



Date of Notice: July 11, 2018

**STATE OF RHODE ISLAND
DEPARTMENT OF HEALTH
PUBLIC NOTICE OF PROPOSED RULE MAKING**

In accordance with Rhode Island General Laws (RIGL) 42-35-2.7, notice is hereby given that the Rhode Island Department of Health (RIDOH) proposes to amend the rules and regulations for Applied Behavior Analysts and Applied Behavior Assistant Analysts (216-RICR-40-05-28).

REGULATION TITLE:

**RICR Title 216 – Rhode Island Department of Health
Chapter 40 – Professional Licensing and Facility Regulation
Subchapter 05 – Professional Licensing
Part 28 – Applied Behavior Analysts and Applied Behavior Assistant Analysts**

TYPE OF FILING: Amendment.

RULEMAKING ACTION: Public Notice of Proposed Rule Making.

TIMETABLE FOR ACTION ON THE PROPOSED RULE: The public comment period ends on Friday, August 10, 2018.

SUMMARY OF PROPOSED RULE: The RIDOH is proposing rulemaking to create Authority and Incorporated Materials sections, remove statutory reiteration and superfluous language, eliminate notarization/photograph requirements for applications, revise procedure for lapsed licenses, and revise to utilize the term psychologist with equivalent experience consistently throughout the regulations.

COMMENTS INVITED: All interested parties are invited to submit written comments concerning the proposed regulations. Written comments can be submitted by mail to Paula Pullano, Rhode Island Department of Health, 3 Capitol Hill, Providence, RI 02908-5097 or by email at paula.pullano@health.ri.gov by the close of **Friday, August 10, 2018**. Please note that comments submitted to RIDOH by other means than the prescribed mailing and email address may not be received and addressed in RIDOH's concise explanatory statement. To ensure that your comments are received, please send them to the prescribed mailing and email address.

PUBLIC HEARING: In accordance with R.I. Gen. Laws § 42-35-2.8(c), an oral hearing will be granted if requested by twenty-five (25) persons, by a governmental agency, or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) calendar days of this notice, and must clearly state the name of the regulation for which the hearing is being requested.

WHERE COMMENTS MAY BE INSPECTED: Rhode Island Department of Health, 3 Capitol Hill, Providence, Rhode Island 02908-5097.

FOR FURTHER INFORMATION CONTACT: Paula Pullano, Rhode Island Department of Health, Division of Policy, Information, and Communications, 3 Capitol Hill, Providence, Rhode Island 02908-5097, 401-222-1042, paula.pullano@health.ri.gov.

AUTHORITY FOR THE RULEMAKING: R.I. Gen. Laws § 5-86-7(1).

REGULATORY FINDINGS: In the development of the proposed amendment, consideration was given to: 1) alternative approaches; 2) overlap or duplication with other statutory and regulatory provisions; and 3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based on available information. RIDOH has determined that the benefits of the proposed rule justify the costs of the proposed rule.

THE PROPOSED AMENDMENT: RIDOH proposes to amend the rules and regulations for Applied Behavior Analysts and Applied Behavior Assistant Analysts (216-RICR-40-05-28) as follows in the concise explanatory statement of proposed non-technical amendments.

**STATE OF RHODE ISLAND
RHODE ISLAND DEPARTMENT OF HEALTH
CONCISE STATEMENT OF PROPOSED NON-TECHNICAL AMENDMENTS
(AMENDMENTS TO AN EXISTING REGULATION)**

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-3(a)(1), the following is a concise statement of proposed non-technical amendments to the rules and regulations for Applied Behavior Analysts and Applied Behavior Assistant Analysts (216-RICR-40-05-28).

