to permit supervision by either a licensed behavior analyst or another licensed health-care professional whose scope of practice includes ABA, as defined in ORS 676.802 (2).
- The rule should be changed to read:
 - *(8) Submit proof of having completed 1,500 hours of supervised experience - direct or indirect - in ABA, or have 75 hours of direct supervision with a licensed behavior analyst or a licensed health-care professional defined in ORS 676.802 (2) who signs off on their competency to practice ABA; and*

824-060-0010 STANDARDS OF PRACTICE, PROFESSIONAL METHODS AND PROCEDURES

General comments:

The rule references “sections 1-9 of the 2014 BACB Professional and Ethical Compliance Code for Behavior Analysts.” I have several concerns:

The reference to the “2014 BACB Professional and Ethical Compliance Code for Behavior Analysts” is ambiguous, and raises intellectual property ownership risks

- The official name for the document appears to be “BEHAVIOR ANALYST CERTIFICATION BOARD® Professional and Ethical Compliance Code for Behavior Analysts.” The current version posted on the internet was last revised on March 21, 2016 and has the following version information:³
 - Approved by the BACB’s Board of Directors on August 7, 2014.
 - © 2014 Behavior Analyst Certification Board,® Inc. (BACB®), all rights reserved. Ver. March 21, 2016.
- The State of Oregon must identify the precise version to be adopted, and must independently maintain a copy of Oregon’s official on its own website – it is not sufficient to link to a third-party, proprietary website that is not under the State of Oregon’s control.
- The State of Oregon must also obtain specific permission from the Behavior Analyst Certification Board,® Inc. to use and post a copy of this proprietary document. In the past the Behavior Analyst Certification Board,® Inc. has threatened litigation against the State of Oregon on at least two occasions for perceived violations of trademark and copyrights.

I share CARD’s concerns that that Section 1.06(d) of the BACB Compliance Code does not allow clinicians and interventionists to attend to cultural norms.

- Section 1.06 states:

“1.06 Multiple Relationships and Conflicts of Interest. RBT (a) Due to the potentially harmful effects of multiple relationships, behavior analysts avoid multiple relationships. (b) Behavior analysts must always be sensitive to the potentially harmful effects of multiple relationships. If behavior analysts find that, due to unforeseen factors, a multiple relationship has arisen, they seek to resolve it. (c) Behavior analysts recognize and inform

³ <http://bacb.com/wp-content/uploads/2016/03/160321-compliance-code-english.pdf>

clients and supervisees about the potential harmful effects of multiple relationships. (d) Behavior analysts do not accept any gifts from or give any gifts to clients because this constitutes a multiple relationship.”

- As CARD wrote, “Section 1.06(d) is too broad and, consequently, may be interpreted to mean that accepting a plate of cookies from a patient’s parent is as egregious as accepting a diamond bracelet. In many cultures, offerings of food represent traditional gestures of gratitude, and rejecting such offers may cause offense or embarrassment. Oregon’s behavior analysts and interventionists must be given the latitude to attend to cultural norms and should not be constrained by Section 1.06(d) which fails to distinguish minor gestures of gratitude from lavish, inappropriate gifts. CARD urges the BARB not to adopt Section 1.06(d) barring additional clarification.”

General concerns about “chilling” effect of the proprietary code on the ability of government officials to carry out their duties, and on freedom of speech

- As noted above, members of this BARB have been warned, during official Board meetings, that carrying out their official duties to adopt rules to implement grandfathering as required by statute could result in sanctions by the Behavior Analyst Certification Board,[®] Inc. for violation of this “Professional and Ethical Compliance Code for Behavior Analysts” that the board now wishes to adopt.
- I have since been told that the Behavior Analyst Certification Board,[®] Inc. provided follow-up advice to members of this BARB that, so long as they speak out against implementation of the grandfathering provisions required by SB696, that they will be safe from sanctions under this code of ethics.
- It is unclear to me which provisions of this code specifically prohibit individuals with a BCBA[™] certificate from engaging in their official duties, or speaking freely about their ideas, but these threats and warnings are very concerning.
- The State of Oregon should not adopt this proprietary “Professional and Ethical Compliance Code for Behavior Analysts” without further clarification from the Behavior Analyst Certification Board,[®] Inc.

Specific Recommendation:

- The BARB should defer action on proposed OAR 824-060-0010 STANDARDS OF PRACTICE, PROFESSIONAL METHODS AND PROCEDURES pending further review and clarification to address these concerns.

