



## Ohio Administrative Code

### Rule 4783-7-01 General rules of professional conduct pursuant to section 4783.09 of the Revised Code.

Effective: April 7, 2014

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#### (A) General considerations:

(1) Purpose. The rules of professional conduct constitute the standards against which the required professional conduct of a certified Ohio behavior analyst is measured.

(2) Scope. The rules of professional conduct shall apply to the conduct of all certified Ohio behavior analysts, including the applicant's conduct during the period of any education, training or employment that is required for certification. The term "certified Ohio behavior analyst" as used within these rules of professional conduct, shall be interpreted accordingly, whenever applied behavior analysis is being provided in any context.

(3) Violations. A violation of the rules of professional conduct constitutes unprofessional conduct and is sufficient reason for a reprimand, suspension or revocation of a certificate, or denial of either original certification or request for reinstatement of certification.

(4) Aids to interpretation. Ethics codes and standards for providers promulgated by the "Behavior Analyst Certification Board" the "American Psychological Association," and other relevant professional groups shall be used as aids in resolving ambiguities that may arise in the interpretation of the rules of professional conduct, except that these rules of professional conduct shall prevail whenever any conflict exists between these rules and any professional association or certification board standard.

(5) A certified Ohio behavior analyst, or an applicant for certification, shall provide a written response within a reasonable period of time not to exceed sixty days to any written inquiry, regarding compliance with law or rule, received from the board.

#### (B) Negligence:



- (1) A certified Ohio behavior analyst shall be considered negligent if his/her behaviors toward his/her clients, supervisees, service recipients, employees, students, or any person with who there is a signed attestation required in paragraph (C)(5) of rule 4783-6-02 of the Administrative Code, in the judgment of the board, clearly fall below the standards for acceptable practice of applied behavior analysis.
- (2) Misrepresentation of qualifications. The certified Ohio behavior analyst shall not misrepresent directly or by implication his/her professional qualifications.
- (3) Misrepresentation of affiliations. The certified Ohio behavior analyst shall not misrepresent directly or by implication his/her affiliations or the purposes or characteristics of institutions and organizations with which the certified Ohio behavior analyst is associated.
- (4) A certified Ohio behavior analyst shall not request or authorize any client to solicit business on behalf of the certified Ohio behavior analyst.
- (5) A certified Ohio behavior analyst associated with the development, promotion, or sale of psychological devices, books, or other products shall ensure that such devices, books, or products are not misrepresented as to qualities, performance or results to be obtained from their use.
- (6) Maintenance and retention of records.
  - (a) A certified Ohio behavior analyst providing applied behavior analysis services to a client, or services billed to a third-party payer, shall maintain a professional record that includes:
    - (i) The presenting problem, including any relevant diagnosis and any recommendation for applied behavior analysis services rendered by a licensed professional.
    - (ii) The date(s) and purpose of each service contact.
    - (iii) The fee arrangement.
    - (iv) The treatment plan and the functional assessment on which the behavior plan is based.



(v) The data collected to ascertain the efficacy of the applied behavior analysis and any subsequent modifications of the plan.

(vi) Notation and results of formal contacts with other providers, and

(vii) Authorizations, if any, by the client for release of records or information.

(b) To meet the requirements of these rules, but not necessarily for other legal purposes, the certified Ohio behavior analyst shall ensure that each dated entry in the professional record is maintained for a period of not less than five years after the last date of service rendered, or not less than the length of time required by other regulations if that is longer. The general record or a summary thereof shall be kept for period of not less than twelve years after the last date of service rendered.

(c) A certified Ohio behavior analyst shall store and dispose of written, electronic, and other records of clients in such a manner as to ensure their confidentiality.

(d) In the event a complaint has been filed, a certified Ohio behavior analyst shall provide the original or a full copy of the client file or other client-identifiable documents to the board upon request, provided that the request is accompanied by a copy of a release signed by the client.

(C) Welfare of the client:

(1) Identification of the client: The term client is broadly applicable to whomever the certified Ohio behavior analyst provides services whether an individual person (service recipient), parent or guardian of a service recipient, an institutional representative or a public or private agency, firm or corporation.

(a) When the service recipient is not the primary client, the certified Ohio behavior analyst retains responsibility for the welfare of the service recipient.

(b) When there is a conflict of interest between the service recipient, the client, the institution, agency firm or corporation, the certified Ohio behavior analyst shall clarify the nature and direction



of his/her loyalties and responsibilities and keep all parties concerned informed of his/her commitments.