Amendment Coordinates	Rationale/Summary of Change
§ 28.1: Creates Authority section.	
§ 28.2: Creates Incorporated Materials section.	
§ 28.3: Eliminates superfluous definitions.	
§§ 28.4.3, 28.4.4, 28.5.1, 28.5.2, 28.5.3, 28.11.2, and 28.11.3: Removes statutory reiteration.	
§ 28.6.1: Removes notarization/photograph requirements for applications.	
§§ 28.7.1, 28.8.4(C), and 28.10: Revises to utilize the term psychologist with equivalent experience consistently.	
§ 28.8.2: Removes superfluous language.	
§ 28.8.3: Clarifies use of the term continuing education unit.	
§ 28.8.4: Revises procedure for lapsed licenses and to utilize term psychologist with equivalent experience consistently.	
§ 28.9.2: Revises to plain language and to utilize term psychologist with equivalent experience consistently.	
§ 28.10.1(B): Revises to cite to incorporation by reference in § 28.2.	
§ 28.11.1(B): Cites to applicable statute.	
Severability: Removed as superfluous.	

216-RICR-40-05-28

TITLE 216 - DEPARTMENT OF HEALTH

CHAPTER 40 – PROFESSIONAL LICENSING AND FACILITY REGULATION

SUBCHAPTER 05 – PROFESSIONAL LICENSING

PART 28 – Applied Behavior Analysts and Applied Behavior Assistant Analysts

28.1 Authority

These regulations are promulgated pursuant to the authority set forth in R.I. Gen. Laws § 5-86-7(1), for the purpose of defining the prevailing standards for the licensure of applied behavior analysts and applied behavior assistant analysts.

28.2 Incorporated Materials

These regulations hereby adopt and incorporate the Behavior Analyst Certification Board (BACB) “Behavior and Ethical Compliance Code” (2017) by reference, not including any further additions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

28.3 Definitions

- A. Wherever used in this Part, the following terms shall be construed as follows:
1. “Act” means R.I. Gen. Laws Chapter 5-86 entitled “Licensing of Applied Behavior Analysts”.
 2. “Applied behavior analyst” means an individual licensed to practice applied behavior analysis pursuant to provisions of the Act and this Part.
 3. “Applied behavior analyst aide” means an individual, not licensed pursuant to the Act and this Part, who works under the supervision of a licensed applied behavior analyst, who assists in the practice of applied behavior analysis and whose activities require an understanding of applied behavior analysis, but do not require professional or advanced training in the basic anatomical, psychological, and social sciences involved in the practice of applied behavior analysis.
 4. “Applied behavior assistant analyst” means an individual licensed who practices applied behavior analysis pursuant to the provisions of the Act and this Part.
 5. “Board” means the Rhode Island Applied Behavior Analyst Licensing Board established pursuant to the provisions of R.I. Gen. Laws § 5-86-4.

6. "Department" means the Rhode Island Department of Health.
7. "Director" means the means the Director of the Rhode Island Department of Health.
8. "Education" means the academic program pursued by the person in obtaining the bachelors, masters or doctorate degree, that the programs to include formal course work, seminars and practica.
9. "Practice of applied behavior analysis" means the design, implementation and evaluation of environmental modifications by a behavior analyst to produce socially significant improvements in human behavior.
 - a. It includes the empirical identification of functional relations between environment and behavior, known as functional assessment and analysis.
 - b. Applied behavior analysis interventions are based on scientific research and the direct observation and measurement of behavior and environment. They utilize contextual factors, establishing operations, antecedent stimuli, positive reinforcement and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.
 - c. The practice of applied behavior analysis expressly excludes psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities. Such services are provided by an individual licensed pursuant to Act and this Part only when applied behavior analysis services are prescribed by a child psychiatrist, a behavioral developmental pediatrician, a child neurologist or a licensed psychologist with training in child psychology pursuant to R.I. Gen. Laws 27-20.11-4.
10. "Psychologist with equivalent experience" means an individual deemed to hold equivalent licensure as an applied behavior analyst upon satisfying equivalency requirements through submission and satisfaction of written evidence of education and relevant experience to the Department pursuant to § 28.5.3 of this Part.