Sincerely,

Paul Terdal



The Oregon Association for Behavior Analysis would like to thank the Health Licensing Office and the Behavior Analysis Regulatory Board (BARB) in their attempts to develop and revise rules regarding licensed and registered practitioners of behavior analysis. We appreciate the difficulty the BARB has faced in determining standards for unlicensed individuals and are grateful for their efforts to ensure consumer safety and the integrity of behavior analysis. We are writing to respectfully provide feedback regarding the proposed rules that will go into effect on January 1, 2017.

**DIVISION 36
GRANDFATHERING**

824-036-0001

(4) *Submit proof of having at least a master's degree in:*

- ***Education,***
- ***Psychology, or***
- ***Applied behavior analysis;***

ORABA strongly supports the requirement that all declarants hold at least a master's degree as this reflects the same standard required for current licensed behavior analysts. We also support restricting the degree requirements to Education, Psychology, or Applied Behavior Analysis as this eliminates degrees that are not relevant to behavior analysis (e.g., engineering).

(5) *Submit proof of 10 years of experience in applied behavior analysis as defined in ORS 676.802 (1)(a);*

ORABA agrees that individuals must have extensive experience in applied behavior analysis, but there are currently no parameters for determining how one must document their experience, and, whether a particular experience will count towards this requirement. For example, it would be important to specify that the experience must be 10 years of cumulative full-time practice, exclusively using ABA-based strategies and interventions vs. 10 years of part-time practice using an eclectic mix of "autism therapies". Also, it is vital to include the specific skills sets

and knowledge one must have utilized during this experience (e.g., by developing an empirically-derived task list). Statutory definitions do not clearly identify the knowledge, skills, and abilities that are necessary to be competent in providing behavior analytic services and therefore are inadequate to serve as the standard for determining competency or verifying whether an experience is behavior analytic. By specifying all parameters of what does and does not count toward experience and all the skills required, the BARB will be better able to make clear and objective decisions that are legally defensible.

(6) Submit three letters of recommendation that attest to their ABA practice with observation and client progress report review; two must be from a BCBA; no more than one can be from a licensed health-care professional defined in ORS 676.802 (2);

ORABA recommends that the BARB define and provide guidelines for observing declarants and reviewing client files. These guidelines should include any minimum observation times and frequencies as well as objective criteria to determine whether the skills observed and files reviewed meet legally defensible standards and that procedures to ensure confidentiality are followed.

In order to avoid the appearance of or any actual conflict of interest, the BARB should clarify that current BARB members may not provide attestations for declarants.

(7) Submit proof of having completed 270 classroom hours in ABA, including 45 hours in ethics and professional conduct as related to behavior analysis, 45 hours in principles of behavior analysis, 45 hours in behavior analytic research methods and analysis, 105 hours in ABA, and 30 discretionary hours; if the courses were completed more than 10 years ago, submit proof of having completed 50 hours of CEUs in ABA that were acquired within three calendar years prior to the date of application.

Although the course requirements mirror those of the BACB, there is no specified process by which declarants, consumers and other parties can be assured those courses contain the minimum hours in specific content areas or cover all relevant topics without an empirically-derived task list.

Additionally, the rules do not specify how declarants will prove they have obtained 50 CEUs in behavior analysis. CEUs must be verified to be behavior analytic and every CEU must be documented to verify that the participant attended the entire event. This regulation of provider and material content is vital to ensuring that (1) continuing education has actually occurred and (2) the continuing education credits actually further one's competency in the field of ABA and not one's competency in other fields not relevant to this licensure (psychology, counseling, etc). As current rules are written, there are no specific criteria for what will count as proof of continuing education in ABA (e.g., certificate of continuing education)

or what types of continuing education are acceptable (workshops, teaching, coursework etc.), as well as any limits (e.g., no more than x number of hours teaching). Further, CEUs for declarants should include a minimum number of hours in ethics and professional behavior. Ethics and professional behavior evolve over time. What may have been appropriate 10, 20 or 30 years ago might now be considered unethical. It is vital that declarants are aware of their ethical responsibilities as they specifically pertain to modern behavior analytic practices and not the standards of the past.

(8) Submit proof of having completed 1,500 hours of supervised experience - direct or indirect - in ABA, or have 75 hours of direct supervision with a BCBA who signs off on their competency to practice ABA; and

ORABA strongly recommends that the BARB define "direct or indirect" experience, including what does and does not count toward experience hours and any restrictions on the amount of time it takes to accumulate 1,500 experience hours (e.g., 5 years or less). Additionally, the BARB should specify the minimum number of hours in which supervision must have occurred including frequency, and that the experience must be documented in such a way as to ensure it meets objective and legally defensible standards. For example, an individual running 1,500 hours of discrete trials with only one hour of supervision would meet the requirements of the current rule, but this is grossly inadequate.

