



Arizona Association for Behavior Analysis

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October 19, 2023

The Honorable Warren Petersen
The Honorable Ben Toma
Arizona Legislature
1700 West Washington
Phoenix, AZ 85007

RE: Sunrise Application for the Proposed Transition of the Existing Licensure and Regulation of Behavior Analysts from the Arizona Board of Psychologist Examiners to an Independent Licensing Board for Behavior Analysts to Be Co-Located Within the Arizona Board of Psychologist Examiners

Dear President Petersen and Speaker Toma:

Out of an abundance of caution, on behalf of the Arizona Association for Behavior Analysis, this Sunrise Application is being submitted in support of the proposed modernization of the existing statutes governing the licensing and regulation of the behavior analysis profession in Arizona.

As you may be aware, behavior analysts have been licensed in Arizona since 2008, under the regulation of the Arizona Board of Psychologist Examiners. Unlike most other health professions in Arizona, behavior analysts are regulated by psychologists, a separate and distinct profession from behavior analysis, with different academic and professional experiences, ethical codes and standards of practice.

As the behavior analysis profession has increased to 920 licensees in Arizona, the Arizona Association for Behavior Analysis believes it has reached a critical mass in the profession to be granted the statutory ability to self-regulate, as opposed to the current system of oversight by the well-meaning, but otherwise unrelated profession of psychology.

The legislation ultimately anticipated under this Sunrise Application is intended to reduce the footprint of regulation by eliminating unnecessary steps in the licensing and regulation of the behavior analysis profession. In addition, the legislation has been specifically designed to avoid the expansion of state government by reconfiguring an existing committee into a board as well as being co-located within an existing governmental unit in order to share administrative overhead.

Moreover, the proposed legislation makes no changes to the scope of practice currently in place for the behavior analysis profession in Arizona.

Accordingly, as expressed above, the attached Sunrise Application is being submitted out of the abundance of caution in order to meet any procedural challenges during the legislative discussion.

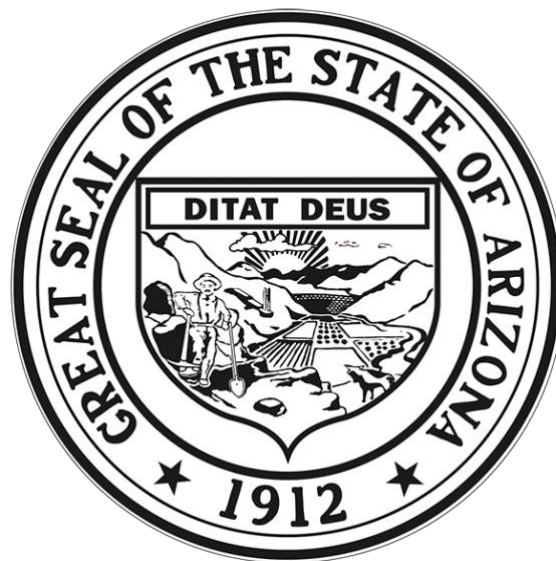
Thank you, in advance, for your consideration.

Sincerely,

Kyle K. Lininger, Licensed Behavior Analyst
President
Arizona Association of Behavior Analysis

SUNRISE REPORT

**PROPOSED TRANSITION OF THE EXISTING LICENSURE AND
REGULATION OF BEHAVIOR ANALYSTS FROM THE ARIZONA
BOARD OF PSYCHOLOGIST EXAMINERS TO AN INDEPENDENT
LICENSING BOARD FOR BEHAVIOR ANALYSTS TO BE CO-LOCATED
WITHIN THE ARIZONA BOARD OF PSYCHOLOGIST EXAMINERS**



Submitted by:

ARIZONA ASSOCIATION FOR BEHAVIOR ANALYSIS

October 19, 2023

Arizona Association for Behavior Analysis Sunrise Report

Background

The Arizona Association for Behavior Analysis (AzABA) is seeking a statutory change to update the regulatory framework in how behavior analysts are currently licensed and regulated in Arizona.

Under current statute (originally enacted in 2008), behavior analysts are licensed and regulated by the Arizona Board of Psychologist Examiners. Unlike most other health professions in Arizona, behavior analysts are regulated by a separate and distinct profession from behavior analysis with different academic and professional experiences, ethical codes and standards of practice.

From a historical perspective, in 2008, the Legislature enacted HB 2470 that created the Arizona Board of Behavior Analysts, an independent self-supporting regulatory board. HB 2470 passed with bipartisan votes of 36-23 and 18-7, respectively in the House and Senate. While the Final Read vote in the House was 32-18, seven of the 10 members not present for the vote had previously supported the bill on Third Reading. Governor Napolitano vetoed the legislation due to concerns about the financial sustainability of an independent board that only had approximately 32 individuals eligible to be licensed in Arizona at the time of enactment. With such a small population of professionals eligible to be licensed in 2008, licensing costs, as expressed by Governor Napolitano in her veto letter “would exceed any rational fees collected from the pool of licensees and leave the board with such limited resources that it may not be feasible to fulfill its regulatory duties.”

