

ORGANIZATIONAL ETHICS SERIES



Special Learning, Inc.

Common Organizational Ethical Dilemmas
Dr. Jon Bailey, PhD, BCBA-D and Karen Chung
December 12, 2018

Housekeeping

1. Post questions. One of our moderators will select the most relevant questions.
2. If you experience technical issues during the webinar, contact GotoWebinar directly by calling (877) 582-7011.
3. There will be a 5-minute break near the half way point.
4. You will receive a complimentary 30-day access to a recorded version of this webinar which will be available in 7 to 10 days. You will receive an eMail with login instructions.
5. This training is eligible for 2 Ethics or Type II CEUs.
6. Please complete the survey after the webinar to obtain your CEU certificate.

Learning Outcomes

- Describe market dynamics that is contributing to increases in unethical conduct
- Describe the rate of growth in the field of behavior analysis
- Describe the Global Autism Ecosystem
- Describe the Ethical Framework for ABA Provider organizations
- Describe common organizational ethical misconduct
- Describe the impact of unethical conduct to clients of ABA services
- Describe the impact of unethical conduct to BCBAs and RBTs who provide clinical services
- Describe the impact of ongoing unethical conduct by ABA provider organizations to the field of behavior analysis

Presenter Bio



Jon Bailey, PhD, BCBA-D

Dr. Jon Bailey, PhD, BCAB-D 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 is 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*, 3rd 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.

Karen Chung

Karen is the Founder and CEO of Special Learning. She started the company in 2010 after learning about the effectiveness of Applied Behavior Analysis (ABA) juxtaposed against the reality that over 95% of the world did not have access to ABA. As an entrepreneur with over 20 years of corporate experience, she started Special Learning to leverage existing and emerging technology to make quality ABA resources and services available to parents, educators and professionals around the world.

Karen's entrepreneurial experience includes starting and growing a diversity retained executive search firm specializing in placing women and minority executives in leadership positions of Fortune 1,000 companies. Her investment banking background includes sourcing deals for various venture capital and private equity companies and raising equity and debt for middle market companies and commercial real estate developers. Her corporate background includes various functional roles in Fortune 1,000 and middle market companies.

She graduated with a Masters of Management degree from Kellogg Graduate School of Management of Northwestern University. She is a Certified Public Accountant.

Ethics in the Field of Behavior Analysis



Ethics is... Professionally accepted standards of personal and business behavior, values and guiding principles. Codes of professional ethics are often established by professional organizations to help guide members in performing their job functions according to sound and consistent ethical principles.

Morals are... Concerned with the principles of right and wrong behavior.

- Derived from the code of behavior that is considered right or acceptable in a particular society.
- Examines the nature of ethics and the foundations of good and bad character and conduct.

A **code of ethics** is a guide of principles designed to help professionals conduct business honestly and with integrity.

Why Pay Attention to Ethics? What's at Risk?



The field of behavior analysis is young

The road to achieving legitimacy has been long and arduous

But... we did it!

- According to Autism Speaks, 200 million people in the U.S. now have healthcare service coverage for ABA
- 48 States now offer private insurance coverage
- ABA is accepted as the de facto autism intervention

But... as more and more people pay attention to the field, the risk is greater.

Are we running the risk of losing this hard-fought legitimacy? If yes, who suffers???