~~"R.I. Gen. Laws" means the General Laws of Rhode Island, as amended.~~

11. "Supervised experience" means the practical application of principles, methods and procedures of the science of applied behavioral analysis in accordance with the requirements of §§ 28.5.1(A)(2) of this Part (applied behavior analyst) or 28.5.2(A)(2) of this Part (applied behavior assistant analyst).

12. "Supervision" means that a licensed applied behavior analyst is at all times responsible for supportive personnel and clients. Supervision is further defined in § 28.4.3 of this Part.

~~"These Regulations" mean all parts of Rhode Island Rules and Regulations for Licensing Applied Behavior Analysts and Applied Behavior Assistant Analysts.~~

13. "Training" means the pre-professional or professional supervised experience received by the person at the pre or post-doctoral level that experience to have been obtained in an internship, clinic, or other similar professional setting.

28.4 General Licensing Requirements

28.4.1 License Required

- A. It shall be unlawful for any person to practice as a licensed applied behavior analyst or licensed applied behavior assistant analyst, or represent themselves as such, unless they are duly licensed pursuant to the provisions of the Act and this Part.
- B. It shall further be unlawful for any person to offer services to the public or to render to individuals or groups of individuals services defined as the "practice of applied behavior analysis," pursuant to § 28.3(A)(9) of this Part, unless that person is licensed pursuant to the provisions of the Act and this Part.
- C. Notwithstanding the provisions of §§ 28.4.1(A) and (B) of this Part, nothing in this Part shall prohibit an individual licensed as a psychologist pursuant to R.I. Gen. Laws Chapter 5-44 from practicing within their field of expertise, including practicing behavior analysis.

28.4.2 Title Authorized.

Any individual licensed pursuant to Act and this Part may use the title "licensed applied behavior analyst" and the abbreviation "LBA" or the title "licensed applied behavior assistant analyst" and the abbreviation "LABA", provided that the title and abbreviation correspond to the license held pursuant to the Act and this Part.

28.4.3 Supervision.

~~Supervision requirements are in accordance with the provisions set forth in R.I. Gen. Laws § 5-86-26. A licensed applied behavior analyst shall exercise sound judgment and shall provide care within the scope of practice or guidelines in the performance of his or her duties. A licensed applied behavior analyst shall be permitted to supervise the following:~~

~~Applied behavior analysts;~~

~~Applied behavior assistant analysts; applied behavior analyst aides;~~

~~Applied behavior analyst students;~~

~~Care extenders; and~~

~~Volunteers.~~

~~Subject to the requirements of the Act and these Regulations, a licensed applied behavior assistant analyst may practice limited applied behavior analysis only under the supervision of a licensed applied behavior analyst.~~

~~Supervision requires, at a minimum, that the supervising licensed applied behavior therapist meet in person with the licensed applied behavior assistant analyst to provide initial direction and periodic on-site supervision.~~

~~The supervising licensed applied behavior analyst working with the applied behavior assistant analyst shall determine the amount and type of supervision necessary in response to the experience and competence of the licensed applied behavior assistant analyst and the complexity of the treatment program.~~

~~The supervisor and the licensed applied behavior assistant analyst shall be jointly responsible for maintaining records, including patient records, to document compliance with these Regulations.~~

~~A licensed applied behavior assistant analyst:~~

~~May not initiate a treatment program until the patient has been evaluated and the treatment planned by the licensed behavior analyst;~~

~~May not perform an evaluation, but may assist in the data gathering process and administer specific assessments where clinical competency has been demonstrated, under the direction of the licensed applied behavior analyst;~~

~~May not analyze or interpret evaluation data;~~

~~May participate in the screening process by collecting data and communicate the information gathered to the licensed applied behavior analyst;~~

~~Monitors the need for reassessment and report changes in status that might warrant reassessment or referral under the supervision of the licensed applied behavior analyst; and~~

