

Learning Outcomes

1. Participants will learn to distinguish between “ethics” and “morals” and how it pertains to individual practitioners, service providers and organizations that provide oversight of the profession.
2. Participants will understand the purpose and meaning behind Sections 1.0, 2.0 and 3.0 of the BACB Ethics Code.
3. Participants will learn about the history and consequence of the massive Medicaid fraud perpetuated by behavioral care agencies in South Florida.
4. Participants will understand the actions and resulting consequences of 4 behavioral care agencies under sanctions by Medicaid for billing fraud and other related billing issues.
5. Participants will understand the consequences of failing to report egregious ethics violations and its resulting impact on the client, professionals and the field of behavior analysis.
6. Participants will understand the process of reporting violations to the BACB and their internal investigation process.
7. Participants will understand the differences in code violation impact for BCBA's and those organizations that employ or contract with BCBA's.

Speaker Bio



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.

Panelist



Nicole (Nicki) Postma, BCBA

During a career that spans nearly 10 years Nicki has worked in diverse settings that includes clinic, school, outpatient and foster care. In that period, she has been able to effectively combine her clinical and OBM backgrounds to enhance the quality of care and the client experience, either directly or indirectly, for over 400 clients located across the U.S.. Additionally, by effectively applying OBM principles, she has improved the service delivery process and overall organizational effectiveness of schools and agencies for whom she has worked or consulted with. She successfully applied her clinical skills, OBM background and interpersonal skills to secure and manage a six figure contract with one of the top 10 largest school districts in the country.

As an adjunct professor at FIT, she teaches the OBM Applied course.

Panelist



Ann Beirne, BCBA

Ann Beirne, M.A., BCBA is a Board Certified Behavior Analyst who has worked as a clinician for over 20 years and has seen applications of applied behavior analysis across the lifespan. She has worked as a clinician, private consultant, and professor of applied behavior analysis. As a school-based consultant, Ann has helped develop a preschool and kindergarten applied behavior analysis programs, including training of school staff in best practices. A special education and early intervention provider, Ann is passionate about the importance of dissemination of behavior analysis and collaboration with professionals and families.

As the Director of Training at the Global Autism Project, she has presented at conferences both locally and internationally and has trained professionals working with individuals with autism on 5 continents.

She is currently writing a book on ethics, co-authored with Jacob Sadavoy, Clinical Services Coordinator at the Global Autism Project.

Panelist



Manny Rodriguez, M.S.

During his career that spans over 20 Years, Manny has worked with many organizations across the globe. He is an accomplished practitioner in the field of Behavior Analysis, highly regarded by his customers, and colleagues alike. Manny has held positions both as an external consultant at the largest behavior based consultancies, Aubrey Daniels International and the Continuous Learning Group, as a Global Environmental Health and Safety leader within FMC Corporation, and as Vice President of ABA Technologies, Inc, the largest provider of online education in the field of behavior analysis. From working with Fortune 100 organizations, to start-ups across several industries, Manny has provided expert consulting along with seasoned experience across the world.

Today, Manny stretches his entrepreneurial arms as Vice President of Organizational Behavior Management at ACES, as the Executive director of The OBM Network, and as Co-Founder of Chief Motivating Officers.

Manny co-authored the four volume series OBM Applied! a practical guide to implementing organizational behavior management, and co-authored with Dr. Paul Gavoni the book Quick Wins! Accelerating School Transformation through Science, Engagement, and Leadership. He continues to write and look for more opportunities to disseminate OBM and behavior analysis across the globe through seminars, workshops, webinars, and in writing.

Ethics vs. Morals

Looking outside 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.

Does the the concept of morality apply to organizations?

Definition of Ethics



These seem to capture the spirit and purpose of an Ethics Code better....

[American Academy of Audiology](#)

The Code of Ethics of the American Academy of Audiology specifies professional standards that allow for the proper discharge of audiologists' responsibilities to those served, and that protect the integrity of the profession

[Association of Computing Machinery](#)

Computing professionals' actions change the world. To act responsibly, they should reflect upon the wider impacts of their work, consistently supporting the public good. The ACM Code of Ethics and Professional Conduct ("the Code") expresses the conscience of the profession.