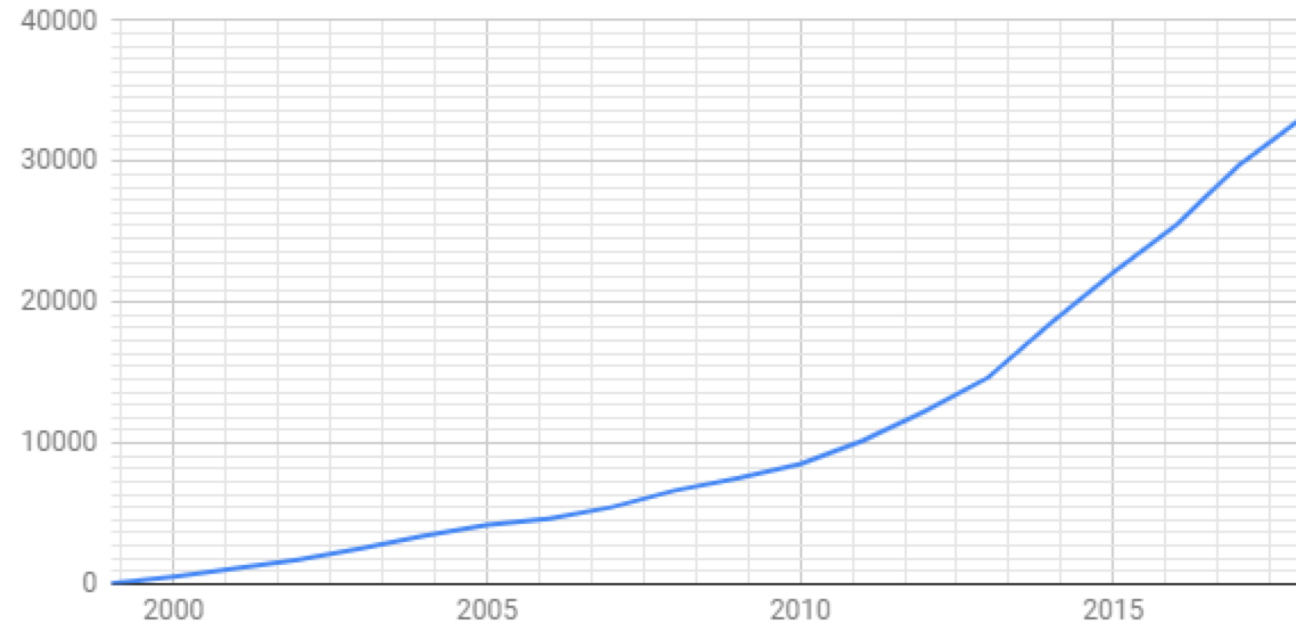
Increase in Incidence of Ethical Misconduct: What's Going On?

Market Dynamics	
Increase in number of BCBAs Relative youth and inexperience of BCBAs	Over 50% of BCBAs have less than 5 years of experience Almost 100% of BCBAs lack business experience
Exponential growth in RBTs	100% of RBTs have less than 5 years of experience
Increase in demand for ABA Services	3.5 Million people in the U.S. with Autism (Buescher et al., 2014)
Greater availability of funding	Insurance reform passed in 48 States. 200 million people in the U.S. now have healthcare service coverage for ABA.
Funding sources are “fumbling around”	Funding for ABA intervention is extremely costly Insurance companies are bottom line driven Priority #1: Comply with state mandates Priority #2: Minimize costs/exposure
Market fragmentation and distribution of clinicians	Less chance to connect with and to form connections within profession
Broken system of reporting ethics violations	Lack of anonymity causes fear of repercussions
Culture of Fear	Threats and intimidations are common

BCBA Growth

Year	New Additions	Total BCBA et al.	Annual % Growth
1999	30	30	100.00%
2000	505	535	1683.33%
2001	592	1127	110.65%
2002	594	1721	52.71%
2003	816	2537	47.41%
2004	895	3432	35.28%
2005	744	4176	21.68%
2006	464	4640	11.11%
2007	826	5466	17.80%
2008	1,170	6636	21.41%
2009	882	7518	13.29%
2010	992	8510	13.19%
2011	1,669	10179	19.61%
2012	2,114	12293	20.77%
2013	2,361	14654	19.21%
2014	3,873	18527	26.43%
2015	3,595	22122	19.40%
2016	3,370	25492	15.23%
2017	4,225	29717	16.57%
2018	3,324	33041	11.19%

Total Growth of Behavior Analysts (1999 to present)