(2) Sufficient professional information. Certified Ohio behavior analysts rely on scientifically and professionally derived knowledge when engaging in the practice of applied behavior analysis.

(a) The certified Ohio behavior analyst conducts a functional assessment, as defined below, to provide the necessary data to develop an effective behavior change program for a client or service recipient.

(b) Functional assessment includes a variety of systematic information-gathering activities regarding factors influencing the occurrence of a behavior (e.g. antecedents, consequences, setting events, motivating operations) including interview, direct observation and experimental analysis.

(3) Informed client. When certified Ohio behavior analysts provide assessment, evaluation, treatment, supervision, teaching, consultation, research, or other behavior analytic services to an individual, group, or an organization, they use language that is fully understandable to the recipient of those services and/or to those responsible for the care of the individual service recipient.

(a) Certified Ohio behavior analysts provide appropriate information prior to service delivery about the nature of such services and appropriate information about results and conclusions.

(b) The client must be provided on request an accurate, current set of the certified Ohio behavior analyst's credentials.

(c) Clients must be informed of their rights and about procedures to complain about professional practices of the certified Ohio behavior analyst.

(4) Informed choice: A certified Ohio behavior analyst shall afford each client informed choice and reasonable protection from physical or mental harm or danger.

(a) Clients have a right to effective treatment (i.e., based on the research literature and adapted to the individual client).



- (b) Clients have the right to have the treatment plan explained clearly in terms appropriate to their understanding and to be informed about alternative treatments.
- (c) The certified Ohio behavior analyst explains treatment plan modifications and the reasons for the modifications to the client and obtains and documents consent to implement the modifications.
- (d) The certified Ohio behavior analyst informs each client of the environmental conditions that are necessary for the treatment plan to be effective.
- (i) If environmental conditions preclude implementation of a treatment plan, the behavior analyst recommends that other professional assistance (i.e., assessment, consultation or therapeutic intervention by other professionals) be sought.
- (ii) If environmental conditions hamper implementation of the treatment plan, the behavior analyst seeks to eliminate the environmental constraints, or identifies in writing the obstacles to doing so.
- (e) The certified Ohio behavior analyst reviews and appraises the restrictiveness of alternative interventions and always recommends the least restrictive procedures likely to be effective in dealing with a behavior problem.
- (f) The certified Ohio behavior analyst establishes understandable, objective, and measurable criteria for the termination of the treatment plan and describes them to the client or service recipient.
- (g) The certified Ohio behavior analyst must obtain the client's approval of the treatment plan procedures in writing before implementing them.
- (5) Stereotypes. A certified Ohio behavior analyst shall not impose on a client any stereotypes of behavior, values, or roles related to age, gender, religion, race, disability, nationality, or sexual orientation that would interfere with the objective provision of services to the client.
- (6) Termination. A certified Ohio behavior analyst shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from the relationship and shall make referrals to



other services when appropriate.

(7) Referral. A certified Ohio behavior analyst shall make an appropriate referral of a client to another professional when requested to do so by the client.

(8) Practicing while impaired. A certified Ohio behavior analyst shall not undertake or continue a professional role when the judgment, competence and/or objectivity of the certified Ohio behavior analyst is impaired due to mental, emotional, physiological, pharmacological or substance abuse conditions. If impaired judgment, competence and/or objectivity develops after a professional role has been initiated, the certified Ohio behavior analyst shall terminate the professional role in an appropriate manner, shall notify the client or other relevant parties of the termination in writing and shall assist the client, supervisee, or service recipient in obtaining appropriate services from another professional.

(9) Continuity of care.

(a) A certified Ohio behavior analyst shall make arrangements for another appropriate professional to deal with the emergency needs of his/her clients during periods of foreseeable absence from professional availability.

(b) A certified Ohio behavior analyst makes reasonable efforts to plan for continuity of care in the event that services are interrupted by factors such as the certificate holder's illness, unavailability, relocation, or death or the client's relocation or financial limitations.

(c) A certified Ohio behavior analyst entering into employment or contractual relationships shall make reasonable efforts to provide for orderly and appropriate resolution of responsibility for client care in the event that the employment or contractual relationship ends, with paramount consideration being given to the welfare of the client.

(D) Remuneration:

(1) Financial arrangements:



(a) All financial arrangements shall be provided in writing to each client in advance of billing, preferably within the initial session but no later than the end of the second contact.

(b) A certified Ohio behavior analyst shall not mislead or withhold from any client, prospective client or third-party payer, information about the cost of his/her professional services.

