

## **FAQs about Licensure.**

### **Caveats:**

1. The opinions expressed here are those of the members of that ABAI Licensing Committee and are not necessarily those of the ABAI Executive Council, ABAI staff, or other organizations with which the committee members are associated.
2. The information provided here is intended for educational purposes and is not legal counsel.
3. The ABAI Licensing Committee acknowledges that much of the content in the initial version of this document reflects experience and contingencies in the United States; the intention is to expand the scope of the content to other nations. Input addressed to the Chair of the ABAI Licensing Committee is encouraged.

### **Q: What does the ABAI Licensure Committee do?**

**A:** Our committee provides informational resources for your consideration in matters related to occupational licensure for behavior analysts in the United States and Internationally. Our committee is composed of individuals with experience in the legislative processes relevant to regulation of behavior analytic professionals across a variety of geographical areas.

### **Q: When should I start planning for a licensure bill?**

**A:** It is likely that starting the planning and logistics process a year or more in advance is advantageous. Time is required to identify and secure legislative champions, develop relationships with legislators, organize grass roots efforts, and develop a Call to Action game plan. Be sure to allow sufficient time for preparing your draft legislation, gathering support, educating behavior analysts and other stakeholders. Generally, the rational perspective is to assume the process will take more time than you initially estimated, including the potential for submitting the bill in multiple legislative cycles.

### **Q: What information do I need to gather before pursuing licensure?**

**A:** Know the relevant law-making procedures, processes, and timelines within your state or jurisdiction. The formation of laws establishing behavior analyst licensure involves much more than putting together a draft bill and asking a lawmaker to support it. The *Schoolhouse Rock* account of how a bill becomes law, though primarily relevant to the United States is a good place to start (the video is available at <https://www.youtube.com/watch?v=Otbml6WlQP0>); however, the process is much more complicated than presented there. Knowing the process in YOUR state, province, nation, etc. is crucial. Additionally assessing support among chapter members and/ or other behavior analysts in the area (e.g., conducting a survey holding “townhall meetings) as well as possible allies and, if possible, identifying possible opposition, is strongly recommended.

### **Q: What groundwork do I need to engage in before introducing a licensure bill?**

**A:** One way to influence policy is to build positive relationships with legislators before you need help or seek support on a particular bill. In the US, most legislators' contact information (email and office phone) may be found on your state's government website. In other countries it is likely on the municipalities' website. During your initial conversation or meeting, you don't need to have a specific request and can simply focus on “getting to know one another”. While it may seem trivial, this brief interaction can be helpful to both parties, as you learn the best way to communicate with your legislator (e.g., email, phone call, letter) and you show how you can be a resource to them on behavior analysis or other issues. Even if you have built a relationship with your legislator, it is likely beneficial to coordinate with advocacy groups to introduce behavior analysis and behavior analysts to

lawmakers and regulatory staff before beginning formal efforts in pursuit of licensure. This can include behavior analysts attending legislative and regulatory agency hearings as well as additional meetings addressing alternate issues rather than just behavior analyst licensure (e.g., who is allowed to develop and oversee behavior support services; effective services for restricted persons; considering people with other unique needs in addition to individuals battling with developmental disabilities and autism). Further, behavior analysts can volunteer to serve on various governmental advisory groups (e.g., developmental disabilities and autism committees, advisory groups, planning councils, evaluation groups, as well as similar entities pertaining to education and services for persons with neurological disabilities). Such groups often function on provincial, state, national, and local levels. Frequently, such groups have difficulty recruiting members and volunteers to serve on the groups could be welcomed. Also, consider inviting these individuals to visit your clinic, school, or agency where good behavior analytic work is done; especially if the funding in whole or part is public. During the visit, be positive and respectful of their time. Other potential resources for legislative support and guidance include the ABAI Licensing Committee, other national professional organizations, other ABAI affiliated chapters, and other helping professions in your state, province, or nation that are experienced in regulatory legislation.

