

## CHAPTER 05 – BEHAVIOR ANALYST LICENSURE BOARD

### SECTION .0100 – GENERAL

#### 21 NCAC 05 .0101      RESERVED FOR FUTURE CODIFICATION

#### 21 NCAC 05 .0102      BOARD ADDRESS AND WEBSITE

(a) Unless otherwise directed, all correspondence shall be mailed to the following address:

701 Exposition Place  
Suite 206  
Raleigh, NC 27615

(b) The Board website shall be [www.ncbehavioranalystboard.org](http://www.ncbehavioranalystboard.org).

*History Note:*      *Authority G.S. 90-734;*  
                                 *Eff. February 1, 2023.*

### SECTION .0200 – APPLICATIONS

#### 21 NCAC 05 .0201      APPLICATION FOR LICENSURE OF LICENSED BEHAVIOR ANALYST AND LICENSED ASSISTANT BEHAVIOR ANALYST

(a) The Behavior Analyst License applicant shall submit the following to the Board:

- (1) Documentation of all previous professional human services licenses held by the applicant;
- (2) Attestation that the applicant has read and agrees to adhere to the current version of the Ethics Code for Behavior Analysts published by the certifying entity;
- (3) Documentation of all work experience in the field of behavior analysis, including internships, practicum, and other field experience completed as part of an educational course of study;
- (4) Documentation of all certifications of behavior analysis currently or previously granted by national or other state certification bodies as described in Rule .0203 of this Section.
- (5) Payment of all required fees;
- (6) Signed consent form provided by the State Bureau of Investigation or NC Department of Justice authorizing the completion of a certified criminal records check based on the applicant's fingerprints provided to a local law enforcement office; and
- (7) Two letters of reference as described in Rule .0202 of this Section.

(b) The Assistant Behavior Analyst License applicant shall submit the following to the Board:

- (1) Documentation of all previous professional human services licenses held by the applicant;
- (2) Attestation that the applicant has read and agrees to adhere to the current version of the Ethics Code for Behavior Analysts published by the certifying entity;
- (3) Documentation of all work experience in the field of behavior analysis, including internships, practicum, and other field experience completed as part of an educational course of study;
- (4) Documentation of all certifications of behavioral analysis currently or previously granted by national or other state certification bodies as described in Rule .0203 of this Section.
- (5) Payment of all required fees;
- (6) Signed consent form provided by the State Bureau of Investigation or NC Department of Justice authorizing the completion of a certified criminal records check based on the applicant's fingerprints provided to a local law enforcement office; and
- (7) Two letters of reference as described in Rule .0202 of this Section.

*History Note:*      *Authority G.S. 90-734; 90-736; 90-737; 90-738;*  
                                 *Eff. February 1, 2023.*

#### 21 NCAC 05 .0202      REFERENCES

The application for Behavior Analyst License and Assistant Behavior Analyst shall include two letters of reference, to be submitted to the Board by the applicant. The two letters of references shall include:

- (1) name of reference and applicant;
- (2) period of time the reference has known the applicant;
- (3) nature of professional relationship; and

- (4) knowledge of the applicant's training, experience, professional skills, and adherence to legal and ethical standards.

*History Note:* Authority G.S. 90-734; 90-736;  
Eff. February 1, 2023.

#### **21 NCAC 05 .0203 CERTIFICATION**

- (a) The applicant for Behavior Analyst License or Assistant Behavior Analyst shall submit an official copy of the applicant's Behavior Analyst certification to the Board.
- (b) The Board shall accept electronic submissions of the Behavior Analyst certification.

*History Note:* Authority G.S. 90-734; 90-736; 90-737; 90-738;  
Eff. February 1, 2023.

### **SECTION .0300 - FEES**

#### **21 NCAC 05 .0301 FEES**

- (a) The fees to obtain a Behavior Analyst License shall be:
  - (1) Application Fee – Two hundred fifty dollars (\$250.00);
  - (2) Renewal Fee – Two hundred dollars (\$200.00);
  - (3) Late Renewal Fee – Fifty dollars (\$50.00);
  - (4) Reciprocity Fee – Two hundred fifty dollars (\$250.00); and
  - (5) Temporary License Fee – One hundred dollars (\$100.00).
- (b) The fees to obtain an Assistant Behavior Analyst License shall be:
  - (1) Application Fee – Two hundred dollars (\$200.00);
  - (2) License renewal Fee – One hundred fifty dollars (\$150.00);
  - (3) Late renewal Fee – Fifty dollars (\$50.00);
  - (4) Reciprocal license application Fee – Two hundred dollars (\$200.00); and
  - (5) Temporary license application Fee – One hundred dollars (\$100.00).
- (c) The Board may amend any fee imposed on an applicant or licensee in accordance with G.S. 93B-15.