(c) A certified Ohio behavior analyst shall not exploit a client or responsible payer by charging a fee that is excessive for the services performed or by entering into an exploitative bartering arrangement in lieu of a fee.

(d) The primary obligation of a certified Ohio behavior analyst employed by an institution, agency, or school is to persons entitled to his/her services through the institution, agency or school. A certified Ohio behavior analyst shall not accept a private fee or any other form of remuneration from such persons unless the policies of a particular institution agency or school make explicit provision for private work with its clients by members of its staff. In such instances the client shall be fully apprised of available services and all policies affecting him/her, prior to entering into a private professional relationship with a certified Ohio behavior analyst.

(2) Improper financial arrangements:

(a) A certified Ohio behavior analyst shall neither derive nor solicit any form of monetary profit or personal gain as a result of his/her professional relationship with clients or immediate ex-clients, beyond the payment of fees for psychological services rendered. However, unsolicited token gifts from a client are permissible.

(b) A certified Ohio behavior analyst shall not use his/her professional relationship with clients or immediate ex-clients to derive personal gain, other than through fees for professional services, for himself/herself, or for any other person, or for any organization from the sale or promotion of a non-applied behavior analysis related product or service.

(c) A certified Ohio behavior analyst shall neither give nor receive any commission, rebate or other form of remuneration for referral of a client for professional services, without full disclosure in advance to the client of the terms of such an agreement.



(d) A certified Ohio behavior analyst shall not bill for services that are not rendered. However, he/she may bill for missed appointments that the client did not cancel in advance, if the client has previously received notice of this responsibility.

(E) Multiple relationships. A multiple relationship exists when a certified Ohio behavior analyst is in a professional role and is in another relationship with the same person or entity or with an individual closely associated with the person or entity. Depending on the timing and nature of one's interactions before or after then establishment of a professional role, multiple relationships can result in exploitation of others, impaired judgment by clients, supervisees and service recipients and/or impaired judgment competence and objectivity of the certified Ohio behavior analyst. Certified Ohio behavior analysts actively identify and manage interpersonal boundaries to ensure that there is not exploitation of others and that professional judgment, competence and objectivity with one's professional role is not compromised.

(1) In some communities and situations, unavoidable interpersonal contacts can occur due to cultural, linguistic, or geographical considerations. For purposes of this rule, incidental contacts in the personal life of a certified Ohio behavior analyst are not relationships.

(2) Prohibited multiple relationships. The board prescribes that certain multiple relationships are expressly prohibited due to inherent risks of exploitation, impaired judgment by clients and persons closely associated with clients, and supervisees, and/or impaired judgment, competence or objectivity of the certified Ohio behavior analyst.

(a) A certified Ohio behavior analyst shall not:

(i) Undertake a professional relationship with persons with whom he/she has engaged in sexual intercourse or other sexual intimacies; or

(ii) Undertake a professional relationship with persons with whom he/she has had a familial, personal, social, supervisory, employment, or other relationship, and there is resulting: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one's functions as a certified Ohio behavior analyst.





(b) A certified Ohio behavior analyst shall not:

(i) Engage in sexual intercourse or other sexual intimacies; or, verbal or nonverbal conduct that is sexual in nature with any current client, any person closely associated with a current client, or supervisee; or

(ii) Establish any personal, financial, employment, or other relationship with any current client, any person closely associated with a current client, or supervisee and there is resulting: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one's functions as a certified Ohio behavior analyst.

(c) A certified Ohio behavior analyst shall not:

(i) Engage in sexual intercourse or other sexual intimacies; or, verbal or nonverbal conduct that is sexual in nature with any person with whom there has been a professional relationship at any time within the previous twenty-four months; or

(ii) Enter into any personal, financial, employment or other relationship (other than reestablishing a professional relationship) with any person with whom there has been a professional relationship at any time within the previous twenty-four months and there is resulting: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one's functions as a certified Ohio behavior analyst.

(d) A certified Ohio behavior analyst shall not terminate or interrupt a professional role with any person for the purpose, expressed or implied, of entering into a sexual, personal, or financial relationship with that person or any individual closely associated with that person.

(e) The prohibitions established in paragraphs (E)(2)(b) and (E)(2)(c) of this rule extend indefinitely beyond twenty-four months after termination of the professional relationship if the person, secondary to emotional, mental, or cognitive impairment, remains vulnerable to exploitative influence.