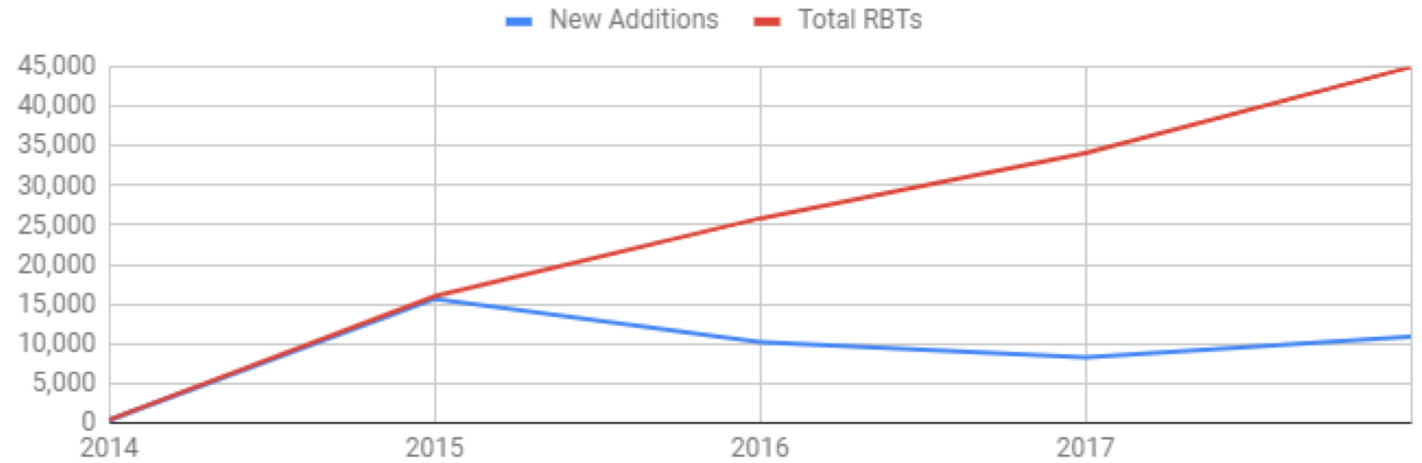


<https://www.bacb.com/bacb-certificant-data/>

RBT Growth

Year	New Additions	Total RBTs	Annual % Growth
2014	328	328	100%
2015	15,667	15,995	4777%
2016	10,186	25,853	64%
2017	8,267	34,120	81%
2018	10,894	45,014	132%