Requiring declarants to obtain 75 hours of supervision from a BCBA without providing objective and legally defensible criteria for supervision places the BCBA and the BARB in the awkward position of determining an individual's competency in ABA without the support of specific evaluation standards. This lack of objective standards risks giving the appearance of idiosyncratic decision making which places the credibility of the BARB and the license at risk.

The passing of a psychometrically valid exam is a necessary requirement of any legitimate professional credential. Unfortunately, many individuals may meet the minimum standards for education and experience, but fail to pass an exam. The lack of requiring passage of a psychometrically valid exam is simply unacceptable. No legitimate profession would allow a group of individuals to meet only some credentialing criteria while avoiding one of the critical demonstrations of competency as a professional of that field. It is unreasonable to expect that a valid exam could be developed in such a short amount of time, particularly when an exam already exists via the BACB. The simplest solution is to require declarants to become Board Certified Behavior Analysts, ensuring they are capable of passing a valid exam, in addition to coursework and experience requirements.

ORABA urges the BARB to consider the arduous effort required to further revise and specify the grandfathering rules to have them meet legally defensible standards. In

contrast, ORABA encourages the BARB to require declarants to become Board Certified Behavior Analysts. It is the simplest, fairest, and most legally defensible solution to ensuring all licensed behavior analysts are minimally competent in behavior analysis.

To emphasize and provide further information on the importance of accepting vetted credentials versus creating a new set of standards, we have attached a peer-reviewed article that describes the extensive process of developing legitimate standards and exam content (Johnston, Mellichamp, Shook, & Carr, 2014). Please review this article as it provides an empirical basis for ORABA's recommendations to require declarants to become BCBA's.

DIVISION 40
REGISTERED BEHAVIOR ANALYSIS INTERVENTIONIST TRAINING AND SUPERVISION

ORABA supports the revised rules for RBAI's training and supervision. It reduces unnecessary burdens such as requiring 2 hrs of supervision before working with any new client and aligns the supervision and training standards with the national standards.

DIVISION 60
STANDARDS OF PRACTICE, PROFESSIONAL METHODS, AND PROCEDURES

ORABA supports the revised rules, specifically the adoption of sections 1-9 of the BACB professional and ethical compliance code for behavior analysts.

DIVISION 70
CONTINUING EDUCATION

ORABA supports the proposed rules for continuing education.

Thank you for your effort, time, and consideration.

Sincerely,

The Oregon Association For Behavior Analysis Board

Alice Austin Ph.D., BCBA-D, LBA	President
Sarah Cooper BCBA, LBA	Vice President
Jen Bass, BCBA, LBA	Secretary
Emily Kearney, BCBA, LBA	Treasurer
Melissa Gard, Ph.D., BCBA-D, LBA	Public Policy Chair

Determining BACB Examination Content and Standards

James M. Johnston · Fae H. Mellichamp ·
Gerald L. Shook · James E. Carr

Published online: 8 April 2014
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Abstract The standards associated with high-stakes professional credentialing are well established in the field of testing and measurement and are well supported by antitrust, administrative, and contract law. These standards have evolved to assure that the scope of work for a field's practitioners is appropriately reflected in the content of credentialing examinations and that the means by which credentials are earned include practitioners and other stakeholders throughout all phases of the credentialing process. This article describes the procedures by which the content of credentialing examinations is determined. The certification programs administered by the Behavior Analyst Certification Board are used as an illustration throughout. The article also considers the implications of these procedures and mechanisms.

Keywords Certification · Certification standards · Certification examination content · Behavior Analyst Certification Board

The procedures used by the Behavior Analyst Certification Board® (BACB®) to develop its certification examinations are used for certification and licensure examinations worldwide. The science of test development is a professional field in

its own right, and many educational institutions offer advanced degrees in testing and measurement. The testing field's professional associations (e.g., Institute for Credentialing Excellence; Council on Licensure, Enforcement, and Regulation; and Association of Test Publishers) have developed an extensive body of literature describing best practices in measurement and evaluation (e.g., American Educational Research Association, American Psychological Association, and National Council on Measurement in Education (1999)). Furthermore, formal standards have been developed for evaluating credentialing programs through third-party audit processes such as those of the National Council of Certifying Agencies (NCCA) and the American National Standards Institute (ANSI). To date, 112 credentialing organizations have had programs accredited by NCCA (Institute for Credentialing Excellence 2014), including the BACB, and 48 organizations have had programs accredited by ANSI (2014).

