



# Advisory on Behavior Analysis

**Virginia Board of Medicine**

**October 4, 2021**

**10:00 a.m.**

**Advisory Board on Behavior Analysis**

Board of Medicine

Monday, October 4, 2021 @ 10:00 a.m.

9960 Mayland Drive, Suite 201,

Henrico, VA

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Call to Order – Christina Giuliano, BA, Chair	
Emergency Egress Procedures – William Harp, MD	i
Roll Call – Pamela Smith	
Approval of Minutes of October 5, 2020	1 - 3
Adoption of the Agenda	
Public Comment on Agenda Items (15 minutes)	
<b>New Business</b>	
1. 2021 Legislative Update and 2022 Proposals ..... Elaine Yeatts	4 - 5
2. Review of Licensure Requirements and Applications ..... Michael Sobowale	6-22
3. Approval of 2022 Meeting Calendar ..... Christina Giuliano, BA	23
4. Election of Officers Christina Giuliano, BA	

Announcements:

Next Scheduled Meeting: January 31, 2022 @ 10:00 a.m.

Adjournment

**PERIMETER CENTER CONFERENCE CENTER**  
**EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS**  
(Script to be read at the beginning of each meeting.)

**PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THESE PREMISES IN THE EVENT OF AN EMERGENCY.**

**Training Room 2**

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound.

When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the doors, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

**---DRAFT UNAPPROVED---**

**ADVISORY BOARD ON BEHAVIOR ANALYSIS**

**Minutes**

October 5, 2020

**Electronic Meeting**

The Advisory Board on Behavior Analysis held a virtual meeting on Monday, October 5, 2020 hosted at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

**MEMBERS PRESENT:** Amanda Kusterer, LABA Vice-Chair  
Mark Llobell, Citizen Member  
Christina Giuliano, LBA  
Autumn Kaufman, LBA

**MEMBERS ABSENT:** Asha Patton Smith, MD

**STAFF PRESENT:** William L. Harp, M.D., Executive Director  
Elaine Yeatts, DHP Senior Policy Analyst  
Michael Sobowale, LLM, Deputy Director, Licensure  
Colanthia Morton Opher, Deputy Director, Administration  
Jennifer Deschenes, JD, Deputy Director, Discipline  
Pamela Smith, Licensing Specialist

**GUESTS PRESENT:** Christy Evanko, BCBA, VABA  
Julianne Condrey  
Sara Zeinert

**Call to Order**

Amanda Kusterer called the meeting to order at 10:06 a.m.

**Emergency Egress Procedures**

Dr. Harp announced the emergency egress instructions.

**Roll Call**

Ms. Smith called the roll, and a quorum was declared.

**Introduction of Members**

Amanda Kusterer asked the members to individually introduce themselves.

**---DRAFT UNAPPROVED---**

**Approval of Minutes of May 20, 2019**

Mark Llobell moved to approve the minutes of the May 20, 2019 meeting with a minor edit to correct the pronoun beside Ms. Opher's name on page 2. Christina Giuliano seconded. By roll call vote, the minutes were approved with the amendment.

**Adoption of Agenda**

Mark Llobell moved to adopt the agenda. The motion was seconded by Ms. Giuliano. By roll call vote, the agenda was adopted as presented.

**Public Comment on Agenda Items (15 minutes)**

Christy Evanko, BCBA, had a question on the requirement for a National Practitioners' Data Bank (NPDB) query report for behavior analyst and assistant behavior analyst license applicants. She was seeking to clarify what she thought to be a discrepancy between the instructions provided in the online application form and requirements for licensure in the regulation. Ms. Evanko also inquired whether there was a way for certified behavior analysts and assistant behavior analysts to continue working while waiting for their license in Virginia. She inquired that, perhaps, license reciprocity through the Board joining a licensure compact might be one way that this could be achieved.

Dr. Harp responded to her concerns. He explained that a NPDB self-query report is required for those working in the field of behavioral analysis prior to applying for licensure in the state. This would depend on the chronology of employment history and practice experience listed by the applicant on the application.

