

Statutes and Regulations **Behavior Analysts**

February 2023



DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT

***DIVISION OF CORPORATIONS, BUSINESS
AND PROFESSIONAL LICENSING***

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TABLE OF CONTENTS

Section	Page
1. Behavior Analysts Statutes (AS 08.15)	1
2. Behavior Analysts Regulations (12 AAC 77)	3

**CHAPTER 15.
BEHAVIOR ANALYSTS**

Section

- 10. Practice of behavior analysis without license prohibited**
- 20. Qualifications for license**
- 30. Temporary license**
- 40. Renewal of license**
- 50. Grounds for suspension, revocation, or refusal to issue a license**
- 60. Disciplinary sanctions**
- 70. Exemptions**
- 80. Regulations**
- 90. Definitions**

Sec. 08.15.010. Practice of behavior analysis without license prohibited. (a) A person may not practice behavior analysis in this state without a license.

(b) A person who practices behavior analysis in this state without a license is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both.

Sec. 08.15.020. Qualifications for license. (a) The department shall issue a license to practice behavior analysis to a person who

- (1) applies to the department on a form provided by the department;
- (2) pays the fees established by the department;
- (3) has passed the Board Certified Behavior Analyst Examination offered by the Behavior Analyst Certification Board, Inc., or another examination approved by the department;
- (4) is currently certified by the Behavior Analyst Certification Board, Inc., or another certifying entity approved by the department;
- (5) furnishes evidence satisfactory to the department that the person has not engaged in conduct that is a ground for imposing disciplinary sanctions under AS 08.15.060; and
- (6) has been fingerprinted and has provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

- (b) The department shall issue a license to practice as an assistant behavior analyst to a person who
- (1) applies to the department on a form provided by the department;
 - (2) pays the fees established by the department;
 - (3) has passed the Board Certified Assistant Behavior Analyst Examination offered by the Behavior Analyst Certification Board, Inc., or another examination approved by the department;
 - (4) is currently certified by the Behavior Analyst Certification Board, Inc., or another certifying entity approved by the department;
 - (5) furnishes evidence satisfactory to the department that the person has not engaged in conduct that is a ground for imposing disciplinary sanctions under AS 08.15.060;
 - (6) has been fingerprinted and has provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400; and
 - (7) provides proof acceptable to the department that the person is directly supervised by a licensed behavior analyst.

Sec. 08.15.030. Temporary license. The department may issue a temporary license to practice behavior analysis in this state for 30 days or less in a calendar year if the person is licensed to practice behavior analysis in another state whose requirements to practice behavior analysis are substantially equivalent to the requirements of AS 08.15.020.

Sec. 08.15.040. Renewal of license. The department may renew a license upon proof of continued certification by the Behavior Analyst Certification Board, Inc., or another certifying entity approved by the department.

Sec. 08.15.050. Grounds for suspension, revocation, or refusal to issue a license. The department may, after a hearing, impose a disciplinary sanction on a person licensed under this chapter when the department finds that the licensee

- (1) secured a license through deceit, fraud, or intentional misrepresentation;
- (2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;

- (3) advertised professional services in a false or misleading manner;
- (4) has been convicted of a felony or other crime that affects the licensee's ability to continue to practice competently and safely;
- (5) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the department;
- (6) continued to practice after becoming unfit because of
 - (A) professional incompetence;
 - (B) addiction or severe dependency on alcohol or a drug that impairs the licensee's ability to practice safely;
 - (C) physical or mental disability;
- (7) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients.

Sec. 08.15.060. Disciplinary sanctions. (a) When the department finds that a licensee is guilty of an offense under AS 08.15.050, the department may impose the following sanctions singly or in combination:

- (1) permanently revoke the license to practice;
 - (2) suspend the license for a determinate period of time;
 - (3) censure the licensee;
 - (4) issue a letter of reprimand to the licensee;
 - (5) place the licensee on probationary status and require the licensee to
 - (A) report regularly to the department on matters involving the basis of probation;
 - (B) limit practice to those areas prescribed;
 - (C) continue professional education until a satisfactory degree of skill has been reached in areas determined by the department to need improvement;
 - (6) impose limitations or conditions on the practice of the licensee.
- (b) The department may withdraw probationary status of a licensee if it finds that the deficiencies that required the sanction have been remedied.
- (c) The department may summarily suspend a license before final hearing or during the appeals process if the department finds that the licensee poses a clear and immediate danger to the public health and safety if the licensee continues to practice. A licensee whose license is suspended under this section is entitled to a hearing conducted by the office of administrative hearings not later than seven days after the effective date of the order. The licensee may appeal the suspension after a hearing to a court of competent jurisdiction.

Sec. 08.15.070. Exemptions. This chapter does not apply to

- (1) a person licensed in this state performing behavior analysis within the scope of practice for which the person's license was issued;
- (2) a student or trainee who is enrolled in a behavior analysis program approved by the department while performing duties under the program under the direct supervision of a person licensed under this chapter;
- (3) an individual who directly implements applied behavior analysis services, or family member implementing a behavior analysis plan within the home, who acts under the direction of a licensed behavior analyst or licensed assistant behavior analyst;
- (4) an applied animal behaviorist who practices exclusively with nonhumans;
- (5) a person who works in organizational behavior management;
- (6) a person supervised by a licensed behavior analyst who is gaining experience for certification by the Behavior Analyst Certification Board, Inc., or another certifying entity approved by the department.

