



Tennessee Applied Behavior Analyst Licensing Committee

Monday, August 21, 2023

MINUTES

The Board meeting of the Tennessee Applied Behavior Analyst Licensing Committee was called to order at 9:00 a.m. in the Poplar Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Elizabeth Bledsoe, Acting Committee Chair on Monday, August 21, 2023.

Board members present: Esther Bledsoe, BCBA, Acting Chair
Elizabeth Ginder, BCBA
Timothy Cripps, BCBA
Catherine Terry, Consumer Member

Board member(s) absent: Amanda Spiess, Committee Chair

Staff present: Candyce Wilson, Board Director
Elta Breen, JD, General Counsel
Dale Hill, Board Administrator

NOMINATION FOR ACTING CHAIR

Ms. Elizabeth Ginder nominated Ms. Esther Bledsoe to serve as acting chair. Ms. Catherine Terry seconded the motion and it passed.

LEGISLATIVE OFFICE UPDATE

Mr. Grayson Carter appeared before the Committee to present the 2023 legislative session update.

Pertinent Public Chapters

Public Chapter No. 1—SB1/HB1—Johnson/Lamberth

This law prohibits a healthcare provider from knowingly performing or offering to perform on a minor, or administer or offer to administer to a minor, a medical procedure if the performance or administration of the procedure is for the purpose of enabling a minor to identify with or live as an identity inconsistent with the minor's sex. This bill does not prohibit such medical procedure if the performance or administration is to treat a minor's congenital defect, precocious puberty, disease, or physical injury or the medical procedure began prior to the effective date of this act and concludes on or

before March 31, 2024. This law also prohibits a person from knowingly providing a hormone or puberty blocker by any means to a minor if the provision of the hormone or puberty blocker is not in compliance with this bill. This bill is effective on July 1, 2023.

Public Chapter No. 9—SB51/HB217—Roberts/Ragan

This law extends the professional art therapist advisory committee to June 30, 2024.

Public Chapter No. 10—SB52/HB218—Roberts/Ragan

This law extends the Psychology Interjurisdictional Compact Act to June 30, 2031.

Public Chapter No. 48—SB11/HB2—Johnson/Zachary

This law extends certain provisions within the code regarding Covid-19 established during the 2021 Special Session. This bill was effective on March 21, 2023.

Public Chapter No. 55—SB680/HB895—Reeves/Hurt

This law clarifies that the Medical Assistance Act of 1968 does not require a vendor, healthcare provider, or telehealth provider group that provides healthcare services exclusively via telehealth to have a physical address or site in this state in order to be eligible to enroll as a vendor, provider, or provider group for that program. This law defines telehealth provider as two or more healthcare providers that share a common employer and provide healthcare services exclusively via telehealth. This law was effective on March 21, 2023.

Public Chapter No. 91—SB454/HB609—Watson/Hawk

This law authorizes family leave insurance to be written as an amendment or rider to a group disability income policy or life insurance policy, included in a group disability income policy or life insurance policy or a separate group policy purchased by an employer. Under this law, family leave insurance means an insurance policy issued to an employer related to a benefit program provided to an employee to pay for a percentage or portion of the employee's income loss due to the birth or adoption of a child by the employee, placement of a child with the employee for foster care, care of a family member of the employee who has a serious health condition, or status of family member of the employee who is a service member on active duty or has been notified of impending duty. This law will be effective on January 1, 2024.

Public Chapter No. 114—SB255/HB74—Johnson/Lamberth

This law changes the terms "general education development credential," "high school equivalency test," and variations of the terms to "high school equivalency credential" as referenced throughout the code. This law also replaces any references in code from GED(R) or HiSET(R) classes, coursework, testing, or services with the phrase "adult education programming to include preparation and testing toward obtaining a high school equivalency credential" throughout the code. This law is effective on July 1, 2023. *This was a Department of Labor and Workforce Development legislative initiative.*

Public Chapter No. 156—SB40/HB206—Roberts/Ragan

This law extends the Department of Health to June 30, 2027. This law was effective on April 17, 2023.