As a compromise, due to the popularity of the behavior analysis profession in successfully working with children with autism and other groups, the profession became licensed and was hastily paired with the Arizona Board of Psychologists Examiners within the budget process. Given the nature of the budget process in 2008, there was no input from behavior analysts, psychologists or the regulatory community. Clean-up legislation was required over three successive years to resolve drafting errors and unintended implementation challenges.

In recognition of the importance of self-regulation within a unique health profession, the Legislature, in 2017, incrementally created a Committee on Behavior Analysts within the Board of Psychologist Examiners, as a temporary solution until a more permanent self-regulation solution was achievable. Board members of the Board of Psychologist Examiners have been instrumental in training the Committee on Behavior Analysts to regulate the behavior analyst profession.

While the committee structure has served the profession well in terms of subject matter expertise in the licensing and regulation of behavior analysts, the committee has created additional processing steps in the issuance of licenses and the adjudication of complaints and other disciplinary matters. Currently, committee recommendations must be later ratified by the Board of Psychologist Examiners (Board). Since the committee’s inception, there have been no substantive disagreements between the committee’s recommendations and the Board’s ratification of such recommendations, according to Board staff.

Arizona, like other states, has seen a significant increase in autism diagnosis. According to the Centers for Disease Control, “more children with average intelligence are being identified with ASD since Arizona Developmental Disabilities Surveillance Program (ADDSP) began tracking in 2000”¹. This increase correlates with the significant increase in the demand for behavior analysis services and the number of behavior analysts in Arizona to support Arizona’s growing population with autism spectrum disorder.

In addition, behavior analysis has grown to be utilized in other fields, including behavioral gerontology, behavioral treatment of substance use disorders, behavioral analysis in brain injury rehabilitation and others.

Fast forward to the present, as of June 2023, Arizona has over 920 licensed behavior analysts. Prospects for growth remain high, as Arizona State University, Northern Arizona University and the University of Arizona offer accredited academic programs in behavior analysis. In addition, approximately 50% of applicants for behavior analysis licensure have acquired their education and/or training outside of Arizona.

The Board of Psychologist Examiners has experienced the following:

- From FY17 to FY23, the number of applications for licensure for behavior analysis has increased from 69 to 333, annually.
- From FY14 to FY23, the average number of active behavior analyst licensees has increased by about 625%, from 147 to 920.
- With the increase in active licensees, the number of investigations related to a behavior analyst has also increased. In FY 2014, there was one (1) investigation of a behavior analyst out of 147 licensees; in FY 2023, there were 25 investigations, out of 920 licensees.

According to the analysis provided by the Board of Psychologist Examiners, at the current rates of growth for both professions regulated by the Board, the number of behavior analysts is projected to eclipse the number of psychologists in FY 2028.

Given all the above, AzABA is seeking to pursue self-regulation similar to what is provided to the overwhelming majority of health professions in Arizona and remove unnecessary duplication in regulation that is created by having a separate, non-related profession regulate another. This would, effectively, implement the vision of the Legislature in 2008, by establishing the Arizona Board of Behavior Analysts.

It is critical to recognize that the proposed independent board would **continue to be co-located** with the Arizona Board of Psychologist Examiners in a functional and operational sense, sharing common staff, space and infrastructure. Under this model, which is common in Arizona state government, both boards would have independent jurisdiction over its respective licensees. From a practical perspective, the proposed model allows the current staffing to be unchanged as the two boards would continue to proportionately share common operational expenses, thereby not expanding the footprint of government in terms of the regulatory environment or personnel. In addition, according to an evaluation by the staff of

the Arizona Board of Psychologist Examiners, given the size of the existing number of behavior analyst licensees, the self-regulation of behavior analysts will **NOT** result in the need to increase the current licensing fees of behavior analysts.

A.R.S. 32-3106 Response

- 1. Why an increased scope of practice is beneficial, including the extent to which health care consumers need and will benefit from safe, quality care from practitioners with this scope of practice.**

The proposed independent board of behavior analysts does not create an increase in the scope of practice for the licensing and regulation of behavior analysts in Arizona, as this health profession has been licensed in Arizona since 2008.

That said, establishing the self-regulation of behavior analysts will promote the behavior analysis profession in Arizona, as licensees are motivated to maintain the integrity of the profession through proper licensing and regulatory oversight of those providing services in Arizona. In addition, the public will continue to be protected, as the recommendations by the Committee on Behavior Analysts on licensing and disciplinary matters has not been overruled by the Board of Psychologist Examiners since its inception six years ago, thereby demonstrating the profession's ability to self-regulate with integrity.

