

Georgia Occupational Regulation Review Council
Meeting Minutes: August 18, 2021

Introduction

Anna Miller recapped the last meeting from August 4, 2021. The Council heard from the applicant group for HB 412 and heard public comment on the bill.

Anna started a motion to approve meeting minutes from the August 4th GORRC Meeting.

Megan Andrews makes the motion.

Kelly Dudley seconds the motion.

The motion is approved.

HB 412

Dr. Colin Muething (most recent President of Georgia Association for Behavior Analysis) gave a presentation on behalf of the applicant group. He discussed the defined scope of practice for behavior analysis, the role of behavior technicians, the use of the BACB as the principal qualification, and spoke to the GORRC requirements. He provided testimony from the parent of a child who was treated by a BCBA. The testimony included information about how the treatment plan helped the child, and the lines of communication between the family, BCBA, educators, and others. He discussed public comments from the previous meeting regarding the scope of practice. GABA declined to make requested changes to scope of practice language in the bill. Dr. Muething said the definition in the bill was developed by the profession and includes a range of activities that may be legally performed. He said the language regarding scope of practice is on par with the four professions that previously submitted public comment. He outlined the role of behavior technicians and clarified supervising professional behavior analysts are responsible for the actions of all supervisees. Technicians must practice under the supervision of a licensed behavior analyst or a licensed assistant behavior analyst. They must pass an annual competency assessment to maintain their certification. BCBAs are required to add any RBT under supervision to their BACB account. There is an application process with a 40-hour training course, including the ethical code and supervision. Supervision of RBTs includes at least two in-person contacts per month, with at least one individual meeting. GABA declined to make requested changes from the Georgia Occupational Therapists Association (GOTA) regarding separate scopes for 'applied behavior assistants' and behavior technicians, details about training and supervision, and a requirement for behavior technicians to be regulated by the licensing board.

Anna Miller asked if there is a limit to how many technicians can work under the supervision of a given BCBA at any given time.

Dr. Muething said there is not from the profession on supervising RBTs, but the Medicaid rule limits supervision to ten (10).

Kate Iannuzzi (DNR) asked if any other states that license behavior analysts also license technicians.

Dr. Muething said a minority of states license technicians. Anna Miller asked him to follow up at a later time with a specific count. He said Louisiana and Oklahoma require registration for technicians, and Washington requires state certification.

Dr. Muething addressed the use of the BACB as the principal qualification for regulation, and the comments from GOTA and the Georgia Psychological Association (GPA) that this delegates too much authority to a third-party private to determine standards in Georgia. He said the Georgia Behavior Analyst Licensing Board is given full authority to promulgate rules and regulations for implementing the licensing statute. The board will determine who is licensed and oversee practice in Georgia. He said the unregulated practice could negatively affect Georgians, and specialized skill or training is required, among other GORRC requirements. Referring to information provided at the previous meeting, he said there are roughly 1,200 practitioners eligible for licensure.

Anna Miller and Sam Teasley (SOS) spoke to the fiscal impact of the bill from a March 2021 fiscal note. Sam said the applicant group is willing to advocate and help secure funding through the appropriations process.

Anna Miller asked if there are any technicians in other professions or specialties in Georgia that are currently being licensed or registered with the board, rather than just with their credentialing association.

Tom Bauer (GOTA) said OT assistants are licensed by the board.

Kelly Ball (Georgia Speech and Hearing Association) said aids are licensed as well.

Anita Brown (GPA) she does not know, but technicians are typically only involved in psychological testing.

The meeting shifted to public comment in response to the presentation from GABA.

Tom Bauer (GOTA) said they support licensure for BCBA's and that meets the GORRC criteria. They differ on ongoing supervision; technicians have much less training and education than other comparable healthcare professionals. If the Council decides this is enough, they think technicians should be supervised by the state board. They differ on the capabilities of the board; other boards don't leave parameters up to a national certifying entity. In terms of scope of practice, they're not trying to keep ABA's from using certain terms; rather, they wanted them to also be identified as OT terms. Dr. Aileen Deogracias also spoke; about 25% of practitioners are license-eligible, so it seems like the profession leans heavily on technicians (4 RBT's for 1 license-eligible ABA). She said OTs don't use aides because they cannot bill for them.

Anna Miller said as the bill is written, a BCBA can oversee up to 10 technicians and meet with them/ If there was a parent complaint with a technicians, as a parent, could she easily find out who the supervisor is in order to submit a complaint to the board? The supervisor is liable for their supervisees, but is it easy for a parent to find out that information.

Dr. Muething said that information is easily accessed on the website, and yes, the supervisor is liable for the supervisee. It is two (2) meetings a month, but they are likely meeting far more. Two is the minimum for individual meetings, but it amounts to 8 hours of supervision per month for those in a 40-hour work week.

Tom Bauer said the limit of 10 supervisees per supervisor is set by Medicaid; they want a meaningful ratio to thoroughly regulate the profession.

Anita Brown (GPA) said they also support licensure in principle. In terms of scope, the term 'behavior' is a very general term. The questions 'to whom,' 'under what circumstances,' and 'for what purposes' are not defined under applied behavior analysis. Other states may adhere to a model law from a third-party entity, but also have areas of disagreement at the state-level, and there is no intra-state licensure of psychologists. There is no universal psychology licensing law.

Dr. Muething said scope of practice has been defined by a group of experts assembling and developing a task list. This is the scope of practice that has been developed by a group of professionals; it is not being reinvented here. This language is the same as other states.

Representative Katie Dempsey (bill sponsor) spoke to the bill; she said it important to regulate professions, while also maintaining the importance of protecting consumers. There are 33 other states that feel this is meaningful and important.

Marla Mann (Georgia Speech-Language-Hearing Association) for RBT's, to pull up a supervisor, you're directing them to BACB website, not the state; they're not registered in the state. She said if the applicant group could find a way to register them with the state, it would be better than directing consumers to an outside board instead of the state. For scope of practice, she cited Alabama and New York for the practice of ABA to not include diagnosing disorders and conditions. For movement disorders, that is a medical diagnosis; other states do exclude this from the scope of practice.

Dr. Muething said it is listed that they cannot diagnose but they can still work with individuals with a medical diagnosis, and they haven't found other state statutes limiting this work. In terms of who the supervisor/supervisee is, the BCBA has direct contact with the family. There shouldn't be a situation where the RBT is there and the family doesn't know who the BCBA is; the development of treatment plan is done in-person.

Sam Teasley said he spent the bill around to SOS staff for feedback. The staff noted that the bill doesn't specifically address meetings can or cannot be held virtually. They recommend that language stating meetings can be conducted in-person or electronically be included in or around line 93.

Stan Jones said any licensing statute affects who the new board can discipline, as well as who existing boards can discipline. There is a risk of a form of constitutional suit under the delegation doctrine against the board when the board itself is not making a final determination. This language delegates certification to a single board when there are three or four possible outside entities. His concerns are focused on those who are not actually licensed (RBTs).

Dr. Muething said audiologist technicians receive the same training as behavior analysis technicians.

Anna Miller closed the meeting. The next meeting will be Wednesday, September 1st, at 3 p.m., and it will only be on HB 412.

Meeting is adjourned.