



# NEWS

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## The 2016 Michael Hemingway Behavior Analysis Award

This annual award is given in honor of the late Michael Hemingway, who played a central role in the development of behavior analyst certification in Florida before serving as a founding director of the BACB. Michael's commitments to the profession of behavior analysis and to increasing access to services are reflected in the behavior of the individual who receives this award.

We are pleased to announce that the 2016 recipient of the Michael Hemingway Behavior Analysis Award is **Sharon Chien**, the President of SEEK Education, a nonprofit service-delivery organization founded in 2000. Sharon's receipt of the Hemingway Award was based on her

longstanding and numerous efforts to disseminate behavior analysis throughout Asia. For over a decade, Sharon and her organization have coordinated and funded numerous conferences in Taiwan, China, and Japan during which

the fundamentals of behavior analysis, behavior-analytic treatment, and training and certification were disseminated to audiences who were interested in learning more about our profession. These conferences, along with other interactions between Sharon and key stakeholders, have resulted in a number of tangible developments





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in behavior-analytic infrastructure, including: the inception of the Taiwan Association for Behavior Analysis and the Central China Association for Behavior Analysis, new BACB course sequences in Taiwan and China, new treatment programs in Taiwan and China, the translation of key readings into Chinese (e.g., Cooper, Heron, & Heward, 2007), and the translation of the BCaBA examination into Chinese. Such impressive accomplishments will undoubtedly increase access to behavior-analytic services for numerous individuals, an outcome most highly valued by Michael Hemingway. Thank you, Sharon!

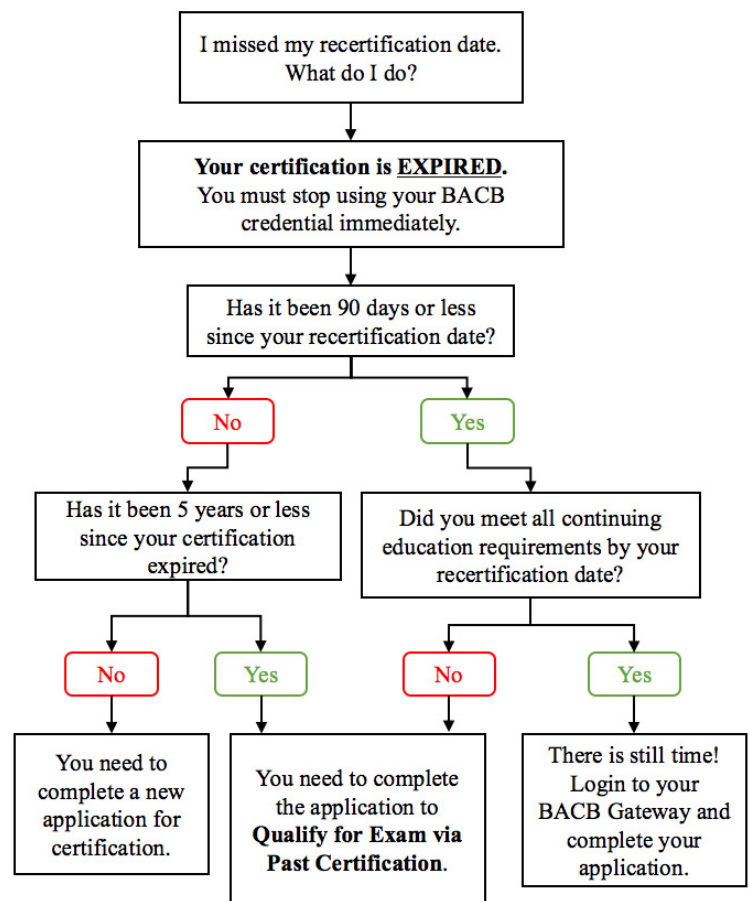
## Expired BCBA's and BCaBA's

A BCBA's or BCaBA's certification is considered expired when he or she does not renew or recertify by the specified date. Certificants who have missed their recertification date and had met their continuing education requirements on, or prior to, their recertification date have a 90-day period to correct their expiration status and become recertified. Certificants who are unable to correct their expired status within this 90-day period lose their certification. These individuals must requalify and take the current examination to become certified again. Historically, all expired certificants have been required to meet then-current eligibility standards. However, this can be difficult for individuals who met coursework and experience standards prior to increases in those standards. Therefore, a new pathway to certification has been established, allowing individuals to qualify for an examination via their past certification. The application to *Qualify for Exam via Past Certification* provides an individual who previously held a BCBA or BCaBA credential a way to qualify for a new certification at that same level. This option is available only to individuals whose certification has been expired for less than five years. These individuals must acquire a specified amount of continuing education, supervision (for former

BCaBA's), and pass the respective certification examination to become certified again. Full details can be found in the [application document](#) which is available on our [Documents](#) webpage.