Sec. 08.15.080. Regulations. The department shall adopt regulations to implement this chapter, including

- (1) continuing education requirements; and
- (2) standards for licensure by credentials.

Sec. 08.15.090. Definitions. In this chapter,

- (1) "behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior, the empirical identification of functional relations between behavior and environmental factors, and the utilization of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and engage in behaviors under specific environmental conditions; "behavior analysis" does not include psychological testing, diagnosis of a mental or physical disorder, or the practice of neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or long-term counseling;
- (2) "department" means the Department of Commerce, Community, and Economic Development.

**CHAPTER 77.
BEHAVIOR ANALYSTS.**

Article

- 1. Licensing (12 AAC 77.100 – 12 AAC 77.130)**
- 2. License Renewal (12 AAC 77.200)**
- 3. General Provisions (12 AAC 77.990)**

**ARTICLE 1.
LICENSING.**

Section

- 100. Application for license by examination**
- 110. Application for license by credentials**
- 120. Criminal justice information**
- 130. Temporary license**

12 AAC 77.100. APPLICATION FOR LICENSE BY EXAMINATION. (a) The department will issue a license by examination to practice as a behavior analyst or as an assistant behavior analyst to an applicant who meets the requirements of AS 08.15.020 and this section.

(b) An applicant for license by examination under this section must

(1) submit a completed application, on a form provided by the department; the completed application must include

(A) the personal identification information requested on the form;

(B) information on the applicant's physical and mental health related to the grounds for license refusal, suspension, or revocation in AS 08.15.050;

(C) information on any criminal convictions related to the grounds for license refusal, suspension, or revocation in AS 08.15.050;

(D) the applicant's notarized signature certifying that the information in the application is correct to the best of the applicant's knowledge; and

(E) the applicant's fingerprint information described in 12 AAC 77.120(a);

(2) pay the application fee, the fingerprint processing fee, and the license fee specified in 12 AAC 02.390; and

(3) provide a copy of the applicant's certificate of examination that meets the requirements of AS 08.15.020(a)(3) or (b)(3) as applicable.

Authority: AS 08.15.020

AS 08.15.080

12 AAC 77.110. APPLICATION FOR LICENSE BY CREDENTIALS. An applicant for a behavior analyst or an assistant behavior analyst license by credentials must submit

(1) a completed application on a form provided by the department; the completed application must include

(A) the personal identification information requested on the form;

(B) information on the applicant's physical and mental health related to the grounds for license refusal, suspension, or revocation in AS 08.15.050;

(C) information on any criminal convictions related to the grounds for license refusal, suspension, or revocation in AS 08.15.050; and

(D) the applicant's fingerprint information described in 12 AAC 77.120(a);

(2) the application fee, the fingerprint processing fee, and the license fee specified in 12 AAC 02.390;

(3) verification of a current license in another state on a form provided by the department; and

(4) proof of current certification as required in AS 08.15.020(a)(4) or (b)(4) as applicable.

Authority: AS 08.15.020

AS 08.15.080

12 AAC 77.120. CRIMINAL JUSTICE INFORMATION. (a) An applicant for licensure under 12 AAC 77.100 or 12 AAC 77.110 must submit with the application the applicant's fingerprints and other information required by the Department of Public Safety to obtain state and national criminal justice information under AS 12.62 and AS 12.64.

(b) The department will submit the fingerprints received under this section to the Department of Public Safety and request the Department of Public Safety to

(1) submit the fingerprints to the Federal Bureau of Investigation for a report on national criminal justice information;

(2) perform a check for state criminal justice information; and

(3) report to the department the results of the criminal justice information checks under (1) and (2) of this subsection.

Authority: AS 08.15.020 AS 08.15.080

12 AAC 77.130. TEMPORARY LICENSE. (a) The department may issue a temporary nonrenewable license to practice as a behavior analyst to an applicant who meets the requirements of AS 08.15.030 and this section.

(b) An applicant for temporary license under this section must submit

- (1) a completed application as required in 12 AAC 77.110; and
- (2) the application fee and the temporary license fee specified in 12 AAC 02.390.

(c) An applicant may not receive more than one temporary license in a calendar year.

(d) A temporary license issued under this section is not renewable and is valid for 30 days in a calendar year from the date of issuance.

Authority: AS 08.15.020 AS 08.15.030 AS 08.15.080

ARTICLE 2. LICENSE RENEWAL.

Section

200. License renewal

12 AAC 77.200. LICENSE RENEWAL. (a) Except as provided in 12 AAC 77.130(d), a license to practice as a behavior analyst or as an assistant behavior analyst expires on September 30 of even-numbered years.

(b) A licensee applying for license renewal must submit to the department

- (1) a completed renewal application on a form provided by the department;
- (2) proof of current certification as required in AS 08.15.040; and
- (3) the license renewal fee specified in 12 AAC 02.390.

Authority: AS 08.01.100 AS 08.15.040 AS 08.15.080

ARTICLE 3. GENERAL PROVISIONS.

Section

990. Definitions.

12 AAC 77.990. DEFINITIONS. In this chapter and in AS 08.15, unless the context otherwise requires,

- (1) "criminal justice information" has the meaning given in AS 12.62.900;
- (2) "department" means the Department of Commerce, Community, and Economic Development.

Authority: AS 08.15.080