

Welcome to Special Learning's

How to Stay Out of Hot Water



Ethics in Practice Training Series

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Housekeeping

- Post questions. If your question is selected, we may unmute you and request that you repeat your question verbally.
- If you experience technical issues during the webinar, contact Gotowebinar directly by calling (877) 582-7011.
- There will be a 5 minute break near the half way point.
- A recorded version of this webinar will be available next week. An eMail will be sent when it is ready.
- If you need CEUs, you will need to submit the completed CEU Submission form.



Speaker Bio



Dr. Bailey received his PhD from the University of Kansas and is currently Professor Emeritus of Psychology at Florida State University where he was a member of the graduate faculty for 38-years and produced a record 63 PhDs. He is currently Director of the FSU Panama City Masters Program in Applied Behavior Analysis.

Dr. Bailey is a Board Certified Behavior Analyst. He also serves as Secretary/Treasurer and Media Coordinator of the Florida Association for Behavior Analysis, which he founded in 1980.

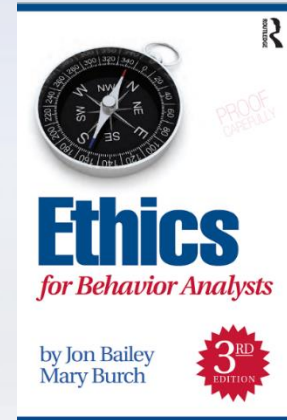
Dr. Bailey has published over 100 peer-reviewed research articles, is a past editor of the *Journal of Applied Behavior Analysis*, and is co-author of *Research Methods in Applied Behavior Analysis*, *How Dogs Learn*, *Ethics for Behavior Analysts*, *2nd Expanded Edition*, *How to Think Like a Behavior Analyst*, and *25 Essential Skills and Strategies for Professional Behavior Analysts*, all co-authored with Dr. Mary Burch.



Resources (Webinar download)

1. Professional and Ethical Compliance Code for Behavior Analysts*
2. BACB Notice of Alleged Violations Form*
3. CEU Submission Form*
4. Ethics for Behavior Analysts (3rd Edition)
5. Full Presentation
6. <http://www.coebo.com/the-code>

*Download directly from Gotowebinar



Learning Outcomes

1. Participants will know common ethical violations or issues which are reported to the BACB.
2. Participants will understand the process of reporting violations to the BACB and their internal investigation process.
3. Participants will understand differences in applying the code in an agency verses individual practice.
4. Participants will understand potential outcomes of reported violations.
5. Participants will understand the proper way to deal with perceived violations.



International Scenarios and Considerations



Example Scenario: Pamela

“ In Canada, the government provides many services such as IBI and Behavioural Services for individuals with ID. Because these free services are offered then we end up with wait lists. I think the one important variable is free. I love that. It means individuals have rights to services not based on your financial status or your career and your coverage but just because there is a need.

On the flip side, I wonder if we are inefficient, do we offer too much. If for example we reduce the aggression in a child and then Mom says wait he only eats fries and apples. Do we at this point go in and begin working on this given there are children with severe behaviours on the wait list.

Is it ethical for us to leave given there are still some behaviours which could or should be tackled. When do we decide to leave or stay on.” – Pam Shea



Example Scenario: Rita

“In Ireland one of the challenges is getting folks to speak up. Unlike America where professionals are not only confident in their own work, but willing to speak up about the work of others or to agency administrators when there are concerns, the Irish by nature are very non-confrontational and tend to avoid being direct so many situations don’t get addressed. This can be done in a non-threatening way, and this is where the Irish would be good if they did speak up. It would be hard for many, however, to give a straight statement of their concerns and stating a bottom line, without coaching it in social niceties.

When I used to teach postgrads, they were gobsmacked when we discussed the ethical responsibility of bringing to the attention of the relevant folks, when standards were being violated. I used to suggest they print out a copy of the Guidelines for Responsible Behaviour to go over with their line manager, having circled the standard(s) that were not being followed.

The agency admin or rep may say they are not their guidelines, but the student (Beh.A.) would need to be coached how to let their employer know that they are bound by these, so would like to work with them so that could both be assured that best practice was being followed.”



Example Scenario: Raymond

“Is it ethical to deliver services that is solely based on training parents?”