~~Immediately discontinues any treatment procedure, which appears harmful to the patient and immediately notifies the supervising applied behavior analyst.~~

~~An applied behavior analyst aide shall be a worker trained on the job. A licensed applied behavior analyst using applied behavior analyst aide personnel to assist with the provision of applied behavior analysis services must provide close supervision in order to protect the health and welfare of the consumer.~~

~~The primary function of an applied behavior analyst aide shall be to perform designated routine tasks related to the operation of applied behavior analysis service.~~

~~The licensed applied behavior analyst shall not delegate to an applied behavior analyst aide:~~

~~Performance of applied behavior analysis evaluation procedures;~~

~~Initiation, planning, adjustment, modification, or performance of applied behavior analyst procedures requiring the skills or judgment of a licensed applied behavior analyst;~~

~~Acting on behalf of the applied behavior analyst in any matter related to applied behavior analysis, which requires decision making or professional judgment.~~

28.4.4 Exemptions.

~~Persons and practices exempt are in accordance with the provisions set forth in R.I. Gen. Laws § 5-86-21. No provision of the Act or these Regulations shall be construed to:~~

~~Prevent members of other recognized professions that are licensed, certified, or regulated for independent practice of that profession pursuant to laws of the State of Rhode Island from rendering services consistent with their professional training and code of ethics and scope of practice as defined in the relevant licensure act, provided that they do not represent themselves to be licensed applied behavior analysts, licensed applied behavior assistant analysts or psychologists with equivalent experience. Recognized members of the clergy shall not be restricted from functioning in their ministerial capacity, provided that they do not represent themselves to be licensed applied behavior analysts, licensed applied behavior assistant analysts or psychologists with equivalent experience.~~

~~Prohibit teachers, guidance personnel, social workers, and school psychologists in public or private schools from full performance of their duties, nor to prohibit the use of applied behavior analytic techniques by business or industrial organizations or companies for employment, placement, evaluation, promotion, or job adjustment of their own officers or employees.~~

~~Prohibit the use of consultants who are defined as qualified mental retardation professionals pursuant to 42 CFR § 483.430 by facilities licensed as~~

~~intermediate care facilities for people who are developmentally disabled by the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals.~~

~~Permit licensed applied behavior analysts, licensed applied behavior assistant analysts or psychologist with equivalent experience to practice medicine as defined by the laws of the State of Rhode Island.~~

~~Permit those persons identified in §§ 4.4A.2 and 4.4A.6 of this Part to offer their services to any persons or organizations, other than those listed in § 4.4A.5 of this Part, as consultants or to accept remuneration for any behavior analytic services other than that of their institutional salaries or fees unless they have been licensed pursuant to the Act and these Regulations or exempted pursuant to § 4.4A.1 of this Part.~~

~~Prohibiting those persons who are implementing applied behavior analysis services to an immediate family member or as a paid or volunteer caregiver, if the individual or caregiver does not represent himself/herself as a licensed applied behavior analyst, licensed applied behavior assistant analyst or psychologist with equivalent experience.~~

~~Prohibiting any person pursuing a supervised course of study leading to a degree or certificate in applied behavior analysis at an accredited or approved educational program if the person is designated by a title which clearly indicates his or her status as a student or trainee.~~

~~Prohibit any persons fulfilling the supervised fieldwork experience requirement of the Act and these Regulations.~~

28.4.5 Temporary Waiver.

An applied behavior analyst licensed or certified in another state, or United States territory may perform applied behavior analysis services in the State of Rhode Island without obtaining a license for up to ten (10) calendar days per calendar year with no more than five (5) days of this activity occurring consecutively. The calendar day limit shall not apply to services as an expert witness in a legal proceeding.