In response to Ms. Evanko's request to hear about how the Board of Medicine decided not to join the Interstate Medical Licensure Compact (Compact), Dr. Harp said that joining the Compact would lead to an increase in fees for the applicants and require the Board to hire additional personnel to process letters of qualification. There were also statutory issues of concern. The Board reasoned that it could offer a less costly, equally expeditious alternative with licensure by endorsement, for which the foundation was already in the law. Since December 2018, licensure by endorsement has been a successful and popular pathway to licensure for physicians..

Amanda Kusterer requested to add further discussion on this topic to the Advisory Board agenda for the next meeting.

**New Business**

**1. Regulatory Update and Report of the 2020 General Assembly**

Mrs. Yeatts provided a regulatory update and report of the 2020 General Assembly. She discussed bills of interest to members, including HB 65 which creates the Virginia Missing Child with Autism Alert Program and SB 177 which continues the Autism Advisory Council until 2022.

---DRAFT UNAPPROVED---

2. Approval of 2021 Meeting Calendar

Mark Llobell moved to approve the proposed 2021 meeting dates for the Advisory Board as presented. Autumn Kauffman seconded the motion. By roll call vote, members voted approval of the 2021 schedule of meetings.

3. Election of Officers

Ms. Christina Giuliano nominated herself for Chair. Amanda Kusterer nominated Autumn Kaufman as Vice-Chair. Both motions were seconded by Mark Llobell. By roll call vote, Christina Giuliano was elected Chair, and Autumn Kaufman was elected Vice-Chair.

**Announcements**

Ms. Opher informed the Advisory Board that there are currently 1,516 Behavior Analysts and 191 Assistant Behavior Analysts licensed by the Board.

**Next Meeting Date**

Next scheduled meeting: January 25, 2021 at 10:00 am.

**Adjournment**

With no other business to conduct, Ms. Kusterer adjourned the meeting at 12:13 p.m.

\_\_\_\_\_  
Christina Giuliano, BCBA, LBA  
Chair

\_\_\_\_\_  
William L. Harp, M.D.  
Executive Director

\_\_\_\_\_  
Pamela Y. Smith, Licensing Specialist

**Department of Health Professions  
Regulatory/Policy Actions – 2021 General Assembly  
Board on Medicine/Advisory Boards**

**EMERGENCY REGULATIONS:**

Legislative source	Mandate	Promulgating agency	Board adoption date	Effective date Within 280 days of enactment
SB1189	Occupational therapy compact	Medicine	8/6/21	<b>By 12/23/21</b>

**EXEMPT REGULATORY ACTIONS**

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB2039	Conform PA regs to Code	Medicine	6/24/21	9/15/21
HB2220	Change registration of surgical technologists to certification	Medicine	6/21/21	9/1/21
SB1178	Delete reference to conscience clause in regs for genetic counselors	Medicine	6/24/21	

**APA REGULATORY ACTIONS**

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB1953	Licensure of certified midwives	Nursing & Medicine	NOIRA Nursing – 7/20/21 Medicine – 8/6/21	Unknown

**NON-REGULATORY ACTIONS**

Legislative source	Affected agency	Action needed	Due date
HB793 (2018)	Medicine & Nursing	To report data on the number of nurse practitioners who have been authorized to practice without a practice agreement, the geographic and specialty areas in which nurse practitioners are practicing without a practice agreement, and any complaints or disciplinary actions taken against such nurse practitioners, along with any recommended modifications to the requirements of this act including any modifications to the clinical experience requirements for practicing without a practice agreement	November 1, 2021
Budget bill	Department	To study and make recommendations regarding the oversight and regulation of advanced practice registered nurses (APRNs). The department shall review recommendations of the National Council of State Boards of Nursing, analyze the oversight and regulations governing the practice of APRNs in other states, and review research on the impact of statutes and	November 1, 2021

		regulations on practice and patient outcomes.	
HB1953	Department	To convene a work group to study and report on the licensure and regulation of certified nurse midwives, certified midwives, and certified professional midwives to determine the appropriate licensing entity for such professionals.	November 1, 2021

**Future Policy Actions:**

**HB2559 (2019)** - requires the Secretary of Health and Human Resources to convene a work group to identify successes and challenges of the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances that contain an opioid and to report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2022.



