LICENSURE OF BEHAVIOR ANALYSTS
FREQUENTLY ASKED QUESTIONS

Why license behavior analysts?

The practice of ABA is a distinct profession requiring specialized training and competencies. Many behavior analytic methods are powerful and can be easily misused and abused by those who lack the necessary training. At present, there is no entity in the state that is authorized by law to regulate practitioners of ABA. Thus, there is no local, legally authorized mechanism to protect consumers, employers, and state agencies from individuals who make false claims regarding the necessary competence or whose practice is not consistent with the profession's ethical and disciplinary standards. At present, the Behavior Analyst Certification Board (BACB) is the only entity whose certification programs for professional practitioners of ABA are accredited, and it administers the only psychometrically and legally validated professional examinations in the practice of ABA. The BACB was established in 1998 to develop uniform, objective, verifiable standards and procedures for consumers, governments, and funding sources to help identify individuals with the training and competencies required to practice ABA.

Why is licensure important for behavior analysts?

Licensure is needed to protect NJ behavior analysts' "right to practice," to establish "parity" with other professions, and provide the profession with a mechanism to report concerns about unlicensed practitioners as well as the conduct of licensees. There is currently no state law that establishes behavior analysis as a profession, defines the profession's scope of practice, or requires objectively verified education, training, and demonstration of competence by examination to practice ABA professionally. This leaves behavior analysts at risk of being seen as practicing another profession without a license, and of having actions taken in the name of "ABA" by individuals who do not have adequate training and have not demonstrated competence in the subject matter by passing a professional exam.

What does "right to practice" mean?

Generally speaking, it refers to laws and regulations that recognize a profession, establish requirements for practicing that profession, and ensure that those who meet those requirements will be allowed to practice the profession. Absent such laws/regulations, there is no protected right to practice.

Define "parity" in the context of professional regulation.

"Parity" in this context means that a profession is on equal footing with other similar, legitimate professions in the eyes of the public and regulators. That is generally achieved by ensuring that the standards for practicing the profession parallel those of other professions, i.e., requirements for degrees, coursework, and supervised experiential training that are set by the profession via job analysis studies AND passage of a legally validated professional examination in the subject matter.

What are the functions of a state regulatory entity (e.g., licensing board or administrative agency)?
These vary depending on overarching laws within each state, but generally they include developing rules or regulations for implementing the licensure law, application procedures, and fees; processing applications for initial licenses, renewals, and restoration of expired licenses; maintaining records, often including a registry of licensees; processing and investigating complaints about unlicensed practice and the conduct of licensed individuals and imposing sanctions when allegations are substantiated; and otherwise enforcing the licensure statute and accompanying rules/regulations.

How would a licensure law impact behavior analysts?
NJABA will be advocating for current BACB certification to be the principal requirement for obtaining and maintaining a state license as a Licensed Behavior Analyst (BCBA/BCBA-D) or Licensed Assistant Behavior Analyst (BCABA). Like all legitimate credentialing programs, the standards for the BACBs have been derived from extensive job analysis studies involving multiple panels of subject matter experts and thousands of professional behavior analysts around the world as well as experts in psychometrics and relevant case law. These best practices in professional credentialing ensure that (a) everyone who is licensed to practice ABA professionally in NJ meets the international standards set by the profession; (b) the behavior analyst licensure requirements parallel requirements for most other professions (i.e., specific degrees, coursework, supervised experiential training, and passage of a professional examination in the subject matter); (c) the NJ behavior analyst licensure requirements are similar to those of most other states with behavior analyst licensure laws; and (d) the state licensing program is cost-efficient because all applicants for licensure will have already met those standards by virtue of being BACB-certified, meaning that the state board will not have to vet every applicant but will merely need to verify their certification status with the BACB.

In addition to BACB certification, it is likely that applicants for licensure will have to take and pass a state jurisprudence examination – a test on the state laws and regulations that govern the practice of behavior analysis but would not cover any behavior analysis content. Note that if you do not pass the jurisprudence exam, it does not jeopardize your BACB certification, but you will not be able to obtain the state license until you pass the jurisprudence exam.