(F) Assessment:



- (1) Certified Ohio behavior analysts' assessments, recommendations, reports, and evaluative statements are based on information and techniques sufficient to provide appropriate substantiation for their findings.
  - (2) Certified Ohio behavior analysts refrain from misuse of assessment techniques, interventions, results, and interpretations and take reasonable steps to prevent others from misusing the information these techniques provide.
  - (3) Certified Ohio behavior analysts recognize limits to the certainty with which judgments or predictions can be made about individuals.
  - (4) Certified Ohio behavior analysts do not promote the use of behavioral assessment techniques by unqualified persons, i.e., those who are unsupervised by experienced professionals and have not demonstrated valid and reliable assessment skills.
  - (5) Certified Ohio behavior analyst must obtain the client's approval in writing of the behavior assessment procedures before implementing them.
  - (6) Certified Ohio behavior analysts conduct a functional assessment, as defined in paragraph (O) of 4783-3-01 of the Administrative Code, to provide the necessary data to develop an effective treatment plan.
  - (7) Unless the nature of the relationship is clearly explained to the person being assessed in advance and precludes provision of an explanation of results (such as in some organizational consultation, some screenings, and forensic evaluations), certified Ohio behavior analysts ensure that an explanation of the results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the client. Regardless of whether the interpretation is done by the certified Ohio behavior analyst, or by supervisees, behavior analysts take reasonable steps to ensure that appropriate explanations of results are given.
- (G) Confidentiality:



(1) Confidential information is information revealed by an individual or individuals or otherwise obtained by a certified Ohio behavior analyst, when there is reasonable expectation that it was revealed or obtained as a result of the professional relationship between the individual(s) and the certified Ohio behavior analyst. Such information is not to be disclosed by certified Ohio behavior analyst without the informed consent of the individual(s).

(a) When rendering behavior analysis services as part of a team or when interacting with other appropriate professionals concerning the welfare of a client, a certified Ohio behavior analyst may share confidential information about the client provided that reasonable steps are taken to ensure that all persons receiving the information are informed about the confidential nature of the information being shared and agree to abide by the rules of confidentiality.

(b) When any case report or other confidential information is used as the basis of teaching, research, or other published reports, a certified Ohio behavior analyst shall exercise reasonable care to ensure that the reported material is appropriately disguised to prevent client or subject identification.

(c) A certified Ohio behavior analyst shall ensure that no interview or therapeutic interventions with a client are observed or electronically recorded without first informing the client or the client's guardian and, where the sensitivity of the material requires it, obtaining written consent from same.

(d) A certified Ohio behavior analyst shall limit access to client records and shall ensure that all persons working under his/her authority comply with the requirements for confidentiality of client material.

(e) A certified Ohio behavior analyst shall continue to treat all information regarding a client as confidential after the professional relationship between the certified Ohio behavior analyst and the client has ceased.

(f) In a situation in which more than one party has an appropriate interest in the professional services rendered by a certified Ohio behavior analyst to a client, the certified Ohio behavior analyst shall, to the extent possible, clarify to all parties the dimensions of confidentiality and professional responsibility that shall pertain in the rendering of services.



(i) Such clarification is specifically indicated, among other circumstances, when the client is an organization or when the client has been referred by a third party.

(ii) In accord with paragraphs (C)(3) and (F)(7) of this rule, a certified Ohio behavior analyst shall clarify with the individual receiving services because of a third-party referral whether, and under what conditions-including costs, information or feedback will be provided to the individual, or the individual(s) responsible for the care of the individual receiving those services.

(2) Protecting confidentiality of clients. In accordance with division (B) of section 4783.03 of the Revised Code, the confidential relations and communications between a certified Ohio behavior analyst and clients are placed under the same umbrella of a privilege as those between physician and patient under division (B) of section 2317.02 of the Revised Code. The privilege is intended to protect the interest of the client by encouraging free disclosure to the certified Ohio behavior analyst and by preventing such free disclosure to others. Thus, the client rather than the certified Ohio behavior analyst holds and may assert the privilege.

(a) A certified Ohio behavior analyst shall not testify concerning a communication made to him/her by a client. The certified Ohio behavior analyst may testify by express consent of the client or legal guardian or, if the client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of such deceased client. If the client voluntarily testifies, certified Ohio behavior analysts may be compelled to testify on the same subject; or if the client, the executor or administrator files a claim against the certified Ohio behavior analyst, such filing shall constitute a waiver of this privilege with regard to the care and treatment of which complaint is made.

