

# North Carolina Psychology Board



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May 31, 2018

Whitney Luffman  
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Dear Ms. Luffman and Ms. Johnson:

At its meeting on May 10, 2018, the North Carolina Psychology Board (the "Board") discussed your letter dated February 6, 2018, and your subsequent email dated May 7, 2018. I write on behalf of the Board. I will attempt to respond to each of your questions below.

- 1) What types of education and/or experience must a psychologist demonstrate in order to show competence to supervise ancillary staff in the practice of behavior analysis?

There are no specific requirements in the NC Psychology Practice Act or Psychology Board rules regarding the specific education or experience that a psychologist must demonstrate in order to show competence to supervise ancillary staff in the practice of behavior analysis.

However, as set forth in 21 NCAC 54 .2801(d):

The Board shall have the authority to restrict or revoke a psychologist's privilege to utilize unlicensed individuals to provide ancillary services for the following reasons:

- (1) evidence that the psychologist is not competent to supervise ancillary services personnel;
- (2) evidence that the psychologist has failed to adhere to legal or ethical standards;
- (3) evidence that there is a lack of congruence between the psychologist's training, experience, and area of practice and the ancillary services personnel's area(s) of practice;
- (4) evidence that the psychologist has a license against which disciplinary or remedial action has been taken; or
- (5) evidence that an unlicensed person in the psychologist's employment or under the psychologist's supervision has violated any provision of G.S. 90-270.15(a), which would otherwise apply to licensed individuals.

If questioned by the Board, it would be incumbent upon the supervising psychologist to demonstrate how he or she has the requisite training and experience to supervise an ancillary services provider in the area of behavior analysis. Some ways in which psychologists have historically shown competence to the Board include, but are not limited to, graduate coursework, continuing education, on-the-job training, and supervision.

- 2) Do you believe that Board Certified Behavior Analysts need additional training in order to be competent to practice independently? If so, what training would you recommend?

It is the Board's position that, since behavior analysis falls under the definition of the practice of psychology in N.C. Gen. Stat. § 90-270.2 (8), a BCBA cannot practice without being licensed by the Board, unless he/she meets the exemption in N.C. Gen. Stat. § 90-270.4(e). BCBAs may only assist a licensed psychologist to the extent that their responsibilities meet the definition of providing ancillary services. For example, pursuant to 21 NCAC 54 .2805(b), an unlicensed BCBA may implement specific behavioral interventions that are part of a detailed treatment plan.

- 3) There is a sample of tasks listed under ancillary services in the NC Psychology Practice Act that applies to the whole field of psychology. Can you provide a more specific description of what a Board Certified Behavior Analyst can do as an ancillary services provider with and without supervision?

Pursuant to 21 NCAC 54 .2805, a BCBA that is not licensed by the Board shall only perform ancillary services under supervision. The listing of tasks that are appropriate for providers of ancillary services are set forth in Rule.2805; however, if you have a specific question about a task, please let us know.

- 4) You mentioned that the amount and type of supervision provided by a psychologist to an ancillary practitioner of behavior analysis will depend on the task completed. What specific guidelines can we share with psychologists who are supervising behavior analysts on the nature of that supervision?

Rule 2803 (c) sets forth that:

Any psychologist who employs or supervises individuals to provide ancillary services shall be accessible at all times, either on-site or through electronic communication, and shall be available to render assistance when needed to the unlicensed individual and patient or client, or shall have arranged for another psychologist to be accessible and available in the absence of the supervising psychologist. **Psychologists shall meet with all unlicensed individuals whom they supervise to the extent necessary to provide supervision for the activities in which the unlicensed individual is engaged.** The psychologist shall maintain documentation of supervisory sessions, including dates, appointment times, and length of time of each supervision session, for a period of at least seven years following the termination of ancillary services by ancillary services personnel. (Emphasis added).

There are no additional guidelines that we are able to provide outside of the Rule.

As to the question of what information the Board would need in order to consider working with NCABA to establish licensure for behavior analysts, the Board, generally speaking, would need to see a proposed behavioral analysis practice act that very clearly defines the definition and scope of practice for behavioral analysis so as not overreach to include other areas of the practice of psychology.

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Your follow up email asked the following questions:

1. What is the NC Psychology Board's interpretation of "adaptive behavior treatment" as used in N.C. Gen. Stat. § 58-3-192?

N.C. Gen. Stat. § 58-3-192, applies to coverage by a health benefit plan and does not fall under the purview of the Psychology Practice Act, as a result, the Board is not in a position to interpret this phrase as set forth in N.C. Gen. Stat. § 58-3-192.

2. Is there a distinction between applied behavior analysis (ABA) and adaptive behavior treatment?

The Board is not able to interpret what is meant by N.C. Gen. Stat. § 58-3-192; however, behavior analysis falls within the definition of the practice of psychology and is subject to the Board's jurisdiction.

3. Is ABA included within adaptive behavior treatment?

The Board is not able to interpret what is meant by adaptive behavior treatment as set forth in N.C. Gen. Stat. § 58-3-192.

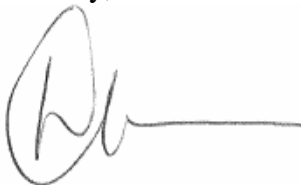
4. Can the other professional groups listed in N.C. Gen. Stat. § 58-3-192 perform and supervise adaptive behavior treatment?

Since N.C. Gen. Stat. § 58-3-192 only applies to what is covered by a health benefit plan and not what the Board has jurisdiction over, the Board is not in a position to interpret this section.

5. Can the other professional groups listed in N.C. Gen. Stat. § 58-3-192 perform and supervise ABA?

Since N.C. Gen. Stat. § 58-3-192 only applies to what is covered by a health benefit plan and not what the Board has jurisdiction over, the Board is not in a position to interpret this section.

Sincerely,



Daniel P. Collins  
Executive Director

cc: Sondra C. Panico, Assistant Attorney General and Counsel to the Board