



AUTISM COUNCIL MEETING MINUTES

August 23rd, 2024

9:00 am – 12:00 pm

[Meeting Recording](#)

COUNCIL MEMBERS PRESENT	ORGANIZATION, REPRESENTATION
Dr. Amy Matthews, LP, BCBA	Grand Valley State University, State-funded Initiatives
Dana Lasenby, MBA	Oakland Community Health Network, Pre-Paid Inpatient Health Plans/Community Mental Health Service Programs
Dr. Jacob Daar, BCBA	Northern Michigan University, State Universities
Dr. Jeanette Scheid	MDHHS Children’s Services Administration
Jenny Piatt, MA	Michigan Rehabilitation Services, Employment Services
Krista Boe, M.A., BCBA	Acorn Health, Certified Behavior Analysts
Dr. Steven Tunnicliff	Genesee ISD, Intermediate School Districts and Local Schools
Dr. Neelkamal Soares	Western Michigan University Homer Stryker MD School of Medicine, Health Care Providers
Frank Vaca	Self-Advocate, ASD Community
Martin Baum, J.D.	Parent, ASD Community
Raymie Postema	Michigan Department of Health & Human Services, Recipient Rights
COUNCIL MEMBERS EXCUSED	ORGANIZATION, REPRESENTATION
Brian Debano, MPA	Department of Licensing and Regulatory Affairs
Emily DeLaGarza	Michigan Department of Insurance & Financial Services
Rebecca McIntyre, M.Ed.	Michigan Department of Education
Dr. Colleen Allen*	Autism Alliance of Michigan, a Non-Profit Organization serving those with ASD
MDHHS STAFF PRESENT	MDHHS REPRESENTATION
Heather Glidden, LBSW, QJDP, MS	Bureau of Children’s Service Coordinated Health Policy & Supports
Patricia Neitman, MS LLP	Bureau of Children’s Service Coordinated Health Policy & Supports
Aarica Smith	Legislative Affairs
Dr. Mary Luchies, LP, BCBA, LBA	Bureau of Children’s Service Coordinated Health Policy & Supports
Sara Keyes	Bureau of Children’s Service Coordinated Health Policy & Supports
Stacy Farrell, LMSW	Bureau of Children’s Service Coordinated Health Policy & Supports

* Indicates the member joined virtually

- Multiple guests also attended in person and virtually.

CALL TO ORDER

The Autism Council meeting was called to order by Amy Matthews at 9:00 am.

Amy Matthews called for a motion to approve the June 2024 meeting minutes. Steve Tunnicliff motioned to approve; Krista Boe seconded the motion. Amy Matthews called for a motion to approve the April 2024 meeting minutes due to not having a quorum at the last meeting. Krista Boe motioned to approve; Jeanette Scheid seconded the motion.

ROLL CALL

A roll call for council members and MDHHS staff was completed.

APPROVAL OF PREVIOUS MINUTES

A quorum was present to approve the April 2024 and June 2024 minutes.

PUBLIC COMMENT

Katie Oswald from Full Spectrum Agency for Autistic Adults spoke as a self-advocate that leads the My A3 Committee (Michigan Autistic Adult Advisory Committee). She has been in the Leaders and Policy Advocacy class this year learning how to advocate at Senate Committee Hearings. She acknowledged how difficult it is to understand the bills and issues being considered. She suggested that it would be beneficial to make these documents more accessible to people just starting out and those with cognitive challenges. She referred to the Autistic Self Advocacy Network utilizing an easy read version of their documents.

Frank Vaca spoke as a self-advocate regarding the concept of weird and how it is often seen in a negative light, however it really means something that is out of the ordinary. He stated that during the National Convention, whatever side you are on when a person is crying for their father's accomplishments, and they are deemed over social media as weird, we have a long way to go from working as a society to the nicer and more understanding of situations that we later will have to apologize for. He stated that Gus Waltz should continue to be proud of his father.

Michigan Department of Health and Human Services (MDHHS) UPDATES

Financial Operations Administration-MDHHS Budget: Patricia Neitman stated the department is currently in the process of developing the new fiscal year's budget. Updates regarding boilerplate information. For Section 924 for fiscal year 2024 of the boilerplate the funds that were appropriated for hourly rates for direct services was \$53.20 up to \$58.20 per hour. For the fiscal year 2025 there is new language that says, not less than \$66.00 per hour. For Section 960 of boilerplate this language removed the descriptions of qualified licensed practitioners and replaced that with qualified licensed practitioners as determined by the Department of CMHSPS. This Section 960 also removed Subsection D from FY 24. For boilerplate Section 913, this was originally a \$2,025,000 appropriation for FY 24 that was split \$1,025,000 in ongoing funds and \$1 million in one-time funds. And for FY 25, the \$2,000,025 is the ongoing appropriation.

Legislative Update: Marina Wyrzykowski an analyst with legislative affairs at MDHHS reported on the bill highlighted in Appendix I of the meeting minutes. Additionally, she answered the questions from the previous council meeting that she was absent for.

- Discussion:
 - Bill 5891 Expands prohibition on denying or conditioning coverage of a Medicare supplement policy
 - What is the difference between House Bill 5114 and Senate Bills 915-918?
 - Does HB 5785 take master's accreditation into account?
 - Why was HB 5785 introduced if SB 626 was previously introduced and no action was taken?
 - Discussion surrounding lame duck.

Bureau of Children's Service Coordinated Health Policy & Supports (BCCHPS)

- Mary Luchies reported on the ABA in Schools Guidance Document with MDE release in Appendix II of the meeting minutes.
 - Discussion:
 - Question regarding does this replace guidance documents
 - Yes and no, want to provide updated information because things have changed on the payer and provider side as well as education.
 - Re highlight the Wild Lake project data.
 - Opening up for discussion in old business.
 - Question regarding where this document will live and what is the plan for dissemination to key stakeholders.
 - MDHHS and hopefully MDE websites.
 - Structured sharing with CMH providers due to the questions from Medicaid providers side. State Autism Project leadership meetings with 160+ attending.
- Mary reported that they have moved towards the last 12 months of the QBHP policy (Qualified Behavioral Health Professional). Enacted in 2017 to help support the growth of behavior analysis analysts and was extended in 2020 until September 30, 2025. Intended to provide an opportunity for individuals working on their certification as behavior analysts, to start work midway through the process and be able to be reimbursed by Medicaid and provide services that a behavior analyst can provide.
 - Discussion:
 - Working with PHPS to develop a plan to help identify who's out there communicate effectively that after that date they will no longer be able to be QBHPs due to the policy no longer existing.
 - Monthly "study groups" to help those prepare for the exam.
 - January 1, 2025, the BACB switches to the 6th edition test content.

MDE Update

Emily DeLaGarzai reported no updates.

LEO/MRS Update

- **Youth Employment Month highlights opportunities for youth to gain valuable work experience** – On June 3, [press release proclaiming June as Youth Employment Month](#) and efforts to raise awareness about the importance of youth earning valuable skills and training for the future while doing so safely and legally.
- **“Convening on the Future of the Michigan EV Workforce” event** – On June 21, LEO-E&T helped host an event with The White House that brought together electric vehicle industry stakeholders to identify workforce challenges and solutions to help the state’s EV employers and workers on a path to long-term success.
- **Governor Whitmer announces \$17.8M in Going PRO Talent Fund awards to more than 300 Michigan businesses** – On June 27, [press release announcing recipients of cycle two of FY24 Going PRO Talent Fund](#) dollars. The training start date for employers awarded funds is July 1.
- **Statewide investment helps youth explore future careers in Michigan** – On July 9, [press release announcing recipients of awards totaling \\$640,000](#) to provide youth and young adults with career exploration and experience opportunities throughout the state.
- **Gov. Whitmer announces new \$50M Federal Michigan Maritime Manufacturing (M3) Initiative** – On July 22, [press release announcing launch of Michigan Maritime Manufacturing \(M3\) Initiative](#), a more than \$50 million partnership aimed at building a workforce ready to lead the future of defense manufacturing.
- **\$37.5M federal grant will support Michigan’s clean energy future** – in late July, LEO was informed the state has received a \$35.7 million federal grant to provide Michiganders with improved access to reliable, clean energy while creating life-changing, high-paying jobs and offering economic relief to low-income residents impacted most by the construction of a new transmission route. The funding will also support the state’s ongoing efforts to expand and enhance its electric vehicle charging infrastructure.
- **Press Release: LEO to Host Webinar on Changes to Earned Sick Time**
 - **Department to provide educational outreach following Michigan Supreme Court ruling**
 - Lansing, MICH - The [Michigan Supreme Court recently issued an opinion](#) resulting in changes to the state’s earned sick time laws and established the Michigan Earned Sick Time Act. In response, LEO Deputy Director of Labor Sean Egan will host a live webinar on **Tuesday, August 27 from 2-2:45PM** to discuss how the ruling affects workers and businesses.
 - [Participants can join the webinar virtually via Microsoft Teams.](#)
 - The webinar will include a live Q&A session, and participants are encouraged to email their questions before the event to leo-comms@michigan.gov.
 - [LEO’s Earned Sick Time Act resource page](#) has updated materials, including [FAQs](#).