Growth of RBTs

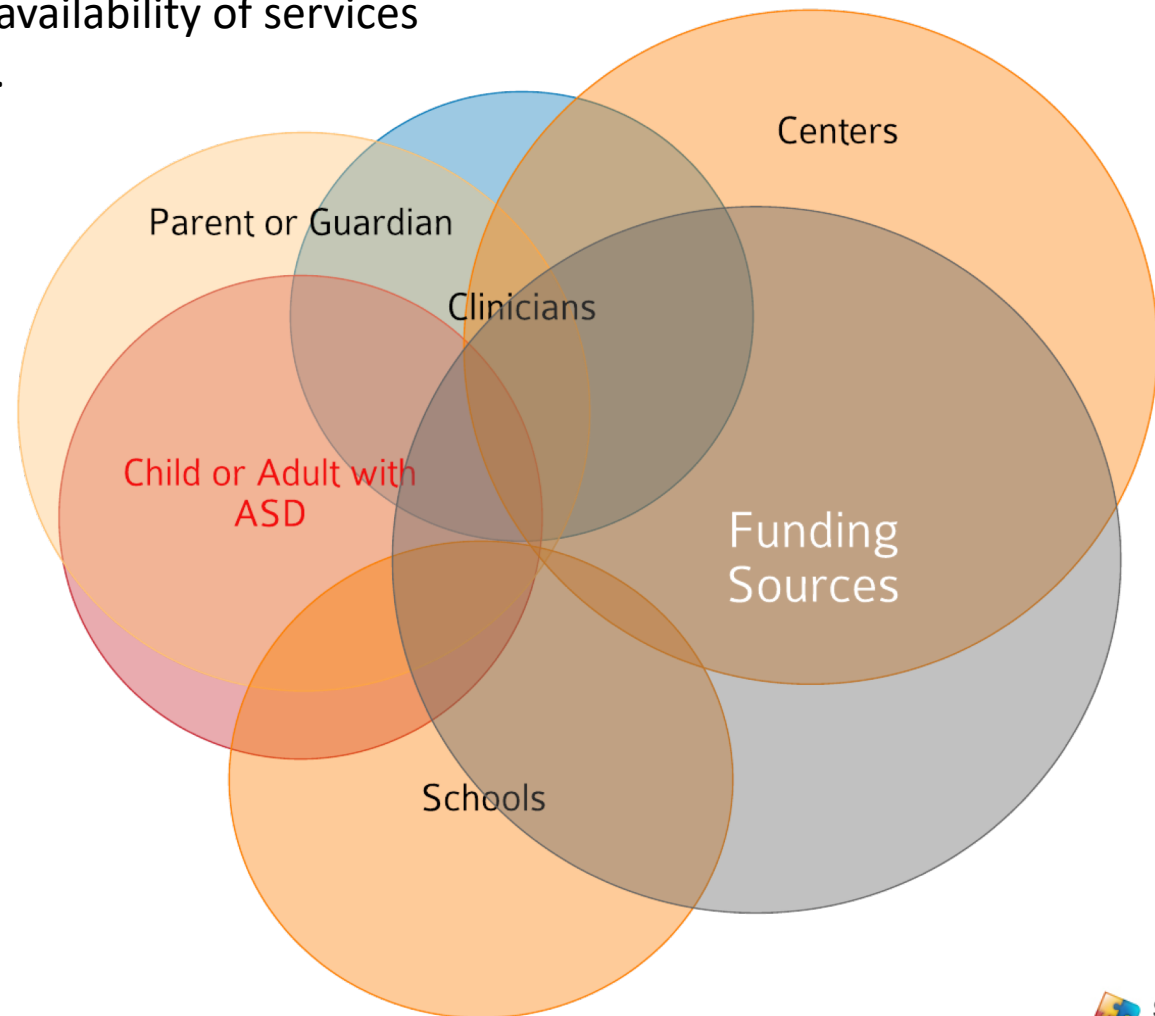


Global Supply and Demand

	Region	BACB et al.		RBT		Total	World Population	
1	United States	30,087	91%	43,856	97%	73,943	328 Million	4%
2	Canada	1,242	4%	303	1%	1,545	37 Million	0%
3	United Kingdom (gb)	337	1%	47	0%	384	67 Million	1%
4	China	149	0%	10	0%	159	1.4 Billion	18%
5	Ireland	130	0%	11	0%	141	4.8 Million	0%
6	Israel	130	0%	1	0%	131	8.5 Million	0%
7	Italy	130	0%	102	0%	232	59 Million	0%
8	Australia	93	0%	60	0%	153	25 Million	0%
9	United Arab Emirates	82	0%	208	0%	290	9.5 Million	0%
10	Korea Republic Of	81	0%	6	0%	87	51 Million	0%
		32,461	98%	44,604			1.9 Billion	24%
	Rest of the World	580	2%	410			5.8 Billion	76%
		33,041	100%	45,014	0%	78,055	7.7 Billion	100%

Global Autism Ecosystem

- Complex system with several parties, many with conflicting agendas
- Global system with uneven distribution of availability of services
- Applied Behavior Analysis is a young field...
- Staffed with inexperienced clinicians



Ethics Code

BCBAs, BCaBAs, BCBA-Ds and RBTs are required to adhere to the [Professional and Ethical Compliance Code for Behavior Analysts](#)

But... There's no Ethics Code for ABA Provider Organizations

Without the necessary controls to curtail ethics violations, what can happen?

Global Ethics Standards Board for ABA Providers



An inclusive system to establish and maintain global practice and ethics standards and to unite members of the Global Autism Ecosystem to facilitate communication, foster collaboration and drive network accountability to protect the integrity of the field of behavior analysis.

System based on Knowledge

- Minimum 10 hours of ethics training

System of Accountability

- 10 hours of ethics training
- Attestation
- Anonymous reporting
- Independent investigation
- Transparency of information

Inclusive and Global

- Diverse representation from multiple disciplines around the world

Ethical Framework for Ethical Standards Board Members

- Above all else... commitment to generating highest levels of client outcomes
 - Commitment to teamwork and collaboration with understanding in the context of available resources and existing constraints
- Nonmaleficence. Do no harm
- Integrity. Being honest and having strong moral principles
- Truthfulness and confidentiality
- Autonomy, confidentiality and informed consent
- Beneficence. Moral imperative for doing right
- Justice
 - Fair distribution of scarce resources (distributive justice)
 - Respect for people's rights (rights-based justice)
 - Respect for morally acceptable laws and regulations legal justice)
- Commitment to ethics
- Commitment to protecting the field of behavior analysis
 - Maintaining minimum practice and ethics standards
 - Maintaining member accountability for reporting practice and ethics violations