<b>Profession</b>	<b>Board Requirements Pre-COVID</b>	<b>COVID Process per Executive Order 57</b>  Effective March 12, 2020	<b>Recommendations</b>
Behavior Analyst	<ul style="list-style-type: none"> <li>• Form B / Employment Verification</li> <li>• Verification of BACB Credentials – Primary source only</li> <li>• Other State License Verifications – primary source only</li> <li>• NPDDB Self-Query Report - Mailed and Primary Source only</li> <li>• Non-routine questions #7-19 answered on application require supporting documentation from the applicant.</li> <li>• Required documents received at the Board must be primary source verified, and may be electronically transmitted from the source to the licensing specialist.</li> </ul>	<p style="text-align: center;"><b>WAIVED</b></p> <ul style="list-style-type: none"> <li>• Form B / Employment Verification</li> </ul>	

*Commonwealth of Virginia*



# REGULATIONS

## GOVERNING THE PRACTICE OF BEHAVIOR ANALYSIS

### VIRGINIA BOARD OF MEDICINE

**Title of Regulations: 18VAC85-150-10 et seq.**

**Statutory Authority: § 54.1-2400 and Chapter 29  
of Title 54.1 of the *Code of Virginia***

**Effective Date: March 5, 2020**

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## **Part I General Provisions**

### **18VAC85-150-10. Definitions.**

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2900 of the Code of Virginia:

Board

Practice of behavior analysis

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"BACB" means the Behavior Analyst Certification Board, Inc.

"BCBA®" means a Board Certified Behavior Analyst®.

"BCaBA®" means a Board Certified Assistant Behavior Analyst®.

### **18VAC85-150-20. Public participation.**

A separate board regulation, 18VAC85-11, entitled Public Participation Guidelines, provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine.

### **18VAC85-150-30. Current name and address.**

Each licensee shall furnish the board his current name and address of record. All notices required by law or by this chapter to be given by the board to any such licensee shall be validly given when sent to the latest address of record provided or served to the licensee. Any change of name or change in the address of record or public address, if different from the address of record, shall be furnished to the board within 30 days of such change.

### **18VAC85-150-40. Fees.**

A. The following fees have been established by the board:

1. The initial fee for the behavior analyst license shall be \$130; for the assistant behavior analyst license, it shall be \$70.
2. The fee for reinstatement of the behavior analyst license that has been lapsed for two years or more shall be \$180; for the assistant behavior analyst license, it shall be \$90.
3. The fee for active license renewal for a behavior analyst shall be \$135; for any assistant behavior analyst, it shall be \$70. The fees for inactive license renewal shall be \$70 for a

behavior analyst and \$35 for an assistant behavior analyst. Renewals shall be due in the birth month of the licensee in each odd-numbered year. For 2021, the renewal of an active license as a behavior analyst shall be \$108, and the renewal fee for an inactive license shall be \$54; the renewal fee for an active license as an assistant behavior analyst shall be \$54, and the renewal fee for an inactive license shall be \$28.

4. The additional fee for processing a late renewal application within one renewal cycle shall be \$50 for a behavior analyst and \$30 for an assistant behavior analyst.

5. The fee for a letter of good standing or verification to another state for a license shall be \$10.

6. The fee for reinstatement of licensure pursuant to § 54.1-2408.2 of the Code of Virginia shall be \$2,000.

7. The handling fee for a returned check or a dishonored credit card or debit card shall be \$50.

8. The fee for a duplicate license shall be \$5.00, and the fee for a duplicate wall certificate shall be \$15.

B. Unless otherwise provided, fees established by the board shall not be refundable.

## **Part II**

### **Requirements for Licensure as a Behavior Analyst or an Assistant Behavior Analyst**

#### **18VAC85-150-50. Application requirements.**

An applicant for licensure shall submit the following on forms provided by the board:

1. A completed application and a fee as prescribed in 18VAC85-150-40.
2. Verification of certification as required in 18VAC85-150-60.
3. Verification of practice as required on the application form.
4. If licensed or certified in any other jurisdiction, verification that there has been no disciplinary action taken or pending in that jurisdiction.
5. Verification from the BACB on disciplinary action taken or pending by that body.

