

**RULES AND REGULATIONS FOR LICENSING
APPLIED BEHAVIOR ANALYSTS AND
APPLIED BEHAVIOR ASSISTANT ANALYSTS**

[R5-86-ABA]



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

October 2015

INTRODUCTION

These *Rules and Regulations for Licensing Applied Behavior Analysts and Applied Behavior Assistant Analysts [R5-86-ABA]* are promulgated pursuant to the authority set forth in Chapter 5-86 of the General Laws of Rhode Island, as amended, for the purpose of defining the prevailing standards for the licensure of applied behavior analysts and applied behavior assistant analysts.

Pursuant to the provisions of §42-35-3(a)(3) and §42-35.1-4 of the General Laws of Rhode Island, as amended, consideration was given to: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations; and (3) significant economic impact on small business. Based on the available information, no known alternative approach, duplication or overlap was identified.

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Section 1.0 *Definitions*

Wherever used in these Regulations, the following terms shall be construed as follows:

- 1.1 “**Act**” means RIGL Chapter 5-86 entitled “Licensing of Applied Behavior Analysts”.
- 1.2 “**Applied behavior analyst**” means an individual licensed to practice applied behavior analysis pursuant to provisions of the Act and these Regulations.
- 1.3 “**Applied behavior analyst aide**” means an individual, not licensed pursuant to the Act and these Regulations, 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.
- 1.4 “**Applied behavior assistant analyst**” means an individual licensed who practices applied behavior analysis pursuant to the provisions of the Act and these Regulations.
- 1.5 “**Board**” means the Rhode Island Applied Behavior Analyst Licensing Board established pursuant to the provisions of § 5-86-4 of the Act.
- 1.6 “**Department**” means the Rhode Island Department of Health.
- 1.7 “**Director**” means the means the Director of the Rhode Island Department of Health.
- 1.8 “**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.
- 1.9 “**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 these Regulations 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 RIGL § 27-20.11-4.
- 1.10 “**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 § 3.3 of these Regulations.

- 1.11 "**RIGL**" means the General Laws of Rhode Island, as amended.
- 1.12 "**Supervised experience**" means the practical application of principles, methods and procedures of the science of applied behavioral analysis in accordance with the requirements of § 3.1(d) of these Regulations (applied behavior analyst) or § 3.2(d) of these Regulations (applied behavior assistant analyst).
- 1.13 "**Supervision**" means that a licensed applied behavior analyst is at all times responsible for supportive personnel and clients. Supervision is further defined in § 2.3 of these Regulations.
- 1.14 "**These Regulations**" mean all parts of Rhode Island *Rules and Regulations for Licensing Applied Behavior Analysts and Applied Behavior Assistant Analysts*.
- 1.15 "**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.

Section 2.0 **General Licensing Requirements**

- 2.1 (a) **License Required.** 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 these Regulations.
 - (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 § 1.9 of these Regulations, unless that person is licensed pursuant to the provisions of the Act and these Regulations.
 - (c) Notwithstanding the provisions of §§ 2.1(a) and (b) of these Regulations, nothing in these Regulations shall prohibit an individual licensed as a psychologist pursuant to RIGL Chapter 5-44 from practicing within their field of expertise, including practicing behavior analysis.
- 2.2 **Title Authorized.** Any individual licensed pursuant to Act and these Regulations 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 these Regulations.
- 2.3 **Supervision.**
 - (a) 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:
 - (1) Applied behavior analysts;
 - (2) Applied behavior assistant analysts; applied behavior analyst aides;

- (3) Applied behavior analyst students;
 - (4) Care extenders; and
 - (5) Volunteers.
- (b) 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.
- (1) 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.
 - (2) 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.
 - (3) 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.
- (c) A licensed applied behavior assistant analyst:
- (1) May not initiate a treatment program until the patient has been evaluated and the treatment planned by the licensed behavior analyst;
 - (2) 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;
 - (3) May not analyze or interpret evaluation data;
 - (4) May participate in the screening process by collecting data and communicate the information gathered to the licensed applied behavior analyst;
 - (5) 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
 - (6) Immediately discontinues any treatment procedure, which appears harmful to the patient and immediately notifies the supervising applied behavior analyst.
- (d) 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.
- (e) 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.
- (f) The licensed applied behavior analyst shall not delegate to an applied behavior analyst aide:
- (1) Performance of applied behavior analysis evaluation procedures;

- (2) Initiation, planning, adjustment, modification, or performance of applied behavior analyst procedures requiring the skills or judgment of a licensed applied behavior analyst;
- (3) Acting on behalf of the applied behavior analyst in any matter related to applied behavior analysis, which requires decision making or professional judgment.