Public Chapter No. 173—SB953/HB690—Walley/Martin

This law creates authorizes the Board of Psychology to designate a person who has held a valid license or certificate in another state to practice psychology for at least 10 years within the last 15 years as a "health services provider" if the previous license and certification (1) required training that is generally equivalent to certain licensing standards, (2) has never been the subject of disciplinary action, and (3) allowed the licensee to engage in practice as a health services provider in psychology in the other state. This law

authorizes the Board of Psychology to pursue emergency rules during the rule-making process. For the purpose of promulgating rules, this law was effective on April 17, 2023. For all other purposes, this law takes effect January 1, 2024.

Public Chapter No. 188—SB277/HB325—Johnson/Lamberth

This law extends legislation enacted in 2018 to preserve opioid prescription limitations for acute care. In addition, this law exempts individuals who had recent cancer treatment from this prescription limitation. “Recent cancer treatment” is defined as six months following the end of an active cancer treatment. This law creates an exception for informed consent where a healthcare practitioner who issued the initial prescription does not have to obtain and document informed consent, if the subsequent prescription is for the same opioid and for the same episode of treatment. Outside of this exception, informed consent must be updated periodically. This law also requires the Commissioner of the Department of Health to provide a letter, in consultation with the health-related boards, no to certain elected officials that includes information on the impact and the effects of this legislation in each even-numbered year. This law was effective on April 24, 2023. *This law was a Department of Health legislative initiative.*

Public Chapter 190—SB350/HB294—Campbell/Freeman

This law creates the “Save Tennessee Students Act” and requires public institutions of higher education to include, among other thing, the telephone number of the suicide and crisis lifeline on student identification cards for students enrolled in the institution. This law takes effect July 1, 2023.

Public Chapter No. 199—SB672/HB1051—Reeves/Vaughan

This law authorizes a qualified advance practitioner to issue a certificate of need in support of hospitalization for emergency diagnosis, evaluation, and treatment. A qualified advance practitioner is an individual working in collaboration with a licensed physician and who is a nationally certified psychiatric-mental health advanced practice nurse or physician assistant with additional qualifications in psychiatry. The admitting hospital or treatment resource may rescind the certificate of need if a licensed physician or other qualified professional in examining the patient determines that the patient no longer meets admission criteria. Additionally, this law authorizes a licensed physician who is a board-certified psychiatrist to execute a certificate of need in support of hospitalization for a patient’s admission without a second certificate of need in support of hospitalization. This law takes effect July 1, 2023.

Public Chapter No. 201—SB721/HB498—Massey/Martin

This law exempts a patient who is receiving an initial behavioral health evaluation or assessment from the requirement from an in-person encounter between the health care service provider, the healthcare services provider's practice group, or the healthcare system and the patient to be within sixteen months prior to the interactive visit. This law also authorizes a physician assistant who is authorized to prescribe drugs and who provides services solely via telehealth to arrange for chart review by a collaborating physician via HIAA-compliant electronic means. This law was effective on April 24, 2023.

Public Chapter No. 244—SB1392/HB1213—McNally/Sexton

This law makes changes to the “Tennessee Right to Shop Act” and changes the structure of certain insurance incentives and out of pocket payments. This law takes effect July 1, 2023.

Public Chapter No. 254—SB267/HB315—Johnson/Lamberth

This makes changes to the allowable number of beds in private for-profit and private not-for-private intermediate care facilities for individuals with intellectual disabilities. This law takes was effective on April 28, 2023. *This was a Department of Intellectual and Development Disabilities legislative initiative.*

Public Chapter No. 285—SB1237/HB306—Hensley/Bulso

This law requires, in connection with an interscholastic athletic activity or event where membership in the TSSAA (Tennessee Secondary Athletic Association) is required, a student enrolled in a private school in this state to participate in an athletic activity or event only in accordance with the student's sex as defined in code. This does not prohibit a student whose sex is female from participating on a team designated for male students if the school does not offer a separate team for female students in that sport. This law was effective on April 28, 2023.