Food for Thought...



What's the difference between Ethics and Morals?

If you don't have a "moral compass" to guide your actions, does having an Ethics Code really matter?

Let's not lie to ourselves... Violating the Ethics Code is not just an "act." The real implication is that your moral compass is off.

What's the implication of looking at it through this lens? Does it cause you to shape your behavior?

What's Your Responsibility? What's the Impact of Violations?



➤ 1.0 Responsible Conduct of Behavior Analysts

- 1.01 Reliance on Scientific Knowledge (includes RBTs)
- 1.02 Boundaries of Competence (includes RBTs)
- 1.03 Maintaining Competence through Professional Development (includes RBTs)
- 1.04 Integrity (includes RBTs)
- 1.05 Professional and Scientific Relationships (includes RBTs)
- 1.06 Multiple Relationships and Conflicts of Interest (includes RBTs)
- 1.07 Exploitative Relationships (includes RBTs)

But what does “Responsible Conduct” really mean? What is the code not saying, but is implied?

What's Your Responsibility? What's the Impact of Violations?



➤ 3.0 Assessing Behavior

- 3.01 Behavior-Analytic Assessment (includes RBTs)
- 3.02 Medical Consultation
- 3.03 Behavior-Analytic Assessment Consent
- 3.04 Explaining Assessment Results
- 3.05 Consent-Client Records

What's Your Responsibility? What's the Impact of Violations?

- 2.0 Behavior Analysts' Responsibility to Clients
 - 2.01 Accepting Clients
 - 2.02 Responsibility (includes RBTs)
 - 2.03 Consultation
 - 2.04 Third-Party Involvement in Services
 - 2.05 Rights and Prerogatives of Clients (includes RBTs)
 - 2.06 Maintaining Confidentiality (includes RBTs)
 - **2.07 Maintaining Records (includes RBTs)**
 - 2.08 Disclosures (includes RBTs)
 - 2.09 Treatment/Intervention Efficacy (*why are RBTs excluded?*)
 - 2.10 Documenting Professional Work and Research (includes RBTs)
 - **2.11 Records and Data (includes RBTs)**
 - **2.12 Contracts, Fees, and Financial Arrangements**
 - **2.13 Accuracy in Billing Reports**
 - 2.14 Referrals and Fees
 - 2.15 Interrupting or Discontinuing Services

5 Minute Break

What Can Lead to Billing Issues?

Intentional or Unintentional?

- 2.07 Maintaining Records (includes RBTs)
- 2.11 Records and Data (includes RBTs)
- 2.12 Contracts, Fees, and Financial Arrangements
 - Company policy of submitting billing on behalf of the provider? What's the BCBA's right to review and sign off on billing prior to submission?
- **2.13 Accuracy in Billing Reports**
 - Many companies have a policy of submitting billing for work performed by providers.
 - What's the BCBA's right to review and sign off on billing prior to submission?
 - How can a BCBA maintain and retain control over billing?

**What's the difference between a billing issue and outright fraud?
Which section(s) of the code may likely lead to fraudulent billing?**

A Cautionary Tale: FL Medicaid Billing Fraud

Agency Announces Sanctions Against BA Providers

TALLAHASSEE, Fla. – Today the Agency for Health Care Administration (agency) released the following updates on Behavioral Analysis (BA) services.

- Since May 1, 2018, **13,687 requests for authorization of BA services have been approved, which equates to 11,564 recipients with approvals by eQHealth**
- From May 15, 2018 to July 13, 2018 253 new BA providers have been enrolled in Medicaid.
- The Agency has paid out more than \$100 million for services that have occurred since the eQHealth contract was implemented.