(b) Court decisions construing the scope of the physician-patient privilege, pursuant to section 2317.02 of the Revised Code, are applicable to this privilege between certified Ohio behavior analyst and the client.

(c) A certified Ohio behavior analyst may disclose confidential information without the informed written consent of a client when the certified Ohio behavior analyst judges that disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on himself/herself or on another person. In such case, the certified Ohio behavior analyst may disclose the confidential information only to appropriate public authorities, the potential victim,



professional workers, and/or the family of the client.

(d) A certified Ohio behavior analyst shall safeguard the confidential information obtained in the course of practice, teaching, research, or other professional duties. With the exceptions as required or permitted by statute, a certified Ohio behavior analyst shall disclose confidential information to others only with the informed written consent of the client.

(e) At the beginning of a professional relationship a certified Ohio behavior analyst shall inform his/her client of the legal limits of confidentiality. To the extent that the client can understand, the certified Ohio behavior analyst shall inform a client who is below the age of majority or who has a legal guardian of the limit the law imposes on the right of confidentiality. When services are provided to more than one patient or client during a joint session (for example to a family or couple, or parent and child, or group), a certified Ohio behavior analyst shall, at the beginning of the professional relationship, clarify to all parties the limits of confidentiality.

(f) A certified Ohio behavior analyst may release confidential information upon court order or to conform to state or federal laws, rules, or regulations.

(g) A certified Ohio behavior analyst shall comply with any relevant law concerning the reporting of abuse of children or vulnerable adults.

(H) Competence:

(1) Limits on practice: A certified Ohio behavior analyst provides services only within the boundaries of his/her competence, based on education, training and supervised experience. The practice of applied behavior analysis does not include psychological testing, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities.

(2) Maintaining competence: A certified Ohio behavior analyst shall maintain current competency in the areas in which he/she practices, through continuing education, consultation and/or other training, in conformance with current standards of scientific and professional knowledge.



(3) Referrals. A certified Ohio behavior analyst shall make or recommend referral to other professional resources when such referral is in the best interests of the client.

(4) ) Interprofessional relations:

(a) A certified Ohio behavior analyst shall neither establish nor offer to establish a continuing professional relationship with a client receiving behavior analysis services from another professional, except with the knowledge of the other professional.

(b) A certified Ohio behavior analyst shall cooperate with other professionals in order to serve his/her clients.

(I) Violations of law:

(1) Violation of applicable statutes. A certified Ohio behavior analyst shall not violate any applicable statute or administrative rule regulating the practice of applied behavior analysis.

(2) Use of fraud, misrepresentation, or deception. A certified Ohio behavior analyst shall not use fraud, misrepresentation, or deception in obtaining a certified Ohio behavior analyst certificate, in engaging in any examination process required for certification, in assisting another to obtain a certified Ohio behavior analyst certificate, in billing clients or third-party payers, in providing applied behavior analysis services, in reporting the results of those services, or in conducting any other activity related to the practice of applied behavior analysis.

(J) Aiding illegal practice:

(1) Aiding unauthorized practice. A certified Ohio behavior analyst shall not aid or abet another person in misrepresenting his/her professional credentials or in illegally engaging in the practice of applied behavior analysis.

(2) Delegating professional responsibility. A certified Ohio behavior analyst shall not delegate professional responsibilities to a person not qualified and/or not appropriately credentialed to provide such services.



(3) Providing supervision. A certified Ohio behavior analyst shall exercise appropriate supervision over supervisees, as set forth in the rules of the board.

(4) Reporting of violations to board. A certified Ohio behavior analyst who has substantial reason to believe that another certified Ohio behavior analyst or supervisee has committed an apparent violation of the statutes or rules of the board that has substantially harmed or is likely to substantially harm a person or organization shall so inform the board in writing; however, when the information regarding such violation is obtained in a professional relationship with a client, the certified Ohio behavior analyst shall report it only with the written permission of the client. Under such circumstances certified Ohio behavior analyst shall advise the client of the name, address, and telephone number of the state board of psychology and of the client's right to file a complaint. The certified Ohio behavior analyst shall make reasonable efforts to guide and/or facilitate the client in the complaint process as needed or requested by the client. Nothing in this rule shall relieve a certified Ohio behavior analyst from the duty to file any report required by applicable statutes.

(K) Supervision rules. Rules 4783-6-01 and 4783-6-02 of the Administrative Code, pertaining to supervision of persons working directly under the authority and direction of the certified Ohio behavior analyst, shall be considered as a part of these rules of professional conduct.