

**MINUTES**  
**of the Fifth Meeting of the**  
**Applied Behavior Analysts Technical Review Committee**  
**October 5, 2022**  
**1:00 p.m. to 3:00 p.m.**

**TRC Members Present**

David Reese (Chair);  
Darrell Klein, JD;  
Kevin Low, DDS  
Debra Parsow  
Denise Logan, BS, RT

**TRC Members Absent**

Jeffrey L. Howorth  
Stephen M. Peters, BA, MA

**Program Staff Present**

Matt Gelvin  
Jessie Enfield  
Ron Briel

**I. Call to Order, Roll Call, Approval of the Agenda, Approval of Minutes**

Chairperson Reese called the meeting to order at 1:00 p.m. The roll was called; a quorum was present. Mr. Reese welcomed all attendees. The agenda and Open Meetings Law were posted and the meeting was advertised online at <https://dhhs.ne.gov/Licensure/Pages/Credentialing-Review.aspx>. The committee members approved an amended version of the agenda for the current meeting by changing the wording of item two on this agenda so that this wording clarifies that discussion is to precede the voting on the four criteria and not follow it. Then, the Committee members unanimously voted to approve the minutes of the fourth meeting.

**II. Final Comments, Questions, Discussion**

On the first criterion, Darrell Klein commented that in accord with the Nebraska Regulation of Health Professions Act the application presented anecdotal evidence that there is harm to the public inherent in the current unregulated situation of ABA services in Nebraska. Mr. Klein also stated that the current ABA proposal still contains inaccuracies pertinent to regulation and administration of health care professionals in Nebraska, but he is voting in favor of the concept of issuing a credential under the Uniform Credentialing Act as the best way to protect the public.

On the second criterion, Mr. Klein remarked that he found the proposal to regulate ABA as a profession does not impose economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest. Currently, the only 'standards' set are related to reimbursement.

On the third criterion, Mr. Klein noted that previous legislation already requires third party reimbursement for ABA for autism, and that Medicaid pays for the services under certain circumstances. Further, under the UCA Nebraska already licenses many professions for which the potential for harm is less than the potential for harm stemming from the current unregulated state of ABA. All of this argues for regulation of ABA as a profession in order to protect the public, as, in effect, the state has already endorsed the practice of ABA.

On criterion four, Mr. Klein referenced provisions of the Nebraska Regulation of Health Professions Act that mandate that the least restrictive level of credentialing consistent with public protection must be identified but noted that less restrictive credentials such as certification and registration have for all practical purposes ceased to be used, and that licensure has become the norm and probably works the best.

Debra Parsow and Kevin Low expressed agreement with Mr. Klein's remarks.

### **III. The Formulation of Recommendations on the ABA Proposal**

#### **Committee actions on the Four Statutory Criteria pertaining to this Proposal**

**Criterion one:** Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public.

*Voting "yes" that the proposal or application DOES "satisfy" this criterion were:*

Parsow, Low, Klein, and Logan

*Voting "no" that the proposal or application DOES NOT "satisfy" this criterion were:*

There were no nay votes

*Chairperson Reese abstained from voting.*

**Criterion two:** Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest.

*Voting "yes" that the proposal or application DOES "satisfy" this criterion were:*

Parsow, Low, Klein, and Logan

*Voting "no" that the proposal or application DOES NOT "satisfy" this criterion were:*

There were no nay votes

*Chairperson Reese abstained from voting.*

**Criterion three:** The public needs assurance from the state of initial and continuing professional ability.

*Voting "yes" that the proposal or application DOES "satisfy" this criterion were:*

Parsow, Low, Klein, and Logan

*Voting "no" that the proposal or application DOES NOT "satisfy" this criterion were:*

There were no nay votes

*Chairperson Reese abstained from voting.*

**Criterion four: The public cannot be protected by a more effective alternative.**

***Voting “yes” that the proposal or application DOES “satisfy” this criterion were:***

Parsow, Low, Klein, and Logan

***Voting “no” that the proposal or application DOES NOT “satisfy” this criterion were:***

There were no nay votes

***Chairperson Reese abstained from voting.***

**The Committee members took action on the proposal as a whole via an up/down roll call vote as follows:**

***Darrell Klein Voted “Yes” to recommend approval of the ABA proposal***

**Comments:** Darrell stated that the information supporting the concept of credentialing ABA under the Uniform Credentialing Act including its ability to protect Nebraskans who need these services is consistent with other health professions that are already covered by the Uniform Credentialing Act. Darrell noted that credentialing under the Uniform Credentialing Act would protect those receiving ABA under existing Nebraska’s third-party reimbursement mandates.

***Denise Logan Voted “Yes” to recommend approval of the ABA proposal***

**Comments:** Denise stated that she voted to approve the proposal because it would provide greater assurance that quality of care would improve if the proposal were to pass. Denise agreed that credentialing under the Uniform Credentialing Act would protect those receiving ABA under existing Nebraska’s third-party reimbursement mandates.

***Kevin Low Voted “Yes” to recommend approval of the ABA proposal***

**Comments:** Kevin stated that it was the testimony of the parents of ABA patients that won him over to support approval of the proposal.

***Debra Parsow Voted “Yes” to recommend approval of the proposal***

**Comments:** Debra stated that approving this proposal would be a good thing for those Nebraskans who are patients of ABA providers.

***Chairperson Reese abstained from voting.***

By this vote the members of the Applied Behavior Analysts Technical Review Committee recommended approval of the ABA proposal.

#### **IV. Next Steps**

Program staff informed the attendees that the next stage or phase of the review process for the ABA proposal is the review of the Nebraska State Board of Health.

**V. Other Business and Adjournment**

There being no further business the committee members unanimously agreed to adjourn the meeting at 1:35 pm.