

**MEETING MINUTES
APPLIED BEHAVIORIAL ANALYST LICENSING COMMITTEE**

DATE: August 19, 2019
TIME: 9:00 A.M.
LOCATION: Health Related Boards Conference Center
Poplar Room, 665 Mainstream Drive
Nashville, TN 37243

COMMITTEE MEMBERS

PRESENT: Michael S. Tonos, BCBA, Chair
Catherine Terry, PhD
Peter A. Beddow, BCBA-D
Amanda Spiess, BCBA

COMMITTEE MEMBERS

ABSENT: Vacant Position

STAFF

PRESENT: Teddy Wilkins, Unit Director
Lisa Williams, Board Administrator II
Paetria Morgan, Assistant General Counsel

Mr. Tonos called the meeting to order at 9:04 a.m. A roll call vote was conducted and a quorum was present.

Review/Approve Minutes

Upon review of the May 20, 2019 minutes, Dr. Beddow made a motion, seconded by Ms. Spiess, to approve the minutes. The motion carried.

Office of Investigations Report

Lori Leonard, Disciplinary Coordinator for all non-nursing boards, presented the reports for investigations. There were currently no licensees being monitored. Investigations received and opened two new complaints in the year 2019 for behavior analysts. The allegations of the two complaints were regarding one for unprofessional conduct and one for practice beyond the scope of practice. The two open complaints are currently being investigated and/or reviewed. No complaints were closed this year. In the year 2019 for licensed assistant behavior analysts, there were zero new complaints opened, zero closed and zero that were currently open being investigated and/or reviewed.

Office of General Counsel

Ms. Morgan stated there were no consent orders, agreed orders or open cases in the Office of General Counsel. Ms. Morgan reviewed the conflict of interest policy. The cultural diversity rules made it to the governor's office and that is where they are at this time. It is hoped that the rules will be back in time to have the next public hearing or rulemaking hearing at the November committee meeting. Once the rules receive the governor's signature and approval, the hearing notice will go to the secretary of state's office where it will stay for forty-five days plus five business days to give the public notice. At that point the board will then have the rulemaking hearing where the public can come and give comments after which the rules will go to the attorney general's office for approval. Once the approval is received from the attorney general, the board attorney and the board chair will go down to the government operations committee before the legislature and representatives and get their approval. At that point the rules will go into effect.

She reminded the board that they can talk to people outside of the committee, but not about anything that might come before the board and included would be applications and issues that might need to be voted on because of the need to maintain a quorum.

Administrative Report

Ms. Williams reported on the agreed citation of **Chad Szala** for a lapsed license. He was required to pay \$400 for four months of practice beyond the grace period of sixty days. The fees were received. The chair and the attorney signed the agreed citation.

Ms. Williams gave the administrative report stating that there were currently 482 active licensed Behavior Analysts and 16 active licensed Assistant Behavior Analysts. There were 5 behavior analyst applications in process and 1 assistant behavior analyst. Applied Behavior Analysts licensed since the last meeting were 29 new behavior analysts and 3 new assistant behavior analysts. There were 27 renewals for behavior analysts and 0 renewals for assistant behavior analyst. There were 10 behavior analysts that have expired and 3 assistant behavior analysts. There were 3 reinstated behavior analysts. There were 2 licensees that upgraded from DIDD provisional to full licensure and 24 DIDD provisional licenses that expired by the July 1, 2019 deadline without upgrading to full licensure.

Discuss and Ratify/Deny Newly Licensed

Newly Licensed Behavior Analysts and Assistant Behavior Analysts

Mr. Tonos called for a motion to ratify the list of Licensed Behavior Analysts. Dr. Beddow made a motion to ratify the list of Licensed Behavior Analysts, seconded by Dr. Terry. The motion carried. The list of 29 newly licensed Behavior Analysts was approved to go before the Board of Examiners in Psychology on September 12, 2019, to be ratified.

Behavior Analyst

Adkins Jennifer M.
Albert Nadia O

Cornfield Elizabeth M
Elliott Brandi K

Fann Katie R
Farmer Brittany N
Flannery-Reilly Adrienne
Garrett Mika B
Garry Megan R
Gregory Mary Bailey
Hennessey Holly A
Hunter Candice R
Jeter Lillie H
Jones Samantha K
Kelly Tiffany K
Mcdaniel Justin C
Mckee Ryan A

Melia Frank A
Morris Amy W
Neumann Kaitlyn J
Painter Ashley N
Porter Blair A
Pullum Megan Ruth
Ross Martha Dorian
Segovia-Bratton April D
Shepple Hannah E
Shriner Carrie A
Stefankiewicz Jennifer A
Ventimiglia Jessica L

Mr. Tonos called for a motion to ratify the Licensed Assistant Behavior Analysts. Dr. Beddow made a motion to ratify the list of Assistant Behavior Analysts, seconded by Ms. Spiess. The motion carried. The list of 3 newly licensed Assistant Behavior Analysts was approved to go before the Board of Examiners in Psychology on September 12, 2019, to be ratified.

Assistant Behavior Analyst

Kahrl Cresanna
Morgan-Brown Darnethia
Taylor Stephen A

Mr. Tonos called for a motion to ratify the Reinstated Behavior Analysts. Dr. Beddow made a motion to ratify the list of Assistant Behavior Analysts, seconded by Dr. Terry. The motion carried. The list of 3 reinstated Behavior Analysts was approved to go before the Board of Examiners in Psychology on September 12, 2019, to be ratified.

Reinstated Behavior Analysts

Hazelwood Audrey Carter
Palm Tracy
Szala Chad M.