Because the process described above expedites the ability of expired certificants to become certified again, the BACB has deemed this process to be effective immediately, without a phase-in period.

The flowchart below illustrates available options for certificants who have missed their recertification date.





## On Testimonials

This article is intended to clarify the BACB's rules regarding testimonials. The BACB [Professional and Ethical Compliance Code for Behavior Analysts](#) (Compliance Code) currently provides the following guidance regarding Testimonials and Advertising:

### 8.05 Testimonials and Advertising.

Behavior analysts do not solicit or use testimonials about behavior-analytic services from current clients for publication on their webpages or in any other electronic or print material. Testimonials from former clients must identify whether they were solicited or unsolicited, include an accurate statement of the relationship between the behavior analyst and the author of the testimonial, and comply with all applicable laws about claims made in the testimonial.

Behavior analysts may advertise by describing the kinds and types of evidence-based services they provide, the qualifications of their staff, and objective outcome data they have accrued or published, in accordance with applicable laws.

**Testimonials** are disclosures of client information for reasons unrelated to the delivery of services to the client. Testimonials are used for a variety of purposes, including advertising (e.g., websites, brochures, social media reviews), fundraising and grant procurement, obtaining client referrals, and public information resources. In the [September 2014](#) issue of the *BACB Newsletter*, we described the evolution of the Compliance Code from our prior ethics resources: the *Professional Disciplinary and Ethical Standards* (Disciplinary Standards) and the *Guidelines for Responsible Conduct for Behavior Analysts* (Conduct Guidelines).

When considering the testimonial restriction, the 2014 Ethics Workgroup carefully considered a number of factors, including: potential harm to

consumers, individual rights to accurately advertise services, standards enacted by comparable professions and licensing boards that generally prohibit all testimonials (not just testimonials from current clients), and the advice of legal counsel.

Element 8.05 of the Compliance Code, reprinted earlier, is the successor to former guideline 9.07 of the Conduct Guidelines, which stated that "Behavior analysts do not solicit testimonials from current clients or patients or other persons who because of their particular circumstances are vulnerable to undue influence." Element 8.05, as approved by the BACB's Board of Directors, differs from the earlier version in a number of important ways: (a) testimonials from *current* clients may not be solicited or used (the prior restriction only related to solicitation), (b) testimonials from *former* clients must clearly be identified as solicited or unsolicited, and (c) testimonial claims must comply with all applicable laws.

As the January 1, 2016 deadline for implementation of the Compliance Code approached, we received a few inquiries from professionals who requested additional clarification regarding testimonials. Element 8.05 is not intended to restrict fundraising or grant-application efforts or initiatives designed to disseminate information about applied behavior analysis (ABA). Rather, the BACB's interpretation of element 8.05 is limited to "Testimonials and Advertising" in accordance with the section title. This means that element 8.05 applies to **advertisements to solicit new clients or garner new business (e.g., company websites)**.

Whenever a testimonial is contemplated, be it in a non-advertising context with a current or former client, or a former-client testimonial, there are a number of related Compliance Code elements that need to be considered. These include, but are not limited to, several provisions in Sections 1, 2, and 8 of the Compliance Code. In the list that follows, we identify primary Compliance Code elements



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implicated in the use of testimonials, along with typical questions that an ethics committee might ask in the event that a Notice of Alleged Violation were to be filed based on the solicitation or use of a testimonial.

#### **1.04 (a, d) – Being truthful and honest and complying with laws**

- Are clear and thorough descriptions provided to the client regarding how and where the testimonial will appear?
- Are any risks identified in writing prior to obtaining a current or former client's consent for disclosure of information in a testimonial?
- Is use of the solicitation and publication in violation of any laws or regulations (e.g., HIPAA/FERPA)?

#### **1.06 – Multiple relationships**

- What efforts are made to avoid the multiple relationship roles of service provision and public relations?
- Are individuals other than the actual service provider available to negotiate the consent?