The legal foundation for high-stakes credentialing procedures evolved out of the interaction of a variety of legal principles. Significant legal implications for certification bodies are found in antitrust, administrative, and contract law. In antitrust law, certification programs offering credentials that are considered prerequisites to practice must demonstrate that those credentials are reasonable. Failure to demonstrate reasonableness of the credentialing requirements could result in claims of unlawful restraint of trade. In administrative law, certification programs must also meet the requirements of minimal due process. Notice to candidates about the testing specifications and certification requirements, along with opportunities to appeal denials, are founded in best practices arising out of due process laws and procedures. In contract law, the application for certification and any rules and requirements relating to how to apply, standards for qualifying, renewal and recertification, and examination requirements constitute a contractual relationship between the certifying body and the candidate/certificant.

This paper is dedicated to the memory of Dr. Jerry Shook, whose contributions to credentialing applied behavior analysts have had a profound impact on the field and those it serves.

J. M. Johnston
Auburn University, Auburn, AL 36849, USA

F. H. Mellichamp · G. L. Shook · J. E. Carr
Behavior Analyst Certification Board, Littleton, CO 80127, USA

J. M. Johnston (✉)
493 Cherokee Blvd., Knoxville, TN 37919, USA
e-mail: jjohnston356@comcast.net

With regard to actual test questions, the most significant legal concern is “reasonableness” under the antitrust considerations identified above. There is a long line of precedence finding reasonableness to be grounded in the process followed to develop and score a test item. An example of how this test is applied in court cases appeared in the US Supreme Court decision in *Ricci v. DeStefano* (2009). This case is informally referred to as the “Connecticut firefighter” lawsuit. In this case, the Supreme Court of the USA reinstated examination results even though those results had a substantial negative impact on minority firefighters. The examination results were reinstated because the processes used when developing the examination items and “cut score” (passing score) were demonstrated to be valid and reasonable. The courts reviewing this case took into consideration the extent to which the examination questions followed generally accepted best practices for development, including a foundation in job task analysis, with procedures in place to ensure unbiased item writing, administration, scoring, and post-examination review. The best practices for certification examinations often mirror best practices for employment testing (United States Equal Employment Opportunity Commission 1978).

Consider the following question previously used on an earlier version of the BACB examination for Board Certified Behavior Analyst® (BCBA®) certification.

Charmaine has sporadic incontinence. Recently, incontinence has increased to two or three occurrences per day. The change appears to coincide with a change in her medication, which was adjusted when she was last seen by her physician about three weeks ago. What should the behavior analyst do FIRST?

- A. Have Charmaine keep an incontinence log
- B. Conduct a functional analysis
- C. Advise caregivers to contact her physician
- D. Review all records

Did you answer it correctly? In case you are not sure, the best answer is option “C.” This is the best answer because the change in Charmaine’s incontinence seems to coincide with a medication change. Having Charmaine keep a log is not helpful because we already know the rate is two to three times per day. Conducting a functional analysis is premature given that there is a potential cause, which can be evaluated by contacting the physician. Reviewing all records goes beyond what is necessary and could be an invasion of Charmaine’s privacy.

Thousands of questions similar to this one comprise the item pool for BACB examinations. This item pool is a continually updated collection of questions that have survived item analysis evaluations from previous examination

administrations. An item analysis is a routine statistical evaluation of each item used in an examination that confirms that each item adequately discriminates between candidates who perform well on the exam and those who perform poorly (Livingston 2006). Items that are problematic are either revised or discarded. As with all new items, revised items are included on future examinations to determine if they perform well and can therefore be included in the pool. Such items are scored and analyzed but not counted in the candidate’s performance. Generally, this process is described as “pre-testing” items.

This item pool constitutes one part of a set of contingencies that influence what authors include in textbooks, what instructors incorporate into course syllabi, and what students study in taking these courses and preparing for the certification examination. These contingencies are therefore an important part of determining the competencies assessed by BACB examinations. The focus of this article concerns from where examination questions come and the elaborate process underlying the determination of standards used by the BACB and similar high-stakes professional credentialing programs. High-stakes credentialing programs are those that have significant consequences for not just the candidate and the credentialing body but for the public, which can be put at risk by unqualified candidates. Protecting the public from this risk is the rationale underlying all facets of the credentialing process.

