



# Ohio Board of Psychology

## PRE-CERTIFICATION WORKSHOP/EXAMINATION LAW AND RULES MANUAL

### CERTIFIED OHIO BEHAVIOR ANALYST

May 2015

# COBA Laws and Rules Manual

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# Ohio Board of Psychology

## CERTIFIED OHIO BEHAVIOR ANALYSTS PRE-CERTIFICATION WORKSHOP/EXAMINATION ACKNOWLEDGMENT AND RECEIPT OF LAW AND RULES MANUAL

In accord with the pre-certification requirements for Certified Ohio Behavior Analyst (COBA) candidates generally specified in Ohio Revised Code (ORC) 4783.04 and Ohio Administrative Code (OAC) 4783-4-01, I submit this signed statement and hereby attest:

- I am in possession of the workshop/examination laws and rules manual, which contains the COBA law, selected rules, and related laws that form the basis for the workshop and examination:

### Laws Governing Certified Ohio Behavior Analysts

ORC 4783.01 Definitions through 4783.99 Penalties

### Selected Rules Governing Certified Ohio Behavior Analysts

OAC 4783-1-03 Biennial registration; 4783-2-01 Scope, responsibilities, and requirements for continuing education; 4783-2-02 Procedures for recording, filing, and reporting continuing education; 4783-3-01 Definitions; 4783-6-01 Purposes of supervision; 4783-6-02 Requirements pertaining to supervision; 4783-7-01 Rules of professional conduct

### Relevant Related Laws

ORC 2151.421 Reporting child abuse or neglect; 5101.61 Reporting abuse, neglect or exploitation of adult

- I acknowledge that prior to attending the required pre-certification workshop presented by the Board that I will study the contents of the laws and rules manual as required in 4783-4-01 and will comply with pre-certification processes as evidenced by:
  - *Receipt in the Board office of this signed statement;*
  - *Attendance at a jurisprudence workshop presented by the board;*
  - *Earning a passing score on a post-workshop written examination covering the material presented in the workshop.*

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**RETURN SIGNED COPY TO THE BOARD OFFICE**  
**KEEP A COPY OF THIS FORM FOR YOUR RECORDS**

## **ORC 4783: Laws Governing Certified Ohio Behavior Analysts**

### **4783.01 Definitions.**

(A) "Certified Ohio behavior analyst" means an individual holding a current, valid certificate issued under section 4783.04 of the Revised Code.

(B) (1) "Practice of applied behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior and includes the following:

(a) The empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis;

(b) Interventions based on scientific research and the direct observation and measurement of behavior and the environment;

(c) 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 emit behaviors under specific environmental conditions.

(2) "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.

### **4783.02 Certificate required; applicability of chapter.**

(A) Except as otherwise provided in division (B) of this section, no person shall do either of the following:

(1) Engage in the practice of applied behavior analysis in this state without holding a certificate issued under section 4783.04 of the Revised Code;

(2) Hold the person's self out to be a certified Ohio behavior analyst unless the person holds a certificate issued under section 4783.04 of the Revised Code.

(B) This chapter does not apply to any of the following:

(1) An individual licensed under Chapter 4732. of the Revised Code to practice psychology, if the practice of applied behavior analysis engaged in by the licensed psychologist is within the licensed psychologist's education, training, and experience;

(2) An individual licensed under Chapter 4757. of the Revised Code to practice counseling, social work, or marriage and family therapy, if the practice of applied behavior analysis engaged in by the licensed professional counselor, licensed

professional clinical counselor, licensed social worker, or licensed marriage and family therapist is within the licensee's education, training, and experience;

(3) An individual acting under the authority and direction of an individual described in division (B)(1) or (2) of this section;

(4) An individual practicing applied behavior analysis who is supervised by a certified Ohio behavior analyst and acting under the authority and direction of that certified Ohio behavior analyst;

(5) The delivery of interventions by a direct care provider or family member to implement components of an applied behavior analysis treatment plan.