Ethics Standards Board for ABA Providers [Attestation]

I agree that I will zealously protect the well-being of clients of behavior analysis by:

- Abiding by the ethical standards established by the Global Ethics Standards Board of ABA Providers
- Maintaining an environment that ensure that BCBAs and RBTs can comply with the BACB Ethics Code
- Timely reporting all violations of regulatory and government organizations
- Reporting egregious ethics violations, particularly those that can potentially damage the well-being of clients and the integrity and reputation of the field of behavior analysis
- Reporting violations that are morally incorrect or morally ambiguous
- Reporting business practices that put clients in harm's way
- Not taking any negative action against individuals and organizations that express their legitimate concern by reporting ethics violations

I understand that there are consequences that result from full transparency and reputational damage. I agree to take responsibility to immediately address concerns that impact the well being of clients, livelihood of therapists and reputation of the field of behavior analysis.

Signature

Title

Date

Rollout Plan

Phase I: Build Critical Mass

- Low Barrier to Entry
- 10 hours of Ethics Training
- Attestation
- Fee

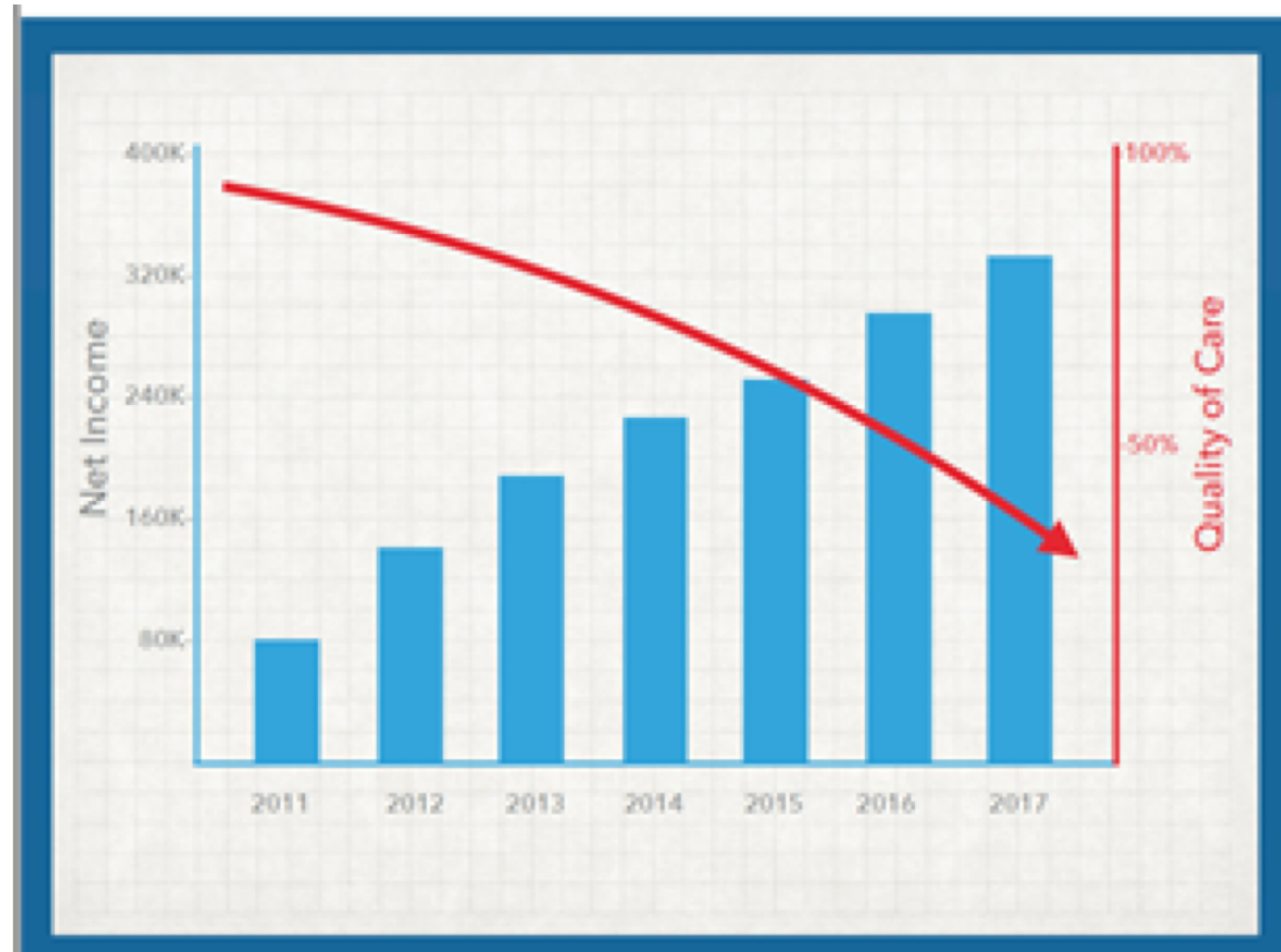
Phase II: Reputation Building

- Testimonials and Letters of recommendation

Phase III: Ethics Certification

- Organizational Audit

Income vs. Quality of Care



Common Organizational Ethics Misconduct

- Misclassification of RBTs and behavior techs as 1099 status (versus W-2)
- Clinicians being asked to take on too many clients and given unrealistic supervision loads
- Billing staff being “encouraged” to be highly aggressive in reporting hours and to use “creative” coding practice.
- “Poaching” clinicians from other agencies
- "Encouraging" clients to change agencies, and so on and so on...

BACB Code of Ethics Related to OBM and Business Ethics

1.04 Integrity

1.05 Professional and Scientific Relationships

1.06 Multiple Relationships and Conflicts of Interest

1.07 Exploitative Relationships

2.12 Contracts, Fees, and Financial Arrangements

2.13 Accuracy in Billing Reports

