ARTICLE 2

BEHAVIOR ANALYST LICENSURE

Section 1. [148.9981] DEFINITIONS.

Subd. 1. Scope. For the purposes of sections 148.9981 to 148.9995, the terms in this section have the meanings given.

Subd. 2. Accredited school or educational program. "Accredited school or educational program" means a school, university, college, or other postsecondary education program that, at the time the student completes the program, is accredited by a regional accrediting association whose standards are substantially equivalent to those of the North Central Association of Colleges and Postsecondary Education Institutions or an accrediting association that evaluates schools of behavior analysis, psychology, or education for inclusion of the education, practicum, and core function standards.

Subd. 3. Advisory council. "Advisory council" means the Behavior Analyst Advisory Council established in section 148.9994.

Subd. 4. Board. "Board" means the Board of Psychology established in section 148.90.

Subd. 5. Certifying entity. "Certifying entity" means the Behavior Analyst Certification Board, Inc., or a successor organization or other organization approved by the board in consultation with the advisory council.

Subd. 6. Client. "Client" means an individual who is the recipient of behavior analysis services. Client also means "patient" as defined in section 144.291, subdivision 2, paragraph (g).

Subd. 7. Licensed behavior analyst. "Licensed behavior analyst" or "behavior analyst" means an individual who holds a valid license issued under sections 148.9981 to 148.9995 to engage in the practice of applied behavior analysis.

Subd. 8. Licensee. "Licensee" means an individual who holds a valid license issued under sections 148.9981 to 148.9995.

Subd. 9. Practice of applied behavior analysis. (a) "Practice of applied behavior analysis" means the design, implementation, and evaluation of social, instructional, and environmental modifications to produce socially significant improvements in human behavior. The practice of applied behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, known as functional behavioral assessment and analysis. Applied behavior analysis interventions are based on scientific research, direct and indirect observation, and measurement of behavior and environment.
and utilize contextual factors, motivating operations, antecedent stimuli, positive
reinforcement, and other procedures to help individuals develop new behaviors, increase
or decrease existing behaviors, and emit behaviors under specific social, instructional, and
environmental conditions.

(b) The practice of applied behavior analysis does not include the diagnosis of psychiatric
or mental health disorders, psychological testing, neuropsychology, psychotherapy, cognitive
therapy, sex therapy, hypnotherapy, psychoanalysis, or psychological counseling.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 2. [148.9982] DUTIES OF THE BOARD OF PSYCHOLOGY.

Subd. 1. General, The board, in consultation with the advisory council, must:

(1) adopt and enforce standards for licensure, licensure renewal, and the regulation of
behavior analysts;

(2) issue licenses to qualified individuals under sections 148.9981 to 148.9995;

(3) carry out disciplinary actions against licensed behavior analysts;

(4) educate the public about the existence and content of the regulations for behavior
analyst licensing to enable consumers to file complaints against licensees who may have
violated laws or rules the board is empowered to enforce; and

(5) collect license fees for behavior analysts as specified under section 148.9995.

Subd. 2. Rulemaking, The board, in consultation with the advisory council, may adopt
rules necessary to carry out the provisions of sections 148.9981 to 148.9995.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 3. [148.9983] REQUIREMENTS FOR LICENSURE.

Subd. 1. General, An individual seeking licensure as a behavior analyst must complete and submit a written application on forms provided by the board together with
the appropriate fee as specified under section 148.9995.

Subd. 2. Requirements for licensure, An applicant for licensure as a behavior analyst
must submit evidence satisfactory to the board that the applicant:

(1) has a current and active national certification as a board-certified behavior analyst
issued by the certifying entity; or

and utilize contextual factors, motivating operations, antecedent stimuli, positive
reinforcement, and other procedures to help individuals develop new behaviors, increase
or decrease existing behaviors, and emit behaviors under specific social, instructional, and
environmental conditions.

(b) The practice of applied behavior analysis does not include the diagnosis of psychiatric
or mental health disorders, psychological testing, neuropsychology, psychotherapy, cognitive
therapy, sex therapy, hypnotherapy, psychoanalysis, or psychological counseling.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 2. [148.9982] DUTIES OF THE BOARD OF PSYCHOLOGY.

Subd. 1. General, The board, in consultation with the advisory council, must:

(1) adopt and enforce standards for licensure, licensure renewal, and the regulation of
behavior analysts; and assistant behavior analysts;

(2) issue licenses to qualified individuals under sections 148.9981 to 148.9995;

(3) carry out disciplinary actions against licensed behavior analysts and assistant behavior
analysts;

(4) educate the public about the existence and content of the regulations for behavior
analyst licensing to enable consumers to file complaints against licensees who may have
violated laws or rules the board is empowered to enforce; and

(5) collect license fees for behavior analysts and assistant behavior analysts as specified
under section 148.9995.