- **Key Provisions of Michigan's Earned Sick Time Act**
 - Effective on February 21, 2025.
 - Applies to all employers, regardless of their size, with the exception of federal employers.
 - Includes all employee categories, such as salaried (both exempt and non-exempt) and full- and part-time hourly workers and expands the permitted uses of sick time.
 - Grants employees the right to pursue legal action if an employer interferes with or retaliates against their use of Earned Sick Time Act benefits.
 - Employers must now accrue sick time at a rate of 1 hour for every 30 hours worked, eliminating the option to "front load" sick time.
 - Businesses with 10 or more employees must provide up to 72 hours of paid sick time per year, an increase from the previous limit of 40 hours.
 - Smaller businesses with fewer than 10 employees must provide up to 40 hours of paid sick time annually, plus an additional 32 hours of unpaid sick time.
 - Unused sick time can be carried over, but employees may use no more than 72 hours of earned sick time within any given year.
- **Case Highlight: "I told you they loved me!"**

Macomb District

Diagnosed with ASD, life has not always been easy for Kenneth, especially regarding work. In working with MRS, Kenneth, his mother/guardian, and his assigned counselor worked together to identify his vocational goals and barriers so that he could successfully re-enter the workforce. Kenneth came to MRS after holding many short-term jobs in the past but wanting to work again. Given some of his previous challenges with working, Kenneth's community mental health case manager recommended he try supported employment. However, Kenneth and his mother wanted to try competitive employment again. With the support of the MRS Counselor, Kenneth was referred for a work assessment to determine his suitability for competitive employment. Kenneth participated in an On-the-job evaluation with a nursing facility and crushed it! While reviewing his report, Kenneth turned to his guardian/mother and said, "I told you they loved me!". Laughter filled the room, and his job goal was solidified at this time. Placement services were the next order of business. Kenneth, with a goal of working in dietary, begun job placement services, and within a couple weeks, he was offered a job with Waltonwood Lakeside, located in Sterling Heights, MI. Kenneth received job coaching and follow along services to ensure he became acclimated to his new position and would have support if needed. Kenneth has excitedly worked in this role, where he continues to grow his confidence and work skills each day, inspiring others with his journey of personal growth and development.

Department of Insurance and Financial Services (DIFS)

No update

Old Business

- Action Items from Previous Meeting.
 - Follow up on House Bills and the Senate Bill.
 - Marina went over in her update.
- Four positions on the Autism Council that are expiring at the end of the month.
 - Healthcare representative for healthcare providers
 - Representative for a nonprofit organization
 - Representative for parent ASD community
 - Representative for university
- Discussion:
 - Question regarding how long applications stay in system.
 - Must reapply each year.
 - Question regarding timeline to submit application.
 - Question regarding how long applications stay in system.
 - Must reapply each year
 - Question regarding timeline to submit application
 - No official date, as soon as possible.
 - Meet six times per year.
 - Primary responsibility is to come prepared to participate and some voluntary committee work outside of meetings.
- Switching to Google platform to share all documents.
- 2024 Autism State Plan Update

New Business

Safety Presentation

- First Responders
 - Safety program is a branch of my navigator systems that provide resources to individuals and the community related to safety.
 - Families will have connection to and consultation with a navigator that provides one on one support.
 - Safety tool kit
 - GPS Scholarship program in partnership with Angel Sense to provide families with a need related to elopement or other safety concerns with a one-year subscription and a device for Angel Sense.
 - Michigan Autism Safety Program or training that is masked.
 - Offer first responders better communication practices, tips and tricks to recognize autism and the dangers present within the autism community.

- Discussion:
- Contract with Dean Transportation to train bus drivers.
 - Question regarding designation and driver’s license.
 - Police utilize an eye scan program at a state level.
 - Communication impairment designation on license plate.
 - A card with a medical diagnoses of autism

Member Updates

- Self-advocate organization's input – Frank Vaca
 - Inviting those people with the IDD Spectrum to join us in October for a training on sexuality education from the Mission Development Disability Council. Learn about healthy relationships and concerns.
- Dr. Soares
 - Thanked all for the support with his layoff. Working part time at the local CMH serving children doing prescriptions, eligibility evaluations in the Kalamazoo area.
- Dr. Jacob Daar
 - Reminder of the 12th Annual Michigan Autism Conference October 9th-11th in Kalamazoo and the UP Association for Behavior Analysis has their annual meeting November 7th-8th in Marquette.
 - <https://www.eventbrite.com/e/upaba-2024-annual-conference-tickets-761383347087?aff=oddtcreator>
 - MAC - <https://michiganautismconference.org/>
- Dr. Colleen Allen
 - <https://autismallianceofmichigan.org/event/2024-autism-hero-walk-detroit/>
- Jenny Piatt
 - Every 1st Friday of the month our agency puts on a webinar event for the public.
 - October is National Disability Employment Awareness Month, theme for 2024 "Access to Good Jobs for All" [National Disability Employment Awareness Month \(NDEAM\) | U.S. Department of Labor \(dol.gov\)](https://www.dol.gov/eo-14130)
- Dr. Steven Tunnicliff
 - Four Center based programs that meet different and unique needs of our students. Beginning a groundbreaking for a 20-million-dollar expansion to the early childhood programs and services.
- Dr. Amy Matthews
 - START - <https://www.gvsu.edu/autismcenter/start-trainings-49.htm>
 - Michigan Alliance for families – States parent training and information center.
 - Trainings are free or low cost.

Action Items

<i>Status (Open)</i>	<i>Description</i>	<i>Owner</i>	<i>Target Date</i>
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<i>(Complete)</i>			
Open	Distribute survey for the ASD Plan Update.	Mary Luchies	
Open	Share the Medicaid and Schools Policy.	Mary Luchies	
Open	Create worked examples around the ABA in schools.	Amy Matthews	
Open	Follow up on license designation regarding driver's licenses, and license plates.	Colleen Allen	

Adjourn

Amy Matthews called for a motion to adjourn the meeting. Krista Boe motioned to adjourn the meeting; Jenny Piatt seconded the motion. Amy Matthews adjourned the meeting at 12:00 pm. The next Autism Council meeting will take place on October 25th, 2024.

Appendix I

August 2024 Legislative Update

[House Bill 5891](#) (Aiyash) – *Expands prohibition on denying or conditioning coverage of a Medicare supplement policy* – DIFS/DHHS Co-Leads, Referred to House Insurance and Financial Services Committee

The council had a few questions for my colleague, Aarica, who presented in my absence last meeting.

1. What is the difference between [House Bill 5114](#) and Senate Bills [915-918](#)?

HB 5114 expands the definition of mental health professional to include additional people who can perform certain examinations, including court-ordered exams for involuntary treatment. SBs 915-918 make various changes to the process for obtaining treatment for someone who has committed a misdemeanor. SB 918 expands the list of professionals who can file a petition for a second or continuing order for involuntary treatment under specific circumstances. DHHS is not the lead agency on SB 918.

2. Does [HB 5785](#) take master's accreditation into account?

DHHS is not the lead agency on the bill and has not completed an analysis of it. We defer to the Department of Licensing and Regulatory Affairs, as they are the lead agency on the bill and handle licensing of those professionals.

3. Why was HB 5785 introduced if SB 626 was previously introduced and no action was taken?

These are not the same bill. Here is a comparison: <https://draftable.com/compare/mvIhqHskctfb>

Appendix II
August 2024 BCCHPS Update

**Draft Guidelines for the Provision of Applied
Behavior Analysis in Public Schools**

DRAFT

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Introduction

The development of this guidance document included information from multiple sources and stakeholders. Representatives from the Michigan Department of Health and Human Services (MDHHS) and Michigan Department of Education (MDE) held an initial stakeholder meeting that included a variety of stakeholders from across Michigan. From this initial meeting, information was gathered from several states with similar guidance and an agreement was formed to use Virginia's "Guidelines for the Provision of Behavior Analysis in Public Schools" as a model for Michigan to follow. A review panel representing stakeholders from the Michigan Behavior Analysts Provider Association (MI-BAP), Michigan Association of Special Education Administrators (MAASE), Intermediate School Districts (ISDs), Pre-Paid Inpatient Health Plans (PIHPs), Community Mental Health Service Providers (CMHSPs), Medicaid School Based Services, and Local Regional Entities (LREs) joined MDHHS and MDE for a total of six regional stakeholder meetings were held to review the proposed model. At the conclusion of these meetings, information was analyzed and summarized within this document. The original state level stakeholder group as well as the Michigan Autism Council reviewed this guidance document, prior to publication. Additional resources will be created and disseminated based on the input from the stakeholder meetings.