To give some context let me start by saying that in southern Alberta Canada services are provided only in that they are designed to *make parents competent*. The Ministry in this jurisdiction only funds programming that consists of training instructions for parents to manage the behaviour targeted for change. Alberta has no standard qualifications for behavioural therapists, and the government only “waves its hands” at best-practices or evidence-based interventions. Applied Behavior Analysis has little positive status in the province and EIBI programming is widely the domain of well entrenched professions namely, SLPs and OTs . In fact, the vast majority of programs employ social workers acting as behavioural specialists, as well as contracting SLPs and OTs to comply with our local Ministry.



Additional Questions?



BCBAs Responsibility to Report Violations

- Why do violations need to be reported?
- How do you overcome personal reluctance?
 - Before reporting someone it is necessary to consider the pros and cons of taking this action.
 - Ask yourself the following questions:
 - Does the violation put consumers at risk?
 - What is the probability of harm?
 - What is the severity of harm?
 - Does this violation put the profession at risk?



Questions to Ask Yourself

1. Are you certain that this is a violation of the Code? Have you observed it first hand? Which section of the code does this violation fall under?
2. Have you discussed this with a trusted colleague?

If you answered “yes” to both questions

Have you addressed your concern directly with the person to get their side of the story? If yes, what was their reaction?

- If the person is open to taking corrective action, continue to monitor their activity
- If the person’s reaction is to minimize your concern or tell you that “everyone does this,” discuss your concern with another colleague before reporting to the BACB.

If you have first hand knowledge of actual harm being done, it is YOUR responsibility to report that person.



Special Learning

You're Not Alone

- Some behavior analysts worry that word will get out that they reported a colleague and they may be considered a “snitch.”
- Some behavior analysts worry that they might get fired if they report a colleague (or their agency), especially if their income pays for their mortgage and other living expenses.
- If you work in an environment where ethics violations are prevalent, it may be time for you to move on.
- To overcome this natural reluctance to report a colleague, an ethical BCBA must consider the potential harm his/her inaction may cause the client.



5 Minute Break



Process of Reporting Violations to BACB

1. Review Compliance Code to identify Section of the Code
2. Determine the severity of violation
 - Triage Model
3. Initiate dialogue with person violating the code to discuss concern prior to filing an official notice.
4. If no resolution, file [Notice of Alleged Violation](#) with BACB (within 6 mos)
5. Gather Supporting Documentation:
 - Evidence of violation(s)
 - Witness statement(s)
 - Litigation (if filed)
 - Complaints filed with other agencies

NOTE: Current process does NOT allow for any anonymity



BACB Process of Investigating Violations

1. Review submission
2. Determine severity of incident
3. Investigate facts
4. Issue ruling:
 - **Moderate:** Advisory Warning and remediation (Continuing Education)
 - **Severe:** Sanction (i.e., suspension, revocation, or supervision)
 - Combination of Actions
 - Exoneration



BCBAs Responsibility for Reporting Violations

- Which violations are severe enough to warrant reporting?
 - SEVERE: Insurance Fraud (signing as BCBA without valid certification) --- **YES**
 - MODERATE: Not updating programs in a timely manner - **MAYBE**
 - LOW: Forgetting to lock filing cabinet periodically - **NO**



Which Violations Warrant Reporting?

- **Definitely Reportable**: Physical harm to a client, exploitative relationships with a client, blatant use of non-evidence based procedures, terminating a client without notice, treating a medical condition as behavioral (potentially causing harm), blatantly using punishment procedures without considering positive alternatives.
- **Consider Reporting**: Exceeding boundaries of competence but not into areas where harm is observed, not keeping up with literature, using procedures not considered appropriate but not clear that there is harm as a result, consistently using “fuzzy” thinking about how to analyze behavior, not getting client’s approval for assessment prior to treatment, using seemingly harmful reinforcers.
- **Initiate Discussion**: Records not kept up to date, occasionally disclosing confidential information, failure to describe behavior program objectives, using a client’s first name in a presentation, soliciting clients for business, describing treatment effects in an exaggerated manner.



Example: Severe Violation

A BCaBA's supervisor has quit his job and moved to another state. The BCaBA continues working with half a dozen cases without supervision and does not inform any of his clients that his supervisor has moved on and does not inform the BACB. He keeps thinking that he will find someone to supervise him but in his geographical area it is hard to find anyone. Time drags on and the BCaBA spends less time looking for a supervisor and begins to think that he's doing just fine on his own.

At one point he has to sign a form indicating that certain objectives have been met with a client. He signs on the wrong line - the one that says: "BCBA signature here." A few more weeks go by and no one seems to have noticed that he is now signing off as though he was a BCBA. He is having some trouble with a couple of his cases but by going online he believes he is able to find some answers.