2.14 Referrals and Fees

7.01 Promoting an Ethical Culture

8.01 Avoiding False or Deceptive Statements

8.02 Intellectual Property

Employment Practice



Misclassification of RBTs and behavior techs as 1099 status (versus W-2)

- What is the function?
- What is the reinforcer?

Possible drivers?

- To increase bottom line?
 - Ignorance?
-
- What's the impact to the consumer?
 - What's the impact to the RBTs/Behavior Tech?
 - What's the consequence to the field of behavior analysis?

Billing Fraud

Billing staff being “encouraged” to be highly aggressive in reporting hours and to use “creative” coding practice.

- What is the function?
- What is the reinforcer?

Possible drivers?

- To increase bottom line?
 - Ignorance?
-
- What’s the impact to the consumer?
 - What’s the impact to the RBTs/Behavior Tech?
 - What’s the consequence to the field of behavior analysis?

Unethical Business Practices

“Poaching” clinicians from other agencies

- What is the function?
- What is the reinforcer?

Possible drivers?

- To increase bottom line?
- Ignorance?
- What’s the impact to the consumer?
- What’s the impact to the RBTs/Behavior Tech?
- What’s the consequence to the field of behavior analysis?

Unethical Business Practices



"Encouraging" clients to change agencies

- What is the function?
- What is the reinforcer?

Possible drivers?

- To increase bottom line?
- Ignorance?
- What's the impact to the consumer?
- What's the impact to the RBTs/Behavior Tech?
- What's the consequence to the field of behavior analysis?

Clinical Integrity



Clinicians being asked to take on too many clients and given unrealistic supervision loads

- What is the function?
- What is the reinforcer?

Possible drivers?

- To increase bottom line?
 - Ignorance?
-
- What's the impact to the consumer?
 - What's the impact to the RBTs/Behavior Tech?
 - What's the consequence to the field of behavior analysis?

Poaching: When is Common Business Practice Unethical?

Poaching Corporate Employees

- Corporations hire executive search firms to “source” an executive from a competing firm
- Compensation paid to search firms \$50,000 to \$250,000
- What’s the impact to the organization?
- What’s the impact to the client?