Subd. 2. Rulemaking, (a) The board, in consultation with the advisory council, may adopt
rules necessary to carry out the provisions of sections 148.9981 to 148.9995.

(b) The board, in consultation with the advisory council, may adopt rules related to the
supervision requirements for licensed assistant behavior analysts.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 3. [148.9983] REQUIREMENTS FOR LICENSURE.

Subd. 1. General, An individual seeking licensure as a behavior analyst or an
assistant behavior analyst must complete and submit a written application on forms provided
by the board together with the appropriate fee as specified under section 148.9995.

Subd. 2. Requirements for licensure, (a) An applicant for licensure as a behavior analyst
must submit evidence satisfactory to the board that the applicant:

(1) has a current and active national certification as a board-certified behavior analyst
issued by the certifying entity; or

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Subd. 3. Background investigation. The applicant must complete a background check pursuant to section 214.075.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 4. [148.9984] LICENSE RENEWAL REQUIREMENTS.

Subdivision 1. Biennial renewal. A license must be renewed every two years.

Subd. 2. License renewal notice. At least 60 calendar days before the renewal deadline, the board must mail a renewal notice to the licensee's last known address on file with the board. The notice must include instructions for accessing an online application for license renewal, the renewal deadline, and notice of fees required for renewal. The licensee's failure to receive notice does not relieve the licensee of the obligation to meet the renewal deadline and other requirements for license renewal.

Subd. 3. Renewal requirements. (a) To renew a license, a licensee must submit to the board:

(1) a completed and signed application for license renewal;

(2) the license renewal fee as specified under section 148.9995; and

(3) evidence satisfactory to the board that the licensee holds a current and active national certification as a behavior analyst or assistant behavior analyst from the certifying entity or otherwise meets renewal requirements as established by the board, in consultation with the advisory council.

(b) The application for license renewal and fee must be postmarked or received by the board by the end of the day on which the license expires or the following business day if the expiration date falls on a Saturday, Sunday, or holiday. A renewal application that is not completed and signed, or that is not accompanied by the correct fee, is void and must be returned to the licensee.

(2) has completed the equivalent requirements for certification by the certifying entity, including satisfactorily passing a psychometrically valid examination administered by a nationally accredited credentialing organization.

(b) An applicant for licensure as an assistant behavior analyst must submit evidence satisfactory to the board that the applicant:

(1) has a current and active national certification as an assistant behavior analyst issued by the certifying entity; or

(2) has completed the equivalent requirements for certification by the certifying entity, including satisfactorily passing a psychometrically valid examination administered by a nationally accredited credentialing organization.

Effective Date. This section is effective July 1, 2024.

Sec. 4. [148.9984] LICENSE RENEWAL REQUIREMENTS.

Subdivision 1. Biennial renewal. A license must be renewed every two years.

Subd. 2. License renewal notice. At least 60 calendar days before the renewal deadline, the board must mail a renewal notice to the licensee's last known address on file with the board. The notice must include instructions for accessing an online application for license renewal, the renewal deadline, and notice of fees required for renewal. The licensee's failure to receive notice does not relieve the licensee of the obligation to meet the renewal deadline and other requirements for license renewal.

Subd. 3. Renewal requirements. (a) To renew a license, a licensee must submit to the board:

(1) a completed and signed application for license renewal;

(2) the license renewal fee as specified under section 148.9995; and

(3) evidence satisfactory to the board that the licensee holds a current and active national certification as a behavior analyst or assistant behavior analyst from the certifying entity or otherwise meets renewal requirements as established by the board, in consultation with the advisory council.

(b) The application for license renewal and fee must be postmarked or received by the board by the end of the day on which the license expires or the following business day if the expiration date falls on a Saturday, Sunday, or holiday. A renewal application that is not completed and signed, or that is not accompanied by the correct fee, is void and must be returned to the licensee.
Subd. 4. Renewal fee.
If a licensee's application for license renewal is postmarked or received by the board by the end of the business day on the expiration date of the license or the following business day if the expiration date falls on a Saturday, Sunday, or holiday, the license renewal is pending with the board. Subd. 2. Pending renewal.
If a licensee's application for license renewal is postmarked or received by the board by the end of the business day on the expiration date of the license or the following business day if the expiration date falls on a Saturday, Sunday, or holiday, the license renewal is pending with the board.