At a professional meeting he runs into a former colleague who asks him point blank if he passed his BCBA exam. He says, "Took it but don't have the results yet" and hurries across the room to the open bar.

Severe violation of #1.04 Integrity, #10.01 (Truthful and accurate information provided to the BACB) & #10.02 (Timely updating of information provided to BACB). Strong possibility of loss of certification and possible fraud charges (if he was signing insurance forms).



Example: Moderate Violation

A BCBA works in a home setting with a 5-yr old child with non-compliance and repetitive behaviors. The child is DD and is on the spectrum. The BCBA has conducted an informal FA in the home and determined that the non-compliance is related to automatic reinforcement but decides that pairing the parents with stronger reinforcers might make a difference.

After two weeks of treatment, the data shows slight improvement but the parents can't see it so parent education is necessary. Over the next two weeks the BCBA notices the child is looking thinner and seems to be losing weight; she confers with the parents and they reveal that the child is refusing to eat (a new form of non-compliance). The parents beg for help. Although the BCBA does not have experience in this area makes recommendations on how to increase food consumption. Also, due to her schedule, schedule she is not able to be in the home during mealtimes to observe.

Moderate violation of 1.02 (Boundaries of Competence). The BCBA did not have any training or experience in eating disorders but did not inform the parents. May result in recommendation for additional training and/or supervision.



How to Determine Severity: Triage Model

➤ Triage Model

Method of classifying ethics violations to determine course of action

- Severity of Harm
- Probability of Harm

TRIAGE OF ETHICS VIOLATIONS
SEVERITY OF HARM CAUSED BY VIOLATION

		Severe	Moderate	Mild
Probability of Harm	High	Codes 1.01, 1.04, 1.07, 2.09, 2.15, 3.02, 4.03, 4.08		
	Moderate		Codes 1.02, 1.03, 1.05, 1.06, 2.01, 2.02, 2.03, 2.06, 2.12, 2.13, 2.14, 3.01, 4.01, 4.02, 4.06, 4.07, 4.09, 4.10, 4.11, 5.01, 5.02, 5.03, 5.04, 5.05, 5.06, 5.07	Codes 2.04, 2.05
	Low			Codes 2.07, 2.08, 2.10, 2.11, 3.03, 3.04, 3.05, 4.04, 4.05, 6.01, 6.02, 7.01, 7.02, 8.01, 8.02, 8.03, 8.04, 8.05, 8.06



Example of How to Use Triage Matrix

- Example: A therapist uses another consumer's plan by changing out the name
- Where does it fit within the matrix?
 - What is the severity of the harm caused by this violation?
 - What is the probability of harm to consumer?
- **Always consider:** What is the potential for harm?
- Possible "Final Action" outcomes after BACB investigation
 - Additional training
 - Additional supervision
 - Sanctions



Moderate Violation of #4.0 (Behavior-Change Program) Each client should have individualized treatment plan. May result in recommendation for additional training and/or supervision.

SL Survey Response: Common Ethics Violations?

➤ **Question:** What type of ethics violations do you encounter most often?

➤ **Response:**

1. Not maintaining records properly (no lock on filing cabinets, not locking outside doors to clinic)
2. Not recording data (or not analyzing the data)
3. Insurance fraud (billing for former clients)
4. Overbilling (recommending excessive hours for client)
5. Not updating programs in a timely manner (client meets the goal but BCBA (or agency) waits until the insurance company mandates it once a year).
6. Not supervising RBTs correctly (or at all) and then making up documents when the BACB or insurance companies call for an audit.



Use of Triage Model: Example

TRIAGE OF ETHICS VIOLATIONS

SEVERITY OF HARM CAUSED BY VIOLATION

Probability of Harm

	Severe	Moderate	Mild
High			
Moderate	<ul style="list-style-type: none">• Insurance fraud• Recommending more hours than needed	<ul style="list-style-type: none">• Not recording data• Not analyzing data• Not updating programs• Not supervising RBTs• Faking documents	
Low			

Note: "Harm" can be to the client, the BCBA or the profession



Special Learning

States with Most Reported Violations

- Period Covered: 2001 to 2015
- Total Reported Violations to date: 261
- 11 states make up over 60% of total reported violations

	Sates with Most Reported Violations	# BCBAs (incl. BCaBA and BCBA-D)	# Violations	Violations / BCBA Population
1	California	3,577	41	1.15%
2	Florida	3,118	34	1.09%
3	New York	1,324	16	1.21%
4	Texas	1,115	15	1.35%
5	Massachusetts	1,611	11	0.68%
6	Pennsylvania	1,041	11	1.06%
7	Indiana	343	9	2.62%
8	New Jersey	1,130	8	0.71%
9	Georgia	316	7	2.22%
10	Missouri	322	7	2.17%
11	Ohio	327	7	2.14%