Table 1: Expenditures by Payment Month for BA Service Since Transition to eQHealth on 3/26/2018

Payment Month	Expenditures for BA Claims Serviced Since Transition to eQ Health	% of Total BA Services	Total BA Expenditures (Includes claims serviced prior to 3/26/2018)
April 2018	\$ 18,573,435	47%	\$ 39,374,239
May 2018	\$ 39,044,447	91%	\$ 43,070,226
June 2018	\$ 30,494,262	93%	\$ 32,648,471
July 2018 ¹	\$ 16,378,601	97%	\$ 16,835,096
Total	\$ 104,490,745	79%	\$ 131,928,032

¹ Latest Date of Payment is July, 2018
Source: DSS Claims as of 7/19/2018 - Medicaid Data Analytics Data Solutions

	Total BA Expenditures	#Approved Recipients	Reimbursement per Recipient
April 2018	\$ 39,374,239	11,564	\$ 3,405
May 2018	\$ 43,070,226	11,564	\$ 3,725
June 2018	\$ 32,648,471	11,564	\$ 2,823
July 2018	\$ 16,835,096	11,564	\$ 1,456
Total	\$ 131,928,032	79%	\$ 11,409

	Total BA Expenditures	% of Total BA Services	Payments	Unprocessed
April 2018	\$ 39,374,239	47%	\$ 18,573,435	\$ 20,800,804
May 2018	\$ 43,070,226	91%	\$ 39,044,447	\$ 4,025,779
June 2018	\$ 32,648,471	93%	\$ 30,494,262	\$ 2,154,209
July 2018	\$ 16,835,096	97%	\$ 16,378,601	\$ 456,495
Total	\$ 131,928,032	79%	\$ 104,490,745	\$ 27,437,287

Consequence: Medicaid Terminations

DRA Behavioral Health

- Non Profit (FL)
- Incorporated 11/24/2014
- Locations:
 - Port Saint Lucie
 - Miami Lakes
- Services
 - ABA
 - Verbal Behavior
 - Bio Feedback
 - Cognitive Behavior Therapy
 - Art Therapy
 - Psychodrama Therapy
 - Narrative Therapy
 - Music Therapy
- **BCBA Owner? NO**
- **Staff BCBA? YES**
 - A.K., BCBA
 - Certified 11/2016
 - Supervisor
- Incorporator
 - D. R.



• Terminations from Medicaid

- **E.G.** – From March 5, 2018 to March 23, 2018, DRA Behavioral Health billed for G as a renderer for impossible days, an average of 28.21 hours in a day, ranging from 26.5 to 31.5 hours.
- **B.R.** – From June 12, 2017 to March 21, 2018, DRA Behavioral Health billed for R as a renderer for impossible days, an average of 36.71 hours in a day, ranging from 26 to 67 hours.
- **D.R. (Owner)** – From July 18, 2017 to March 22, 2018, DRA Behavioral Health billed for R as a renderer for impossible days, an average of 34.53 hours in a day, ranging from 25 to 74.5 hours.
- **A.C.** – From February 19, 2018 to February 24, 2018, DRA Behavioral Health billed for C as a renderer for impossible days, an average of 27 hours in a day.
- **J.C.** – From March 12, 2018 to March 17, 2018, DRA Behavioral Health billed for C as a renderer for impossible days, an average of 28.67 hours in a day, ranging from 25 to 32 hours.
- **M.S.** – On September 3, 2017 DRA Behavioral Health billed for S as a renderer for 5 claims. Specifically, the claims data shows Sanchez as working a total of 36 hours.

Consequence: \$1M Refund

MGM Behavioral Corp.

- For Profit (Florida)
- Founded in 2011 (per website)
- According to State of FL
 - 10/4/2017 Incorporation Documents Filed (under MGM Behavioral)
 - 1/18/2018 Name Change Amendment Filed (MGAG Behavioral Corp)
- Locations: Miami Lakes, FL and Ft. Lauderdale, FL
- Services
 - Applied Behavior Analysis
 - Cognitive Behavioral (CBT)
 - Emotionally Focused
 - Family Systems
 - Fitness Therapy
 - Play Therapy
 - Psychoanalytic
 - Sand Play
 - Sensory Integration
 - Trauma Focused
- **BCBA Owner? NO**
- **Staff BCBA? YES**
 - S.R., BCBA
 - Certified 5/2016
 - Supervisor



Medicaid Overpayments

- **MGM Behavioral** – final order [here](#).
 - MGM Behavioral used unqualified rendering providers for BA services, and has agreed to refund a Medicaid overpayment totaling \$1,047,839.51.