(6) A behavior analyst who practices with nonhuman or nonpatient clients or consumers, including applied animal behaviorists and practitioners of organizational behavior management;

(7) A licensed professional authorized to practice in this state who, in the offering or rendering of services, does not represent oneself in any printed materials or verbally by incorporating the term "applied behavior analyst," if the services of the licensed professional are within the scope of practice of the licensing law governing the licensed professional and the services performed are commensurate with the licensed professional's education, training, and experience;

(8) A matriculated graduate student or postdoctoral trainee whose activities are part of a defined program of study or professional training;

(9) An individual employed by the department of developmental disabilities, a county board of developmental disabilities, or a council of government consisting of county boards of developmental disabilities, when the individual is acting in the scope of that employment;

(10) A professional employed in a school or other setting that falls under the regulation of the state board of education when the professional is acting within the scope of that employment.

(C) For purposes of division (B)(3) or (4) of this section, an individual is not subject to this chapter only if the licensed psychologist, the licensed professional counselor, the licensed professional clinical counselor, the licensed social worker, the licensed marriage and family therapist, or the certified Ohio behavior analyst under whose authority and direction the individual is acting pursuant to division (B)(3) or (4) of this section signs an attestation stating that the licensed psychologist, licensed professional counselor, licensed professional clinical counselor, licensed social worker, licensed marriage and family therapist, or certified Ohio behavior analyst is responsible for the care provided by the individual.

### **4783.05 Duration of certification; registration; fee; continuing education.**

(A) (1) Except as otherwise provided in this division, a certificate issued under this chapter is valid for a period of two years. On or before the thirty-first day of August of each even-numbered year, each certified Ohio behavior analyst shall do both of the following:

(a) Register with the state board of psychology on a form prescribed by the board, giving the certified Ohio behavior analyst's name, address, certificate number, the continuing education information required under division (B) of this section, and any other reasonable information as the board requires;

(b) Pay to the board secretary a biennial registration fee in an amount of one hundred fifty dollars.

(2) An individual who is issued a certificate under section 4783.04 of the Revised Code for the first time on or before the thirty-first day of August of an even-numbered year shall next be required to register on or before the thirty-first day of August of the next even-numbered year.

(B) Every two years a certified Ohio behavior analyst who wishes to renew the certified Ohio behavior analyst's certificate issued under this chapter shall produce proof of not less than twenty-three hours of continuing education, including not less than four hours in ethics, professional conduct, or cultural competency. Continuing education hours may be earned through providers of continuing education approved by the behavior analyst certification board or its successor organization or other organizations approved by the state board of psychology as providers of continuing education.

### **4783.09 Refusal, reprimand, suspension or revocation.**

(A) The state board of psychology may refuse to issue a certificate to any applicant, may issue a reprimand, or suspend or revoke the certificate of any certified Ohio behavior analyst, on any of the following grounds:

(1) Conviction of a felony, or of any offense involving moral turpitude, in a court of this or any other state or in a federal court;

(2) Using fraud or deceit in the procurement of the certificate to practice applied behavior analysis or knowingly assisting another in the procurement of such a certificate through fraud or deceit;

(3) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;

(4) Willful, unauthorized communication of information received in professional confidence;

- (5) Being negligent in the practice of applied behavior analysis;
- (6) Using any controlled substance or alcoholic beverage to an extent that such use impairs the person's ability to perform the work of a certified Ohio behavior analyst with safety to the public;
- (7) Violating any rule of professional conduct promulgated by the board;
- (8) Practicing in an area of applied behavior analysis for which the person is clearly untrained or incompetent;
- (9) An adjudication by a court, as provided in section 5122.301 of the Revised Code, that the person is incompetent for the purpose of holding the certificate;
- (10) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers applied behavior analysis services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;
- (11) Advertising that the person will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers applied behavior analysis services, would otherwise be required to pay.
- (B) For purposes of division (A)(9) of this section, a person may have the person's certificate issued or restored only upon determination by a court that the person is competent for the purpose of holding the certificate and upon the decision by the board that the certificate be issued or restored. The board may require an examination prior to such issuance or restoration.
- (C) Notwithstanding divisions (A)(10) and (11) of this section, sanctions shall not be imposed against any certificate holder who waives deductibles and copayments:
- (1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copays shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Such consent shall be made available to the board upon request.
- (2) For professional services rendered to any other person holding a certificate issued pursuant to this chapter to the extent allowed by this chapter and the rules of the board.
- (D) Except as provided in section 4783.10 of the Revised Code, before the board may deny, suspend, or revoke a certificate under this section, or otherwise discipline the holder of a certificate, written charges shall be filed with the board by the secretary

and a hearing shall be had thereon in accordance with Chapter 119. of the Revised Code.