Most Common Violations

Most Common Violations	Code Description	# Violations	Most Common Outcome
#3.0	Assessing Behavior	125	Cease and Desist, Eligibility Suspend (2 Cases)
#6.0	Behavior Analysts' Ethics Responsibility to the Profession of Behavior Analysts	70	Advisory Warning, Corrective Action (Ethics Classes / Supervision Requirement), Suspension, Sanctions
#2.0 (often combined with #6, #7, #8)	Behavior Analysts' Responsibility to Clients	26	Mandatory Coursework, Mandatory Supervision, Certification Revoked
#5 (often combined with #2, #6, #7 and #9)	Behavior Analysts as Supervisors	20	Mandatory Supervision, Cease and Desist, Certification Revoked



How Can You Stay Out of Trouble?

- When to say “No”
- How to say “No”
- Why say “No”



Example Scenario

A colleague teaches in a university ABA program as an adjunct. He/she provides supervision for current students (BCBA candidates). Charges only \$10 for supervisory meeting so that the student would not think that they were "buying a good grade" in the course.

This was not a Practicum or Intensive Practicum situation, but rather, an adjunct instructor teaching a student who is in a Supervised Field Work Internship with the adjunct performing the simultaneous roles of adjunct instructor and field work supervisor.

- Is this an ethics violation?
- How should this be handled?



Example Scenario: Answer

- Answer: YES. Conflict of interest
- Why?
- Corrective Action?
 - Find another supervisor or
 - BCBA adjunct needs to go to the administration - “I’m being asked to provide supervision by some of my students, how do you want me to handle this?” Explain the dual role conflict of interest. Abide by administration’s decision.



Example Scenario: Triage Matrix

TRIAGE OF ETHICS VIOLATIONS				
SEVERITY OF HARM CAUSED BY VIOLATION				
		Severe	Moderate	Mild
Probability of Harm	High	Conflict of Interest: Harm to students who learn first hand that conflict of interest is okay.		
	Moderate		Lowering rate to \$10 is not exploitation, but the dual role is an issue.	
	Low			



Code Violations: International

Country	# Violations	Year(s)	Disciplinary Standard Implicated	Final Action*****
Cyprus	1	2014	#3	Cease and Desist
Dubai	1	2014	#3	Cease and Desist
England	1	2012 - 2013	#3 and #6	Cease and Desist. Warning. Corrective Action.
France	3	2012, 2014, 2015	#3 (University Improper Citation), #6, #9	Cease and Desist / Written Earning
Germany	1	2015	#6 and #9	No Further Action.
Italy	1	2015	#3	Cease and Desist. Confirmed Compliance. Case Closed.
Netherlands	1	2013	#3	Cease and Desist Warning. Borderline Issue Arising out of Translation.
New Delhi	1	2014	#6	Corrective Sanction. Mandatory Statement and Policies Due or Suspension.
New Zealand	1	2014	#6	No Violation Found. Case Closed.
Puerto Rico	1	2004	#3	Eligibility Revoked; Ineligible to Apply For 3 Years; Fine For Future Application, If Any. Case Closed.
Romania	2	2013, 2015	#3, #6	Advisory Feedback Issued.
South Africa	1	2015	#3	Cease and Desist. Confirmed Compliance. Case Closed.
United Arab Emirates	1	2015	#3	Cease and Desist. Confirmed Compliance. Case Closed.
United Kingdom		2014 - 2015	#6	Advisory Notice Sent. Case Closed.

Ethics and International Considerations

- Should Ethics violations be addressed differently in International markets?



Implications



Why Do We Care?

- Consequence to client
- Consequence to profession
- Consequence to self



Proactive Practices?



Proactive Practices BCBAs can use to stay out of hot water

- Review the code monthly and conduct a self analysis (or with a colleague) to determine if you may have engaged in any potential violations.
- At your place of work, suggest setting up an ethics group that can be used to discuss potential ethics issues confidentially.
- Find a trusted colleague and use them as a “sounding board” to discuss difficult situations.
- Watch for micro violations of the ethics code; these can come up almost weekly (or daily).
- Prepare some scripts you can use for common question like, “Hey, could you come look at this client for me...” or “Have you heard that the principal is sleeping with one of the teachers...”

MOST IMPORTANTLY BE AWARE!



Thank you for attending Special Learning's Ethics in Practice Training Series

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