#### **18VAC85-150-60. Licensure requirement.**

An applicant for a license to practice as a behavior analyst or an assistant behavior analyst shall hold current certification as a BCBA® or a BCaBA® obtained by meeting qualifications and passage of the examination required for certification as a BCBA® or a BCaBA® by the BACB.

### **Part III Renewal and Reinstatement**

#### **18VAC85-150-70. Renewal of licensure.**

A. Every behavior analyst or assistant behavior analyst who intends to maintain an active license shall biennially renew his license each odd-numbered year during his birth month and shall:

1. Submit the prescribed renewal fee; and
2. Attest to having met the continuing education requirements of 18VAC85-150-100.

B. The license of a behavior analyst or assistant behavior analyst that has not been renewed by the first day of the month following the month in which renewal is required is lapsed. Practice with a lapsed license may be grounds for disciplinary action. A license that is lapsed for two years or less may be renewed by payment of the renewal fee, a late fee as prescribed in 18VAC85-150-40, and documentation of compliance with continuing education requirements.

#### **18VAC85-150-80. Inactive licensure.**

A behavior analyst or assistant behavior analyst who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required fee, be issued an inactive license. The holder of an inactive license shall not be entitled to perform any act requiring a license to practice as a behavior analyst or assistant behavior analyst in Virginia.

#### **18VAC85-150-90. Reactivation or reinstatement.**

A. To reactivate an inactive license or to reinstate a license that has been lapsed for more than two years, a behavior analyst or assistant behavior analyst shall submit evidence of competency to return to active practice to include one of the following:

1. Information on continued practice in another jurisdiction as a licensed behavior analyst or a licensed assistant behavior analyst or with certification as a BCBA® or BCaBA® during the period in which the license has been inactive or lapsed;
2. Sixteen hours of continuing education for each year in which the license as a behavior analyst or 10 hours for each year in which the license as an assistant behavior analyst has been inactive or lapsed, not to exceed three years; or
3. Recertification by passage of the BCBA® or the BCaBA® certification examination from the BACB.

B. To reactivate an inactive license, a behavior analyst or assistant behavior analyst shall pay a fee equal to the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure.

C. To reinstate a license that has been lapsed for more than two years, a behavior analyst or assistant behavior analyst shall file an application for reinstatement and pay the fee for reinstatement of his license as prescribed in 18VAC85-150-40. The board may specify additional requirements for reinstatement of a license so lapsed to include education, experience, or reexamination.

D. A behavior analyst or assistant behavior analyst whose licensure has been revoked by the board and who wishes to be reinstated shall make a new application to the board, fulfill additional requirements as specified in the order from the board, and make payment of the fee for reinstatement of his licensure as prescribed in 18VAC85-150-40 pursuant to § 54.1-2408.2 of the Code of Virginia.

E. The board reserves the right to deny a request for reactivation or reinstatement to any licensee who has been determined to have committed an act in violation of § 54.1-2915 of the Code of Virginia or any provisions of this chapter.

**18VAC85-150-100. Continuing education requirements.**

A. In order to renew an active license, a behavior analyst shall attest to having completed 32 hours of continuing education and an assistant behavior analyst shall attest to having completed 20 hours of continuing education as approved and documented by a sponsor recognized by the BACB within the last biennium. Four of the required hours shall be related to ethics in the practice of behavior analysis. Up to two continuing education hours may be satisfied through delivery of behavioral analysis services, without compensation, to low-income individuals receiving services through a local health department or a free clinic organized in whole or primarily for the delivery of health services. One hour of continuing education may be credited for three hours of providing such volunteer services. For the purpose of continuing education credit for voluntary service, the hours shall be approved and documented by the health department or free clinic.

B. A practitioner shall be exempt from the continuing education requirements for the first biennial renewal following the date of initial licensure in Virginia.

C. The practitioner shall retain in his records the completed form with all supporting documentation for a period of four years following the renewal of an active license.

D. The board shall periodically conduct a random audit of its active licensees to determine compliance. The practitioners selected for the audit shall provide all supporting documentation within 30 days of receiving notification of the audit.

E. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

F. The board may grant an extension of the deadline for continuing education requirements, for up to one year, for good cause shown upon a written request from the licensee prior to the renewal date.

G. The board may grant an exemption from all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

## **Part IV Scope of Practice**

### **18VAC85-150-110. Scope of practice.**

The practice of a behavior analyst includes:

1. Design, implementation, and evaluation of environmental modifications using the principles and methods of behavior analysis to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior; and
2. Supervision of licensed assistant behavior analysts and unlicensed personnel.

### **18VAC85-150-120. Supervisory responsibilities.**

A. The licensed behavior analyst is ultimately responsible and accountable for client care and outcomes under his clinical supervision.

B. There shall be a written supervisory agreement between the licensed behavior analyst and the licensed assistant behavior analyst that shall address:

1. The domains of competency within which services may be provided by the licensed assistant behavior analyst; and
2. The nature and frequency of the supervision of the practice of the licensed assistant behavior analyst by the licensed behavior analyst.

A copy of the written supervisory agreement shall be maintained by the licensed behavior analyst and the licensed assistant behavior analyst and made available to the board upon request.

C. Delegation shall only be made if, in the judgment of the licensed behavior analyst, the task or procedures can be properly and safely performed by an appropriately trained assistant behavior analyst or other person, and the delegation does not jeopardize the health or safety of the client.

D. Supervision activities by the licensed behavior analyst include:

1. Direct, real-time observation of the supervisee implementing behavior analytic assessment and intervention procedures with clients in natural environments and/or training others to implement them, with feedback from the supervisor.
2. One-to-one, real-time interactions between supervisor and supervisee to review and discuss assessment and treatment plans and procedures, client assessment and progress data and reports, published research, ethical and professional standards and guidelines, professional development needs and opportunities, and relevant laws, regulations, and policies.



3. Real-time interactions between a supervisor and a group of supervisees to review and discuss assessment and treatment plans and procedures, client assessment and progress data and reports, published research, ethical and professional standards and guidelines, professional development needs and opportunities, and relevant laws, regulations, and policies.

4. Informal interactions between supervisors and supervisees via telephone, electronic mail, and other written communication are encouraged but may not be considered formal supervision.

For the purposes of this subsection, "real-time" shall mean live and person-to-person.

E. The frequency and nature of supervision interactions are determined by the individualized assessment or treatment plans of the clients served by the licensed behavior analyst and the assistant behavior analyst but shall occur not less than once every four weeks with each supervision session lasting no less than one hour.

**18VAC85-150-130. Supervision of unlicensed personnel.**

A. Unlicensed personnel may be supervised by a licensed behavior analyst or a licensed assistant behavior analyst.

B. Unlicensed personnel may be utilized to perform:

1. Nonclient-related tasks, including but not limited to clerical and maintenance activities and the preparation of the work area and equipment; and
2. Certain routine client-related tasks that, in the opinion of and under the supervision of a licensed behavior analyst or a licensed assistant behavior analyst, have no potential to adversely impact the client or the client's treatment plan and do not constitute the practice of behavior analysis.

**Part V**  
**Standards of Professional Conduct**

**18VAC85-150-140. Confidentiality.**

A practitioner shall not willfully or negligently breach the confidentiality between a practitioner and a client. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the practitioner shall not be considered negligent or willful.

**18VAC85-150-150. Client records.**

A. Practitioners shall comply with the provisions of § 32.1-127.1:03 of the Code of Virginia related to the confidentiality and disclosure of client records.

B. Practitioners shall provide client records to another practitioner or to the client or his personal representative in a timely manner in accordance with provisions of § 32.1-127.1:03 of the Code of Virginia.

C. Practitioners shall properly manage and keep timely, accurate, legible, and complete client records.

D. Practitioners who are employed by a health care institution, educational institution, school system, or other entity in which the individual practitioner does not own or maintain his own records shall maintain client records in accordance with the policies and procedures of the employing entity.