While the staff at the Michigan Department of Health and Human Services (MHDDS) and Department of Education (MDE) hopes this document is helpful for developing policies and practices related to the provision of behavior analytic services in public schools, MDHHS and MDE recommends school divisions consult with their school board attorney regarding the development of policies and procedures.

MDHHS and MDE would like to acknowledge the work of the individuals who provided information, feedback, and support for the development of this guidance document

DRAFT

Purpose

The purpose of this guidance document is to provide considerations for both school district personnel and private providers to promote successful therapy and supports for students who may receive applied behavior analysis (ABA) therapy during the school day. It should be made clear; however, although ABA therapy can be provided by a school district, school districts are not required to provide ABA therapy unless an individualized education program (IEP) Team determines ABA is required for a student to receive a free appropriate public education (FAPE).

Given the varying needs and capacity of school districts, this guidance will center on the obligations of school districts and the roles and responsibilities of behavior analysts in schools, development of effective partnerships, and communication strategies to enhance outcomes for students. This guidance document is intended to provide information and recommendations to support successful collaboration between school district personnel, certified and licensed behavior analysts, and families.

Section 1: Applied Behavior Analysis

What is ABA?

Applied behavior analysis (ABA) is the application of a scientific field of study. Specifically, ABA is “a scientific approach for discovering environmental variables that reliably influence socially significant behavior and for developing a technology of behavior change that takes practical advantage of those discoveries” (Cooper, Heron, & Heward 2020, p. 2). This lengthy definition can be broken into meaningful pieces. Ultimately, “human behavior is everything people do, including how they move and what they say, think and feel,” (Cooper, Heron, & Heward, 2020, p. 26). The root of this science is “behavior”. Behavior is the result of an interaction of a person and the environment and includes movement. The science of behavior addresses three dimensions:

Observable: Behavior is defined so all know when the movement starts and stops.

Measurable: Behavior is counted by rate, frequency, duration, count and other

aspects. Specific: The behavior is understood within an individual’s context of what happened before the behavior occurred and what happened after the behavior.

These three characteristics are critical as behavior can be seen, can be counted in some reliable manner, and can be identified by all observers within the environment it occurs.

Clearly, ABA focuses on behavior. Behavior analysts implement strategies and techniques of ABA in a systematic manner to change behavior. The systematic approach is one of the defining characteristics of the field. In fact, behavior analysts study and utilize experimental designs and data collection procedures to demonstrate the level of effectiveness of their interventions.

those practicing ABA are highly interested in behaviors that are socially significant. Behavior analysts typically focus on behaviors that are important to individuals, and their families such as improving communication skills, teaching greater independence, in functional skills such as following routines without prompts, and other behaviors that improve the individual's quality of life. The individual can be a child or adult and may or may not have a disability.

ABA is the application of the principles of behavioral science. In fact, ABA incorporates the use of evidence-based practices in which educators may already be using. For example, some of the common strategies used in ABA include modeling, shaping, task analyses, chaining, and reinforcement, just to name a few. However, it should be noted that ABA is not one of these strategies in isolation. The power of ABA comes from understanding how the principles of behavior are applied to affect socially significant change in individuals. While many of these strategies may be employed by many different people, including educators, behavior analysts, speech therapists, and parents, simply implementing one of these strategies does not mean you are practicing ABA.

What ABA is Not

ABA is a scientific field of study. ABA is not a collection of strategies or any one strategy. For example, discrete trial training (DTT) is a strategy that is used by some behavior analysts in select cases. DTT can be a very effective strategy in some instances. However, DTT is only one strategy and is not encompassing of the entire field of ABA. There are many behavior analysts who do not even implement DTT because it may not pertain to the skills they are attempting to teach.

Practitioners Utilizing Behavioral Strategies

Practitioners utilizing behavioral strategies work in a myriad of settings with a variety of people both with and without disabilities, who range in age from infancy through adulthood. Some practitioners have experience and focus their practice on children either in or outside of the school setting. While many different professionals may work to improve behavior and teach skills, board certified behavior analysts (BCBA) have specific knowledge and a particular set of skills rooted in the scientific principles of behavior. Behavior analysts have specific education, in field training, approved supervision, pass a national examination and maintain state licensure with additional education to support national certification to practice in this field.

Who are behavior analysts?

Behavior analysts must obtain certification through a national board and may hold one of several credentials: Board Certified Behavior Analysts® (BCBA®), Board Certified Behavior Analyst-Doctoral® (BCBA-D®), and Board Certified Assistant Behavior Analysts® (BCaBA®). The Behavior Analyst Certification Board™ (BACB®) is a “nonprofit 501(c)(3) corporation established in 1998 to meet professional credentialing needs identified by behavior analysts, governments, and consumers of behavior analysis therapy” (BACB, n.d.). “The BACB’s primary role is to operate certification programs, which is similar to the responsibilities of a regulatory entity. In this role, the BACB establishes practice standards, administers examinations, and provides ethics requirements and a disciplinary system for each of its certification programs” (BACB, n.d.).

There are multiple levels of certification through the BACB. These include BCBA-D®, BCBA, BCaBA, and Registered Behavior Technician™ (RBT®). In order to become certified, each of the BCBA-D, BCBA, or BCaBA levels must take specific coursework, receive

supervision in the field prior to becoming certified, and pass an examination provided by the BACB. Those wishing to become an RBT have at a minimum a 40-hour training, pass a competency exam, and pass a standardized exam provided by the BACB. Practitioners without the BACB RBT credential that work with behavior analysts are often referred to as behavior technicians (BTs).

Under the BACB requirements, those professionals with a BCBA-D or BCBA designation may practice behavior analysis independently. A BCaBA must receive supervision from another professional at the BCBA-D or BCBA level. An RBT completes assigned tasks delegated to them while receiving mandatory close, ongoing supervision from a BCBA-D, BCBA, or BCaBA.

What is a Licensed Behavior Analyst?

In Michigan, behavior analysts must be licensed to practice. The Board of Behavior Analysts is responsible for the licensing of behavior analysts in the State of Michigan. The Licensed Behavior Analyst (LBA) designation is used for individuals who are behavior analysts licensed by the state and can practice behavior analysis in Michigan. Behavior Analysts may not practice in Michigan unless they have a current LBA license in Michigan.

Since licensure is required for behavior analysts to practice in Michigan, regardless of whether someone has a BCBA-D or BCBA certification, the term that will be used throughout the remainder of this document will be LBA. Similarly, those with a BCaBA certification are eligible to be licensed as well and will be called licensed Assistant Behavior Analyst (LABA) throughout the remainder of this document. There is no licensure for RBT in Michigan currently, so they are considered “unlicensed persons.” However, although unlicensed, an RBT must meet the requirements stated above, including passing a credentialing exam.

Section 2: Determining Need and Appropriateness of ABA Therapy During the School Day

ABA is utilized across a variety of settings such as clinics, homes, hospitals, and public schools. Children spend a significant portion of their day in school. According to the federal Individuals with Disabilities Education Act (IDEA), 34 CFR 300.11 (C)(1), the legal definition of school day is “any day, including a partial day, that children are in attendance at school for instructional purposes”. This definition applies to all children in school, including children with and without disabilities. Furthering the school day requirements of the IDEA, the law in Michigan governing compulsory attendance requires a child age six to sixteen to attend school during the entire school year, except under the limited circumstances specified in subsection (3) of section 380.1561. The goal of education is to guarantee equal opportunities for all children, and prepare children to become independent, positively contributing members of our society. School districts work tirelessly to improve student outcomes and school personnel want students to be successful in school on a daily basis so they achieve the overarching goal of education. Collaboration between various certified and/or licensed staff in schools (e.g., psychologists, social workers, occupational therapists, physical therapists, speech and language pathologists) on behalf of academic and social/emotional progress of students is common and necessary. LBAs have specific knowledge and skills that can be used to promote student success in school and therefore can positively contribute to a school team and impact educational benefit and student outcomes. Provision of ABA in the School Setting

In 2019, the Medicaid Caring 4 Students expansion included reimbursements for BCBA and BCaBA positions (referred to as LBAs). Since that time there has been a steady increase in the number of schools that have hired LBAs to perform a variety of tasks, such as assisting with the implementation of positive behavior supports, assessing response to intervention, training on



the multi-tiered systems of support, or other systemic change programs. LBAs may provide professional development and coaching therapy for parents, teachers, or other professionals. LBAs may also be responsible for assisting teams in conducting functional behavior assessments, designing behavior support plans, developing a data collection system, and interpreting the data. In some cases, where the IEP Team determines necessary, an LBA may provide direct ABA therapy to a student with an IEP. For example, when a student's behavioral repertoire demonstrates complexity beyond the scope of competence of the school team, an LBA may be contracted to develop a school-specific FBA/BIP and directly monitor its implementation. This may continue until the behavior change is generalized to the school staff.