Public Chapter No. 300—SB551/HB448—Lowe/Davis

This law requires governmental entities to provide a period of public comment for public meetings but authorizes the governmental entities to place reasonable restrictions on the period for public comment. This does not apply to a meeting of a governing body, or a portion thereof, where the governing body is conducting a disciplinary hearing or a meeting for which there are no actionable items on the agenda. This takes effect July 1, 2023.

Public Chapter No. 306—SB924/HB577—Rose/Parkinson

This law adds as an enhancement factor that can be considered during sentencing if a defendant has been convicted of aggravated assault or attempted first degree murder on the grounds or premises of a healthcare facility. Healthcare facility is defined as a hospital licensed under title 33 or 68. This law takes effect July 1, 2023.

Public Chapter 313—SB745/HB883—Helton-Haynes/Briggs

This law specifies that terminating an ectopic or molar pregnancy does not constitute a criminal abortion. This law removes the current affirmative defense in law and instead provides that it is not an offense of criminal abortion if the abortion is performed or attempted by a licensed physician in a licensed hospital or ambulatory surgical treatment center and certain conditions are met. This law also requires the Department of Health to collect reports submitted under this law and report quarterly the number of abortions performed in this state to certain individuals in the executive and legislative branches no later than January 1, April 1, July 1, and October 1 of each year. This law is effective April 28, 2023.

Public Chapter No. 316—SB1426/HB1004—Roberts/Darby

This law requires an appointed member of a governing body for a state entity to serve in such capacity until the member's successor is duly appointed and qualified. Under this, an appointed member of a board, commission, or other governing body for a state governmental entity may be removed by the member's appointing authority with or without cause. A vacancy created by the removal of a member must be filled by the appointing authority in the same manner as the original appointment. This law also creates an advisory council on state procurement. This law was effective on April 28, 2023.

Public Chapter No. 337—SB269/HB317—Johnson/Lamberth

This law designates June 19th as a new official state holiday for Juneteenth. This law was effective on May 5, 2023, and applies to June 19, 2023. *This was one of Governor Lee's legislative initiatives.*

Public Chapter No. 353—SB1443/HB727—Roberts/Fritts

This law requires an LEA to obtain the written, informed, and voluntary signed consent of a student's parent or legal guardian, or the student if they are 18 years of age or older, before the student participates in a survey, analysis, or evaluation. A parent or legal guardian who wishes to excuse the student from participating in health screenings as part of a coordinate school health program must submit a request in writing to the school's nurse, instructor, school, counselor, or principal. As used in this law, "health screening" means vision, dental, blood pressure, and hearing screenings. This law makes other changes regarding a student's receiving of instruction of sexual orientation curriculum or gender identity curriculum or a student's membership of a club or organization. This law is effective July 1, 2023.

Public Chapter No. 379—SB0365/HB0355—Massey/Alexander

This law requires that a health benefit plan that provides coverage for a screening mammogram must provide coverage for diagnostic imaging and supplemental breast screening without imposing a cost-sharing requirement on the patient. This law is effective 90 days after May 11, 2023.

Public Chapter No. 395—SB0666/HB0885—Reeves/Hawk

This law creates the Prior Authorization Fairness Act and, among other things, establishes processes for prior authorization requests and appeals of adverse determinations. For purposes of rulemaking, this law was effective May 11, 2023. For all other purposes, this law is effective January 1, 2025, unless otherwise specified within the Act.

Public Chapter No. 399—SB1458/HB0983—White/Sexton

This law requires local education agencies (LEAs) to provide licensed employees of the LEA 6 paid workweeks after a birth or stillbirth of the employee's child or employee's adoption of a newly placed minor child. This law is effective May 11, 2023, and applies to leave taken on or after that date.

Public Chapter No. 423—SB0378/HB0403—Briggs/Lamberth

This law creates the regulation of the production and sale of hemp-derived cannabinoids, including products known as delta-8 and delta-10 under the Department of Agriculture and the Department of Revenue. The sections of this law have varying effective dates, but this law is ultimately effective July 1, 2024.