E. Practitioners who are self-employed or employed by an entity in which the individual practitioner owns and is responsible for client records shall:

1. Maintain a client record for a minimum of six years following the last client encounter with the following exceptions:

a. Records of a minor child shall be maintained until the child reaches the age of 18 years or becomes emancipated, with a minimum time for record retention of six years from the last client encounter regardless of the age of the child;

b. Records that have previously been transferred to another practitioner or health care provider or provided to the client or his legally authorized representative; or

c. Records that are required by contractual obligation or federal law may need to be maintained for a longer period of time.

2. Post information or in some manner inform all clients concerning the time frame for record retention and destruction. Client records shall only be destroyed in a manner that protects client confidentiality, such as by incineration or shredding.

3. When closing, selling, or relocating his practice, meet the requirements of § 54.1-2405 of the Code of Virginia for giving notice that copies of records can be sent to any like-regulated provider of the client's choice or provided to the client or legally authorized representative.

**18VAC85-150-160. Practitioner-client communication; termination of relationship.**

A. Communication with clients.

1. Except as provided in § 32.1-127.1:03 F of the Code of Virginia, a practitioner shall accurately present information to a client or his legally authorized representative in understandable terms and encourage participation in decisions regarding the client's care.

2. A practitioner shall not deliberately make a false or misleading statement regarding the practitioner's skill or the efficacy or value of a treatment or procedure provided or directed by the practitioner.

3. Before an initial assessment or intervention is performed, informed consent shall be obtained from the client or his legally authorized representative. Practitioners shall inform clients or their legally authorized representative of the risks, benefits, and alternatives of the recommended procedure that a reasonably prudent practitioner would tell a client.

a. Informed consent shall also be obtained if there is a significant change to a therapeutic procedure or intervention performed on a client that is not part of routine, general care and that is more restrictive on the continuum of care.

b. In the instance of a minor or a client who is incapable of making an informed decision on his own behalf or is incapable of communicating such a decision due to a physical or mental disorder, the legally authorized person available to give consent shall be informed and the consent documented.

c. An exception to the requirement for consent prior to performance of a procedure or intervention may be made in an emergency situation when a delay in obtaining consent would likely result in imminent harm to the client.

4. Practitioners shall adhere to requirements of § 32.1-162.18 of the Code of Virginia for obtaining informed consent from clients prior to involving them as subjects in human research with the exception of retrospective chart reviews.

**B. Termination of the practitioner-client relationship.**

1. The practitioner or the client may terminate the relationship. In either case, the practitioner shall make the client record available, except in situations where denial of access is allowed by law.

2. A practitioner shall not terminate the relationship or make his services unavailable without documented notice to the client that allows for a reasonable time to obtain the services of another practitioner.

**18VAC85-150-170. Practitioner responsibility.**

**A. A practitioner shall not:**

1. Perform procedures or techniques that are outside the scope of his practice or for which he is not trained and individually competent;

2. Knowingly allow a subordinate to jeopardize client safety or provide client care outside of the subordinate's scope of practice or area of responsibility. Practitioners shall delegate client care only to subordinates who are properly trained and supervised;

3. Engage in an egregious pattern of disruptive behavior or interaction in a health care setting that interferes with client care or could reasonably be expected to adversely impact the quality of care rendered to a client; or

4. Exploit the practitioner-client relationship for personal gain.

B. Advocating for client safety or improvement in client care within a health care entity shall not constitute disruptive behavior provided the practitioner does not engage in behavior prohibited in subdivision A 3 of this section.

**18VAC85-150-180. Solicitation or remuneration in exchange for referral.**

A practitioner shall not knowingly and willfully solicit or receive any remuneration, directly or indirectly, in return for referring an individual to a facility or institution as defined in § 37.2-100 of the Code of Virginia or hospital as defined in § 32.1-123 of the Code of Virginia.

Remuneration shall be defined as compensation, received in cash or in kind, but shall not include any payments, business arrangements, or payment practices allowed by 42 USC § 1320 a-7b(b), as amended, or any regulations promulgated thereto.

**18VAC85-150-190. Sexual contact.**

A. For purposes of § 54.1-2915 A 12 and A 19 of the Code of Virginia and this section, sexual contact includes, but is not limited to, sexual behavior or verbal or physical behavior that:

1. May reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the client, or both; or
2. May reasonably be interpreted as romantic involvement with a client regardless of whether such involvement occurs in the professional setting or outside of it.