15.27 Effective January 1, 2025, an individual must not engage in the practice of applied behavior analysis unless the individual is licensed under sections 148.9981 to 148.9995 as a behavior analyst or is exempt under section 148.9987. A psychologist licensed under sections 148.88 to 148.981 who practices behavior analysis is not required to obtain a license as a behavior analyst under sections 148.9981 to 148.9995.

15.28 Subd. 5. Late renewal fee.
If the application for license renewal is postmarked or received after the expiration date of the license or the following business day if the expiration date falls on a Saturday, Sunday, or holiday, the licensee must pay a biennial renewal late fee as specified by section 148.9995 in addition to the renewal fee, before the licensee's application for license renewal will be considered by the board.

15.29 EFFECTIVE DATE. This section is effective July 1, 2024.

15.30 Subd. 6. Prohibited practice or use of titles; penalty.

15.31 Section 6. [148.9986] PROHIBITED PRACTICE OR USE OF TITLES; PENALTY.

15.32 Subdivision 1. Practice. Effective January 1, 2025, an individual must not engage in the practice of applied behavior analysis unless the individual is licensed under sections 148.9981 to 148.9995 as a behavior analyst or is exempt under section 148.9987. A psychologist licensed under sections 148.88 to 148.981 who practices behavior analysis is not required to obtain a license as a behavior analyst under sections 148.9981 to 148.9995.

15.33 Subd. 2. Use of titles. (a) An individual must not use a title incorporating the words "licensed behavior analyst," "behavior analyst," or "assistant behavior analyst," or use any other title or description stating or implying that they are licensed or otherwise qualified to practice applied behavior analysis, unless that person holds a valid license under sections 148.9981 to 148.9995.

15.34 Effective January 1, 2025, an individual must not use a title incorporating the words "licensed behavior analyst," "behavior analyst," "licensed assistant behavior analyst," or "assistant behavior analyst," or use any other title or description stating or implying that they are licensed or otherwise qualified to practice applied behavior analysis, unless that person holds a valid license under sections 148.9981 to 148.9995.
(b) Notwithstanding paragraph (a), a licensed psychologist who practices behavior analysis within the psychologist's scope of practice may use the title "behavior analyst," but must not use the title "licensed behavior analyst" unless the licensed psychologist holds a valid license as a behavior analyst issued under sections 148.9981 to 148.9995.

Subd. 3. Penalties; An individual who violates this section is guilty of a misdemeanor.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 7. [148.9987] EXCEPTIONS TO LICENSE REQUIREMENT.

(a) Sections 148.9981 to 148.9995 must not be construed to prohibit or restrict:

1. the practice of an individual who is licensed to practice psychology in the state or an individual who is providing psychological services under the supervision of a licensed psychologist in accordance with section 148.925;

2. the practice of any other profession or occupation licensed, certified, or registered by the state by an individual duly licensed, certified, or registered to practice the profession or occupation or to perform any act that falls within the scope of the profession or occupation;

3. an individual who is employed by a school district from providing behavior analysis services as part of the individual's employment with the school district, so long as the individual does not provide behavior analysis services to any person or entity other than as an employee of the school district or accept remuneration for the provision of behavior analysis services outside of the individual's employment with the school district;

4. an employee of a program licensed under chapter 245D from providing the services described in section 245D.091, subdivision 1;

5. teaching behavior analysis or conducting behavior analysis research if the teaching or research does not involve the direct delivery of behavior analysis services;

6. providing behavior analysis services by an unlicensed supervisee or trainee under the authority and direction of a licensed behavior analyst and in compliance with the licensure and supervision standards required by law or rule;

7. a family member or guardian of the recipient of behavior analysis services from performing behavior analysis services under the authority and direction of a licensed behavior analyst;

8. students or interns enrolled in an accredited school or educational program, or participating in a behavior analysis practicum, from engaging in the practice of applied behavior analysis while supervised by a licensed behavior analyst or instructor of an
accredited school or educational program. These individuals must be designated as a behavior
analyst student or intern.

(b) Notwithstanding paragraph (a), a licensed psychologist may supervise an unlicensed
supervisor, trainee, student, or intern who is engaged in the practice of behavior analysis if
the supervision is authorized under the Minnesota Psychology Practice Act.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 8. [148.9988] NONTRANSFERABILITY OF LICENSES.

A behavior analyst license is not transferable.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 9. [148.9989] DUTY TO MAINTAIN CURRENT INFORMATION.

All licensees and applicants for licensure must notify the board within 30 days of the
occurrence of:

(1) a change of name, address, place of employment, or home or business telephone
number; or

(2) a change in any other application information.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 10. [148.999] DISCIPLINE; REPORTING.