There is a distinction between ABA techniques or strategies and ABA therapy. ABA techniques or strategies are the methods used by multiple professionals in various fields. Many teachers may use several ABA strategies such as reinforcement, modeling, prompting, visual supports, and others. The IDEA mandates IEP teams to use evidence-based practices to the maximum extent appropriate to an individual student, therefore utilizing research-based strategies from various fields is common in education. For example, although speech language pathologists have great expertise in communication strategies, communication is something that can and should be taught, modeled, and reinforced by everyone working with a particular child. Yet there are some specific therapy or supports requiring specialization, such as amelioration of stuttering or learning mouth shapes to produce sounds missing or misspoken by the learner that should only be provided by a speech language pathologist. This is similar with ABA. Evidence-based instructional strategies that come from the field of behavior analysis include, but are not limited to, reinforcement, modeling, task analysis or prompting which are widely used by many, including educators and parents. In fact, good instruction for all students includes the use of



these practices. However, the implementation of specific strategies by educators is an instructional decision and for students with disabilities, the professionals in the school district make informed decisions as to the instructional methods to be used with each student.

Just as discussed above with a speech and language pathologist, some aspects of behavior analysis are meant to be implemented by an LBA or under the supervision of an LBA. For some students, behavior analytic therapy and supports may be appropriate. If a student has been identified as having a disability under the *IDEA* (2004; IDEA), the members of the IEP Team will determine the appropriate therapy and supports the student requires to support the student's unique needs. ABA strategies and/or therapy may be considered by the team, if a student demonstrates behavior that interferes with the student's learning or the learning of other students. Therapy provided by an LBA may be considered or specific supports as determined by the IEP Team. This can vary, however, depending on the student, their individual needs, the environment, and the professionals working with that student. Ultimately, the therapy and supports provided through the IEP is an IEP Team decision and are outlined within the IEP document. ABA therapy by an LBA is not restricted to only students with IEPs. Behavior deficits and excesses are common across grade levels and a learner's needs may reach a threshold (e.g., a certain number of office referrals) for an LBA to collaborate with the school team. Academic engagement and social skill development and maintenance may be enhanced by introducing and using ABA strategies and/or therapy supported by an LBA.

LBAs may also provide in-direct therapy in a school that support students while not directly working with a student. For example, an LBA may analyze the data collected by the school team to identify a hypothesis for the behavior's function and assist with developing a behavior intervention plan (BIP) for the student based on the function of the presenting behavior.

The LBA's job could be to train all the staff members working with the student on how to implement the BIP. The LBA assists with monitoring the outcome of the plan, thereby not providing direct therapy to the student. LBAs may also provide consulting, training, or coaching therapy to a school or district. For example, if the school district wanted to improve their implementation of functional behavior assessments (FBA), the LBA could be responsible for reviewing and evaluating current FBAs, planning outcomes, and then training staff, coaching staff through the process to ensure fidelity of implementation, and evaluating the effectiveness of the FBAs and BIPs. Consulting, training or coaching behavioral therapy could be applied and utilized to improve socially significant behavior across a variety of school wide or district wide environments (e.g., reduce incidents on the bus or conflicts in specific areas such as cafeteria, hallways, or playgrounds, field trips, tornado/fire drills).

ABA therapy can be provided in a variety of ways, including by the school district as part of a student's IEP. They may also be provided by the school district as part of a programmatic or district-level initiative. Some students may receive ABA therapy privately outside of the school such as an outpatient clinic, or for-profit ABA organization. Therapy provided in a school setting and those ABA therapy provided in other settings (home, clinic, agency) may be similar or different depending on the goals for the student.

Education vs. Clinical or Medical Models

Many professionals that provide therapy in a school setting may also provide therapy in other settings. Examples of providers include speech language pathologists, social workers, occupational therapists, physical therapists, orientation and mobility specialists, and assistive technology specialists. Hospitals, rehabilitation centers, assisted living facilities, prisons, youth detention centers name a few of the many places these professionals provide therapy. What these



professionals recommend in the school setting may be different than what is recommended in other settings. For example, a physical therapist working with a child who has limited mobility in the school setting is going to focus on what that child needs to do to navigate their school environment. However, a private physical therapist may focus on many other areas with that same child that are important to other settings, such as the child's home. Imagine the different motor requirements needed to navigate a home bathroom setting with pump soap and a cotton towel for hand drying compared to the multi stall bathroom in the school setting with automated soap dispensers and air hand dryers. The goal of independent skills in the bathroom requires a larger set of skills than one setting demands. The refusal of a student to participate in physical, occupational, or speech therapies may require the input from an LBA to resolve the issue. The use of behavior analysis is similar. LBAs supporting students in a school are going to focus on what that child needs to do or learn in order to be successful in the educational setting. LBAs working privately may focus on many other areas of need so the child can be successful in other environments. A goal of independently completing household chores and tasks such as cleaning dishes, setting the table, raking the lawn, or carrying out the garbage may be unrelated priorities for the school setting.

The scope of professional practice for behavior analysts is potentially very broad and is not limited to age or disability. Some behavior analysts work directly with individuals with or without disabilities and address performance deficits or behavior excesses while other LBAs work in corporate settings to assist bank teller behavior reach a criterion of efficiency or increase production or attendance or even as personal trainers to address personal health and wellness goals. As previously mentioned, LBAs receive education and training in order to obtain their certification. While all LBAs are required to complete specific coursework and supervision

experiences, the way LBAs develop their specialized skills and knowledge in behavior analysis depends largely on the types of professional experiences they have. For example, some LBAs complete their required supervision in clinical or in-home settings using a more clinical or medical model, while others may complete their supervision in a public-school setting or other community setting. The settings where supervision of fieldwork hours is completed depends on many factors including, but not limited to, availability of a supervisor, areas of expertise, student preference, and availability of individuals and/or sites. These supervisory experiences directly influence the scope of the LBA's competence and behavior analysts are ethically bound to practice within their scope of competence (Behavior Analyst Certification Board, 2014). Scope of competence can be expanded through a learning and experience process and may include research, assessing what deficits need attention, and creating an action plan to build competency by education, training supervision, mentorship or other means (Behavior Analyst Certification Board, 2020).

As described earlier, an educational setting varies in many ways from a home or clinic setting. First, even the means in which therapy are obtained is often different. In many home or clinic settings, the individual and their family choose the types of therapy they want from what is available to them, through insurance or other means, as well as what is available to them geographically. If an individual and their family chooses ABA therapy, they then meet with the LBA provider who will develop a plan of care for that individual based on parental input and on the individual's needs in that setting, and what is covered by the funding agency, if there are regulations or policies. Additionally, it is important to note some insurance plans cover ABA therapy while others may not, resulting in private pay or no access to ABA. Qualifying for

insurance therapy with a medical diagnosis is different than meeting educational criteria and qualifying for special education therapy provided through the school district.

Following a referral from either a parent or school personnel that notes concerns with school performance, a school-based multidisciplinary evaluation team (MET) determines whether a student meets educational criteria as a student with a disability in need of special education and therapy. Upon completion of a full and individual comprehensive evaluation, the MET will make a recommendation of eligibility to the IEP Team and then the IEP Team determines eligibility. When the IEP Team determines the student is eligible, an IEP will be developed based on the student's unique education and behavior-related needs and the district will provide an offer of FAPE to the parent. The IEP and offer of FAPE must include appropriate goals to address the student's needs and supplementary aids and therapy, including accommodations that will provide access to general education peers and the general curriculum. The IEP will include therapy and programs necessary for the student to receive an educational benefit and to make progress appropriate in light of that child's circumstances, which is the FAPE standard established by the United States Supreme Court. *Endrew F. v. Douglas County School District RE-1*, 137 S. Ct. 988, 197 L Ed. 2d 335, 349 (2017). See also Questions and Answers on *Endrew F. v. Douglas County Sch. Dist. Re- 1*, December 7, 2017 (US Dept. of Educ.).

In addition to how therapy are obtained, further differences often lie in targeted skills. For example, educational settings target academic goals associated with the state standards and other goals that are required to ensure a student is successful in the educational environment. Private providers consider goals that target areas needed to ensure that an individual is successful in the setting where they serve the child. For example, for insurance to cover ABA therapy provided by

a private provider, it must be considered medically necessary, and the goals must target deficits associated with the disability or condition for which they are receiving therapy. In the case of a child with autism spectrum disorder (ASD), for example, the goals would have to target the deficits associated with the diagnostic criteria for ASD (Kornack, 2019). However, with students who have significant impairments or complex needs, there is potential overlap in some of these skills such as teaching communication skills.