**Q: What should a licensure bill include?**

**A:** In considering the political and governmental realities in your state, province, etc., be cautious that your licensure bill does not simply duplicate a model licensure bill without analyzing the content and how it might apply to your own jurisdiction. While there are very helpful aspects of model licensure bills and licensure bills vetted in other jurisdictions, the nuances impacting your own locale are important considerations. A good place to start would be to review the content, format and common provisions of licensure bills for other disciplines in your own jurisdiction. Every governing body is different as is every governmental jurisdiction. Each state, province, and nation has its unique and often idiosyncratic laws as well as traditions that need to be considered when crafting a law, especially a law pertaining to a new governmental activity such as licensing behavior analysts. Consider, for instance, the current political climate regarding governmental regulation of businesses and impact of "outsiders" on governmental activities; lawmakers' may object to an outside group "verbalizing" how their state, province, or nation should operate and current precedent regarding how licensure of other professions is done. One should be well-versed in the political variables related to licensure; negotiable and non-negotiable.

**Q: How much does the legislative process cost?**

**A:** The cost incurred by any given chapter during the legislative process is dependent on multiple variables. Some of these may include but are not limited to fees for professional lobbying services, legal consultations, and costs for marketing advocacy. When pursuing behavior analyst licensure, it is wise to ensure access to resources required for funding legislative activities involved. Possible sources of legislative revenue for affiliate chapters include: (a) a small portion membership fees depending on your chapter's governmental tax structure, (b) conference and workshop fees, (c) special levies or requests for additional funds from members, and (d) sale of merchandise. In addition, some chapters receive financial assistance from grants and special donations from organizations, (ex., professional organizations, advocacy groups, and state developmental disability councils.) Chapters may consider whether such activities are aligned with their mission and bylaws. Professional consultation such as accounting and legal services may be necessary to ensure chapters adhere to relevant laws and regulations.

**Q: How do I respond to questions about why we need licensure?**

**A:** Legislators may not be familiar with the profession or application of behavior analysis. Most behavior analysts work with vulnerable populations and provide services that need to be implemented with fidelity. Thus, without regulation of the profession consumers are susceptible to the effects of unqualified individuals providing inadequate and harmful services without legal recourse. Develop an “elevator speech” for describing what behavior analysts do (e.g. behavior analysts are uniquely and expertly trained to provide ABA services to improve the quality of life for their clients which are often members of a vulnerable and protected class of citizens). It may be helpful to use relatable analogies when describing the need for behavior analyst licensure. For example, if licensure did not exist for physicians, giving anyone the opportunity to claim themselves a doctor and providing medical services would place the general population at great risk of harm without legal recourse. Licensure of behavior analysts provides consumer protection by informing the public that licensed practitioners have met minimum education, experience, and training requirements to practice behavior analysis. In addition, licensure provides legally enforceable sanctions such as fines and loss of professional privileges that can be imposed on people who violate the laws and regulations, regarding the practice of behavior analysis. Be prepared to describe why national certification is not sufficient for consumer protection. In general, national certifying agencies do not inherently hold legal jurisdiction in any state or province.

**Q: What other message(s) do I need to convey?**

**A:** Have readily on hand and present when/when appropriate, the facts and rationale for behavior analysis as a discipline including its relationship with other disciplines already having licensure. Make clear that lawmakers' constituents care about licensure and will consider the issue when voting. Having the constituents of the legislator personally express their care and concern about licensure is beneficial and utilizing communication techniques such as attending meetings, emails, letters, and phone calls is crucial. Because behavior analysts treat diverse populations and behaviors, emphasizing the generally acceptable scope of practice of behavior analysts for the legislators, policy decision makers, and other leaders is crucial. Doing so is beneficial so that the lawmakers will not reject licensure for behavior analyst limiting their work with any particular patient population, opening the path for future success. Another point that could be beneficial to make is that without licensure, behavior analysts currently living and working in the state/province/nation might move to a location where licensure is available (be very sensitive of the situation where you are and of the legislator or their staff member with who you speak, however). Be a humble advocate of the field. We stand to lose ground with decision makers by threatening to use aversive procedures. As already stated, behavior analysts should be careful not to appear arrogant or to behave overconfidently related to the legislative process. The process often is non-linear with many procedural maneuvers that can facilitate or deter a bill. Because legislatures are populated with veterans of the legislation process, they expect and should get your respect.