For purposes of sections 148.9881 to 148.9995, behavior analysts are subject to the
provisions of sections 148.941, 148.952 to 148.965, and 148.98.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 11. [148.9991] COMPETENT PROVISION OF SERVICES.

Subd. 1. Limits on practice. Behavior analysts must limit practice to the client
populations and services for which the behavior analysts have competence or for which the
behavior analysts are developing competence.

Subd. 2. Developing competence. When a behavior analyst is developing competence
in a service, method, or procedure, or is developing competence to treat a specific client
population, the behavior analyst must obtain professional education, training, continuing
education, consultation, supervision or experience, or a combination thereof, necessary to
demonstrate competence.

Subd. 3. Limitations. A behavior analyst must recognize the limitations to the scope of
practice of applied behavior analysis. When the needs of a client appear to be outside the
behavior analyst's scope of practice, the behavior analyst must inform the client that there
may be other professional, technical, community, and administrative resources available to

analyt or instructor of an accredited school or educational program. These individuals
must be designated as a behavior analyst student or intern.

(b) Notwithstanding paragraph (a), a licensed psychologist may supervise an unlicensed
supervisor, trainee, student, or intern who is engaged in the practice of behavior analysis if
the supervision is authorized under the Minnesota Psychology Practice Act.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 8. [148.9988] NONTRANSFERABILITY OF LICENSES.

A behavior analyst license or an assistant behavior analyst license is not transferable.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 9. [148.9989] DUTY TO MAINTAIN CURRENT INFORMATION.

All licensees and applicants for licensure must notify the board within 30 days of the
occurrence of:

(1) a change of name, address, place of employment, or home or business telephone
number; or

(2) a change in any other application information.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 10. [148.999] DISCIPLINE; REPORTING.

For purposes of sections 148.9881 to 148.9995, behavior analysts and assistant behavior
analysts are subject to the provisions of sections 148.941, 148.952 to 148.965, and 148.98.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 11. [148.9991] COMPETENT PROVISION OF SERVICES.

Subd. 1. Limits on practice. Behavior analysts must limit practice to the client
populations and services for which the behavior analysts have competence or for which the
behavior analysts are developing competence.

Subd. 2. Developing competence. When a behavior analyst is developing competence
in a service, method, or procedure, or is developing competence to treat a specific client
population, the behavior analyst must obtain professional education, training, continuing
education, consultation, supervision or experience, or a combination thereof, necessary to
demonstrate competence.

Subd. 3. Limitations. A behavior analyst must recognize the limitations to the scope of
practice of applied behavior analysis. When the needs of a client appear to be outside the
behavior analyst's scope of practice, the behavior analyst must inform the client that there
may be other professional, technical, community, and administrative resources available to
the client. A behavior analyst must assist with identifying resources when it is in the best interest of a client to be provided with alternative or complementary services.

Subd. 4. Burden of proof. Whenever a complaint is submitted to the board involving a violation of this section, the burden of proof is on the behavior analyst to demonstrate that the elements of competence have been reasonably met.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 12. [148.9992] DUTY TO WARN; LIMITATION ON LIABILITY; VIOLENT BEHAVIOR OF PATIENT.

Subdivision 1. Definitions. (a) For the purposes of this section, the terms in this subdivision have the meanings given.

(b) "Other person" means an immediate family member or someone who personally knows the client and has reason to believe the client is capable of and will carry out a serious, specific threat of harm to a specific, clearly identified or identifiable victim.

d) "Reasonable efforts" means communicating a serious, specific threat to the potential victim and, if unable to make contact with the potential victim, communicating the serious, specific threat to the law enforcement agency closest to the potential victim or the client.

(e) "Licensee" has the meaning given in section 148.9981 and includes behavior analysis students, interns, and unlicensed supervisees who are participating in a behavior analysis practicum or enrolled in an accredited school or educational program.

Subd. 2. Duty to warn. The duty to predict, warn of, or take reasonable precautions to provide protection from violent behavior arises only when a client or other person has communicated to the licensee a specific, serious threat of physical violence against a specific, clearly identified or identifiable potential victim. If a duty to warn arises, the duty is discharged by the licensee if reasonable efforts are made to communicate the threat.

Subd. 3. Liability standard. If no duty to warn exists under subdivision 2, then no monetary liability and no cause of action may arise against a licensee for failure to predict, warn of, or take reasonable precautions to provide protection from a client's violent behavior.

Subd. 4. Disclosure of confidences. Good faith compliance with the duty to warn must not constitute a breach of confidence and must not result in monetary liability or a cause of action against the licensee.