28.5 Qualification for Licensing

28.5.1 Applied Behavior Analyst.

A. An applicant for licensure as an applied behavior analyst shall meet the requirements of R.I. Gen. Laws § 5-86-9(a). In addition, the applicant shall meet the following requirements:~~Be of good moral character;~~

~~Has obtained a graduate degree in applied behavior analysis or a related field, as approved by the Board, from a college or university accredited by the New England association of schools and colleges, or an equivalent regional~~

~~accrediting agency, and which has the approval by a national or regional certifying authority, including but not limited to the applied behavior analyst licensing board;~~

1. Has successfully completed the amount of coursework in applied behavior analysis consistent with Behavior Analyst Certification Board (BACB) requirements.
2. Has appropriate supervised experience in accordance with R.I. Gen. Laws § 5-86-9(a)(4) or:

~~to include either:~~

~~One year, including one thousand five hundred (1,500) hours of supervised independent fieldwork in applied behavior analysis. The distribution of supervised independent fieldwork hours must be at least ten (10) hours per week, but not more than thirty (30) hours per week, for a minimum of three (3) weeks per month;~~

~~One thousand (1,000) hours of practicum in behavior analysis within a university experience program approved by the national or regional certifying authority. The distribution of practicum hours must be at least ten (10) hours per week, but not more than twenty five (25) hours per week, for a minimum of three (3) weeks per month; or~~

~~Seven hundred fifty (750) hours of intensive practicum in behavior analysis within a university experience program approved by the national or regional certifying authority. The distribution of intensive practicum hours must be at least ten (10) hours per week, but not more than twenty five (25) hours per week, for a minimum of three (3) weeks per month; or~~

- a. Supervised experience as required by the BACB and is acceptable to the Board.

3. Has passed the Board -Certified Behavior Analyst examination administered by the Behavior Analyst Certification Board (BACB);
4. Maintain active status and fulfill all relevant requirements for renewal and relicensing with the Behavior Analyst Certification Board (BACB).

~~;~~ and

~~Meets the criteria as established in R.I. Gen. Laws § 5-86-9 of the Act.~~

28.5.2 Applied Behavior Assistant Analyst.

- A. An applicant for licensure as an applied behavior assistant analyst shall meet the requirements of R.I. Gen. Laws § 5-86-9(b). In addition, the applicant shall meet the following requirements:

~~Be of good moral character;~~

~~Has obtained a bachelor's degree in behavior analysis or a related field, as approved by the Board, from a college or university accredited by the New England Association of Schools and Colleges, or an equivalent regional accrediting agency, and which has the approval by a national or regional certifying authority, including, but not limited to, the Board;~~

1. ~~Has successfully completed the amount of coursework in applied behavior analysis consistent with BACB requirements.~~
2. ~~Has appropriate supervised experience in accordance with R.I. Gen. Laws § 5-86-9(b)(4) or, to include either: One thousand (1,000) hours of supervised independent fieldwork in applied behavior analysis. The distribution of supervised independent fieldwork hours must be at least ten (10) hours per week, but not more than thirty (30) hours per week, for a minimum of (3) three weeks per month;~~

~~Six hundred seventy (670) hours of practicum in behavior analysis within a university experience program approved by the national or regional certifying board. The distribution of practicum hours must be at least ten (10) hours per week, but not more than twenty-five (25) hours per week, for a minimum of three (3) weeks per month; or~~

~~Five hundred (500) hours of intensive practicum in behavior analysis within a university experience program approved by the national or regional certifying board. The distribution of intensive practicum hours must be at least ten (10) hours per week, but not more than twenty-five (25) hours per week, for a minimum of three (3) weeks per month; or~~

- a. Supervised experience as required by the BACB and is acceptable to the Board.
3. Is supervised by a licensed applied behavior analyst in a manner consistent with the requirements of § 28.4.3 of this Part;
4. Has passed the Board Certified Assistant Behavior Analyst examination administered by the Behavior Analyst Certification Board (BACB);
5. Maintain active status and fulfill all relevant requirements for renewal and relicensing with the Behavior Analyst Certification Board (BACB).