How Examination Items are Developed

Items may be written by a variety of individuals under varying circumstances. Most professional credentialing programs rely on individuals who hold the credential for which the examination is being developed. By virtue of having obtained and maintained the credential, these people are deemed to be “subject matter experts” or SMEs. SMEs are usually volunteers who have been working in the profession for a while and now wish to give something back to their field. As an example of this general approach, items in the pool from which BACB examinations are constructed are written by BACB certificants who have participated in a 2-h workshop presented by the BACB’s psychometrician (an expert in testing and measurement; the second author). This workshop teaches participants how to develop good multiple-choice test questions. The workshop also provides an overview of the steps required to develop fair, valid, and reliable examinations. Upon completion of the workshop, these certificants are assigned specific tasks for which to draft test items. The tasks assigned are determined based on an inventory of the pool of questions, which is conducted prior to each workshop to identify areas in need of additional items. Depending on the nature of the workshop, the SMEs may write their items on site or submit items online using a secure website designed for

this purpose. All submitted items are entered into the BACB item pool as “draft” items. The BACB conducts periodic item-review workshops during which a panel of BACB certificants is convened to review, revise, and approve the draft items for use as “pilot” items on an examination. The pilot items are not included among the scored items on the examination because the pilot items are being tested to gather data on how they might perform if included on future examinations. Only items that “pass the test” will become eligible for use as scored items on future examinations. To “pass,” an item must be answered correctly by the majority of candidates and must appropriately discriminate between candidates who do and do not possess sufficient knowledge to obtain the credential. In other words, answering the item correctly should be positively correlated with overall examination scores. After being pilot tested, the statistical data that have been gathered on the items are reviewed by the psychometrician. In the event of questionable statistical performance, the item will be reviewed, revised, or discarded by another panel of SMEs.

Construction of questions is driven by specific knowledge, skill, and ability statements (KSAs). These are detailed statements, much like operational definitions, that expand on the tasks that appear in the published task list describing the content of credentialing examinations. For the BACB, the KSAs are designed to serve as “prompts” for the certificants who will draft items for the examinations. Although not an exhaustive list of every concept or activity pertinent to the practice of applied behavior analysis (ABA), they cover key points that should be included in the examinations.

The BACB’s KSAs are developed by a panel of certificants shortly after the task list is approved by the BACB’s Board of Directors. The KSAs comprise an internal document that is used as a guide during item writing. For example, the task statement for the above item was “G-02: Consider biological/medical variables that may be affecting the client.” (BACB 2012). The specific KSA statement for the above item was “Seek consultation to identify potential medical issues causing behavior problems.” Each KSA serves as the basis for several items. Although these items focus on the same KSA, each may take a slightly different approach to probing the candidate’s understanding of the material.

An important benefit of this redundancy is to increase the size of the overall item pool. The necessary size of the pool is determined based on the frequency with which the examination is administered, the number of candidates who sits for the examination during each testing window, and the number of examination forms that is used during a given testing window. An examination form is a unique collection of items (150 items for the BCBA and 130 items for the Board Certified Assistant Behavior Analyst®, BCaBA®) selected to cover the content identified by the task list. For security reasons, the BACB administers multiple examination forms during the testing windows each year. The item pool contains over 10

times the number of items required to create one examination form for each credential.

The KSAs are in turn derived from task statements. In the case of the BACB, these are descriptive statements that identify the work activities performed by BCBA and BCaBAs. Each task statement consists of a verb describing the action that takes place, an object receiving that action, and one or more qualifiers if needed for clarification. Task statements covering related material are organized into logical content areas, which represent the major job functions of an applied behavior analysis practitioner. For instance, there are presently 11 content areas covering the material that both BCBA and BCaBA candidates are responsible for knowing. These content areas contain from 3 to 21 task statements, although some tasks involve multiple statements. Collectively, these content areas and their tasks are called the task list. The *Fourth Edition Task List* includes 115 tasks (BACB 2012).

How the Task List is Developed

Task lists result from an elaborate process called a job analysis (Raymond and Neustel 2006; Shook et al. 2004). A job analysis identifies the key functions and basic job duties of a profession at a particular point in time. By design, they represent not the latest practices or trends, but the mainstream activities generally accepted by practitioners. This conservative approach protects against including content that is not yet established by research or broadly accepted within a field and that may yet fall by the wayside. This caution means job analyses must be periodically updated by repeating the effort, typically every 5 to 10 years depending on the needs of the profession, to accommodate advances that eventually pass muster.

A job analysis consists of specific components. First, the credentialing organization convenes a representative panel of SMEs. Individuals are selected based on their experience and expertise in broad areas of the field represented by practitioners. The resulting panel membership typically considers dimensions such as gender, geography, type of employment, area of expertise, professional contributions, and so forth. The goal is to bring together a diverse group of panel members that provides a good cross-section of the field as a whole. In the case of the BACB’s most recent job analysis, for example, this panel included university faculty, as well as practitioners working in different areas within the USA and in other countries, with training from different educational institutions, working in a variety of applied settings, and with various levels of supervisory experience.

