Ethical Issues for the Behavior Analysis Practitioner Working with Persons with ASD
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Disclaimer
- This presentation represents my personal opinion and interpretation.
- By no means should it be interpreted to be the opinion of the Behavior Analyst Certification Board, even though I am a member of the BACB® Executive Committee.
- Laws, rules, and BACB® documents do change. Always check the latest source.

Content Outline
A. A Case for Regulating Professions
B. Definition of ABA & ABA Practice
C. Legal versus Ethical Considerations
D. Professional Regulation
E. Practicing within the Law
F. The BACB® & Professional Regulation
G. Case Scenarios

Note

Why Regulate?
Section A of Outline

Objective #1
- State and discuss principal and secondary reasons for regulating the practice of behavior analysts.
The Story of

“Boogaboo Therapy”

So Why Regulate?

Main Reasons to Regulate

- Protect Consumer
- Protect General Public

Other Reasons to Regulate

- Protect Practitioner
- Protect Field
- Professional Identity
- Enable Practice

ASR #1

Which of the following is NOT a reason to regulate?

1. Protect consumer
2. Protect general public
3. Enable Practice
4. Make lots of money
Which of the following is the MAIN reason to regulate?

1. Enable practice
2. Protect the consumer
3. Protect the field
4. Protect the practitioner

Defining our Field and our Practice

Section B of Outline

Objective #2

Define Applied Behavior Analysis (ABA)

Note: The definition of ABA contains direct quotes and paraphrases of language in BACB documents.

Applied Behavior Analysis

ABA is the design, implementation, and evaluation of systematic instructional and environmental modifications by a behavior analyst to produce socially significant improvements in human behavior.

Applied Behavior Analysis

ABA includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis.
**ABA**

ABA interventions utilize contextual factors, motivating operations, discriminative stimuli, reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.

**ASR #3**

The definition used by me (Jose) prior to my adopting BACB language excluded an important element. What was it?

1. Design of environmental modifications
2. Use of functional analysis
3. Systematic evaluation
4. Done by a behavior analyst
**Objective #3**

- Define the practice of ABA

  Note: The definition of ABA practice contains direct quotes and paraphrases of language in BACB documents.

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**The Practice of ABA**

- The practice of ABA is defined as the application of the principles, methods, and procedures of the experimental analysis of behavior and applied behavior analysis (including principles of operant and respondent learning) to assess and improve socially important human behaviors.

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**ABA Practice**

- Includes, but is not limited to, applications of those principles, methods, and procedures to (a) the design, implementation, evaluation, and modification of treatment programs to change behavior of individuals and groups; and (b) consultation to individuals and organizations.

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**ABA Practice**

- The practice of behavior analysis expressly excludes psychological testing, neuro-psychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities.

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**ASR #4**

BACB language makes explicit that our practice does not just include designing, implementing, evaluating, and modifying plans to change socially significant behavior, but also includes:

1. The use of functional analysis
2. Conducting outcome studies
3. Consulting with organizations
4. Providing cognitive-behavioral therapy

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**Legal versus Ethical Considerations**

Section C of Outline
Objective #4
- Discriminate between legal and ethical considerations.

<table>
<thead>
<tr>
<th>Legal</th>
<th>Illegal</th>
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</thead>
<tbody>
<tr>
<td>Ethical</td>
<td>Unethical</td>
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</table>

Legal versus Ethical
- The Law
  - State & Federal Statutes
  - State & Federal Rules
- Ethics
  - "Considerations", Codes & Guidelines
- In between:
  - Disciplinary Standards
  - Service Contracts & "Assurances"

ASR #5
Which of the following is NOT a legal consideration?
1. State Statutes
2. Federal Statutes
3. Conduct Guidelines
4. Federal rules

Objective #5
- Describe ways that professions are regulated, including licensure and certification.
Licensure & Certification
- Identify persons meeting minimum competencies in profession
- Restrict who may identify herself as credentialed
- Enable practice

Enabling Practice: Credential Recognition
- Government regulations, rules, laws
- Jobs & Funding specific to BCBA/BCaBA
- Third party insurance funding

Licensure
- Involves both profession and state
- Title acts
- Practice acts
- Not only enable, but restricts title and practice
- Problem: Dependent on political process and climate