~~;~~ and

~~Meet the criteria as established in § 5-86-9 of the Act.~~

28.5.3 Psychologist with Equivalent Experience.

- A. An applicant shall also be considered eligible for licensure as an applied behavior analyst if the ~~following~~ equivalency requirements in R.I. Gen. Laws § 5-86-9(c) are met to the satisfaction of the Board. In addition, the applicant shall meet the following requirements:~~Be of good moral character;~~

~~Has received a doctoral degree in psychology from a college or university accredited by the New England association of schools and colleges, or an equivalent regional accrediting agency, and which has the approval by a national or regional certifying authority;~~

~~Has completed coursework in applied behavior analysis supervised by the department within the college or university granting the requisite degree or by an accredited postgraduate clinical training program recognized by the United States Department of Education, or education and/or experience which is deemed equivalent by the Board;~~

1. Has completed one thousand five hundred (1,500) hours of direct client contact offering applied behavior analysis services subsequent to being awarded a doctoral degree in psychology, or as approved by the Board.
2. Be individually licensed by the Department as a psychologist pursuant to R.I. Gen. Laws Chapter 5-44.

~~;~~and

~~Meets the criteria as established in R.I. Gen. Laws § 5-86-9 of the Act.~~

28.6 Application for Licensure and Fee

28.6.1 Application for Licensure

- A. Application for licensure shall be made on forms furnished by the Department, which shall be completed, ~~notarized~~ and submitted to the Board. Such application shall be accompanied by the following documents:

1. Verification of current BACB certification or current license to practice psychology in the State of Rhode Island;

~~One (1) unmounted photograph of the applicant, head and shoulder front view, approximately 2 x 3 inches in size;~~

2. Verification that the applicant is in good standing in state(s) where licensed [if licensed in another state(s)]; and

3. Full Bureau of Criminal Investigation (BCI) check from the Rhode Island Attorney General's Office. ~~only.~~

28.6.2 Fee

The application fee (not refundable and non-returnable) as set forth in the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health (Part 10-05-2 of this Title) shall accompany the application for licensure. Applications received without the required application fee shall be returned to the applicant.

28.7 Licensure

28.7.1 Issuance of License.

- A. A license as an applied behavior analyst, ~~or~~ applied behavior assistant analyst or psychologist with equivalent experience may be issued to:
 1. An applicant who meets the relevant requirements for licensure as required by the Act and this Part; or
 2. An applicant who has been certified by an appropriate nationally recognized and accredited organization, as approved by the Department, and licensed as an applied behavior analyst, ~~or~~ applied behavior assistant analyst or psychologist with equivalent experience pursuant to laws of another state, United States territory, or foreign country where the Board determines that the requirements are substantially equivalent to those required pursuant to the Act and this Part.

28.8 Expiration and Renewal of Licenses, Continuing Education and Lapsed License

28.8.1 Expiration.

The license of every person licensed pursuant to provisions of the Act and this Part shall expire on the first (1st) day of July of the next even-numbered year following the issuance of his or her license.

28.8.2 Renewal.

Every licensed person who desires to renew his or her license shall file with the Department a renewal application, executed, together with a renewal fee as set forth in the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health (Part 10-05-2 of this Title), on or before the first (1st) day of June in each even-numbered year. Upon receipt of a renewal application and payment of the renewal fee, ~~the accuracy of the application shall be verified and~~ the Department may grant a renewal license effective on the first

(1st) day of July and expiring on the thirtieth (30th) day of June in each even-numbered year.

28.8.3 Continuing Education.

Every person who desires to continue licensure as an applied behavior analyst or applied behavior assistant analyst shall present satisfactory evidence to the Board that they have met BACB continuing education unit requirements to maintain that certification.

