

LBAB STATEMENT REGARDING RE-OPENING OF ABA CLINICS

On April 20, 2020, the Louisiana Department of Health (“LDH”), Office of Public Health issued Healthcare Facility Notice/Order Notice #2020-COVID19-ALL-010, which provided guidance to all healthcare professionals licensed or certified by any board that it under LDH. The LBAB is under LDH, licensees and certificate holders are directed to follow the guidance of LDH regarding the provision of healthcare services, and whether those services may be provided in person or by telehealth. LDH has directed that all healthcare providers continue to offer services by telehealth when medically appropriate and when the same standard of care can be met as an in-person visit. LDH notes in its Order that some providers may encounter legitimate and valid barriers to telehealth delivery and that providers acting in good faith shall not be found to be in violation of its Order.

The LBAB recognizes the concern of some providers that ABA services were not specifically addressed in the LDH Order, and therefore makes the following statement:

The best practice for providers of ABA services is to adhere to all local, state, and federal guidelines and the BACB Professional and Compliance Code for Behavior Analysts issued regarding providing in-person services and re-opening clinics. Additionally, during the re-opening process, providers should document and strictly adhere to clinic policies and procedures followed. Please keep in mind, an individual may file a complaint with the LBAB if there is a concern related to insufficient safety practices being utilized. Client safety is a top priority of the LBAB.

On April 27, 2020, Governor John Bel Edwards clarified that Louisiana was not in a position to enter Phase I of of the President’s Guidelines for Opening Up America Again, and extended the shelter at home order until May 15, 2020. Note that in conjunction with these Guidelines, CMS has also issued its own recommendations for the phasing of re-opening facilities for non-emergent, non-Covid-19 healthcare.

Importantly, in its Order, LDH directs that any in-person healthcare services must be postponed when patient outcomes would not be compromised. The decision to provide in-person services must be analyzed by a careful and serious assessment of all associated risks and benefits. The associated risks are not exclusive to the provider or the patient/client alone. The Order specifically requires that consequences to the healthcare system be considered in this decision-making process. Providers should assess whether the services they plan on providing in-person are worth the risk to themselves, their clients, and the community at large. There are situations where this may be the case, and as is our obligation at any point in time, behavior analysts must provide justification for their clinical decision-making.

You may review available information from the Louisiana Department of Health here: ldh.la.gov and labaa.net See below for a portion of guidance issued by BACB.

LBAB would like to thank our licensees and certificants for complying with the published guidelines and facing the challenges of providing ABA therapy to their clients during this health care crisis. Our ethical standards are established for the welfare and protection of the public.

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Excerpt from BACB website:

Because the COVID-19 pandemic is particularly impactful on vulnerable populations and their service providers, we offer the following information to our certificants as they make critical decisions about service delivery during this difficult time. Please keep in mind that this information does not constitute legal or medical advice.

First, we extend our gratitude to the many BACB certificants who had contingency plans in place to address service interruptions. We also want to serve as a resource for the many certificants who have contacted us for ethics guidance as they seek to develop and modify contingency plans consistent with the ***Professional and Ethical Compliance Code for Behavior Analysts*** (Code) during the pandemic. The Code is primarily focused on ensuring that high-quality services are delivered in a safe manner. Throughout the Code, it is clear that the primary directive is to do no harm to clients. Section 2.0, Behavior Analysts' Responsibility to Clients, states "Behavior analysts have a responsibility to operate in the best interest of clients." Section 2.04(d) states: "Behavior analysts put the client's care above all others..."

Section 1.04(d) of the Code makes it clear that certificants must comply with legal requirements, including those related to social distancing and service provision. Recent directives regarding social distancing may create scenarios that are not easily addressed under 4.07(b) of the Code. Essentially, the social distancing requirements could be deemed "environmental conditions [that] hinder implementation of the behavior-change program." Accordingly, certificants must "seek to eliminate the environmental constraints, or identify in writing the obstacles to doing so." 4.07(b). This means that if there are barriers to service provision in a particular region or context (e.g., a mandate to engage social distancing, high-risk clients) that cannot be removed or adequately addressed, certificants must document in writing the barriers and steps taken for each client.