The panel is brought together for a multi-day meeting to review and consider possible content or organizational revisions to the existing task list, as well as changes to educational, practice, or other requirements for certification. Given the

intentional diversity of panel membership, it is important that panelists feel free to argue for whatever changes each finds appropriate. This meeting is typically coordinated by a professional in the field of testing and measurement who is skilled in facilitating productive discussion and encouraging the group to systematically probe all aspects of the existing task list and to consider all points of view. The BACB's most recent panel was coordinated by its psychometrician. The process focused on inclusion of new content, elimination of outdated and redundant content, and reorganization of content into different task areas.

The product of the expert panel is a set of revisions to the existing task list agreed to by majority vote of the panel. The next step involves professionals in testing and measurement turning these revisions into an electronic survey instrument asking respondents to rate the frequency and importance of each task. Other questions may probe the level of supervision needed and the potential for harm that would result from lack of competence. The details of survey questions vary based on the needs of the field in which survey is done. This survey may be tested as a draft instrument with a preliminary cohort of experts in the field to insure that its design and other features will yield useful information. Based on this feedback, minor edits may be made to the survey that does not conflict with the panel's revisions. A draft of the BACB's most recent job analysis survey instrument was sent to 282 experts in behavior analysis around the world. The final form of the survey is then sent electronically to a large sample of the field's membership.

As an example of the survey process, the BACB's most recent job analysis survey was administered using a web-based survey tool. Survey participants were asked to provide some background information and to then respond to the survey based on their current credential. Due to the extensive time and effort required to accurately complete the survey and given the importance of the survey results to the BACB, five type 5 continuing education credits were offered to individuals who completed the entire survey. Using the BACB database, the effective sample size of the 2009 survey was 7,067. Of these, 2,236 (31.64%) responded to the survey. The number of responses was sufficient to be considered a representative sample of the certificant population and to permit appropriate analyses to be performed. In fact, the response rate was consistent with industry standards (Henderson and Smith 2009). We refer the reader to the May 2011 issue of the *BACB Newsletter* for additional information about this survey and its findings (BACB 2011).

Survey data are then thoroughly analyzed. This analysis typically includes evaluating responses across various demographic categories, including age, gender, race, geography, training and experience, employment, and other dimensions. However, the primary focus of the analysis lies in the respondents' evaluations of each of the task statements in terms of its

importance and frequency of performance. In preparing respondents to rate the tasks, survey instructions may encourage respondents to consider factors such as (a) the frequency with which the specified activity is performed, (b) the risks associated with performing the activity poorly, and (c) whether the activity should be tested on the certification examinations. In the case of the BACB, this analysis is conducted separately for BCBA and BCaBA certificants.

A report of the job analysis survey is prepared by testing and measurement professionals and submitted to the credentialing agency. The centerpiece of this report provides descriptive statistical measures of respondent ratings of each task statement in terms of their importance for practitioners. The governing body of the credentialing organization (in the case of the BACB, its Board of Directors) or an assigned committee sets a cutoff for these ratings to determine whether any of the proposed task statements should be eliminated from the task list. The agency also considers recommendations of the expert panel regarding possible changes in educational, practice, or other requirements for certification. The final result of this process is a decision by the organization to promulgate a revised set of task statements and associated requirements for how practitioners must prepare to qualify for the field's credentials.

These requirements are scheduled to take effect at a specified future date to allow the field to prepare for the changes. Before they are implemented, however, several steps are necessary. The KSAs must be reviewed and revised to match the new task list, with new KSAs being written to cover any new content that was added. The pool of test items must be reviewed and compared to the new task list and KSAs to determine which items can be retained and where they fit. An inventory must then be conducted to identify tasks and KSAs that require more items. The inventory will be used to guide the efforts of item writers who will draft new items based on the new task list. As already described, new items are pilot tested and reviewed to ensure that they meet acceptable performance criteria. After the item pool has been sufficiently updated, new test forms can be generated that match the updated task list requirements.

How the Examination's Passing Score is Determined

At this point, a cut score used to determine whether a candidate passes or fails the examination must be established. There are different approaches to this task, but most of them involve bringing in a panel of practitioners to systematically review and assess the difficulty of each test item on a "base" examination form. The BACB uses a modified Angoff approach in which panel members estimate the proportion of entry-level practitioners (i.e., those who have sufficient competency to obtain the BCBA or BCaBA credential) who will know the

answer to each item (Angoff 1984). The estimates from all panel members are averaged to arrive at a recommended cut score, which is then presented to the BACB Board of Directors for approval.