28.8.4 Lapsed License.

- A. Any person who allows his or her license to lapse ~~for less than ninety (90) days,~~ by failing to renew it on or before the first (1st) day of June in each even-numbered year, as required by this Part, may be reinstated by the Department on payment of the current renewal fee, plus an additional fee as set forth in the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health (Part 10-05-2 of this Title).
- B. Any person who allows his or her license to lapse for greater than one year ~~ninety (90) days, by failing to renew it on or before the first (1st) day of June in each even-numbered year, as required by these Regulations,~~ must submit a new reinstatement application for licensure and will be charged a renewal fee plus an additional late fee. In addition, the applicant must submit a new BCI and evidence that they are in compliance with the BACB continuing education unit requirements to maintain that certification.
- C. Any person using the title licensed applied behavior analyst, ~~or~~ licensed applied behavior assistant analyst or psychologist with equivalent experience who offers services defined as the “practice of applied behavior analysis,” pursuant to § 28.3(A)(9) of this Part, during the time his or her license has lapsed is subject to the penalties provided for violation of the Act and this Part.

28.9 Transfers to Inactive List and Reinstatement

28.9.1 Transfers to Inactive List.

A licensed applied behavior analyst, licensed applied behavior assistant analyst or psychologist with equivalent experience who does not intend to continue his or her licensure may, upon written request to the Department, have his or her name transferred to an inactive list, and shall not be required to pay the renewal fee as long as he or she remains inactive.

28.9.2 Reinstatement.

~~Should~~ If a licensed applied behavior analyst or licensed applied behavior assistant analyst or psychologist with equivalent experience wishes to resume functioning as an applied behavior analyst, ~~or~~ applied behavior assistant analyst,

[or psychologist with equivalent experience](#) (as applicable), he or she must notify the Department and remit his or her renewal fee as set forth in the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health (Part 10-05-2 of this Title) along with an application and attestation of completion of the continuing education requirements in accordance with § 28.8.3 of this Part within the immediate two (2) years prior to the applicant's request for licensure reinstatement.

28.10 Standards for Responsible Professional Conduct

28.10.1 Limitation of Practice.

- A. A licensed applied behavior analyst ~~or~~ licensed applied behavior assistant analyst [or psychologist with equivalent experience](#) shall limit his or her practice to demonstrated areas of competence as documented by relevant professional education, training, and experience.
- B. A licensed applied behavior analyst ~~or~~ licensed applied behavior assistant analyst [or psychologist with equivalent experience](#) shall conduct his or her professional activities in accordance with the Behavior Analyst Certification Board (BACB) [Behavior and Ethical Compliance Code incorporated by reference above at § 28.2 of this Part](#). ~~ethical principles.~~

28.11 Denial, Suspension or Revocation of License – Violations

28.11.1 Due Process.

- A. Upon due notice and hearing in accordance with R.I. Gen. Laws Chapter 42-35 (the Administrative Procedures Act), and the provisions of § 28.12 of this Part, any violation pursuant to the provisions of the Act and this Part, may be cause for denial, revocation or suspension of license or for imposing such other penalties in accordance with the Act.
- B. [The procedure for discipline of applied behavior analysts, applied behavior analyst assistants and psychologists with equivalent experience shall be in accordance with the provisions set forth in R.I. Gen. Laws § 5-86-17.](#)

28.11.2 Grounds for Discipline.

The Board has the power to deny, revoke, or suspend any license issued by the Department in accordance with the Act and this Part, or to discipline a licensed applied behavior analyst or licensed applied behavior assistant analyst upon proof that the individual [has committed any of the acts stated in R.I. Gen. Laws § 5-86-16.](#)

28.11.3 Grounds for Discipline without a Hearing

[Discipline without a hearing is pursuant to R.I. Gen. Laws § 5-86-18.](#)

28.12 Rules Governing Practices and Procedures

All hearings and reviews required pursuant to provisions of the Act and this Part shall be held in accordance with the provisions of the rules and regulations pertaining to Practices and Procedures before the Rhode Island Department of Health (Part 10-05-4 of this Title). ~~Severability~~

~~If any provisions of these Regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these Regulations which can be given effect, and to this end the provisions of these Regulations are declared to be severable.~~