Medicaid funded ABA therapy are provided for medically necessary therapy based on the Individual Plan of Service (IPOS). Recent changes by Center for Medicaid Services (CMS) allows Medicaid to be the payer of first resort for IDEA services. For non-IDEA services, Medicaid remains the payer of last resort. When ABA therapy is provided in schools for individuals who have been determined to have a disability under the IDEA or Section 504, coordination must occur to ensure ABA therapy are supplementing and not supplanting education.

Another factor to consider is that schools are very different environments from home or other settings. There are typically multiple students in a classroom. These students all have their own strengths and needs. If a student is served in a special education classroom, each student in that classroom will have an IEP that is developed to meet their individual needs. While most students in general education settings do not have IEPs, it is common for *some* students in general education settings to have one. Most students with IEPs are served in the general education setting, which the IDEA presumes to be the least restrictive environment (LRE). The classroom setting has different distractions than at home or other settings too. Therefore, it is not unusual for children to display some different behaviors in school and at home.

Additionally, there is a different structure in a classroom. Classrooms typically have rules and routines that may differ from home or other settings. For example, at home, children typically can use the restroom when needed, but at school, students may be required to ask permission before using the restroom. At school, children may need to raise their hands if they wish to comment on something whereas in other settings, this is typically not required. In addition to rule differences, there are frequently schedule differences. At school, there is usually a set time for eating, playing, working, and other activities. At home, this schedule may not be as rigid and even if it is, it may not be exactly the same as the school schedule.

Finally, sometimes children will engage in certain behaviors in one setting but not in another. For example, a child may not eat at the table at home but may do so in the school setting. Conversely, a child may put their toys away at home but may not be willing to do so at school. Sometimes just being around peers can motivate a child to behave differently in school than at home, or being at home is a more comfortable setting for a child, so they behave differently at home than at school.

Understanding the strengths and constraints experienced in a school setting can aid in planning as well as support generalization. By understanding what works at home may not work the same way at school and what works at school may not work the same way at home or in other settings, parents and professionals are better situated to create a more comprehensive plan that can support the child to be successful in all environments.

Requests for Therapy Outside of the IEP

The school district is responsible for determining who may or may not enter the school building by way of a visitor policy and that protocol must be followed. School districts maintain discretion regarding authorizing parents and/or other professionals not employed by the school

board to observe active classrooms in which other students are present. Michigan is a local control state so each district will have its own policies. Responsibility for the supervision of the day-to-day management and operations of the school itself rests with the principal. This responsibility encompasses issues such as maintaining classroom environments that are free from disruption and providing a healthy, safe, and inclusive learning environment. Accordingly, principals maintain discretion in determining how, when, and if individuals from outside the school district may interact in classrooms.

As a matter of FAPE, the school district is responsible for implementing the IEP and providing the therapy determined appropriate by the IEP Team. The IEP Team's obligation is to consider requests only as they pertain to the needs of the individual student and are necessary to provide FAPE. The IEP Team may not deny therapy for administrative convenience, for lack of provider, or for costs associated with a service. If the IEP Team determines a service is necessary for FAPE, it is the school district's responsibility to provide the service. This means that an IEP Team may determine the need for an LBA to work directly with a student or indirectly with the student's school team in consideration of the student's schedule of instruction, therapy, extracurricular activities, and other events. The IEP Team may determine the need for an LBA to complete specific time-limited tasks or goal-based activities and engage with students and/or other professionals. Under the circumstances in which the IEP Team determines the need for educational goals that are provided by an LBA, the LBA may be an employee of the school or, if the school does not employ an LBA, the school would be required to contract with an LBA to provide therapy in the school, during school hours, as part of the student's FAPE.

In some cases, students may receive private ABA therapy that are not part of an IEP because the IEP Team determined ABA therapy were not necessary for FAPE. In cases in which

a doctor or other provider has determined medical necessity for ABA therapy, there can and should be a coordination of therapy with the school district so the child can access the ABA therapy they are entitled to and maximize their school day. However, although school districts have an obligation to provide a full school day, a district is not required to provide a place for an outside provider to provide ABA therapy. This therapy may be funded through private insurance, the parents, or other sources. Typically, these therapies do not address academic skills, but focus on communication, independent living, and challenging behaviors. In some instances, parents may schedule this therapy outside of the school day. In other cases, parents have opted to remove students out of school for these medically determined service appointments. A student with a disability is entitled to a full school day like their non-disabled peers. A district must never be required by a parent or physician to reduce a student's school day so a student can attend private ABA therapy. Doing so will result in a denial of FAPE and a violation of the child's civil rights. Parents who chose to remove their child from school to attend private ABA therapy will need to excuse their child following a districts attendance procedure.

Although parents may request to have some private/medically related ABA therapy provided during the school day, in the school building, doing so offers some advantages and also creates challenges. Providing ABA therapy in the school can help with generalization of skills and assist with the alignment of treatment plans, classroom strategies, and IEP goals. However, the inclusion of additional providers in a classroom may be disruptive to the school day or other students and may affect the educational therapy the student receives. Additionally, there should be consideration of IDEA confidentiality provisions, *Health Insurance Portability and Accountability Act* (HIPAA) and the *Family Educational Rights and Privacy Act*. (FERPA) before additional providers may join a classroom.

When a request is made for a student to receive private/medically related ABA therapy during the school day, in the school building, the school team may pursue several options.

1. For a student with an IEP, the district should convene an IEP Team meeting to review data and student needs and determine whether school-based ABA therapy are necessary for the student to benefit from special education and receive a FAPE.
 - If the IEP Team determines school-based ABA therapy are necessary, the team must revise the IEP to include the level, duration, and frequency of the school-based ABA therapy and then the district will provide an updated offer of FAPE.
 - If the IEP Team determines school-based ABA therapy are not necessary, the district must provide the parent with prior written notice that includes the option(s) considered and the reason(s) not selected, as well as any other factors that contributed to the reason for not selecting.
2. For a student with a Section 504 Plan, the district should convene a 504-team meeting to review data and student needs and determine whether school-based ABA therapy are necessary for the student to access general education and receive a FAPE.
 - If the 504 team determines school-based ABA therapy are necessary, the team must revise the 504 Plan to include the level, duration, and frequency of the school-based ABA therapy and then the district will provide an updated offer of FAPE.
 - If the 504 team determines school-based ABA therapy are not necessary, the district must provide the parent with prior written notice.

It is at the discretion of the school district as to who is the professional who provides the school-based ABA therapy determined necessary by the IEP or 504 teams. If the school district employs



an appropriately trained and licensed professional, they may use that individual. If not, the school district may follow its procedures for entering into a contract with an outside provider to provide the required school-based therapy. Communication between the parties may need to be outlined in terms of following school protocols and the sharing and reporting of data in response to the intervention.

1. For a student who does not require school-based ABA therapy, the district may consider allowing an outside provider to work within the school building under the conditions set forth in a memorandum of understanding (MOU) or other agreement.

- The school team (e.g., administrators) and providers may enter a MOU or contract outlining the arrangement for the delivery of on-site therapy, including IDEA, FERPA, and HIPPA requirements.
- The school, parents, and the provider should coordinate to address the variety of supports and therapy that the student may receive, guided by any school policy governing logistical considerations.

2. For a student who does not require school based ABA therapy, the district may deny the request to have an outside provider work with the school based on school district policy .


When is it appropriate to shorten the school day to provide ABA?

The purpose of the IDEA is to ensure all students with disabilities have available to them a FAPE in the least restrictive environment (LRE) that emphasizes special education and related therapy designed to meet their unique needs and prepare them for further education, employment, and independent living. 34 CFR §300.1(a) Schools have a fundamental obligation under the IDEA to provide a FAPE in the LRE to all students, no matter the severity of their disability. IDEA's implementing regulations define school day as any day, including a partial

day, that students attend school for instructional purposes. School day has the same meaning for all students in school, including both those with and without disabilities. 34 CFR §300.11(c) (MDE OSE Shortened School Day Guidance, 2022).

For students who do not have an IEP and who require medically necessary ABA therapy which are not provided by the school, ABA therapy is typically provided outside of the school day. In some circumstances this therapy may be provided during the school day, which would require the student to be excused from school. For ABA that is recommended to continue for more than a few days, a shortened school day request may be considered. For example, a child who presents severe behavior when transitioning to kindergarten it may be that the impact of ASD is preventing meaningful engagement in educational opportunities. A collaboration with the whole treatment team could improve this child's access to education.

For students with an IEP, a parent can request an IEP Team meeting to discuss and consider the need for a reduced day. School districts have an obligation to respond to a parent's request for an IEP Team meeting within 10 days. The district must either grant an IEP Team meeting or deny the request and issue prior written notice. Before determining the need to shorten the student's school day, the IEP Team must consider all possible ways to meet the needs of the student. This includes, but is not limited to, additional instructional and/or behavior supports, increased program and/or service time, and/or a positive behavior support plan. According to *Positive, Proactive Approaches to Supporting the Needs of Children with Disabilities: A Guide for Stakeholders*, "The IEP Team should determine what targeted, individualized interventions and supports are necessary. Under most circumstances, a shortened school day should be in place for only a limited amount of time."