2.4 **Exemptions.** No provision of the Act or these Regulations shall be construed to:

- (a) 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.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) Permit those persons identified in §§ 2.4(b) and (f) of these Regulations to offer their services to any persons or organizations, other than those listed in § 2.4(f) of these Regulations, 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 § 2.4(a) of these Regulations.
- (f) 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.
- (g) 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.

(h) Prohibit any persons fulfilling the supervised fieldwork experience requirement of the Act and these Regulations.

2.5 **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.

Section 3.0 *Qualification for Licensing*

3.1 **Applied Behavior Analyst.** An applicant for licensure as an applied behavior analyst shall:

- (a) Be of good moral character;
- (b) 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;
- (c) Has successfully completed the amount of coursework in applied behavior analysis consistent with Behavior Analyst Certification Board (BACB) requirements.
- (d) Has appropriate supervised experience to include either:
 - (1) 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;
 - (2) 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
 - (3) 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
- (4) As required by the BACB and is acceptable to the Board.
- (e) Has passed the Board Certified Behavior Analyst examination administered by the Behavior Analyst Certification Board (BACB);
- (f) Maintain active status and fulfill all relevant requirements for renewal and relicensing with the Behavior Analyst Certification Board (BACB); and
- (g) Meets the criteria as established in § 5-86-9 of the Act.

3.2 **Applied Behavior Assistant Analyst.** An applicant for licensure as an applied behavior assistant analyst shall:

- (a) Be of good moral character;
- (b) 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;
- (c) Has successfully completed the amount of coursework in applied behavior analysis consistent with BACB requirements.
- (d) Has appropriate supervised experience to include either:
 - (1) 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;
 - (2) 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
 - (3) 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
 - (4) As required by the BACB and is acceptable to the Board.
- (e) Is supervised by a licensed applied behavior analyst in a manner consistent with the requirements of § 2.3 of these Regulations;
- (f) Has passed the Board Certified Assistant Behavior Analyst examination administered by the Behavior Analyst Certification Board (BACB);
- (g) Maintain active status and fulfill all relevant requirements for renewal and relicensing with the Behavior Analyst Certification Board (BACB); and
- (h) Meet the criteria as established in § 5-86-9 of the Act.

3.3 **Psychologist with Equivalent Experience.** An applicant shall also be considered eligible for licensure as an applied behavior analyst if the following equivalency requirements are met to the satisfaction of the Board:

- (a) Be of good moral character;
- (b) 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;

- (c) 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;
- (d) 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.
- (e) Be individually licensed by the Department as a psychologist pursuant to RIGL Chapter 5-44; and
- (f) Meets the criteria as established in § 5-86-9 of the Act.

Section 4.0 *Application for Licensure and Fee*

4.1 **Application for Licensure.** 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:

- (a) Verification of current BACB certification or current license to practice psychology in the State of Rhode Island;
- (b) One (1) unmounted photograph of the applicant, head and shoulder front view, approximately 2 x 3 inches in size;
- (c) Verification that the applicant is in good standing in state(s) where licensed [if licensed in another state(s)]; and
- (d) Full Bureau of Criminal Investigation (BCI) check from the Rhode Island Attorney General's Office only.

4.2 **Fee.** The application fee (not refundable and non-returnable) as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* shall accompany the application for licensure. Applications received without the required application fee shall be returned to the applicant.

Section 5.0 *Licensure*

5.1 **Issuance of License.** A license as an applied behavior analyst or applied behavior assistant analyst may be issued to:

- (a) An applicant who meets the relevant requirements for licensure as required by the Act and these Regulations; or
- (b) 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 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 these Regulations.