There will also be fees for obtaining, renewing, and restoring licenses. The fees will be determined by the costs of operating the licensing board, the number of likely applicants, and other factors.

What process did NJABA use to determine that licensure would be beneficial?
After a thorough analysis of the benefits and risks as well as national trends, the NJABA Executive Committee has determined that state licensure of professional practitioners of Applied Behavior Analysis (ABA) is essential to protect NJ consumers of ABA services and to ensure the integrity of the practice of ABA. NJABA recognizes that the Behavior Analyst Certification Board (BACB) has established empirically and legally validated standards for credentialing professional practitioners of ABA that should be incorporated in a NJ behavior analyst licensure law (as they have been in most of the other 30 states that have adopted such laws). NJABA also recognizes, however, that the BACB can enforce those standards and its Professional and Ethical Compliance Code only with individuals it credentials. Additionally, the BACB has no authority to require everyone who purports to be qualified to practice ABA to obtain a BACB credential. Currently there is no law in NJ that requires all individuals who represent themselves as practitioners of ABA to meet the international standards of the profession. That puts consumers, funders, the state, and the profession at risk. A law requiring all such individuals to meet those standards and establishing a state entity that is authorized to enforce that law is essential to reduce those risks.

Will licensure increase reimbursement rates?

Generally speaking, licensure does not increase or decrease wages or reimbursement rates (Redbird, 2017). However, wages and reimbursement rates are affected by many variables, so they may change regardless of state licensure requirements.

If you have a license in one state, can you practice in another state?

For the most part, not automatically. States often require professionals to be licensed in the state in which they are practicing. Some behavior analyst licensure laws allow for short-term consultation or practice by behavior analysts who are licensed in other states or certified by the BACB, but others require everyone to obtain the state license. It is the practitioner's responsibility to be familiar with and adhere to the licensing requirements of all the states in which they work. Most behavior analyst licensure laws make current BACB certification a qualification for licensure, and many expedite licensure for individuals who are licensed under other state laws with similar requirements. That helps to ensure portability of behavior analyst licenses across state lines, but again, it is imperative to check with the regulatory entity within each state on requirements like passing that state's jurisprudence exam, a state background check, etc.

How might licensure affect consumers' access to ABA services?

Currently, the lack of a state licensure law allows underqualified individuals to provide substandard services that are characterized as "ABA," with no recourse for either consumers, funders, or qualified professional behavior analysts. Adoption of a licensure law with appropriate provisions would provide consumers, funders, and employers with objective, uniform criteria to determine who has documented training and competence in the practice of ABA as well as an in-state mechanism for regulating the practice. This will increase the likelihood that consumers will receive ABA services from qualified individuals.

If a behavior analyst licensure law with appropriate provisions is adopted, it will ensure that ABA services are designed and overseen by qualified professionals and implemented by paraprofessionals and others who are trained and supervised by these professionals. This tiered service delivery model allows more consumers to access ABA services than if all services were provided directly by licensed professionals.

Establishing statutory recognition of a profession could increase the number of qualified behavior analysts and increase access to services. Licensure often increases the number of qualified professionals in a jurisdiction by an average of 7 percent over a 20-year period (Redbird, 2017). It helps ensure that there are career paths for those professionals, provides incentives for qualified professionals who are trained in the state to stay and for others to move in, and helps state colleges and universities attract students to their professional training programs.

Is the public protected from unqualified practitioners and unethical behavior of behavior analysts?