Certification
- Involves only the profession
- Does NOT depend on state statutes
- Does restrict title but NOT practice
- May be trumped by licensure, but NOT likely if cards played right
- Certification and exemptions in licensure acts

ASR #6
Which of the following is a problem with licensure?
1. Dependent on certification
2. Dependent on political process and climate
3. Dependent on scientific research

ASR #7
- Certification:
  1. Involves both profession and state
  2. Involves only the profession
  3. Restricts who can practice
ASR #8
- Licensure:
  1. Involves both profession and state
  2. Involves only the profession
  3. Restricts who may use a title but not who can practice
  4. Restricts who can practice but not who may use titles

Practicing within the Law
Section E of Outline

Objective #6
- Name, give examples, and briefly describe the types of statutes and rules that behavior analytic practitioners should peruse.

As a BCBA® or BCaBA® You Must:
- Be thoroughly informed of the statutes and rules that regulate:
  - Your profession
  - Your practices
  - Professions that legally may engage in the same, similar, and/or related practices
- Protect the consumers you serve

Warning!
- Failure to follow any of these types of regulations may result in legal problems.
- In a few cases, behavior analysts need to actively seek to change them as they may restrict our practice beyond what is reasonable.

ASR #9
- As a BCBA or BCaBA you must be thoroughly informed of the statutes and rules that regulate all of the following EXCEPT:
  1. Our profession
  2. Our practices
  3. All other professions
  4. Professions that may legally engage in our practices
As a BCBA or BCaBA billing Medicaid and insurance companies for ABA services for individuals eligible due to "medical necessity", we should be familiar with legislation regulating:

1. Only behavior analysts
2. 1 and licensed psychologists
3. 1 & 2 and clinical social workers
4. 1-3 & speech and language pathologists
5. 1-4 & occupational therapists

Objective #7

- State the principal ways in which the BACB® regulates our profession.

The BACB® and Professional Regulation

- Through job analysis & other processes involving the profession,
  - Sets minimum standards for acquiring and maintaining the credential(s)
  - Defines our practice
  - Restricts who may use the title(s)

The BACB® and Professional Regulation

- Through the Disciplinary Standards, sets criteria and procedures for disciplining certificants
- Through Ethical Considerations and Guidelines for Responsible Conduct prescribes ethical conduct of certificants

ASR #11

- The BACB® regulates all of the following areas except:
  1. Control practitioner areas of competence
  2. Set criteria and procedures for disciplinary actions
  3. Restrict who may use the title(s)
  4. Set minimum standards for acquiring and maintaining credentials
The BACB may revoke a BACB’s certification for violating:
1. Conduct Guidelines
2. Disciplinary Standards
3. Either one of the above
4. Neither one of the above. I’ll sue them if they do!

Case Scenarios: Ethical Dilemmas for Class Exercises

Section G of Outline

Objectives #8 & #9
- Given a scenario, identify the BACB® considerations and guidelines that relate to the scenario, if any (e.g., being violated, in danger of being violated).
- Given a scenario, describe how one should behave in such a situation and adhere to the BACB®’s considerations and guidelines.

Case #1
The case of the agency, the many hours of wrap-around home-based services provided to a child with severe self-injury, the data, and the graphs.
ASR #13
Do you think the BCBA who was overseeing this case was practicing ABA?
1. Yes
2. No

ASR #14
Which considerations was the BCBA violating?
1. Ethical
2. Legal
3. Both Ethical and Legal
4. They were not violating considerations

ASR #15
What exactly were they doing?
1. Doing the best they could
2. Providing adequate service
3. Committing fraud
4. Doing the minimum necessary

Case #2
The case of the behavioral assistant who became a BCaBA, the mom, the support coordinator and the two agencies.

ASR #16
Which of the following was least likely to have been an ethical violation?
1. Maintain competence by engaging in ongoing professional development activities.
2. Solicit or otherwise influence clients only through the use of truthful and accurate representations of intervention efficacy and one's professional competence in applied behavior analysis.
3. Truthfully and accurately represent one's contributions and those of others to the practice, discipline and profession of applied behavior analysis.
4. Identify and reconcile contingencies that compromise the practitioner-client covenant, including relationships among the practitioner, the client and other parties.

ASR #17
Which of the following was a problem?
1. Coercion to increase pay rate.
2. The shredding of the paperwork.
3. The second agency authorizing the same services as BA work
4. Family switching agencies
5. Both 1 and 3.