VERSUS

Poaching Clinicians (BCBAs)

- What’s the impact to the organization?
- What’s the impact to the client?

Poaching Clinicians (RBTs)

- What’s the impact to the organization?
- What’s the impact to the client?

5-Minute Break





What is potentially the single greatest driver of ethics violations...

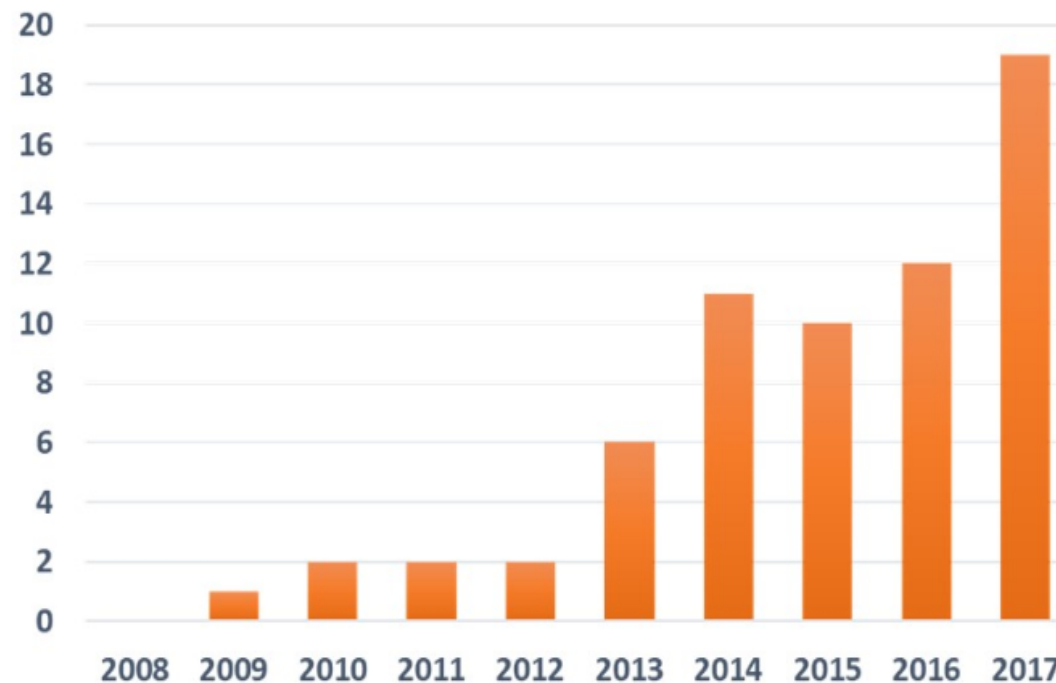
Profit motivation???

According to SpectrumNews, “ABA companies... that offer autism therapy, overall, generate somewhere between \$15 billion and \$80 billion each year”

M&A Transactions of Autism Agencies

“In the past five years, more than a dozen private equity firms like LLR Partners have injected hundreds of millions of dollars into companies that offer autism treatment.” -- SpectrumNews

Year	# Deals
2009	1
2010	2
2011	2
2012	2
2013	6
2014	11
2015	10
2016	12
2017	19
2018	??
Total Transactions	65



Autism is hottest sub-segment within the behavioral health space, with both deal volume and valuations soaring over the past year, due in large part by aggressive efforts by private equity to gain footholds in the space. Out of the 19 deals **(In 2017)** identified by The Braff Group, 14 were completed by PE, with eight of these deals market-entry platform transactions.

Source: The Braff Group

Seminal M&A Transaction: \$270 Million Exit

Autism Learning Partners (ALP)

2007: At time of acquisition, ALP had 300 employees in 3 states. Acquired by Great Point Partners (\$1 Billion under management)

December 2017: At time of sale to FFL Partners (\$3 Billion), ALP had 2,600 employees in 9 states

Organic growth

Acquisitions: 6 Companies

Sale Multiple of EBITDA 14X to 15X

Estimated pre-tax Profits: \$18 Million to \$19.2 Million

Estimated revenues (20% Pre-tax margins): \$90 Million to \$96.4 Million

Recent Transaction



Learn it Systems (Now called Learning Behavioral)

2016: At time of acquisition, Learn It Systems had approximately 850 employees in 11 states.
Acquired by [LLR Partners](#) (X Under Management)

By July 2018, the Company had 3,400 employees in 18 states.