In general, a school day for a student with a disability should not be shorter than a school day for students without disabilities. When a student's IEP Team determines a student needs a shorter school day, appropriate modifications must be incorporated into the IEP to ensure the student receives FAPE in the LRE. When an IEP Team determines the need to shorten a student's school day, the student's IEP should include:

- An explanation of why the student's unique disability-related needs require a shortened day (34 CFR 300.320(a)(1)).
- A clear explanation of the unique need or skill gap prohibiting the student from attending a full day of school (34 CFR 300.320(a)(4) and (5)).
- A clear connection to the growth and progress expected to be achieved by shortening the student's school day (e.g., the student is expected to recover from the physical or medical condition with rest and medical treatment). 34 CFR 300.320 (a)(3).
- A plan for the student's return to school for a full day, which may include a plan to meet more frequently to review student data and determine whether the student is able to return to school full-time. 34 CFR 300.114.

The student must return to a full school day as soon as they are able, affording a student a full educational opportunity as required by 34 CFR 300.109. ([MDE OSE Shortened School Day Guidance, 2022](#))

Section 3: Considerations Regarding Personnel Who Provide ABA in the Public School

Education is a team endeavor. There are many differences in the expertise of professionals in a school environment such as school psychologists, speech language pathologists, occupational therapists, orientation and mobility specialists, assistive technology specialists, among many others. LBA professionals specialize in the science of behavior and can be an invaluable resource if a student requires this type of support.

There are differences between LBAs who school board employees and those are who are private providers who are contracted to work with the school. Schools may consider the use of either or both depending on their needs and the availability of LBAs in their area.

School Contracted LBAs

If an LBA is a private provider contracted to work with the school district, the contract in place will define the role, scope, and duration of the professional relationship. For example, a private LBA may be hired to conduct a functional behavior assessment (FBA) and assist the team with developing a behavior intervention plan (BIP) but once that is done and staff have been trained on the BIP, the relationship between the school district and the private LBA may end. School districts typically have policies and procedures for contracted workers, which will also address confidentiality. School districts are encouraged to review these policies to ensure they meet their needs regarding private providers who are LBAs.

Privately Contracted LBAs

If a parent has privately contracted with an LBA to provide therapy for their child, the parent might request the LBA to observe or participate in an IEP Team meeting. A parent has the

right to invite anyone to an IEP Team meeting without prior approval from the district.

However, in the spirit of collaboration and for the benefit of the child, it would be best for a parent to inform the district in advance of who will be attending and their role. A parent may also ask for ABA therapy to be provided during the school day. For students with IEPs, the district is obligated provide a full school day and may only reduce a student's school day when the student's IEP Team determines the student requires a reduced day. A physician statement prescribing a reduced day for the purposes of ABA therapy during school hours must be considered by the IEP Team but is not required to be adopted by the IEP Team. FAPE is determined by an IEP Team, not by a physician.

An LBA who has contracted with a parent may reach out to the district to seek verification of the generalization of skills and ask for the school to collaborate on data collection or permission to take data. The district must have a release of information, signed by the parent, on file to collaborate with the LBA. The LBA request may be for indirect service with the school staff or direct service with the student and is not a request for the school district to provide the therapy. However, the school district is responsible for ensuring the confidentiality and safety of its students and therefore has the authority to determine who enters school buildings. A district should have policies regarding visitors and professionals who are not employees of or contracted by the school district.

School District Employed LBAs

Alternatively, a school district may hire an LBA as a district employee. In this case, the LBA is part of the district and has an ongoing professional relationship with school staff.



Considerations

Regardless of whether a school district is using their own LBA, contracting with outside LBAs, or permitting an outside LBA who is not paid by the school system to work with a student in the school, it is important for these professionals to understand how school systems work and the legal, ethical, and practical implications of practicing ABA within a school system. This includes clear guidelines on access to the student, student data, and safety protocols within school buildings.

Role of the IEP Team

If you are working with students who have been identified as having a disability and are receiving special education therapy, then the student has an IEP Team. The responsibility of this team is to design a specialized program that meets the unique needs of each student. The members of the IEP Team determine appropriate supports and therapy that will afford a student with a disability a FAPE. It is possible that the team may determine the student requires supports and therapy provided by an LBA. These supports and therapy could be in the form of direct therapy, consultation to team members, or something else as determined by the IEP Team.

However, LBAs can also provide therapy in school districts that are not student specific. For example, an LBA could be part of a variety of district initiatives (e.g., multi-tiered system of behavior supports, increasing social skills and game-playing skills during recess) or may be hired to provide programmatic support rather than student specific supports. In this case, the LBA may not be part of a student's team and may not be documented in an IEP.

Another possibility is that parents request the therapy of an LBA for their child. In this case, the IEP Team would convene to determine the appropriateness of the request, as they would with any parent request for therapy. The process should follow applicable policies and

regulations for IEP Team meetings, and the decision of the request should be documented in prior written notice. If a student is not receiving special education therapy, the administrator(s) may consider the request for the provision of ABA therapy by a private provider. However, the school board has the final say regarding allowing outside providers into the school setting and should follow their policies regarding visitors and/or outside providers.

If the parent is requesting a private LBA to provide therapy or supports to a student during school hours, the school district and, as appropriate the IEP Team, should consider the following:

1. What is the purpose/goals of the therapy being provided by the LBA?
2. If the student does have an IEP, does the IEP Team need to convene and review the IEP?
3. Are the needs of the student currently being met through an IEP?
4. Is there a behavior excess or skill deficit interfering with access to the curriculum?
5. Is a current behavior plan in place and not yet yielding the desired change?
6. If the student does not have an IEP, is there reason to suspect a disability and conduct a comprehensive evaluation?
7. What is the duration and frequency of the proposed ABA therapy provided in the school setting?
8. How will the provision of therapy by a private LBA in the school setting impact the student's typical instruction and/or the instruction of other students in the classroom?

Regardless of the IEP Team's decision, it is highly recommended that the discussion and decision be documented through prior written notice. If the IEP Team determines ABA is not appropriate or required for a student to receive FAPE, the school district may still permit the ABA therapy to be provided by the outside provider at the cost of the parent while coordinating therapy in the school, or the school district may determine they will not permit the outside provider into the building to work with a student and provide reasons for their decision.

What if the Team Disagrees?

If a team disagrees about the provision of ABA therapy, the IEP Team should follow the same procedures they would about any disagreement during an IEP meeting. Options such as a facilitated IEP meeting, mediation or due process are available, as they would be for other disagreements between the school district and the parent. However, teams are highly encouraged to work together to try to resolve disagreements and support the student so they receive FAPE. Regular and frequent communication regarding the needs of the student, current therapy, and strategies to support the student, and assisting everyone to understand and be part of the decision-making process can aid in resolving disagreements early.

Policies

It is recommended that school districts review applicable policies on visitors and/or volunteers in the school district. School districts may want to revise their policy to include the provision of therapy by private providers if they do not already exist.

When reviewing the policies on allowing private providers to enter the school building, school districts may want to consider the following:

- Does the existing policy cover outside, private providers?

- Does the school district require a MOU, memorandum of agreement (MOA), or other contract with private providers prior to entering the schools?
- What training is required of private providers prior to entering the school?
- What requirements are in place to ensure confidentiality of all students is met?
- How does the school district inform the private provider about child abuse and neglect reporting requirements?
- Is there a process in place for how and to whom the private provider and/or the school district to report concerns or share information?

Concluding Thoughts for School District Considerations

Having outside providers in the school building can pose some challenges to school personnel but these individuals can also provide additional perspective, valuable information, and expertise to support improved student outcomes. As school districts are deciding how to appropriately support students, educators, outside providers, and parents, it is important to remember to be student focused.

Section 4: Financial Responsibilities of Personnel Not Employed by the School who Provide Therapy

School districts have the right and responsibility to set policies and procedures related to their hiring and retention of personnel. When it comes to outside providers providing ABA therapy, school districts should follow policies and procedures already in place related to outside service providers.

Considerations for School Districts

If the school district permits an outside provider to provide ABA therapy within the school building, the school district should consider their financial responsibilities. The school district should consider including in any agreement what, if any, payment would be made by the school district to the outside provider. If no payment is to be provided by the school district, the school district should document this. The school district will also want to consider existing policy related to liability or other potential costs to the school district. The school district may consider requiring an outside provider to keep their own liability insurance, for example. The school district may also want to specify the financial relationship should the outside provider become injured while on school premises.

Ultimately, it is a school district's decision as to what financial arrangements are or are not agreed to with an outside provider. However, it is recommended to consider this prior to the onset of therapy and to document either through a contract, MOU, or MOA.