#### **4783.10 Suspension pending hearing.**

On receipt of a complaint that any of the grounds listed in division (A) of section 4783.09 of the Revised Code exist, the state board of psychology may suspend the certificate of the certified Ohio behavior analyst prior to holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that an immediate threat to the public exists.

After suspending a certificate pursuant to this section, the board shall notify the certified Ohio behavior analyst of the suspension in accordance with section 119.07 of the Revised Code. If the individual whose certificate is suspended fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's certificate.

#### **4783.11 Sanctions for sexual misconduct.**

(A) Except as provided in division (B) of this section, if, at the conclusion of a hearing required by section 4783.09 of the Revised Code, the state board of psychology determines that a certified Ohio behavior analyst has engaged in sexual conduct or had sexual contact with the certified Ohio behavior analyst's patient or client in violation of any prohibition contained in Chapter 2907. of the Revised Code, the board shall do one of the following:

- (1) Suspend the certified Ohio behavior analyst's certificate;
- (2) Permanently revoke the certified Ohio behavior analyst's certificate.

(B) If the board determines at the conclusion of the hearing that neither of the sanctions described in division (A) of this section is appropriate, the board shall impose another sanction it considers appropriate and issue a written finding setting forth the reasons for the sanction imposed and the reason that neither of the sanctions described in division (A) of this section is appropriate.

#### **4783.12 Notice regarding child support enforcement.**

On receipt of a notice pursuant to section 3123.43 of the Revised Code, the state board of psychology shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate issued pursuant to this chapter.

#### **4783.13 Compliance with trafficking in persons provisions.**

The state board of psychology shall comply with section 4776.20 of the Revised Code.

## **4783.99 Penalties.**

Whoever violates division (A) of section 4783.02 of the Revised Code shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not less than six months nor more than one year, or both. Each violation shall be a separate offense.

## **OAC 4783: Rules Governing Certified Ohio Behavior Analysts**

### **Chapter 4783-1 Certification; Confidential Personal Information**

#### **4783-1-03 Biennial registration.**

(A) Each certified Ohio behavior analyst shall register on a biennial basis pursuant to division (A) of section 4783.05 of the Revised Code, including the continuing education (CE) information required by division (B) of section 4783.05 of the Revised Code and rule 4732-2-01 (CE requirements) of the Administrative Code. Registration shall be on a form provided by the board and shall include information deemed necessary by the board. Forms will be mailed to the last known address of each certificate holder. Failure to register and pay the biennial registration fee by the thirty-first day of August of each even-numbered year after the year of certification will result in automatic expiration of the certification unless the board has excused, in writing, a certificate holder from all or any part of the CE requirements pursuant to paragraph (C)(9) of rule 4783-2-01 of the Administrative Code.

(B) The board hereby waives the registration fee and CE requirements of a certified Ohio behavior analyst during such time as said certificate holder is on active duty in the armed forces of the United States, provided the registration form is completed and exemption from the fee and CE requirements is requested and approved by the board.

(C) Any certificate suspended pursuant to paragraph (A) of this rule may be reinstated by the board within five years after such expiration, on request of the certificate holder who failed to timely renew the certificate. Absent any grounds for denial as set forth in section 4783.09 of the Revised Code, such reinstatement:

(1) Shall be automatic if requested within one year, upon immediate payment of the biennial registration fee plus the penalty fee in effect at the time of the request and:

(a) Upon receipt in the board office of a report from the Behavior Analyst Certification Board, the Ohio Psychological Association or the Ohio School Psychologists Association of having completed the CE requirements that were in effect at the time of the most recent certificate renewal deadline; or

(b) Without such evidence if the fees and/or CE requirements are waived or excused, in writing, pursuant to paragraph (B) or paragraph (C) of this rule,; or

(2) After one year following such suspension shall require:

(a) Payment of the biennial registration fee in effect at the time of the request for reinstatement plus the penalty fee, unless the board waives the fees pursuant to paragraph (B) or paragraph (C) of this rule, with no part of these fees being refundable regardless of the outcome of the request for reinstatement; and

(b) Approval by the board of the expired certificate holder's notarized statement describing his/her professional activities after the date of expiration of the certificate; and

(c) Acceptance by the board of evidence of having completed, either during the previous two years or during the biennium, the CE requirements that were in effect for the biennium prior to the last regular certificate renewal anniversary unless the board excuses, in writing, the certificate holder from all or any part of the CE requirements.