How the Task List is Turned into an Examination

Actual examinations are created by selecting items from the pool that match the specifications for the base examination form that resulted from the job analysis study. These specifications are referred to as the examination blueprint because they provide detailed information on the content that will be covered in each examination form even down to the number of questions that will be asked about each task. The item selection process is basically a stratified random sampling of the item pool with the strata representing the tasks. Each “active” item that is eligible for use on an examination form has a detailed statistical history, which includes information on the number of people who answers the item correctly, how answering the item correctly relates to the overall test performance, and information on the number of people who selects each of the wrong answers. In addition to statistical performance, other factors that are considered when selecting items include how frequently the items have been used and whether the items are “enemies” of other selected items (i.e., giving answers to other items or asking the same question as another item).

Once the examination form has been selected, it is reviewed by a panel of SMEs to ensure that it meets the blueprint requirements and that all of the selected items are accurate and reflect current practices. In addition, each form is statistically equated to the base examination form to ensure that any differences in difficulty level across forms are taken into account. As a result of the equating process, the pass rates generally remain quite stable throughout the life span of each base examination form. New base examination forms are created approximately every 5 years or whenever there is a significant change to the examination content, such as the introduction of a new task list.

After the experts have approved an examination form, it is administered to candidates during a testing window. After the testing window ends, an item analysis is conducted. This analysis includes an evaluation of the number of candidates who selects each answer choice and the relationship between selecting that answer choice and overall test scores. Items that perform poorly (e.g., those that many candidates answer incorrectly or those that have a negative relationship to test scores) are flagged for review by another panel of SMEs. On rare occasions, the panel may determine that the flagged items have flaws, such as more than one correct answer or even no correct answer. In these cases, the panel may recommend adjustments to the scoring key so that candidates are not adversely affected by the flawed items. Once this review

process is completed, scores for the examination are finalized and reported to candidates. Thus, every examination form is subjected to the scrutiny of multiple experts in the field throughout the development cycle. This ensures that any variations in quality and difficulty of the items are accounted for in the scoring process so that candidates have an equal opportunity to demonstrate their knowledge of applied behavior analysis.

The Foundation of High-Stakes Credentialing Procedures

Many other fields use the processes described here to develop credentialing programs that identify competent practitioners and protect the public health, safety, and welfare. For example, Cardiovascular Credentialing International offers ANSI-accredited certifications in eight different specialty areas for technicians working in the cardiovascular field. The National Registry of Food Safety Professionals certifies over 100,000 food safety managers annually through an ANSI-accredited program. (ISC)² offers an ANSI-certified credential held by almost 100,000 professionals working in the field of information security. The Dental Assisting National Board certifies over 33,000 dental and orthodontic assistants through its two NCCA-accredited examinations. Accreditation of a credentialing body’s practices by ANSI or NCCA is a demanding process which indicates that they rely on appropriate job analysis studies to define the scope of work for their practitioners and include practitioners and other stakeholders throughout all phases of the credential development process in accordance with testing and measurement industry standards (see American National Standards Institute 2003; National Commission for Certifying Agencies 2003).

There are a number of advantages to adhering to national accreditation and best practices in the field of certification. Certificants gain assurances that their examination, application, and related documentation are fairly reviewed in accordance with current psychometric and legal standards for credentialing. The requisite appeal process for denied applications and disciplinary actions also helps to ensure fair enforcement of certification requirements. Consumers, employers, and legislators benefit from a uniform basis to help assess qualifications of service providers. Certificants, universities, and the overall community can depend on a mechanism for notice of proposed changes. Finally, there is comfort in knowing that the certification procedures undergo independent and unbiased review by standard-setting professionals.

Influence over Credentialing Content

The focus of BACB credentialing standards is to produce ABA practitioners that meet the minimum competencies

necessary to serve consumers as effectively as the field's science and technology will allow. It is understandable that there might be disagreement within the field regarding these minimum competencies. Indeed, it is appropriate that such a discussion be ongoing because it reflects a vibrant discipline with genuine interest in its practitioner community. For example, pressure from those with expertise in the basic research literature for greater representation of their interests in practitioner credentialing standards is important in helping to maintain the relationship between the science and its technology. Some understandably push for task standards that better reflect the value of conceptual issues in the work of practitioners. Still, other interests appropriately argue that different treatment populations and settings should be represented by increasing specialization in practitioner credentials.