#### **1.07 – Exploitative relationships**

- How is the testimonial solicited?
- Can the solicitation be considered coercive?
- Are any ABA service-related incentives provided or expected for the testimonial?
  - Is there an expectation of improved service delivery or fear of negatively impacting the quality of ABA services provided by the behavior analyst or organization?
  - Is the solicitation language clear, concise, and easily understood by the current or former client?
  - Were services bartered for the testimonial?

#### **2.0 – Acting in the best interest of the client**

- Who is benefitting from the testimonial?
- Is anyone being put at risk by the testimonial?
  - What is the level of risk?
  - Was the risk fully disclosed prior to obtaining the consent?

- Are the solicitation and use of the testimonial reasonably designed to protect the client?

#### **2.06 – Maintaining confidentiality**

- Have precautions been taken to share only the information necessary to achieve the desired outcome?
- Are pseudonyms or altered identities used in the testimonial?

#### **2.08 – Consent for disclosure**

- Prior to obtaining the consent for disclosure, were the following clearly identified in writing:
  - The exact type of disclosure and information to be disclosed
  - Current and foreseeable venues for publication of the information disclosed in the testimonial
  - Risks associated with the disclosure
  - Procedures for refusing or revoking consent

#### **8.0 and 8.01 – Accuracy of information**

- Is the information portrayed in the testimonial truthful and accurate?
- Is the testimonial potentially misleading or easily misinterpreted?

#### **8.05 – Testimonials and advertising**

- Does the testimonial clearly identify a former client, whether the testimonial was solicited or unsolicited, and the exact nature of the services provided to that client?

Navigating the use of testimonials for non-business-related purposes requires careful consideration of the requirements stated in the Compliance Code. We encourage gathering information from other relevant parties (e.g., independent counsel, state laws, trusted colleagues) prior to solicitation of testimonials from clients. When in doubt, the BACB's Legal Department (BACBlegal@bacb.com) is also available to assist in analyzing testimonial scenarios and how they may fall under the applicable Compliance Code sections.



## News and Notes

### RBT Examination Pass Rates Available

The number of first-time candidates who took the RBT examination and their monthly pass rates are now available [online](#). Between January and March 2016, the monthly pass rates of first-time candidates ranged from 89.38% to 90.52%.

### Job Task Analysis Survey

We recently invited BCBA and BCaBA certificants to participate in the content-validation survey for the *BCBA/BCaBA Task List* (5th ed.) and our response rate exceeded 25%. We have now posted five Type 5 continuing education units into the accounts of each certificant who completed the survey. Thank you for your participation!

## A Summary of Recent and Upcoming Changes to BACB Standards

In an effort to assist certificants in remaining up-to-date with BACB standards, the table below summarizes current and upcoming changes announced in past issues of *BACB Newsletter*.

Effective Date	Area	Change	Original Published Source
Recertification cycles that began on or after January 1, 2015	Continuing Education	Changes to recertification cycle duration, # of required CEUs, ethics CE, and new CE categories	<a href="#">February 2013</a>
January 1, 2016	BCBA Degree Requirement	Possession of a minimum of a master's degree from an accredited university that was (a) conferred in behavior analysis, education, or psychology, or (b) conferred in a degree program in which the candidate completed a BACB approved course sequence	<a href="#">February 2013</a>
January 1, 2016	Ethics and Discipline	The <a href="#">Professional and Ethical Compliance Code for Behavior Analysts</a> will be enforced. Revisions to the disciplinary system will take effect.	<a href="#">September 2014</a>
January 1, 2016*	BCBA Eligibility Requirements	Changes to eligibility requirements for Options 2 (College Teaching) and 3 (Postdoctoral Experience) *See also the <a href="#">October 2015</a> newsletter.	<a href="#">November 2014</a>
February 1, 2016	BCBA-D Eligibility Requirements	Changes to eligibility requirements for the doctoral designation for BCBA-D	<a href="#">January 2016</a>
January 1, 2017	BCaBA Supervision	Changes made to supervisor responsibilities and qualifications, supervision amount and structure, group supervision, and documentation of supervision	<a href="#">December 2014</a>
January 1, 2017	Approved Course Sequence Coordinator Requirements	<ul style="list-style-type: none"> <li>• Be employed as full-time faculty by the university</li> <li>• Hold a doctoral degree</li> <li>• Hold BCBA/BCBA-D certification</li> </ul>	<a href="#">May 2013</a>