- 2. Whether those health professionals seeking an increased scope of practice currently have or will be required to have didactic and clinical education from accredited professional schools or training from recognized programs that prepare them to perform the proposed scope of practice, and details on what that education or training includes for that proposed scope of practice.**

The proposed independent board of behavior analysts does not create an increase in the scope of practice for the licensing and regulation of behavior analysts in Arizona, as this health profession has been licensed in Arizona since 2008. The applicant is not seeking any change to testing, examination or education requirements.

- 3. Whether the subject matter of the proposed increased scope of practice is currently tested by nationally recognized and accepted examinations for applicants for professional licensure and the details of the examination relating to the increased scope of practice.**

The proposed independent board of behavior analysts does not create an increase in the scope of practice for the licensing and regulation of behavior analysts in Arizona, as this health profession has been licensed in Arizona since 2008. The applicant is not seeking any change to testing, examination or education requirements.

Behavior analysts must earn a minimum of a master's degree in a relevant field from an accredited institution. Behavior analysts may elect to earn a relevant doctorate degree in a relevant field. Relevant fields include psychology, education, or behavior analysis, although other fields may be accepted upon further review.

Applicants must complete a minimum of 270 classroom hours of graduate-level instruction, the content of which is consistent with the minimum verified course sequence of the Association for Behavior Analysis International in effect at the time the instruction is obtained.

The Board Certified Behavior Analyst Handbook² maintains current standards and a history of education and training requirements.

In addition to the high standards for education, behavior analysts licensed in Arizona must undergo a minimum of 1,500 hours of supervised experience either with a behavior analyst licensed in the State of Arizona, or in another jurisdiction as long as that experience conforms to that jurisdiction's practice laws. Behavior analysts must pass the examination administered by the BACB for Board Certified Behavior Analysts as part of its certification process.

4. The extent to which the proposed increased scope of practice will impact the practice of those who are currently licensed in this state or the entry into practice of those individuals who have relocated from other states with substantially equivalent requirements for registration, certification, or licensure as this state.

The proposed independent board of behavior analysts does not create an increase in the scope of practice for the licensing and regulation of behavior analysts in Arizona, as this health profession has been licensed in Arizona since 2008.

Existing licensees will benefit from self-regulation in several ways, including, but not limited to the following:

- a. The ability to have qualified peers make decisions on matters relating to the practice of behavior analysis, as opposed to another well-intentioned profession dictating to another profession with different goals and objectives.
- b. Disciplinary matters will be determined by qualified peers that have similar academic training and professional expertise and experiences.
- c. In disciplinary matters, existing licensed behavior analysts will have such issues adjudicated more quickly by eliminating the ratification process conducted by the Board of Psychologist Examiners after the current Committee on Behavior Analysts has made a recommendation. This would also eliminate the burden of a behavior analyst responding to a complaint having to participate in two meetings, taking off work twice and possibly incurring legal fees for both meetings. To date, the Board of Psychologist Examiners have not modified or overturned a committee recommendation relating to licensing or disciplinary action, thus demonstrating the ability to self-regulate with integrity.
- d. According to an evaluation by the staff of the Arizona Board of Psychologist Examiners, the self-regulation of behavior analysts will NOT result in the need to increase licensing fees.

Prospective licensees will benefit from self-regulation in several ways, including, but not limited to the following:

- a. Licensees in other states will likely feel more comfortable relocating to a state in which behavior analysts are licensed and regulated under a self-regulatory framework, as opposed to being regulated by another, albeit well-intended, profession.

- b. In the ability to obtain an Arizona license, eligible behavior analysts will be able to begin working more quickly than the current regulatory framework by eliminating the ratification conducted by the Board of Psychologist Examiners after receiving a recommendation from the Committee on Behavior Analysts required by statute. Self-regulation will remove this second step which has become unnecessary as, to date, the Board of Psychologist Examiners have not modified or overturned a committee recommendation to issue a license, thus demonstrating the ability to self-regulate with integrity.
- c. In disciplinary matters, prospective licensees will have confidence that should disciplinary action materialize against their license, such issues will be adjudicated by qualified peers with direct experience and expertise in behavior analysis.

5. The extent to which implementing the proposed increased scope of practice may result in savings or a cost to this state and to the public.

The proposed independent board of behavior analysts does not create an increase in the scope of practice for the licensing and regulation of behavior analysts in Arizona, as this health profession has been licensed since 2008. Moreover, the proposed regulatory structure of a self-supporting regulatory framework, typically referred to as a 90/10 board regulatory, has no negative impact on the General Fund. Such boards are entirely supported by licensing fees, as opposed to a General Fund appropriation, resulting in no cost to the state General Fund or the general public.