Subd. 5. Continuity of care. Subdivision 2 must not be construed to authorize a licensee to terminate treatment of a client as a direct result of a client's violent behavior or threat of physical violence unless the client is referred to another practitioner or appropriate health care facility.
Subd. 6. Exception. This section does not apply to a threat to commit suicide or other threats by a client to harm the client, or to a threat by a client who is adjudicated as a person who has a mental illness and is dangerous to the public under chapter 253B.

Subd. 7. Optional disclosure. This section must not be construed to prohibit a licensee from disclosing confidences to third parties in a good faith effort to warn or take precautions against a client's violent behavior or threat to commit suicide for which a duty to warn does not arise.

Subd. 8. Limitation on liability. No monetary liability and no cause of action or disciplinary action by the board may arise against a licensee for disclosure of confidences to third parties, for failure to disclose confidences to third parties, or for erroneous disclosure of confidences to third parties in a good faith effort to warn against or take precautions against a client's violent behavior or threat of suicide for which a duty to warn does not arise.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 13. [148.9993] INFORMED CONSENT.

Subdivision 1. Obtaining informed consent for services. A behavior analyst must obtain informed consent from the client or the client's legal guardian before initiating services. The informed consent must be in writing, signed by the client, and include, at a minimum, the following:

1. consent for the behavior analyst to engage in activities that directly affect the client;
2. the goals, purposes, and procedures of the proposed services;
3. the factors that may impact the duration of the proposed services;
4. the applicable fee schedule for the proposed services;
5. the significant risks and benefits of the proposed services;
6. the behavior analyst's limits under section 148.9991, including, if applicable, information that the behavior analyst is developing competence in the proposed service, method, or procedure, and alternatives to the proposed service, if any; and
7. the behavior analyst's responsibilities if the client terminates the service.

Subd. 2. Updating informed consent. If there is a substantial change in the nature or purpose of a service, the behavior analyst must obtain a new informed consent from the client.

Subd. 3. Emergency or crisis services. Informed consent is not required when a behavior analyst is providing emergency or crisis services. If services continue after the emergency or crisis has abated, informed consent must be obtained.

EFFECTIVE DATE. This section is effective July 1, 2024.
Sec. 14. [148.9994] BEHAVIOR ANALYST ADVISORY COUNCIL.

Subdivision 1. Membership. The Behavior Analyst Advisory Council is created and composed of seven members appointed by the board. The advisory council consists of:

1. one public member as defined in section 214.02;
2. three members who are licensed behavior analysts; and
3. two members who are licensed assistant behavior analysts; and
4. one member who is a licensed psychologist and, to the extent practicable, who practices applied behavior analysis.

Subd. 2. Administration. The advisory council is established and administered under section 15.059, except that the advisory council does not expire.

Subd. 3. Duties. The advisory council must:
1. advise the board regarding standards for behavior analysts and assistant behavior analysts;
2. assist with the distribution of information regarding behavior analyst standards;
3. advise the board on enforcement of sections 148.9981 to 148.9995;
4. review license applications and license renewal applications and make recommendations to the board;
5. review complaints and complaint investigation reports and make recommendations to the board on whether disciplinary action should be taken and, if applicable, what type;
6. advise the board regarding evaluation and treatment protocols; and
7. perform other duties authorized for advisory councils under chapter 214 as directed by the board to ensure effective oversight of behavior analysts.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 15. [148.9995] FEES.

Subdivision 1. Fees. All applicants and licensees must pay fees as follows:

1. application fee, $225;
2. license renewal fee, $225;
3. inactive license renewal fee, $125.

EFFECTIVE DATE. This section is effective July 1, 2024.
Subd. 2. Nonrefundable fees. All fees in this section are nonrefundable.

Subd. 3. Deposit of fees. Fees collected by the board under this section must be deposited in the state government special revenue fund.

EFFECTIVE DATE. This section is effective July 1, 2024.

Sec. 16. INITIAL BEHAVIOR ANALYST ADVISORY COUNCIL.

The Board of Psychology must make the first appointments to the Behavior Analyst Advisory Council authorized under Minnesota Statutes, section 148.9994, by September 1, 2024. The initial behavior analysts appointed to the advisory council need not be licensed under Minnesota Statutes, sections 148.9981 to 148.9995, but must hold a current and active national certification as a board certified behavior analyst. The chair of the Board of Psychology must convene the first meeting of the council by September 1, 2024, and must convene subsequent meetings of the council until an advisory chair is elected. The council must elect a chair from its members by the third meeting of the council.

EFFECTIVE DATE. This section is effective July 1, 2024.