Such diverse voices are important because, although the standards for credentialing a field's practitioners may emerge from all of the field's interests, there is no a priori best answer for what those standards should be. Each interest group may offer its recommendations with unyielding conviction, but it is important that the inevitable conflicts are not settled by political processes. An approach based on the political power of one interest or another might create a clear set of standards, but it can result in a variety of problems. For instance, there may be few educational programs that can meet standards created in this manner. Though its proponents may be pleased with this outcome, a small and slowly growing practitioner cohort may only assure that the credential has limited impact in the marketplace and little value. Another possible problem is that practitioner training may provide broad and deep expertise in certain areas, acquired at considerable expense to students, even though some of this expertise may have little practical value in the daily work of practitioners. A curriculum too strongly biased toward one interest may also limit training in other areas, resulting in certain deficits in practitioner skills. Of course, each community of interest may argue that this is already the case and that the problem can be rectified by modifying the standards so that academic curricula properly reflect its particular concerns.

At the least, all parties to this important debate might agree that the desired outcome of credentialing standards is the production of an adequate supply of credentialed practitioners that have the minimum competencies needed to represent the best of what the field has to offer. However, what does the phrase "minimum competencies" mean? It is tempting to focus on the pejorative connotation of the term "minimum" and argue that we should be aiming at a higher standard, but this misunderstands the term's application to credentialing standards. Any credentialing examination sets some minimum standard for the competencies of those who pass. That standard may be quite high by some criteria, but it is still a minimum because those who fail to achieve a passing score do not earn the credential. Physicians, lawyers, dentists,

accountants, and other credentialed professionals all pass exams that define the minimum competencies targeted by the task statements underlying their exams.

Across practitioners within a field, there is always variation in expertise above this minimum. There will always be some credentialed practitioners who know more or are more effective than others. If some advanced level of expertise above an existing minimum standard were defined by the profession *through the above described job analysis process* as minimally necessary for its desired standard of competence, it would then be included in the task statements designating minimum competencies. Of course, there would still be some practitioners whose skills exceeded even this new standard. The challenge in determining appropriate task statements is to identify the minimum competencies needed by practitioners to reflect what the field has to offer the society.

These and other issues are part of an important and healthy ongoing debate in behavior analysis. It is important that this discussion should not be hampered by a "let us determine the task list" remedy proposed by one interest or another in the field that conflicts with the processes described in this article, which adhere to the standards of the field of testing and measurement and are consistent with their legal foundation. The primary purpose of these established methods is to ensure that the content of credentialing examinations is broadly based in the mainstream views within a field and is not the agenda of a particular organization, group, or interest. In other words, these methods have evolved to protect consumers by insuring that credentialed practitioners in a field have demonstrated the minimum competencies resulting from a process that prevents any one group or interest from having excessive influence on the designation of those competencies. For the field of behavior analysis, these methods serve the function of producing task standards guiding academic training requirements and exam content that comes from a mix of academics, researchers, and practitioners. Practitioners must be well represented because they are in the best position to respond to the job analysis survey question of how important each task is in their work. To argue that practitioners who have already earned their credential would be inclined to respond to the importance of proposed tasks in a way that lowers credentialing standards for future candidates not only insults these professionals but also reveals a perspective that is out of touch with the contingencies of practice.

Our description of established credentialing procedures should make it especially clear that no organization should play a standard-setting role by establishing its own procedures without subject matter and psychometric guidance. In this regard, it is important to understand that the BACB's Board of Directors and Chief Executive Officer do not control the content of its task statements or credentialing exams. They do not create the task statements, selectively modify them, or pick and choose among them, aside from setting a floor for evaluating job

analysis task rating data in a manner consistent with established credentialing procedures. By following such established procedures, the BACB's certification programs have achieved a status of legal and professional defensibility and parity with how other profession's credentials are developed.

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Public/Interested Parties' Feedback

Health Licensing Office
Behavior Analysis Regulatory Board

BACKGROUND AND DISCUSSION

When Senate Bill 696 was signed by the governor, it changed the makeup of the BARB, its licensees and put BARB under the authority of the HLO. Administrative rule changes are necessary to align with the statute. The rules align the licensure qualifications for behavior analysts and assistant behavior analysts and the registration qualifications for behavior analysis interventionists with the statute. They also add language around license and registration renewal and the declaration of professionals practicing behavior analysis as of Aug. 14, 2013 – the group that the statute grandfathers into licensure if individuals meet Board-established criteria.

ISSUE

The Board must consider the submitted public comments.

BOARD ACTION

After considering the submitted public comments, the Board must decide whether to vote to make the proposed rules permanent, with an effective date of Jan. 1, 2017

Items for Board Action

Executive session

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

Items for Board Action

Other Board Business



Health Licensing Office
Behavior Analysis Regulatory Board
November 18, 2016

****PLEASE PRINT****

Name (First, Last)	Representing	Request to Comment (Yes/no)
Alice Austin	ORABA / Self	
Denny Fischer	ORABA / Self	Y
Hannah Bergers	ORABA / Self	N