The Professionalization of Applied Behavior Analysis: A Review of the Current Status of Licensing

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Take Home Points

• With the emergence of licensing of Behavior Analysts, can ABA now finally be considered a true “profession”?
• If not, what steps are necessary to complete this transition?
• How can we help move this process along?
• How does a state administer Licensure?
The Debate Begins...

In the first presidential address of the Midwest Association for Behavior Analysis (MABA), Nathan Azrin (1977) noted:

"What we are witnessing with MABA may be ... the birth of a new separate discipline; separate from Psychology, Psychiatry, Education, and the other related areas."

Dr. Nathan Azrin
Is Behavior Analysis a Profession?

“A profession arises when any trade or occupation transforms itself through ’the development of formal qualifications based upon education, apprenticeship, and examinations, the emergence of regulatory bodies with powers to admit and discipline members, and some degree of monopoly rights.’” (Bullock and Trombley, 1999).
The sociological investigation of “professions” began in the 1930s with attempts to define characteristics or traits that distinguish the professions from other occupations. (Runt’e, 1995)
Review of Characteristics

• Skill based on esoteric knowledge;
• Provision for Training and Education, usually associated with a University;
• Formal Organization;
• Altruistic Service;
• Adherence to a Code of Conduct;
Does ABA Meet These Standards?
Skill based on esoteric knowledge

Defined as “understood by or meant for only the select few who have special knowledge or interest;”

Clearly, ABA meets this standard (which in many cases, because of our devotion to professional jargon, can serve as an impediment to Non-ABA types from embracing our field);
Provision for Training and Education, usually associated with a University

Again, ABA meets this standard, with BACB “Approved Course Sequences” in every state in the United States and 25+ countries around the world;
Formal Organization

Applied Behavior Analysts are lucky to have two well organized and effective national organization’s, as well as state and regional organizations in every state and/or region of the United States and around the world;
Altruistic Service

Defined as selflessness and a commitment to acting for the good of others;

Behavior Analysts have a long history of focusing on Socially Significant behaviors, generally within populations unable to meet their own needs;
Adherence to a Code of Conduct

The final, but perhaps most important characteristic: a Code of Conduct;
ABA is a Broad-Based Occupation Serving a Wide Range of Socially Significant issues, including:

• Developmental Disabilities;
• Mental Illness;
• Academic Interventions;
• Sports and Recreation;
• Organizational Behavior Management;
• Clinical Behavior Analysis;
• Child Development;
• Behavioral Medicine;
• Gerontology;
• Substance Abuse;
• Crime and Delinquency;
ABAI “Policy” on Code of Ethics

“The Association for Behavior Analysis International expects its members to uphold the highest standards of personal and professional behavior in the conduct of their work and the advancement of behavior analysis. ABAI embraces the diversity of professions within its membership; thus each ABAI member should adhere to the ethical standards that have been defined for his or her profession.”
What We Need to Do

• Work to educate the Executive Councils of ABAI and APBA that Behavior Analysis is a Profession, not a group of practitioners from other professions coming together to employ the Science of Human Behavior as a tool in our respective professions;

• Advocate that they **FINALLY** address the need for a Code of Conduct for Behavior Analysis.
The Licensing of Behavior Analysts
The Concept of Licensing of Behavior Analysts was first described by:

Jon Bailey (1991)

Then,

Later by: Dorsey, Weinberg, Zane and Guidi, 2008
States with Licensing

• Massachusetts (2006) was the first to file a Licensing bill
• Pennsylvania (2008) was the first to pass a Licensing bill;
• Oklahoma, Arizona and Nevada quickly followed in 2009;
• Now there are 20 states with Licensing, with 9 more in the process;
Boards of Registration

7 -- Behavior Analysis
5 -- Psychology
2 -- Medicine
1 -- DOE
5 -- Various Combined Boards
The Massachusetts Board of Registration of Allied Mental Health and Human Services Professions
Who We Are and Where We Fit

• Executive Branch of Government (Governor)
  • Office of Consumer Affairs
  • Division of Professional Licensing
  • 30 Boards
  • Board of Registration of Allied Mental Health and Human Service Professions

Joint Committee on Consumer Protection and Professional Licensing
Original Statute (enacted around 1990) required Board licensure and oversight of the following professions:

- Mental Health Counselors
- Marriage and Family Therapists
- Educational Psychologists
- Rehabilitation Counselors
PURPOSE OF THE STATUTE

• In 2013, Statute was changed to include the licensure and oversight of:
  • Applied Behavior Analysts and
  • Assistant Applied Behavior Analysts
Road to Licensure

• Creation of the Board (M.G.L. c. 13, § 88)

  How Many members to be appointed

  • 13 Members
  • 2 from each profession
  • 3 public members

  7 are required for a quorum
Requirements for Appointed:

• Appointed by the Governor;
• Must be a LBA (BCBA initially);
• US Citizen;
• Good Moral Character;
• Minimum of 5 years post LBA (BCBA) experience in practice;
• Serve without compensation;
• Serve no more that 3 consecutive 3 year terms;
Board’s *Sole* Mandate

**CONSUMER PROTECTION**

Accomplished through setting and enforcing published standards
DPL Relationship to the Board

• **Board staff**
  • Executive and Associate Ex. Director, & Admin Assistant
  • Board Counsel
  • Board Investigator
  • Prosecutor

• **All staff work is shared with other Boards at the DPL**
• **Staff work in an advisory role, as well as to execute all decisions made by the Board**
Licensure of LBAs and LaBAs

- An Act Relative to the Licensure of Behavior Analysts Chapter 429 of the Acts of 2012
- Added two new members to the Board – ABAs
- Defined the “Practice of Applied Behavior Analysis”
- Charged the Board with licensing and oversight of ABAs and AABAs
- Created exemptions to licensure
- Established licensure eligibility standards and grandfathering eligibility standards
Licensure of LBAs and LaBAs

• Licensure Eligibility Standards by Statute

• Education - ABAs
  • Doctoral degree which includes a minimum of 60 graduate credit hours in courses related to the study of behavior analysis
  • Master’s degree program which includes a minimum of 30 graduate credit hours in courses related to the study of behavior analysis
  • combined with the successful completion of an approved course sequence approved by the Board.
Licensure of LBAs and LaBAs

• Licensure Eligibility standards by Statute

• Education – AABAs

  • Bachelor’s degree program wherein a minimum of 135 classroom hours of instruction specifically in behavior analysis or possesses a bachelor’s degree combined with successful completion of a Board-approved course sequence or course work which otherwise meets professional standards, as determined by the Board.
Licensure of LBAs and LaBAs

• Licensure Eligibility Standards

• Experience

  • Successful completion of a practicum or supervised experience in the practice of behavior analysis that meets the standards established by the Board.
Licensure of LBAs and LaBAs

• Licensure Eligibility Standards by Statute
• Examination
  • Successful completion of a *board-approved examination* related to the principles of independent practice of applied behavior analysis
Licensure of LBAs and LaBAs

Task Force has been established by the Board to DRAFT regulations

• the 2 ABA Board Members

• 1 Representative from MassABA

• 1 Representative from BABAT

• 1 Public Member
Licensure of LBAs and LaBAs

Task Force tasked with:

• Drafting regulations for the full Board to review and approve

• Drafting regulations that:
  • Clarify statutory provisions and set standards to OBTAIN Licensure
  • Establish standards to MAINTAIN Licensure
Consumer Protection Mandate
Board Set Standards
for:

**Obtaining Licensure**
- Education
- Experience
- Exam
- Good Moral Character

**Maintaining Licensure**
- Establishing the Rules:
  - Renewal Procedures
  - Continuing Education
  - Setting Professional Practice Standards and Standards of Conduct
- Enforcing the rules
Licensure for LBAs and LaBAs

Standards for Obtaining Licensure

Regulations will set specific requirements for:

• Education
• Experience
• Exam
• Good Moral Character
Licensure for LBAs and LaBAs

Standards for maintaining Licensure

Regulations will set specific requirements for:

• Renewal Procedures
• Continuing Education Requirements
• Practice & Ethical Standards
• Supervision Requirements
Licensure for LBAs and LaBAs

Process from this point

• Draft from Task Force will go to Board for review and vote
• Draft will be posted for public comment
• Public Hearings will be held
• Task Force and Board will consider changes offered at public hearing and through written comment
• Regulations may be amended and will then be promulgated

All to be done by October 8th, 2014
Licensure for LBAs and LaBAs

**Grandfathering Period:**

• At this point is limited to 4 months (Until Feb 8th, 2015)

• The statute allows for licensing of:
  • BCBAs and BCaBAs; and
  • individuals meeting certain education / experience criteria

• Candidates will still need to go through an application process and thus must also be of GOOD MORAL CHARACTER
Board’s Role in Enforcement Role

- Once the Board has set the standards of their profession, it is their responsibility to enforce those standards.
- Accomplished through complaint process
- DPL supports this function through:
  - Office of Investigations
  - Office of Prosecutions
  - Office of Hearings Counsel
OVERVIEW OF THE ENFORCEMENT PROCESS
The Complaint Process

- Complaint Intake
- Investigation Conducted
- Board Review
- Decision Rendered/Prosecution
Complaint Intake

• Initial review by supervisor in the office of investigations.

• Threshold for docketing complaint is low as we are a CONSUMER PROTECTION AGENCY.

• If even possibility of Regulatory violation the complaint is docketed.

• Docketing of complaint does not = definite disciplinary action.