Consequence: Suspensions

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.

Consequence: Suspensions

Meli Medical Center (FB Page)

- For Profit (Florida)
- According to State of FL
 - 1/11/2011 Incorporation Documents Filed (Meli Medical Center)
 - 11/20/2017 Incorporation Documents Filed (Meli Medical Center #3)
 - 12/4/2017 Incorporation Documents Filed (Meli Medical Center #2)
- Locations: Hialeah, FL
- Services
 - No Information Provided
- **BCBA Owner? Not enough info**
- **Staff BCBA? Not enough info**



Suspensions from Medicaid

- Meli Medical Center, Inc. – final order [here](#).
 - Meli Medical Center, Inc. submitted false information on the Medicaid provider enrollment application. Specifically that owner O. C. submitted false information on the Medicaid provider enrollment information.

What's the Repercussion?



Billing fraud is often considered a "victimless crime."

Do you still believe that???

A recent social media post

Do you want to know how Medicaid looks in Florida right now?

A client with high intensity aggression (uses weapons and has broken peoples arms within the last year) and has dangerous sexual behavior that targets children was denied services.

Let that sink in for just a second.

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What is Your Obligation?



- 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?
 - What's the impact of ignoring your obligation?
 - Minor violations
 - Major violations (affecting a few parties)
 - Major violations (affecting the field of behavior analysis)

Never mind the Ethics Code. What is *your* personal responsibility?

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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 the person violating the code to discuss concerns 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: The process does NOT allow for any anonymity

Downloadable Resources

1. BACB Ethics Code
2. [Agency for Health Care Administration \(AHCA\) Press Release: Agency Announces Sanctions Against BA Providers](#)
3. Presentation PPT
4. Complementary 30-day Access to the Recorded Webinar
5. Notice of Alleged Violation Form (BACB)
6. Ethics for Behavior Analysts (3rd Edition)
 - Rutledge Taylor and Francis <https://www.routledge.com/>
 - 20% Discount Code: **SL16**

Please do not forget to complete the survey upon close of this webinar.

Thank You!

Thank you Dr. Bailey and our wonderful group of panelists for sharing their knowledge, experiences and insights on this critically important topic.

Dr. Jon Bailey, PhD, BCBA-D

Our Panelists

- Nicki Postma, BCBA
- Ann Beirne, BCBA
- Manny Rodriguez, OBM Expert

Thank You!

Thank you to the wonderful Special Learning team members without whom our experience would be greatly diminished (or just plain disorganized!)

- Amanda Fishley, BCBA, Associate Director, Clinical Solutions
- Krystal Larsen, BCaBA, RBT Program Manager
- Lesley de Dios, Director of Operations (Moderator and Technical Support)
- Pia Agsao, Technical Customer Support (Customer Support)
- Samantha Hayes, Clinical Intern and International Relations
- Erica Holding, BCBA-D, BACB ACE Coordinator

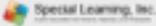


Thank you for attending Special Learning's
Ethics Code in Action: Sections 1.0 to 3.0 (Impact of Fraudulent Billing)

[Other Titles in Our Ethics Code in Action Series](#)

Next up in this series

- [Ethics Code in Action: Section 4.0 Behavior Change and Related Scenarios \(Aug 22, 2018\)](#)
- [Ethics Code in Action: Section 5 Supervision and Related Scenarios \(Sept 19, 2018\)](#)
- [Ethics Code in Action: Sections 6 to 10 and Related Scenarios \(Oct 17, 2018\)](#)
- [Ethics Code in Action: Behavior Analysts Behaving Badly: What to do When Your Colleague Misbehaves? \(Nov 14, 2018\)](#)



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