Section 5: Developing Agreements Between School Districts, Providers, and Families

School districts who agree to permit outside providers into the school building for the purpose of providing ABA therapy should consider developing a written agreement or contract with the provider. Districts may choose to document conditions under which the external LBA may provide therapy with the family as well.

Contracts, MOUs, MOAs

Depending upon school district policy, it is recommended to have a contract, MOU, or MOA with external LBAs. This ensures everyone has the same understanding and expectations of a private provider in the school setting. School districts will likely want to confer with their school board attorneys in the development of such contracts. However, here are some general considerations school districts may consider when developing a contract to be used with private ABA providers, which may include the LBA, LABA, or Registered Behavior Technicians (RBT) or Behavior Technicians (BT):

- Allowable roles/responsibilities of the private provider
- Insurance requirements required of the private provider
- Training required of the private provider before entering the school and ongoing while providing therapy
- Maintaining confidentiality of all students
- Procedures for entering/exiting the school
- Procedures while in the school setting
- Point of contact for the private ABA provider to report concerns

- Potential reasons for restricting access to the school
- Conditions for terminating the contract

Training

It is important for school districts to recognize LBAs are trained in behavior analysis. It is possible they have additional training in education or other areas, but this is not a requirement to become a behavior analyst. Therefore, school districts may consider requiring training of LBAs before permitting them to provide therapy in the school setting. This may include content in special education processes, child abuse and neglect reporting, collaborating with school teams, and/or processes and procedures of the school district.

Mental Health Parity and Addiction Equity Act

The *Mental Health Parity and Addiction Equity Act of 2008* (MHPAEA) provides a level of equity for mental health and substance abuse therapy. Specifically, group health insurance providers cannot be more restrictive than medical benefits or provide less favorable limitations of benefits for mental health or substance abuse disorder than they do for medical benefits. While the law does limit the restrictions insurance companies impose on lifetime and annual dollar limits, it does not require insurance companies to provide benefits related to mental health or substance abuse disorder. These provisions also apply to the Medicaid and the Children's Health Insurance Program. To determine whether a child is eligible for such therapy under their health insurance, individuals are encouraged to contact their provider directly.

On September 5, 2019, the Department of Labor provided a frequently asked questions document that clarified ABA is an included service under the MHPAEA if the condition ABA is being used to address is covered. For example, ABA meets the criteria set forth as a treatment for autism. If autism were a covered condition by the insurance company, ABA would be a covered

benefit. Although ABA is an effective treatment for behavioral symptoms related to autism, it is not limited to individuals with an ASD diagnosis. There are instances where behavior challenges or skill deficits impede access to learning without having an ASD diagnosis.

Therapy funded through insurance, such as ABA, should be provided in the child's natural environment if possible, and for most children, that includes school. It should be emphasized, however, that just because insurance companies cannot deny ABA therapy provided in the school as described herein, this does not require the school district to allow such therapy to be provided in the school building. The authority for who enters the school building lies with the school district and each district should follow their policies regarding outside providers and/or visitors.

Recall, if a child is found eligible for special education therapy under the IDEA and a service is required for a student to receive FAPE, then the onus of providing the service falls upon the school. Yet, an IEP Team may determine a service is not required for a child to receive FAPE. Regardless of the IEP Team's decision, the parent might decide to seek ABA therapy from a private provider on their own. In cases where the team agrees ABA is not required for FAPE, but the parent requests ABA therapy be delivered by the outside provider in the school environment, the school district should follow its policies regarding outside providers and/or visitors in the building. The MDE strongly encourages school districts and parents to discuss the costs and benefits of the provision of ABA therapy during the school day and to document such conversations.

If the school district agrees to allow the provision of therapy during the school day, it is recommended that school districts and providers develop a MOU that address the roles, responsibilities, and expectations of each party. The MOU should:



1. Clearly outline the goals being addressed through the LBA.
 - a. Clarity of the outcomes, strategies, and responsibilities of the LBA will help ensure that the therapist is working within their scope of practice and competency. This clarity will also help to ensure that the lines between the responsibilities of the school team remain defined by the IEP and the role of the LBA are defined by the student's plan of care.
2. Develop the channels of communication between the agency providing therapy and the school team. Developing a line of communication means each person knows whom to notify in the event of questions or concerns. This line of communication should include how the LBA will communicate their questions or concerns to the school team and how the school team will communicate regarding questions or concerns related to the LBA. Some questions or concerns may be addressed between the teacher, and some may require administrator support. Setting these expectations up front will help ensure that there are efficient channels for communication and help promote a student-centered support team.
3. School teams should clarify the roles of each team member to the organization providing ABA therapy and vice versa. Issues related to scheduling, identifying a space, and how school staff will monitor/supervise the therapy will depend on the building administrator and district policy.
4. Providers should clarify the supervisory structure and requirements of their staff. Many providers may use Registered Behavior Technicians (RBT) or Behavior Technicians (BT) to provide therapy in the school. The ABA provider should provide information to the school related to the role of each of their employees and how these

roles differ. For example, if a company is utilizing RBT/BTs to provide a service, they must communicate to the school team that an LBA will be supervising the RBT/BT(s) and that includes required observations on an ongoing basis, which will require access to the school building. If the RBT/BT is providing direct therapy, communication channels should be clearly identified for this role as well so the school personnel and provider understand how, when, and to whom communication will occur.

5. Communicate the roles of each team member with the student and family. Clearly defining the responsibilities will help all team members understand the roles of other team members. For example, if an LBA is providing direct therapy to a student, while assessing the environment is part of that process, their role is not to evaluate the job performance of the school team members, unless specifically addressed in writing with the school district. The reverse is also true.
6. Outline, as specifically as possible, the day-to-day expectations of the individual providing the service in the school. This may include sign-in procedures, the space in which they will provide therapy, timeframes for providing therapy, any supervisory requirements from school staff, how supervision will be provided by the private agency, and any other pertinent factors. It is critical that therapy provided during the school day are scheduled to allow the school to provide the educational therapy outlined in the student's IEP, and this responsibility should take priority. Even if the student is not receiving special education therapy, scheduling of therapy is important in order to ensure students are not missing critical instruction.

7. Describe the importance and expectation of confidentiality of the student receiving therapy as well as other students the provider may encounter. Agreements between service providers and schools should include a statement that all parties will abide by the requirements of HIPAA and FERPA.
8. Describing the criteria for concluding the MOA/MOU contract. Time limited to semester with consideration for renewal based on data, or data indicates the goal of the ABA service is met or behavioral data over a period of time indicates lack of expected progress.

Receiving additional therapy during the school day can result in the benefit of skill development in the student's natural environment, which can assist with generalization. Additionally, this could enhance teacher and provider communication to help ensure a level of continuity in interventions. There are impacts that teams must explore when considering the provision of ABA therapy during the school day. For example, teams must consider what activities or instruction may be missed while receiving therapy.

Questions to Consider Regarding the Provision of ABA Therapy During the School Day

1. Where will the session occur? What time of day?
2. What responsibilities does the school staff have during the sessions? Does a school employee need to supervise during the sessions?
3. How/when will training of school staff occur to move the LBA from direct to indirect to no longer needed?
4. What, if any, therapy, activities, opportunities will the student miss if provided the service during the school day?

1. How will communication occur between the service provider, teacher, school administration, and family?
2. What are the specifics for transition planning and how is this communicated?
3. What circumstances would lead to the reduction or removal of ABA therapy (e.g., chronic absences, etc.)?
4. How frequently will communication between the school team and provider occur?

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Section 6: Utilizing LBAs Employed by the School Board to Provide ABA Therapy

School districts may consider hiring their own LBAs to provide ABA therapy and supports throughout the school district. LBAs have specialized knowledge and expertise in the area of behavior and can support a myriad of initiatives as well as varied populations within the district.

School District Employed LBAs

While there is a cost involved in this, there are many benefits of hiring an LBA to work in the district. First, the school district may utilize LBAs to assist with student behavioral needs across the district. Importantly, the LBA can participate in school wide and district wide initiatives where their expertise can facilitate systemic change that can have a larger impact for the district and their students. The LBA can assist in providing training and support to other staff members to improve behavioral supports in the district. Finally, having an LBA can open the door for growing additional LBAs in the district. LBAs who meet the criteria set forth by the BACB® are able to provide supervision experiences for others who wish to become an LBA and are taking the coursework to do so. Districts may consider investing in growing their own LBAs as this provides additional expertise for the district, but it also leads to LBAs who have school experiences, understand the school district and how schools work, and can be effective change agents within the framework of a public school system.

Many districts throughout Michigan have already seen multiple benefits of hiring LBAs to work in their district. Beyond the many roles an LBA can take, benefits of hiring an LBA to work in the district could include increased staff knowledge and expertise, improved teacher performance in evidence-based practices, reduced suspensions, and expulsions, and reduced out

of district placements. LBAs are proficient in data collection and analysis, which can lead to better data-driven decision making as well. All of these factors could, in turn, reduce costs to districts over time.