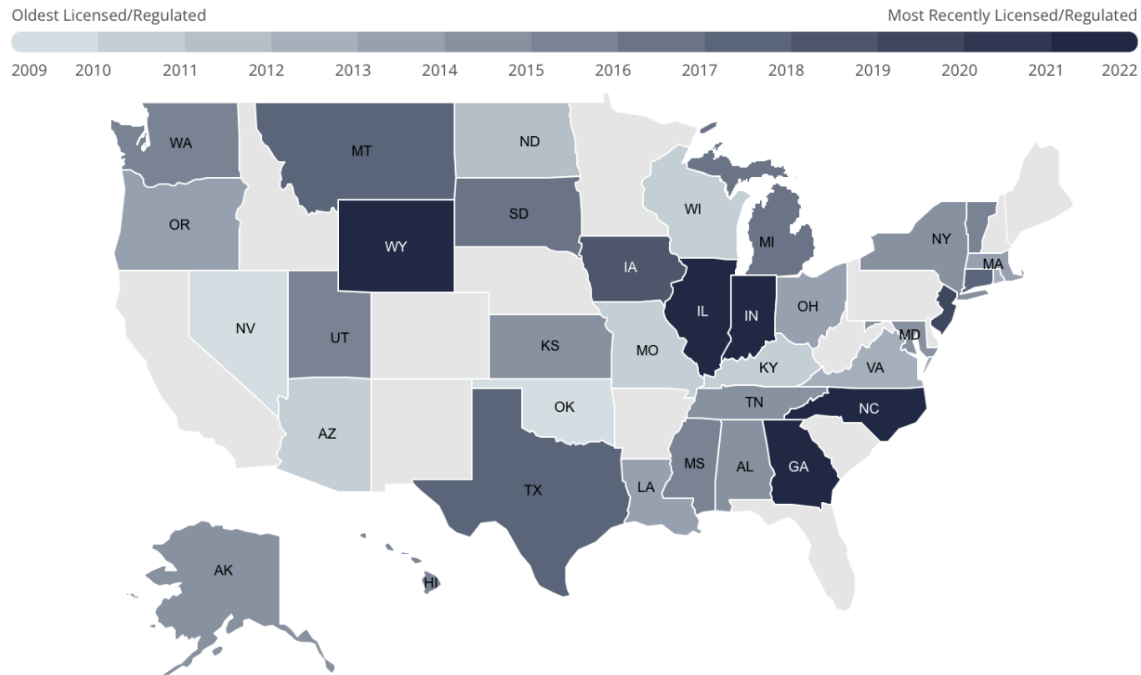
The proposed Arizona Board of Behavior Analysis will continue to be co-located with the Arizona Board of Psychologist Examiners, sharing common staff, space and infrastructure. Under this model, each board would have independent jurisdiction over its licensees as they proportionately share common operational expenses.

According to an evaluation by the staff of the Arizona Board of Psychologist Examiners, the self-regulation of behavior analysts will NOT result in the need to increase licensing fees of either the behavior analysts or psychologists.

Since 2009, both professions have maintained separate funds, as mandated by existing statute. This existing financial separation will facilitate the ability to co-locate two independent boards, as the administrative infrastructure is largely already in place.

6. The relevant health profession licensure laws, if any, in this or other states.

Behavior Analysts are regulated in 36 states, including Arizona. Arizona was the third state in the country to license the profession. From an Arizona perspective, the current Behavior Analysis Practice Act is contained in Title 32, Chapter 19.1, Article 4.



U.S. Licensure of Behavior Analysts³

7. Recommendations, if any, from the applicable regulatory entity or entities, from the department of health services and from accredited educational or training programs.

As there is no scope of practice change being proposed, there are no recommendations to provide.

Related to self-regulation, the State of Arizona has at least 24 self-regulating boards of various health and non-health professions. At least 3 pairs of them have shared staff: Arizona Medical Board and the Arizona Regulatory Board of Physician Assistants; Board of Occupational Therapy Examiners and the Board of Athletic Training; and, the Acupuncture Board of Examiners and the Board of Homeopathic and Integrated Medicine Examiners

The Arizona Association for Behavior Analysis is seeking feedback from various professional associations, the State Board of Psychologist Examiners, insurance payors and others regarding the proposal to self-regulate. To date, there has been no opposition submitted to the Arizona Association for Behavior Analysis regarding the proposal to self-regulate

¹ CDC Autism and Developmental Disabilities Monitoring (ADDM) Network - <https://www.cdc.gov/ncbddd/autism/pdf/Arizona.pdf>

² Behavior Analyst Certification Board (BACB) Handbook - https://www.bacb.com/wp-content/uploads/2022/01/BCBAHandbook_230804-a.pdf

³ Behavior Analyst Certification Board - <https://www.bacb.com/u-s-licensure-of-behavior-analysts/>