B. Sexual contact with a client.

1. The determination of when a person is a client for purposes of § 54.1-2915 A 19 of the Code of Virginia is made on a case-by-case basis with consideration given to the nature, extent, and context of the professional relationship between the practitioner and the person. The fact that a person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. A person is presumed to remain a client until the practitioner-client relationship is terminated.

2. The consent to, initiation of, or participation in sexual behavior or involvement with a practitioner by a client does not change the nature of the conduct nor negate the statutory prohibition.

C. Sexual contact between a practitioner and a former client after termination of the practitioner-client relationship may still constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from the professional relationship.

D. Sexual contact between a practitioner and a key third party shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on client care. For purposes of this section, key third party of a client means spouse or partner, parent or child, guardian, or legal representative of the client.

E. Sexual contact between a supervisor and a trainee shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on client care.

**18VAC85-150-200. Refusal to provide information.**

A practitioner shall not willfully refuse to provide information or records as requested or required by the board or its representative pursuant to an investigation or to the enforcement of a statute or regulation.

Rev. 08/21 Behavior Analyst / Assistant Behavior Analyst



### Application for License to Practice as a Licensed Behavior Analyst or Assistant Behavior Analyst.

To the Board of Medicine of Virginia:

I hereby make application for a license to practice as a (circle one) behavior analyst / assistant behavior analyst in the Commonwealth of Virginia and submit the following statements:

1. Name in Full (Please Print or Type)

Last	First	Middle
Date of Birth ____ _ MO DAY YEAR	Social Security No. or VA Control No.*	Maiden Name if applicable
Public Address: This address will be public information:	House No. Street or PO Box	City State and Zip
Board Address: This address will be used for Board Correspondence and may be the same or different from the public address.	House No. Street or PO Box	City State and Zip
Work Phone Number	Home/Cell Phone Number	Email Address

Please submit address changes in writing immediately to [medbd@dhp.virginia.gov](mailto:medbd@dhp.virginia.gov)

Please attach check or money order payable to the Treasurer of Virginia for \$130.00 for behavior analyst and \$70.00 for assistant behavior analyst. Application will not be processed without the fee. Do not submit fee without an application. **IT WILL BE RETURNED.**

**APPLICANTS DO NOT USE SPACES BELOW THIS LINE – FOR OFFICE USE ONLY**

APPROVED BY

Date

LICENSE NUMBER	PROCESSING NUMBER	FEE
0133-		\$130.00
0134-		\$70.00

\*In accordance with §54.1-116 Code of Virginia, you are required to submit your Social Security Number or your control number\*\* issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided by law. Federal and state law requires that this number be shared with other state agencies for child support enforcement activities. **NO LICENSE WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.**

\*\*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure to DMV of your Social Security Number will be required to obtain this number.



3. I hereby certify that I studied behavior analysis and received the degree of \_\_\_\_\_ on \_\_\_\_\_  
 \_\_\_\_\_ from \_\_\_\_\_  
 (Date) (Name of School)  
 (degree)

4. Do you intend to engage in the active practice of behavior analysis in the Commonwealth of Virginia?  Yes  No  
 If Yes, give location \_\_\_\_\_

5. List all jurisdictions in which you have been issued a license to practice behavior analysis: include all active, inactive, expired, suspended or revoked licenses. Indicate number and date issued.