December 2017: At time of sale to [FFL Partners](#) (\$3 Billion), ALP had 2,600 employees in 9 states

Organic growth

Acquisitions: 6 Companies

Sale Multiple of EBITDA 14X to 15X

Estimated pre-tax Profits: \$18 Million to \$19.2 Million

Estimated revenues (20% Pre-tax margins): \$90 Million to \$96.4 Million

Autism Learning Partners Questionable Business Practices?

Indeed Rating 3.3

Employment Practice

“They will work you insane hours, over 40 hours a week, without overtime, without making you full time, without benefits. Their policy is that because the hours fluctuate depending on the family, you cannot qualify until working those hours exactly for at least 6 months. So it's pretty much impossible to qualify for benefits as a BT.”

Clinical Integrity

“A supervisor did not check my therapy techniques for weeks until she did and I found out what I was doing was wrong. I changed it and my client did not agree with it. I'm only there now to block my client from doing bad things, not to give them adequate therapy.”

“The company was run backwards and didn't have nearly enough supervisors. As a newly trained technician, I had to blindly meet the client without any help from the supervisor.”

“The concept of how to treat is there but follow through is rare. At times I felt like I was wasting everyone's time and the supervision was non-existent”

“Supervisors are horrible they have the title of a supervisor but have no experience as a supervisor!... supervisors will purposely embarrass you when you go higher up to talk about issues...”

Stepping Stones



Shore Capital Partners with \$600 million under management

- May 2014: Stepping Stones was formed by acquiring MyTherapyCompany and Cumberland Therapy Services
- 2016: Acquired Alpha Vista
- 2017: Acquired Staffing Options and Solutions
- January 2018: Shore Capital sold majority share to Five Arrows Capital Partners



Revisiting Harmony Mental Health and Behavioral Services

- Sanctioned by Medicaid [via AHCA]
 - Suspended from Medicaid

Harmony Mental Health and Behavioral Services

- For Profit (Florida)
- According to State of FL
 - 11/28/2005 Incorporation Documents Filed
- Locations: Orlando, FL and Clermont, FL
- Services
 - Behavioral Analysis
 - Mental Health
 - Counseling
- **BCBA Owner? YES**
- **Staff BCBA? YES**
 - R.W. BCBA (Co-owner)
 - Certified 6/2005
 - Supervisor
 - C.L., BCaBA
 - Certified 8/2014



Suspensions from Medicaid

- Harmony Mental Health and Behavioral Services – final order [here](#).
 - Harmony Mental Health and Behavioral Services failed to pay the required fine and failed to timely provide required Medicaid records on employees such as: a list of group members, employee resumes, required AHCA training certificates, required certifications, and background checks.

Revisiting Impact of Medicaid Fraud in South Florida

- 5/14/2018: AHCA Announces [6-month Moratorium](#)
- 7/20/2018: AHCA [Sanctions](#) 4 Behavioral Health Agencies
 - Harmony Mental Health and Behavioral Services Sanctioned. Suspension from Medicaid
- 11/9/2018: AHCA [Extends](#) Moratorium for ANOTHER 6-months!

Estimated number of consumers that are affected? 25,000???

- 10 new providers per day
- 10 consumers per provider
- 250 work days
- 25,000 consumers going without service or receiving partial service

How's that for a consequence?

Downloadable Tools

- [Factors Influencing the Unethical Behavior of Business People](#) [Adam Boes Grand Valley State University]
- BACB Code of Ethics Related to OBM and Business Ethics [Dr. Jon Bailey, PhD, BCBA-D]

Thank You!

We would like to extend a special thank you to the wonderful Special Learning team members without whom our experience would be greatly diminished (or just plain disorganized!)

- Ann Beirne, BCBA, Associate Director, Clinical Solutions
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- Michelle Capulong (Client Support)
- Pia Agsao (Client Support)
- Sasho Gatchev (Creative Director)

- Erica Holding, BCBA-D, BACB ACE Coordinator