*History Note:* Authority G.S. 90-743;  
Eff. February 1, 2023.

### **SECTION .0400 – SUPERVISION**

#### **21 NCAC 05 .0401 SUPERVISION OF ASSISTANT BEHAVIOR ANALYST**

- (a) Applicants for licensure as an assistant behavior analyst shall provide to the Board a supervisory agreement between the licensed behavior analyst and the licensed assistant behavior analyst.
- (b) Applicants for licensure as an assistant behavior analyst shall maintain a copy of the supervisory agreement while supervised. The supervisor of the licensed assistant behavior analyst shall maintain a copy of the signed supervisor agreement, supervision logs, and evaluations for at least seven years following the termination of the supervisory relationship. This documentation shall be made available to the Board upon request.
- (c) Supervision activities by the licensed behavior analyst include:
  - (1) Direct observation of the supervisee implementing behavior analytic assessment and intervention procedures with clients in natural environments or training others to implement them, with feedback from the supervisor. The observation may be done in-person, on-site, or using asynchronous or synchronous formats.
  - (2) One-to-one, live, person-to-person, or synchronous virtual 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) Live, person-to-person, or synchronous virtual 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) The frequency and nature of supervision interactions shall be consistent with the supervisory requirements set forth by the certifying entity in the Board Certified Assistant Behavior Analyst (BCaBA) handbook, which is hereby incorporated by reference, including subsequent amendments and editions, and may be found at <https://www.bacb.com/> at no cost.

*History Note:* Authority G.S. 90-734; 90-738; 90-732; 90-739;  
Eff. February 1, 2023.

## **21 NCAC 05 .0402 SUPERVISION OF BEHAVIOR TECHNICIANS**

- (a) Behavior technicians shall be supervised by a licensed behavior analyst or a licensed assistant behavior analyst.
- (b) Any licensed behavior analyst or licensed assistant behavior analyst employing or supervising behavior technicians who are implementing applied behavior analysis interventions designed by the licensed behavior analyst or licensed assistant behavior analyst shall maintain professional responsibility for the quality of the interventions rendered and for the effects of the interventions upon the client, patient, or other individuals.
- (c) The behavior analyst shall have face-to-face contact, including in-person or synchronous virtual interactions, during the course of services with all patients, clients, or other recipients of services delivered by behavior technicians as part of the interventions designed by the licensed behavior analysts or licensed assistant behavior analysts.
- (d) Any licensed behavior analyst or licensed assistant behavior analyst employing or supervising behavior technicians who are implementing applied behavior analysis interventions designed by the licensed behavior analyst or licensed assistant behavior analyst shall maintain documentation to demonstrate their adherence to this Rule. This documentation shall be supervision contracts, supervision logs, and meeting notes. The licensed behavior analyst or licensed assistant behavior analyst shall maintain this documentation for at least seven years following the termination of applied behavior analysis services by the behavior technician.
- (e) Behavior technicians shall be utilized to perform only:
- (1) non-client-related tasks, clerical tasks, maintenance activities, and the preparation of the work area and equipment; and
  - (2) 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. The behavior technician shall not design assessment or intervention plans or procedures.
- (f) Failure of any licensed behavior analyst or licensed assistant behavior analyst to supervise behavior technicians shall subject that licensed behavior analyst or licensed assistant behavior analyst to disciplinary action pursuant to 21 NCAC 05 .0603.

*History Note:* Authority G.S. 90-734; 90-732; 90-745;  
Eff. February 1, 2023.

## **SECTION .0500 - ETHICS**

### **21 NCAC 05 .0501 ETHICS**

The Board shall use The Ethics Code for Behavior Analysts, which is hereby incorporated by reference, including subsequent amendments and editions, and may be found at <https://www.bacb.com/> at no cost, in determining whether ethical violations have occurred.

*History Note:* Authority G.S. 90-731; 90-734; 90-742;  
Eff. February 1, 2023.

## **SECTION .0600 – DISCIPLINARY INVESTIGATION**

### **21 NCAC 05 .0601 COMPLAINT PROCEDURES**

(a) Initiation. Any individual with personal knowledge that any person has violated the Code of Conduct, any other rules of this Chapter, or G.S. 90, Article 43, may file a complaint by submitting the Ethics Complaint Form found on the Board's website.

(b) Form. The complaint shall be in typed or handwritten format stating the nature of the alleged offense and signed by the complainant. The complaint shall include:

- (1) the name, address, and telephone number of the complainant;
- (2) the name and address of the person against whom the complaint is made ("respondent"); and
- (3) a statement of the facts that describe the allegations against the person.