• The existence of a complaint is public information.
Investigation

Always begins with licensee notification, includes copy of complaint, and requests response.

**Investigation May Include:**

- Site visit to clinic/facility
- Interview with staff or other third party
- Medical Reports from Third party
- Follow-up information from complainant
- Any other info, at the discretion of the investigator
General Expectations of Response

- A narrative response to the allegations.
- A complete set of medical records
- Continuing education certificates for the most recently completed license cycle.
- Other supportive Documents
Board Review

• Reviewed at monthly Board meetings.

• Board may hold informal investigative conference with licensee and complainant to obtain further information and/or request investigator to gather more information.

• Board determines if evidence of a Regulatory violation is shown.
Board Decision

• If no evidence of a Regulatory violation Board will Dismiss the complaint.
• If not enough evidence of a violation, however, some issues of concern, Board may Dismiss with an Advisory—NOT DISCIPLINE.

Both of these decisions result in notification of licensee and complainant very soon after Board meeting.

• If evidence of violation(s) is found Board may forward matter to Office of Prosecutions for formal disciplinary action.
• Board makes recommendation to Prosecutor on what sanction should be sought.
Two Potential Outcomes

No Violation Found
A. Case Dismissed due to:
   • No Violation
   • Insufficient Evidence
B. Case Dismissed with an Advisory
   • Board concerned, but no provable violation and general advisory issued

Evidence of a Violation
• If evidence of a violation, Board will forward to the Office of Prosecution with recommendation of sanction(s) for formal disciplinary hearing
## Prosecution...
### Two Paths to Resolution

### Consent Agreement

- **What is a Consent Agreement?**
  - A legal document signed by both parties that agree to settlement terms for the case.
  - Admissions
  - Sanctions
  - Other terms (e.g., CE, Fines, etc.)
  - An Alternative to Hearing

### Adjudicatory Hearing

- **What is an adjudicatory hearing?**
  - Full “trial” overseen by an administrative law judge
  - Final decision based on evidence presented
  - Terms of Decision are written by “law judge” in conjunction with the Board
  - No negotiations incorporated
Sanctions?!
What Sanctions...

A range of sanctions can be imposed based upon the severity of the violation(s):

- Administrative civil penalty/ Fine
- Formal Reprimand
- Probation
- Stayed Suspension
- Suspension
- Voluntary Surrender
- Revocation
PUBLIC RECORD

• In an effort to function in a transparent government, much of Board Business is a matter of public record

• Examples:
  • All licensees’ addresses
  • All closed cases (after redacted from Board Counsel)
  • Complaint History
  • All disciplinary action, including CE and inspection violations
Continuing Education Audit

- As a condition of renewal you sign attesting to completion of all CEUs
- Conducted post-renewal
- Randomly selected licensees requested to supply approved CE documentation.
Top Five Ways to Avoid Problems if Audited

1. Count CEUs **BEFORE** submitting renewal.

2. Ensure CEUs are approved by a recognized entity/ meet the Regulatory requirements.

3. Maintain CE documentation for at least 2 licensure cycles.

4. If extenuating circumstances exist that warrant extension to complete CE and/or waiver request it must be requested **BEFORE** renewing.

5. Ensure no more than 6 CEUs are obtained via on-line or home study programs!!!!!
Development of Regulatory Standards
Some Examples of Modifications

• The need to allow Pro-Bono services. See Section 1.05(a): Behavior analysts provide behavioral diagnostic, therapeutic, teaching, research, supervisory, consultative, or other behavior analytic services only in the context of a defined, \textit{remunerated} professional or scientific relationship or role.

• Remunerated is defined as: “pay someone for their services.” Should be changed to eliminate the word “remunerated.”
• **Evidence Based Practices** – Specifically limit Licensed Behavior Analyst (LBAs) to the use of treatment interventions that meet the standards of “evidence based practices.”
• **Research** – In those cases where an LBA/LaBA plans to conduct a research project involving human subjects, or recommends a treatment/assessment intervention that does not meet the standards of being an Evidence Based Practice, the LBA is required to comply with TITLE 45 of the DEPARTMENT OF HEALTH AND HUMAN SERVICES, PART 46 regulations on the PROTECTION OF HUMAN SUBJECTS, as well as all other applicable regulatory standards.
• **Non-Licensed Assistants – Not addressed in the BACB Guidelines**, it is not unusual for a LBA to supervise 10 to 12 home-based cases simultaneously, with each child receiving between 3 to 5 hours of therapy (up to 40 hours per week in some cases) in each case. The vast majority of these services are provided without direct supervision in the client’s home by staff that does not qualify as an LBA or LaBA.

• Supervision standards based on time, contacts, what?
• **Records Maintenance** – This area needs to specifically be referenced to and consistent with HIPAA and FERPA.
Remember the DPL website is a great resource
www.mass.gov/dpl/boards/mh