Jurisdiction	Number Issued	Active/Inactive/Expired

- |  |            |           |
|--|------------|-----------|
|  | <b>Yes</b> | <b>No</b> |
|--|------------|-----------|
6. Are you certified by the BACB?  Yes  No
- QUESTIONS MUST BE ANSWERED.** If any of the following questions (7-19) is answered **Yes**, explain and substantiate with documentation.
7. Have you ever been denied a license or the privilege of taking a licensure/competency examination by any testing entity or licensing authority?  Yes  No
8. Have you ever been convicted of a violation of/or pled Nolo Contendere to any federal, state, or local statute, or regulation or ordinance, or entered into a plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except convictions for driving under the influence.) **Additionally, any information concerning an arrest, charge, or conviction that has been sealed, including arrests, charges, or convictions for possession of marijuana not have to be disclosed.**  Yes  No
9. Have you ever been denied privileges or voluntarily surrendered your clinical privileges for any reason?  Yes  No
10. Have you ever been placed on a corrective action plan, placed on probation or been dismissed or suspended or Requested to withdraw from any professional school, training program, hospital, etc?  Yes  No
11. Have you ever been terminated from employment or resigned in lieu of termination from any training program, hospital, healthcare facility, healthcare provider, provider network or malpractice insurance carrier?  Yes  No
12. Do you have any pending disciplinary actions against your professional license/certification/permit/registration related to your practice of behavior analysis?  Yes  No
13. Have you voluntarily withdrawn from any professional society while under investigation?  Yes  No
14. Within the past five years, have you exhibited any conduct or behavior that could call into question your ability to practice in a competent and professional manner?  Yes  No
15. Within the past five years, have you been disciplined by any entity?  Yes  No
16. Do you currently have any physical condition or impairment that affects or limits your ability to perform any of the Obligations and responsibilities of professional practice in a safe and competent manner? "Currently" means recently enough so that the condition could reasonably have an impact on your ability to function as a practicing (assistant) behavior analyst.  Yes  No



- 17. Do you currently have any mental health condition or impairment that affects or limits your ability to perform any of the obligations and responsibilities of professional practice in a safe and competent manner? "Currently" means recently enough so that the condition could reasonably have an impact on your ability to function as a practicing (assistant) behavior analyst.
  
- 18. Do you currently have any condition or impairment related to alcohol or other substance use that affects or limits your ability to perform any of the obligations and responsibilities of professional practice in a safe and competent manner? "Currently" means recently enough so that the condition could reasonably have an impact on your ability to function as a practicing (assistant) behavior analyst.
  
- 19. Within the past 5 years, have any condition or restrictions been imposed upon you or your practice to avoid disciplinary action by any entity?

**Military Service:**

- 20. Are you a spouse of someone who is on a federal active duty orders pursuant to Title 10 of the U.S. Code or of a veteran who has left active-duty service within one year of submission of this application and who is accompanying your spouse to Virginia or an adjoining state or the District of Columbia?
  
- 21. Are you active duty military?

**22. AFFIDAVIT OF APPLICANT**

I, \_\_\_\_\_, am the person referred to in the foregoing application and supporting documents.

I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present), and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Medicine any information, files or records requested by the Board in connection with the processing of individuals and groups listed above, any information which is material to me and my application.

I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension, or revocation of my license to practice behavior analysis in the Commonwealth of Virginia.

I have carefully read the laws and regulations related to the practice of my profession which are available at [www.dhp.virginia.gov](http://www.dhp.virginia.gov) and I understand that fees submitted as part of the application process shall not be refunded.

\_\_\_\_\_  
Signature of Applicant

**Advisory Board on:**

<b>Behavioral Analysts</b>			<b>10:00 a.m.</b>
Mon - January 31	May 23	September 19	
<b>Genetic Counseling</b>			<b>1:00 p.m.</b>
Mon - January 31	May 23	September 19	
<b>Occupational Therapy</b>			<b>10:00 a.m.</b>
Tues - February 1	May 24	September 20	
<b>Respiratory Care</b>			<b>1:00 p.m.</b>
Tues - February 1	May 24	September 20	
<b>Acupuncture</b>			<b>10:00 a.m.</b>
Wed - February 2	May 25	September 21	
<b>Radiological Technology</b>			<b>1:00 p.m.</b>
Wed - February 2	May 25	September 21	
<b>Athletic Training</b>			<b>10:00 a.m.</b>
Thurs - February 3	May 26	September 22	
<b>Physician Assistants</b>			<b>1:00 p.m.</b>
Thurs - February 3	May 26	September 22	
<b>Midwifery</b>			<b>10:00 a.m.</b>
Fri - February 4	May 27	September 23	
<b>Polysomnographic Technology</b>			<b>1:00 p.m.</b>
Fri - February 4	May 27	September 23	
<b>Surgical Assisting</b>			<b>10:00 a.m.</b>
Mon - February 7	Tues - May 31	September 26	