Concluding Thoughts

Utilizing LBAs in a school district can have tremendous benefits. LBAs have specific knowledge and skills related to behavior and interventions. Including LBAs as part of school teams can build capacity in the district and reduce reliance on outside providers.

Whether a school district employee or a private provider is providing the supports and therapy, it is critical to ensure the student remains the center of the discussion and to ensure the student can receive FAPE. School districts should also ensure strong communication and training with the family as a priority.

Section 7: Considerations for Private Providers Who Wish to Provide Therapy in Public Schools

As a private provider, understand that schools are, first and foremost, institutes of learning. LBAs and school personnel share that focus. The chief function of a school is to provide students with an education. The *Revised Michigan School Code* contains specific regulations that must be followed by school personnel to ensure student safety and appropriate educational practices. In the case of students who have been identified as having a disability and receiving special education therapy, there are many additional federal regulations and state rules that school personnel are required to follow. Regulations and rules are then converted to policies and procedures that providers will follow to achieve a successful working relationship with the school district. Adhering to district policy, procedures, and practices is required for all external providers such as substitute teachers, bus drivers, cafeteria workers, and custodial staff.

Regardless of regulations and rules that must be followed, educators want their students to be successful. School districts are ultimately responsible for the safety and education of all students; therefore districts will likely have policies and procedures that providers will need to be familiar with and follow in order to have a successful working relationship with the school district.

There are some important considerations for private providers to help form collaborative and successful working relationships in a public, non-public or home-school setting.

School District Policies

There are likely school district policies related to any non-school district employees who enter the school building including volunteers, parents, and private providers. It will be important



for LBAs to know what these policies are to be able to follow them. Each school district has the authority to decide whether external providers are allowed in their buildings and under what conditions. When an LBA begins therapy in a public school, it is helpful to ask about school district policies related to external therapy. It is recommended that the LBA ask for the policies in writing to ensure they are understood.

School district policies will vary by school district. School districts may require that the LBA to complete specific training, provide proof of insurance, or sign forms such as a contract or confidentiality agreement. These types of agreements are designed to protect the school district and the LBA.

Understand Your Role

As a private provider who is serving a specific student, the role of the LBA is to serve that student. Behavior analysts are trained to observe and evaluate the environment and the teacher is part of that environment. However, the LBA is not there to evaluate the job performance of the teacher or other educational staff unless specifically outlined in a contract or MOU with the school district. It is also not the intent of the LBA to provide recommendations about or provide therapy to other students even if requested by school staff due to issues of confidentiality. According to the Ethics Code for Behavior Analysts (2020), the BACB has recognized the importance of responsible practice. Specifically, stating: “Behavior analysts provide therapy only after defining and documenting their professional role with relevant parties in writing” under Section 1.04: Practicing within a Defined Role. This is further emphasized in Section 1.05: Practicing within Scope of Competence which states, “Behavior analysts practice only within their identified scope of competence”.

Scope of Practice

Given the broad scope of practice that behavior analysts may have, it is likely that within an IEP Team, there will be overlap in scopes of practice between the behavior analyst, classroom teacher, social worker, speech language pathologists, occupational therapists, and other professionals. Depending on the role the behavior analyst serves in the district, they may be operating under multiple scopes of practice themselves. For example, speech language pathologists work under a scope of practice provided by the American Speech-Language-Hearing Association. Behavior analysts may be subject to scopes of practice from national organizations (Behavior Analyst Certification Board), state licensures (Board of Behavior Analysis), and other disciplines (psychology, education). Given these opportunities for misunderstanding the role of the behavior analyst, it is important that the behavior analyst has a clearly defined scope of practice as defined in a MOA/MOU well as defining their role and responsibilities to the team.

Many Factors Determine Instruction

The IEP is the guiding document for educational programming for students receiving special education therapy. In a home or clinical setting, the LBA may be responsible for a child's plan, or may work with a small team. In the school setting, students receiving special education therapy have an IEP Team. The IEP Team includes the student (when possible), the parent(s), a special education teacher, an administrator, a general education teacher, and someone who can interpret the instructional implications of evaluation results (evaluation representative) and may include others who have knowledge of the student such as other related therapy personnel and/or paraprofessionals. This team will develop an IEP which will guide the educational team in their



supports and therapy for an individual student. However, other factors guide instructional decisions.

Concluding Thoughts for Private Provider Considerations

As a private provider, an LBA will have a wealth of knowledge and skills in their area of expertise. Depending on how they approach the working relationship with the school will impact how well their knowledge and skills will be received. Understanding their role, including the boundaries of that role, and ensuring they stay student-focused while also understanding the school environment, can help to create a lasting partnership with a school district that can be beneficial for the LBA, the school, and most importantly, the student.

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Section 8: Working Collaboratively

One of the chief ingredients for success is successful collaboration. “Any project that encompasses different specialties or jurisdictions needs to coordinate activities to achieve the greatest effectiveness,” (Health Professions Network Nursing and Midwifery, 2010, p. 19). It is important for all professionals and family members supporting a student to remember the student is the focus of the work. The following are important considerations for everyone working to support a student to be successful.

Understanding Roles and Responsibilities

Everyone who supports a student has a specific role and responsibilities to that student. The parent(s) have a specific role and responsibilities just as the teacher, the speech language pathologist, and the private provider, if these people are part of the team. It is important for everyone to know their own role and responsibilities and to understand each other’s roles and responsibilities. This can reduce confusion and misunderstandings in the future. In addition, by optimizing the skills of each individual, the team can be strengthened and produce better outcomes (Health Professions Network Nursing and Midwifery, 2010).

Communication

Communication is the key to any successful collaboration. Defining the mode, frequency, and the content of the communication will help improve successful collaboration. It is particularly important to consider a chain of communication or assigning a key person for outside providers to contact. “Collaborative practice is effective when there are opportunities for shared decision-making and routine team meetings” (Health Professions Network Nursing and Midwifery, 2010, p. 29). By having frequent, clear communication, misunderstandings and

challenges that occur can be handled before they grow into large barriers and the student will benefit and be more successful.

Working through Challenges and Constraints

Schools have challenges and constraints just like all environments. For example, if you take your child to the park and your child does not like the type of swings there, the park is constrained in that it only offers one or two types of swings. In the school setting, there are multiple children present, there are only so many hours in the school day, and the school building is only so big. However, educators typically work through challenges that exist in order to support student success. Now, more than ever before, educators are being asked to work through challenges and they are successfully developing new ideas and strategies that support students academic, social-emotional and behavioral needs. Together, educators and private providers can work to identify and resolve challenges and constraints that exist. Educators will need to be open to new ideas and potentially new ways of doing things and private providers will need to understand there are multiple means to an end and not only be aware challenges and constraints of educational settings, but also actively seek to understand them. With both groups of professionals working together, the student will benefit.

Ethical Practice

It is important for administrators and educators to understand that LBAs are held to an ethical code. The BACB® has a [*Professional and Ethical Compliance Code for Behavior Analysts*](#). This ethical code dictates the professional behavior of behavior analysts and covers many topics including service provision, responsibility to individuals, responsibility to the profession, responsibility to colleagues, and other topics. LBAs must follow this code of ethics or there can be consequences applied that range in severity but, for significant infractions, could

include loss of their credentials. While educators may be familiar with ethical codes or even subscribe to one, there is no ethical code that is universally applied to all educators. Because of the ethical code for behavior analysts, LBAs must remember not only their responsibilities to their jobs, but to their profession as well.

Conclusion

The information included in this guidance document was gathered from a variety of sources and individuals practicing as educators, behavior analysts, or both. While this guidance document is intended to provide information and recommendations to support successful collaborations between educators, behavior analysts, and the families with whom they work, ultimately good communication and collaboration cannot be mandated. Thus, MDHHS and MDE encourage professionals and parents to remain student-focused and strive to work together.

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Appendix A

Common Acronyms

ABA - Applied Behavior Analysis

ASD - Autism Spectrum Disorder

BACB - Behavior Analyst Certification Board

BCaBA - Board Certified Assistant Behavior Analyst

BCBA - Board Certified Behavior Analyst

BCBA-D - Board Certified Behavior Analyst - Doctoral

BIP - Behavior Intervention Plan

BOE - Board of Education

BT – Behavior Technician

FAPE - Free and Appropriate Public Education

FBA - Functional Behavior Assessment

IDEA - Individuals with Disabilities Education Act

IEP - Individualized Education Program

LABA - Licensed Assistant Behavior Analysts

LBA - Licensed Behavior Analyst

LEA - Local Education Agency

LRE - Least Restrictive Environment

MOA - Memorandum of Agreement

MOU - Memorandum of Understanding

RBT - Registered Behavior Technician

SOQ - Standards of Quality

MDE - Michigan Department of Education