Public Chapter No. 438—SB102/HB158—Gardenhire/Zachary

This law prohibits an LEA, public charter school, or public institution of higher education from requiring an educator or other employee of the LEA or public charter school to complete or participate in implicit bias training or take an adverse employment action against them for failure or refusal to complete or participate in implicit bias training. "Implicit bias training" means a training or other educational program designed to expose an individual to biases that the training's or educational program's developer or designer presumes the individual to unconsciously, subconsciously, or unintentionally possess that predispose the individual to be unfairly prejudiced in favor of or against a thing, person, or group to adjust the individual's patterns of thinking in order to eliminate the individual's unconscious bias or prejudice. This law took effect May 17, 2023.

Public Chapter No. 442—SB219/HB271—Jackson/Hicks

This law adds an additional level of practice under the Board of Examiners in Psychology to include certified psychological testing technician. A person practices as a "certified psychological testing technician" within the meaning of this chapter when the person claims to be a certified psychological testing technician or renders to individuals or the public for remuneration any service involving the application of recognized principles, methods, and procedures of the science and profession of psychology and only under the supervision of either the psychologist or senior psychological examiner employing the certified psychological testing technician or the employing community mental health center or state governmental agency. Any and all work performed by a certified psychological testing technician is supervised by a psychologist or senior psychological examiner as determined by the board. This law details the requirements for licensure for a certified psychological testing technician. The Board is authorized to promulgate rules, effective immediately. This law takes effect January 1, 2024.

Public Chapter No. 448—SB466/HB1269—Rose/Cochran

This law provides that a teacher or other employee of a public school or LEA is not required to use a student's preferred pronoun when referring to the student if the preferred pronoun is not consistent with the student's biological sex. Under this law, a teacher or other employee of a public school or LEA is not civilly liable for using a pronoun that is consistent with the biological sex of the student to whom the

teacher or employee is referring, even if the pronoun is not the student's preferred pronoun. Under this law, a teacher or other employee of a public school or LEA are not subject to adverse employment action for not using a student's preferred pronoun if the student's preferred pronoun is inconsistent with the student's biological sex. This law took effect May 17, 2023.

Public Chapter No. 477—SB1111/HB1380—Bowling/Ragan

This law creates the “Mature Minor Doctrine Clarification Act.” This act prohibits a healthcare provider from providing a vaccination to a minor unless the healthcare provider first receives informed consent from a parent or legal guardian of the minor. The healthcare provider must document receipt of and include in the minor's medical record proof of prior parental or guardian informed consent. This law also requires written consent from a parent or legal guardian before providing a minor with a COVID-19 vaccine. Additionally, this law prohibits an employee or agent of the state to provide, request, or facilitate the vaccination of a minor child in state custody except when certain situations apply. This law was effective May 17, 2023.

Public Chapter No. 486—SB1440/HB239—Roberts/Bulso

This law defines “sex” in code to mean a person's immutable biological sex as determined by anatomy and genetics existing at the time of birth and evidence of a person's biological sex. “Evidence of a person’s biological sex” includes, but is not limited to, a government-issued identification document that accurately reflects a person's sex listed on the person's original birth certificate. This law takes effect on July 1, 2023.

Please note that these are high-level overviews of each public chapter. They do not include every detail or provide all bill information. Please review the text of the bill in its entirety at your own discretion. If you have any questions or need further clarity, please reach out to your attorney.

APPROVAL OF MINUTES

Ms. Catherine Terry motioned to approve the May 22, 2023, meeting minutes. Mr. Timothy Cripps seconded the motion and it passed.

REPORT FROM THE OFFICE OF INVESTIGATIONS

Mr. Roger Knowlton presented the 2023 complaints report for the Committee. The Committee members had no questions.

REPORT FROM THE FINANCIAL OFFICE

Ms. Emily Godwin and Ms. Noranda French presented the Committee’s financial report to include their current fee reduction analysis and answered all questions the members had. After hearing this report Ms. Bledsoe motioned to pause the rules in process on fee reduction in order for the Committee to wait until their November meeting to obtain more information from the fiscal office. Mr. Cripps seconded the motion and it passed.