Review Correspondence

Ms. Wilkins stated that the ABA Coding Coalition information was being brought before the board for informational purposes. All professions have codes and it serves the professionals and the public. Ms. Morgan stated that the information was brought before the board for the board to use their platform to inform other people. Ms. Wilkins suggested the information be sent to the Tennessee Behavior Analyst Association (TABAA) and let them handle it. That it might be a good idea to know where the CPT codes are. The professions have the codes and in order to bill for services you have to have a particular code. Mr. Tonos stated this information is helpful, but

he stated he has seen this letter sent out by members in other organizations as well as TABA and the Behavior Analyst Certification Board (BACB).

Legislation

Sarah Warner, Office of Legislative Affairs, presented legislation that was passed last session. Dr. Terry asked a question concerning Chapter 229 with the bartering. Would Chapter 229 be for an individual who had insurance, but this particular service was not covered or is this only for individuals who are un-insured? Ms. Warner stated that she would research it and get back with Ms. Wilkins with an answer and Ms. Wilkins will share the information with the board.

Public Chapter 61

This act states that an entity responsible for an AED program is immune from civil liability for personal injury caused by maintenance or use of an AED if such conduct does not rise to the level of willful or wanton misconduct or gross negligence. This act took effect on March 28, 2019.

Public Chapter 144

This act limits the places in which one may use vapor products. The act defines vapor products and prohibits the use of such products in a number of locations including child care centers, group care homes, healthcare facilities (excluding nursing homes), residential treatment facilities, school grounds, and several other areas. Several locations have specific exceptions put forth in the statute. This act took effect on April 17, 2019.

Public Chapter 195

The majority of this act pertains to boards governed by the Department of Commerce and Insurance. One small section applies to the health related boards. Currently, the health related boards have an expedited licensure process for military members and their spouses. Previously, a spouse of an active military member had to leave active employment to be eligible for this expedited process. This act removes that requirement. This section applies to all health related boards. The Commissioner of Health is permitted to promulgate rules, but rules are not needed to implement the act. This act takes effect July 1, 2019.

Public Chapter 229

This act allows healthcare professionals to accept goods or services as payment in direct exchange of barter for healthcare services. Bartering is only permissible if the patient to whom 2 services are provided is not covered by health insurance. All barter accepted by a healthcare professional must be submitted to the IRS annually. This act does not apply to healthcare services provided at a pain management clinic. This act took effect April 30, 2019.

Public Chapter 243

This act mandates that an agency that requires a person applying for a license to engage in an occupation, trade, or profession in this state to take an examination must provide appropriate accommodations in accordance with the Americans with Disabilities Act (ADA). Any state agency that administers a required examination for licensure shall promulgate rules in regard to eligibility criteria. This act does not apply to an examination mandated and administered pursuant to federal law. This legislation was introduced to assist individuals with dyslexia. This act took effect May 2, 2019 for the purpose of promulgating rules, and for all other purposes, takes effect July 1, 2020.

Public Chapter 359

This act creates civil liability for the unlicensed practice of psychotherapy. A provider must have a license under Title 63 in order to treat a mental health disorder and practice without a license is illegal. Several exemptions are listed in the act. The act does not expand or restrict the scope of practice for any person holding a license under title 63. This act goes into effect July 1, 2019.

Public Chapter 447

This act permits law enforcement agencies to subpoena materials and documents pertaining to an investigation conducted by the Department of Health prior to formal disciplinary charges being filed against the provider. This bill was brought by the Tennessee Bureau of Investigation. This act went into effect May 22, 2019.

Discuss and take action if needed regarding rulemaking, hearings, rule amendments, and policies.

Ms. Wilkins stated that this board has been contemplating telehealth rules for behavioral analysis. The administrative staff wondered if behavior analysts can perform behavior analysis via telehealth services. Mr. Tonos mentioned the Triad service at Vanderbilt. Upon looking at the information suggested by Mr. Tonos, it is found that behavior analysts can do telehealth as seen on the Vanderbilt website. Ms. Spiess stated that she is familiar with Triad and has worked with it slightly. She described how telehealth works in this instance. A family will come into a remote clinic location. A BCBA will run a little play basis assessment at the remote clinic and then a psychologist at Vanderbilt in Nashville will give their diagnosis or ask that the patient be brought to Vanderbilt to be seen in person if needed. Following the telehealth session, Vanderbilt has a contract with the state where they can provide in-home services without someone going to the house. Mr. Tonos asked what the safeguards were when doing telehealth to protect the citizens? Ms. Spiess stated that the platform used is ZOOM which is HIPPA compliant for Vanderbilt and families sign a waiver agreement for telehealth and that it will all be video based. They only used licensed psychologists.

Other Committee Business

Mr. Tonos mentioned the desire to discuss the provisional licenses. Those licenses primarily exist practicing under the umbrella of Department of Intellectual Developmental Disabilities

(DIDD). These expired provisional licensees were not actually out there serving a wide range of persons. The option for these individuals was that these individuals can classify themselves as Behavior Specialists and get supervision by a licensed behavior analysts or assistant behavior analyst. The language that was used was under the extended authority of the license. Mr. Tonos points out that the committee does not have any specific rules on what an extended authority is. Mr. Tonos sought out Ms. Morgan to assist him in understanding what extended authority of the license means. He stated that she informed him that the licensed person is assuming all liability for those cases while that person is working under their extended authority. He stated that the DIDD set a loose deadline for those persons to be fully licensed within a loose classification of behavior specialist which is an unregulated concept at this point. He wanted to point out that there are persons out there practicing without a license under the supervision of a licensed person and that is all within the umbrella of DIDD.

Ms. Wilkins stated that the board is still awaiting official word from the governor on new appointments to the board.

Adjourn

With no other Committee business to conduct, Dr. Terry made a motion, seconded by Ms. Spiess to adjourn at 9:45 a.m. The motion carried.

Ratified by the Behavior Analysis Licensing Committee on November 18, 2019.