As BACB certificants endeavor to uphold the Code and protect clients, we provide the following considerations:

Health and Safety

- The Centers for Disease Control and Prevention (CDC) currently list the following as groups who may be at increased risk for getting "very sick" during the pandemic: older adults; people of any age who have asthma, COVID-19, or serious underlying medical conditions (blood disorders; chronic kidney and liver diseases; compromised immune systems; current or recent pregnancies; diabetes heart disease; lung disease; metabolic disorders; and neurological, neurologic, and neurodevelopmental conditions). For more information on these categories, please see the following resources: <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html> and Appendix A in <https://www.cdc.gov/coronavirus/2019-ncov/downloads/community-mitigation-strategy.pdf>. Each certificant is responsible for verifying whether a client falls into one or more of these groups to assist in fully determining the risks associated with continuing to provide services in their current form.
- The World Health Organization and the CDC recommend social distancing to slow the spread of the infection, minimize the risk of infection to those considered high-risk, and reduce the strain on health services and resources. In the United States, the federal and state governments have directed the public to engage in social distancing, schools have closed or moved to online instruction, and many other public services have been limited or temporarily stopped. Similar practices have been enacted in many other countries.
- The CDC indicates that individuals who are asymptomatic or have yet to display symptoms may expose others to the virus, and because testing is limited, most individuals are unable to verify

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that they are not infected. This means that service providers or clients who do not appear ill could be spreading the virus.

- To minimize risk, service providers should consider developing a COVID-19 pandemic risk mitigation plan and implementation policies. The risk mitigation plan may include some of the following elements: regular communication with staff and clients about how to stay safe, telecommuting/telehealth, limits on air travel, attestations about symptoms and exposure, encouraging social distancing, considerations for determining whether to continue/augment/suspend client services, and cancelling services/sessions if clients or service providers are symptomatic or if deemed necessary to comply with social distancing recommendations.

Continuity of Care and Appropriate Transition of Services

- Section 2.15, Interrupting or Discontinuing Services, indicates that certificants must work in the best interest of clients to avoid interrupting or disrupting services. This code element must be balanced with the overall requirement to not harm clients. Therefore, certificants providing services to vulnerable individuals must first comply with all government mandates (1.04(d) of the Code). Assuming there are no mandates to the contrary, the service provider must determine if the risk of suspending services (e.g., substantial risk of injury to the client) is greater than the risk of continuing to provide services.
 - If continuing services is deemed appropriate, the certificant must then determine if services can be delivered in a manner that does not unduly increase the risk of exposure to COVID-19 (e.g., enhanced disinfecting protocols, minimizing numbers and points of contact, using protective gear).
 - In the event that services should be suspended in their current form, the next step is to determine if services can be augmented (e.g., provide telehealth services, develop maintenance and generalization programming, create home-based program materials, move to parent consultation via telehealth) to minimize disruptions (i.e., minimize loss of critical skills).
 - If it is determined that services must be stopped, as opposed to augmented, providers should engage in appropriate steps to ensure continuity of care and appropriate transition (e.g., update reports and data, make relevant documents and materials available to caregivers, provide caregivers with a list of other relevant providers).
- In summary, certificants must systematically and carefully consider the risks of stopping, continuing as-is, or augmenting services, and then take steps to carry out the decision in a way that minimizes risks to clients, caregivers, and staff and maximizes therapeutic benefits to clients.

As certificants make these difficult decisions, we urge you to follow all laws and public health recommendations from your local health authority and respective governmental agencies. We have compiled a list of resources relevant to the COVID-19 pandemic below. Note that including a resource is not an endorsement of the agency or organization, or the guidance provided by said agency or organization.

The BACB will continue to monitor the evolution and impact of COVID-19 and work to continue supporting the profession during this difficult time. If you have questions, please visit the [Contact Us](#) page.