**Q: How do I respond to questions regarding the cost/feasibility of establishing a regulatory body?**

**A:** A critical consideration regarding establishment of behavior analyst licensure in several instances has been cost to the state/province of a licensure program. This has been especially relevant in jurisdictions where limiting growth in government programs is a major concern and where new programs are required to be revenue neutral. In those jurisdictions, development of stand-alone behavior analyst licensure programs (i.e., programs operating independent of any other agency) may be a tough sell. In such cases, licensure programs have been established by placing the behavior analyst licensure program inside another agency, typically an omnibus board providing licensure or other state credentials to multiple professions. It also may be possible to collaborate with another discipline’s licensure board. Such arrangements typically benefit from sharing resources with cost of

credentialing multiple professions (e.g., personnel, information management, investigation costs, and general administrative expenses). Of course, caution must be exercised regarding who sets policy and makes other decisions regarding behavior analysts, an issue addressed in other items. Take into consideration the widely held perspective that government growth is to be avoided as well as governmental expenditures be minimized.

**Q: How should you select legislative champions for a behavior analyst licensure bill?**

**A:** Establish alliances with relevant advocacy and family organizations as well as other professions. In many cases, advocates are generally well respected and already likely have a history of artful and successful influencing of the legislature. Identify possible champions by reviewing previous legislative session(s) for authors and co-authors of bills that involved helping professional licensure, protections for persons with autism and other developmental delays, or insurance reform mandates for ABA. People who have close friends and/ or relatives that have benefited from ABA services often are important allies even if they are not the people who introduce and manage ABA-related legislation. Meet with those legislators to solicit support. Networking is critical –ask those legislators for names of colleagues or influencers that might be supportive of your bill. You may need to be willing to consider supporting their agendas where appropriate to do so. Obviously, there is much to consider when supporting the agenda of others as it is possible it may have an impact on your own constituents and legislation. Prior to the legislative session, meet with directors or presidents of boards for other helping professions and advocacy groups to solicit support and gauge possible opposition. Those groups can provide support statements, testify at hearings, talk with legislators and their staff as well as regulatory agency personnel, and possibly provide financial and/ or in-kind support for your efforts.

**Q: How do I engage consumers?**

**A:** Have recipients of ABA services and/ or their families provide stories of the impact of ABA interventions (for many legislators, having the facts is not sufficient to gain their support- touch their hearts as well!). Legislators will listen to their constituents because they hold the tokens for them. (It may be helpful to note that this includes consumers outside autism, if hoping for a global insurance coverage.) While professional groups and advocacy organizations may gain some traction with legislators, do not underestimate the power and importance of organizing grass roots efforts among consumers. Develop a “Call to Action” plan so that information can be distributed quickly to providers and consumers. Include steps, email addresses, and suggestions for content. Establish and use closed social media groups to distribute information. Identify consumers across districts that are willing and able to testify in committee hearings at short notice.

