



THE REPORT OF THE DIRECTOR OF THE DIVISION OF PUBLIC HEALTH ON THE PROPOSAL TO LICENSE APPLIED BEHAVIOR ANALYSTS

Date: **November 29th, 2022**

To: **The Speaker of the Nebraska Legislature
The Chairperson of the Executive Board of the Legislature
The Chairperson and Members of the Legislative Health and Human
Services Committee**

From: **Gary J. Anthon, MD
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services**

Introduction

The Regulation of Health Professions Act (as defined in Neb. Rev. Stat., Section 71-6201, et. seq.) is commonly referred to as the Credentialing Review Program. The Department of Health and Human Services Division of Public Health administers this Act. As Chief Medical Officer I am presenting this report under the authority of this Act.

Summary of the Applied Behavior Analysts Proposal

Applied Behavior Analysts are seeking to license those practitioners who satisfy the educational and training standards defined in the current ABA proposal.

The full text of their proposal can be found under the Applied Behavior Analysts subject area of the credentialing review program link at

<https://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx>

Summary of Technical Committee and Board of Health Recommendations

The technical review committee members recommended in favor of the ABA proposal. The Board of Health also recommended in favor of the ABA proposal. I concur with these recommendations. My comments regarding my reasons for supporting the proposal follow, below.

The Director's Recommendations on the Proposal

Discussion on the four statutory criteria of the Credentialing Review Program as they relate to the Applied Behavior Analysts

Criterion one: Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.

Information provided by parents of vulnerable children who had bad experiences with providers of ABA services convinced me that real harm is occurring from unqualified practice of ABA services in Nebraska.

Criterion two: Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.

I found nothing in the ABA proposal that would diminish the supply of qualified providers or in any way create barriers to accessing ABA services.

Criterion three: The public needs assurance from the state of initial and continuing professional ability.

Evidence of harm provided by parents of children who need ABA services shows that there is a need for state regulation of these services in Nebraska.

Criterion four: The public cannot be protected by a more effective alternative.

I see no other way that the concerns raised by Nebraska families about the quality of the ABA services being delivered to their children can be addressed other than by licensing ABA professionals.

Final Thoughts

Some mental health professionals with concerns about the ABA proposal have stated that licensing ABAs could complicate relationships with other mental health professionals pertinent to such things as the provision of comprehensive mental health evaluations and diagnoses, for example, since many ABAs are not qualified to render comprehensive mental health evaluations or diagnoses of their patients. This is a matter that needs to be successfully addressed in any legislative version of the ABA proposal.



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