Section 6.0 *Expiration & Renewal of Licenses, Continuing Education and Lapsed License*

- 6.1 **Expiration.** The license of every person licensed pursuant to provisions of the Act and these Regulations shall expire on the first (1st) day of July of the next even-numbered year following the issuance of his or her license.
- 6.2 **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 *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*, 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.
- 6.3 **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 CEU requirements to maintain that certification.
- 6.4 **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 these Regulations, may be reinstated by the Department on payment of the current renewal fee, plus an additional fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.
 - (b) Any person who allows his or her license to lapse for greater 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 these Regulations, must submit a new application for licensure and will be charged a renewal fee plus an additional late fee.
 - (c) Any person using the title licensed applied behavior analyst or licensed applied behavior assistant analyst who offers services defined as the practice of applied behavior analysis, pursuant to § 1.9 of these Regulations, during the time his or her license has lapsed is subject to the penalties provided for violation of the Act and these Regulations.

Section 7.0 *Transfers to Inactive List and Reinstatement*

- 7.1 **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.

- 7.2 **Reinstatement.** Should a licensed applied behavior analyst or licensed applied behavior assistant analyst wish to resume functioning as an applied behavior analyst or applied behavior assistant analyst (as applicable), he or she must notify the Department and remit his or her renewal fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* along with an application and attestation of completion of the continuing education requirements in accordance with § 6.3 of these Regulations within the immediate two (2) years prior to the applicant's request for licensure reinstatement.

Section 8.0 *Standards for Responsible Professional Conduct*

- 8.1 **Limitation of Practice.** A licensed applied behavior analyst or licensed applied behavior assistant analyst shall limit his or her practice to demonstrated areas of competence as documented by relevant professional education, training, and experience.
- 8.2 A licensed applied behavior analyst or licensed applied behavior assistant analyst shall conduct his or her professional activities in accordance with the Behavior Analyst Certification Board (BACB) *ethical principles*.

Section 9.0 *Denial, Suspension or Revocation of License – Violations*

- 9.1 **Due Process.** Upon due notice and hearing in accordance with RIGL Chapter 42-35 (the Administrative Procedures Act), and the provisions of § 10.1 of these Regulations, any violation pursuant to the provisions of the Act and these Regulations, may be cause for denial, revocation or suspension of license or for imposing such other penalties in accordance with the Act.
- 9.2 **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 these Regulations, or to discipline a licensed applied behavior analyst or licensed applied behavior assistant analyst upon proof that the individual:
- (a) Is guilty of fraud or deceit in procuring or attempting to procure a license;
 - (b) Is guilty of a felony or of a crime of immorality;
 - (c) Is habitually intemperate or is addicted to the use of habit-forming drugs;
 - (d) Is mentally incompetent;
 - (e) Has violated the BACB ethical principles, as adopted by the Board, and in force at the time a charge is made;
 - (f) Has practiced as a licensed applied behavior assistant analyst or has performed the duties of a licensed applied behavior assistant analyst without proper supervision by a licensed applied behavior analyst pursuant to § 2.3 of these Regulations;
 - (g) Has had their license revoked, suspended, privileges limited or other disciplinary action in another state or jurisdiction, including the voluntary surrender of a license; or
 - (h) Has failed to furnish the Department or its legal representative information requested by the Board as part of a disciplinary action.

9.3 **Grounds for Discipline without a Hearing.** With the approval of the Director, the Board may temporarily suspend the license of a licensed applied behavior analyst or licensed applied behavior assistant analyst without a hearing if the Board finds that evidence in its possession indicates that a licensed applied behavior analyst or licensed applied behavior assistant analyst continuing in practice would constitute an immediate danger to the public. In the event that the Board temporarily suspends the license of a licensed applied behavior analyst or licensed applied behavior assistant analyst without a hearing by the Board, a hearing must be held within ten (10) days after the suspension has occurred.

Section 10.0 *Rules Governing Practices and Procedures*

10.1 All hearings and reviews required pursuant to provisions of the Act and these Regulations 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 [R42-35-PP]*.

Section 11.0 *Severability*

11.1 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.

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