(c) The complaint shall be investigated as set out in Rule .0602 of this Section.

(d) Upon completion of the investigation of the complaint, the ethics committee shall take action as set out in Rule .0602 of this Section.

(e) If the ethics committee concludes there is a basis to schedule a disciplinary hearing before the Board, the committee chairperson shall notify the respondent. The notice to the respondent shall include the following:

- (1) the sections of the Code of Conduct, other rules of this Chapter, or G.S. 90, Article 43 that the complaint alleges has been violated;
- (2) direct that the respondent reply to the Board in writing and by certified mail within 15 days of receipt of this notice; and
- (3) inform the respondent that failure to respond in writing within 15 days may result in revocation of a license.

(f) The Board shall issue notice by regular postage mail, certified mail, or personal service at the last known address of the respondent. If given by certified mail, notice shall be deemed to have been given on the delivery date appearing on the return receipt.

(g) The Board may receive correspondence in an ethics case through e-mail in order to conduct the investigation or when the subject of an investigation is unable to use or has been unresponsive to certified mail or other methods of delivery. The Board may use local law enforcement or a private investigator licensed by the Private Protective Services Board to personally serve a respondent.

(h) If notice cannot be given either by regular postage mail, personal service, or by certified mail, a notice that a complaint has been brought against the respondent shall then be given by publication. Service of notice by publication shall consist of publication once a week for three successive weeks in a newspaper that is qualified for legal advertising in accordance with G.S. 1-597 and G.S. 1-598 and circulated in the area where the respondent is believed to be located. The notice shall include a statement by the Board that a complaint has been made against the respondent that is scheduled to be heard by the Board within 90 days. The notice shall inform respondent that respondent shall be given 30 days from the date of the last date of publication in which to respond to the service by publication for the purpose of notifying the Board of respondent's whereabouts. Response shall be made in writing to the Board at the address provided by the Board in its notice. If respondent provides the Board with information whereby he or she can be served by the deadline specified in the notice, the Board shall provide notice either personally or by certified mail as provided in Paragraph (g) of this Rule. Failure of respondent notified by publication of a complaint brought by the Board shall be treated as a failure of respondent to reply to the charges.

(i) Failure of the respondent to reply to the charges, including each specific allegation, may be considered an admission of the facts contained in the allegation(s).

*History Note: Authority G.S. 90-731; 90-734; 90-742; 90-744; 90-746; 90-747;  
Eff. February 1, 2023.*

## **21 NCAC 05 .0602 INVESTIGATION OF COMPLAINT**

(a) The ethics committee shall consist of a member of the Board as chairperson, the Board administrator and the Board's legal counsel. The ethics committee shall investigate the allegations in the complaint. The chairperson may appoint another Board member or name a subcommittee of the Board to serve on the ethics committee, if they determine there is a conflict of interest or that the complaint is outside of their investigatory skillset.

(b) The ethics committee may contact the complainant and person against whom the complaint is made.

(c) Upon completion of the investigation, the ethics committee may determine that:

- (1) the person against whom the complaint is made is not a licensee or applicant of the Board, and does not qualify for an exemption pursuant to G.S. 90-745. The ethics committee shall cease disciplinary action and the chairperson shall refer the matter for prosecution pursuant to G.S. 90-746.
- (2) the complaint is without merit. The ethics committee shall dismiss the complaint. The chairperson shall notify both parties of the dismissal; and
- (3) upon completion of an investigation wherein the complaint is found to have merit or is not dismissed, the ethics committee chairperson may:

- (A) offer a settlement resolution pursuant to G.S. 150B-22;
- (B) schedule a meeting with the respondent;
- (C) notice a formal hearing before the Board; or
- (D) take a voluntary dismissal of the case where the respondent relinquishes their license for an agreed upon period of time through a consent order.

*History Note:* Authority G.S. 90-734; 90-742; 150B-22; 150B-38; 150B-39; 150B-40; 150B-41; 150B-42; Eff. February 1, 2023.

**21 NCAC 05 .0603 METHOD OF DISCIPLINE**

(a) Following an investigation or hearing the Board may:

- (1) deny a license;
- (2) revoke a license;
- (3) suspend a license until further order of the Board or for a specified period of time;
- (4) reprimand the Respondent; or
- (5) take other actions not to be considered a disciplinary action, including a letter of caution or letter of warning without the consent of the Respondent.

(b) Disciplinary or other actions by the Board with the Respondent's consent may be stayed while the Respondent satisfies all of the conditions of the consent order.

*History Note:* Authority G.S. 90-734; 90-742; Eff. February 1, 2023.