**Q: How do I engage members of the behavior analytic community?**

**A:** Systematically promote and sustain participation in the licensure activities by members of the profession. Use social media to inform behavior analysts and to set the occasion for them to take supportive action (e.g., call, visit, email lawmakers), hold in person and web-based training regarding legislative issues and outreach). Use social media to introduce people to behavior analysis, present behavior analysis in a positive light, educate them regarding important issues, rally people to action. Social media involves little or no cost, you can control the message, and it is widely used. Make your website, Facebook page, tweets, etc. attractive, easy to find, easy to understand, and easy to read. Further, social media should be used for communicating with behavior analysts. A behavior analysis organization often needs to communicate via social media information intended only for behavior analysts but not the public at large; this can be done by using a private Facebook page, member portal on websites, etc. Sponsor one or more days for members to meet with lawmakers, providing

the behavior analysts with guidance regarding how to interact with lawmakers and their staff (e.g., be polite, be considerate of their time, have a limited focus- preferably one thing to ask them to do, have the "elevator speech" ready to present, have brief and easily read "leave-behind" materials). If possible, arrange for a legislator to introduce a resolution recognizing the organization during a session when the behavior analysts can stand and be recognized in the chamber (all wearing a distinctive color or type of clothing is a really nice, memorable touch!).

**Q: Do I need a lobbyist?**

**A:** If possible, secure the services of an experienced professional lobbyist or other relevant professional. A professional lobbyist can help get your message to key legislators, help your organization navigate the legislative process, and mediate or mitigate opposition. Lobbyists know the details of how to get the deal done. They actually exercise influence with other legislators (whether or not reflected in official titles and positions). They can help you identify what legislators will be reliably supportive as well as those who you can expect opposition, as well as the use of tactics to counter the opposition. Given the complex route to passage of a bill as well as the likelihood of opposition, unanticipated delays, etc., having a lobbyist who knows how legislating occurs, who are the important players in the process, how to deal with surprises, delays, and opposition and who can effectively and efficiently provide guidance and support typically is very important. You may also want to inquire about other clients a lobbyist represents because there may be some inherent conflicts of interests.

**Q: What activities do I need to engage in once a bill has been introduced?**

**A:** Once legislation is introduced, monitor what happens with it and any committees in which it might be heard as well as legislation scheduling committees very closely. Reach out to committee staff and request to be notified of any anticipated hearings on the proposed bill. Most legislative bodies maintain websites with user friendly access to past and present committee hearings. You may want to identify individual(s) within your organization to serve on public policy committee or a legislative liaison with experience in the process, traditions, and main players of the relevant lawmaking to monitor relevant events (preferably in person as well as online) and be able to interact directly with important players in the process (e.g., lobbyists, lawmakers, lawmakers' staff members, allies, opponents, regulatory/ governmental staff).

Letting people know that you appreciate their having devoted some of their valuable time to meeting with you appears to be very important. Pairing your appreciation with a thank-you note provides additional opportunities to maintain your name/ name of the organization and your important issue is still on their radar. You should consider this expression of appreciation for individuals or organizations who both oppose and support your position. Legislators, legislators' staff members, regulatory personnel, leaders of advocacy groups and leaders of other professional organizations are some of the people with whom you most probably will be meeting as well as others. Keep your ear to the ground throughout the process to stay abreast issues leading to possible opposition of you bill. In light of the fact that most legislation goes through many versions of text prior to voting, please prepared to consider what issues are negotiable and those that are not. To a certain degree compromise is inevitable, but a poorly written bill may be worse than no bill at all.

**Q: What are Sunrise and Sunset provisions as they apply to legislative action?**

**A:** Sunrise and Sunset are statutorily enacted provisions within states to systematically preview bills and review laws pertaining primarily to the regulation of occupations. Sunrise relates to previewing a potential bill prior to being introduced into the legislative session. The sunrise process requires those in favor of a new regulatory board to justify its creation with a benefit-cost analysis along with other

justifications and support. Sunset provisions are clauses embedded in legislation that allow a piece of legislation or a regulatory board to expire on a certain date unless the legislature takes action to renew the legislation or board. Sunset considerations are related to the necessity, effectiveness and efficiency of the regulatory board or committee and the outcomes of the relevant laws. The processes involved with both of these provisions vary from state to state and some states do have provisions for either. You should check your state for the most current information related to Sunrise and Sunset provisions.

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