ADMINISTRATIVE OFFICE REPORT

Ms. Dale Hill presented the current administrative office report. The Committee members had no questions.

OFFICE OF GENERAL COUNSEL REPORT

Ms. Elta Breen presented the report from the Office of General Counsel which included the following updates:

1. Currently there are no open cases against their licensees. There is one (1) Behavior Analyst licensees currently being monitored. There are zero (0) licensees on probation with terms. There is one (1) licensee revoked with terms.
2. The Committee currently has one (2) rulemaking packets to update its rules that are currently in internal review, the general rule review, and the paused fee reduction.

CONDUCT NEW BUSINESS

TABA Update from Dr. James Meindl

Dr. Meindl provided an update on what TABA is doing and some future goals. TABA has requested Dr. Meindl to act as the liaison between the licensure Committee and TABA and to find ways TABA can support the Committee. Dr. Meindl was encouraged to communicate with Ms. Wilson and/or Mr. Cripps as needed in between meetings. One request from the Committee is for TABA to provide a direct link to the Committee's calendar on their website or via e-mail for awareness of the Committee meetings.

Consultant for Investigations

Dr. Meindl presented an overview of his role as a consultant for the Committee. There is a concern that this Committee does not have enough investigative consultants because at times the current consultants' conflict out because the profession is small and often, they know the individual being reviewed. TABA and the Committee members will send recommendations to Ms. Wilson and those resumes will be brought before the Committee for consideration at a future meeting.

Ratification of New Licensees

The Committee reviewed the list of newly licensed individuals since the last meeting. Ms. Terry motioned to ratify all names on the list. Mr. Cripps seconded the motion and it passed.

DISCIPLINARY ORDER(S)

Consent Order

Jennifer Parrish, license #127 – Respondent was arrested on November 27, 2020, and charged with driving under the influence, two counts of assault, and failure to exercise due care. Respondent reported charges to the BACB in November 2020 but did not report charges to the licensure Committee until October 2021 when complying with a department investigation. In 2020, Respondent missed about 30% of scheduled sessions. After receiving a performance evaluation in August 2020, Respondent abruptly resigned and did not plan for continuation of care for three clients at the time of her departure. In August 2022, a client under the Respondents care was discharged without a transition plan in place. The consent order presented outlines additional stipulations of facts not outlined in the minutes. The facts stipulated are grounds for discipline. This order shall place Respondent on probation for one (1) year. Respondent shall develop and implement an internal policy for appropriately transferring clients and submit this policy to the disciplinary coordinator within thirty (30) days. Respondent shall include language explaining her termination policy in her intake packet and submit this language to the disciplinary coordinator within thirty (30) days. Respondent shall maintain good and lawful conduct. Respondent shall complete two (2) continuing education units regarding ethics and provide proof within thirty (30) days. Respondent shall pay ten (10) Type C civil penalties for a total of five hundred dollars (\$500.00). Respondent shall pay all reasonable costs up to six thousand dollars (\$6,000.00).

The Committee discussed a desire for a harsher punishment for future orders when such violations have occurred. One of which would include the Respondent be under supervision and for the supervisor to provide a letter of support when the Respondent requests to be off probation. Also, to consider the Respondent be prohibited to be a supervisor while on probation. Additionally, it would be appropriate to add a requirement that the Respondent notify clients of their probationary status. Lastly, when ethics continuing education hours be required to ensure the course includes specific training on the violation which occurred.

Ms. Bledsoe motioned to approve the order as written with a correction to paragraph 27c to state the practice of behavior analysis rather than psychology and for this meeting link be sent to the Respondent. Additionally, for the discussion and suggestions be provided to the consultants for consideration in future orders. Ms. Ginder seconded the motion. The motion passed.

PUBLIC COMMENT

None.

ADJOURNMENT

Ms. Terry motioned to adjourn the meeting. Mr. Cripps seconded the motion and it passed.

This meeting adjourned at 11:54am (CT).