Currently, the NJ public is not protected from unqualified practitioners. There are many programs offering internet and mail-order certificates or "degrees" in what is described as "ABA" or something similar. They are sought by people who don't want to do the work to qualify for BACB certification, or who might be duped into thinking that the credential will qualify them to practice legally. Such "credentials" are meaningless and can confuse the consumer. Additionally, many who call themselves "behaviorists" or use similar titles actually have little or no legitimate training in behavior analysis and thus may endanger consumers through the misapplication of ABA procedures. Presently consumers, funders, and employers have no uniform standards or procedures for determining who is qualified to practice ABA professionally. The proposed licensure law is needed to ensure that those who design and oversee behavior analytic services meet the profession's well-established training requirements and demonstrate knowledge of behavior analysis by passing a professional examination in that subject matter. On the second count, the BACB provides protection for those who are affected by unethical or substandard practices by individuals it credentials through enforcement of its Professional and Ethical Compliance Code, but can do nothing about those who are not BACB certified. The proposed licensure bill, if adopted, will remedy that problem.

With the enactment of a licensure law, consumers could report unqualified practitioners to the state regulatory entity and the unethical behavior of licensed behavior analysts to that entity as well as the BACB, which coordinates with state licensing boards on investigations and disciplinary matters. The state entity would have the authority to conduct investigations and act on allegations that are substantiated. Those actions could range from mandating that an individual obtain further training or supervision to revoking licenses.

What are the important differences between certification and licensure?

Certification programs are typically voluntary on the part of practitioners and are usually operated by the profession, often through a national or international nonprofit corporation. Certification is usually not required to practice unless mandated by laws or rules (e.g., to hold certain positions or obtain certain funding). Typically, only individuals who hold the certifications may represent themselves as certified. However, certifying entities typically have no authority to require everyone who wishes to practice a profession to hold certifications, and no oversight at all of non-certified practitioners.

Licensure, on the other hand, is mandated by state or provincial law and operated by a state or provincial regulatory entity (such as a state agency or licensing board). This entity typically establishes eligibility requirements for licensure, oversees the practice of licensees, investigates allegations of unlicensed practice, and regulates practice as specified in state the licensure statute and accompanying rules/regulations.

Another difference between licensure and certification is that certification is usually portable across states and countries. A license obtained in one state or country, however, may not be recognized in other locations that have different licensure laws and therefore different requirements for obtaining and maintaining licensure. Finally, these distinctions between certification and licensure are not always clear. For instance, a certification program may be run by a governmental entity, much like a licensure program.

Both certification and licensure can function to keep out individuals who do not have the training required to practice a profession safely and ethically.

What's the difference between a title act and a practice act?
A title act mandates that only professionals who hold a specified government-issued credential can legally use a title (such as "physician" or "licensed behavior analyst"). A practice act prohibits those who do not hold a specified government-issued credential from practicing the profession. Most licensure laws include both title and practice protections.

What will the impact be on institutions of higher education?
By affording statutory recognition of the profession, a licensure law would help establish career paths for future graduates of the eight (8) NJ higher education institutions that train future professional behavior analysts. It would also provide incentives for other colleges and universities to establish programs to train students toward behavior analyst licensure.

The lack of a behavior analyst licensure law in New Jersey directly undercuts the higher education institutions that offer BACB-verified coursework and practica because anyone can call themselves a behavior analyst, thereby potentially depriving qualified graduates of job opportunities.

Will licensing behavior analysts have an effect on professionals in related fields, such as clinical psychology?
No, they will still be able to provide services within their own profession's scope of practice and the scope of their individual training and competence. Regarding licensed psychologists, the American Board of Professional Psychology (a corporation that certifies psychologists in several specialty areas) states that "The clearest and most responsible way for a psychologist to represent herself/himself to the public, third-parties, and the profession as a specialist is to be certified through an organized peer process as meeting the standards and demonstrating the competencies required in the specialty." Relatedly, the Council of Specialties in Professional Psychology states, "Psychologists and other professionals can seek board certification in applied behavior analysis through the Behavior Analyst Certification Board® (BACB®); the BACB certifies behavior analysts. The BACB certification is not psychological certification; instead, the BACB's certification reflects the practice of applied behavior analysis in a variety of professional fields."

Will RBTs be licensed?
There are no plans to license RBTs.

How many states license behavior analysts?
30 as of March 2018.

References
Redbird, B. (2017). T*he new closed shop? The economic and structural effects of occupational licensure. American Sociological Review, 82*, 600-624.