## **Chapter 4783-2 Continuing Education**

### **4783-2-01 Scope, responsibilities, and requirements for continuing education.**

(A) Scope. Every certified Ohio behavior analyst subject to continuing education (CE) requirements as set forth in division (B) of section 4783.05 of the Revised Code shall meet the requirements of that section.

(B) Responsibilities:

(1) In accordance with the requirements of sections 4783.05 of the Revised Code, it shall be the responsibility of each certified Ohio behavior analyst submitting a biennial registration of a certificate to certify to the board that the continuing education experience required for certificate renewal has been completed. Other than as provided for in paragraph (C)(8) of rule 4783-2-01 of the Administrative Code, each certificate holder shall complete biennially no fewer than twenty three hours of approved continuing education substantially relevant to the practice of applied behavior analysis, including no fewer than four hours in ethics and professional conduct and/or the role of culture and/or ethnic identity in the provision of applied behavior analysis services.

(2) CE may be applied to meet the requirements of paragraph (B)(1) of this rule if both of the following requirements are met:

(a) It is obtained through a program or course approved by the board, the "Behavior Analyst Certification Board," the "Ohio Psychological Association," the "Association of Black Psychologists," the "American Psychological Association," the "Ohio School Psychologists Association," or the "National Association of School Psychologists"; and

(b) Completion of the program or course is recorded with the "Behavior Analyst Certification Board," the "Ohio Psychological Association," or the "Ohio School Psychologists Association."

(3) The state board of psychology may disapprove any program or course that has been approved by the "Behavior Analyst Certification Board," the "Ohio Psychological Association," the "Association of Black Psychologists," the "American Psychological Association," the "Ohio School Psychologists Association," or the "National Association of School Psychologists. Such program or course may not be applied to meet the requirement of paragraph (1) of this rule.

(4) Each certificate holder shall personally maintain CE records for three years following the renewal deadline for which the credits were used to satisfy requirements for certificate renewal.

(C) Requirements:

(1) Hours to be applied toward the CE requirements shall represent actual time spent in continuing education that meets the requirements set forth in this rule.

(b) The specific program or course is relevant to the practice of behavior analysis in terms of subject matter and level;

(c) Completion of the program or course is registered with the "Behavior Analyst Certification Board," the "Ohio Psychological Association," or the "Ohio School Psychologists Association" according to policies and fee structures set by those organizations.

(4) The board may audit any activities submitted in satisfaction of the CE requirements and/or monitor any program approved by any authorized approving organization for CE credit, and may disallow such credit if the board determines that the offering is not in conformance with the standards of paragraph (C)(2) of this rule.

(7) Failure to meet CE requirements or failure to have verification of the necessary CE hours sent to the board by August thirty-first of any relevant renewal year shall result in the automatic expiration of the certificate on September thirtieth of that year, except in a case described in paragraph (C)(4) or (C)(9) of this rule. If reinstatement is desired, such individual shall be required to submit a formal request for reinstatement of the certificate.

(8) If an applicant for certification is granted a certificate during the first year of the biennial renewal period, the certified Ohio behavior analyst is required to complete thirteen hours of continuing education for that biennial renewal period, including not less than four hours of continuing education in professional conduct and ethics, and/or the role of culture and/or ethnic identity in the provision of applied behavior analysis services. If an applicant is certified during the first three months of the second year of the biennial renewal period, the certified Ohio behavior analyst is exempt from meeting the CE requirements for that biennial period. If an applicant is certified during

the last nine months of the second year of the biennial renewal period and is, therefore, not subject to renewal that same year, he/she is required to complete twenty-three hours of CE to renew in the next renewal year.

(10) Falsification of written evidence submitted to the "Behavior Analyst Certification Board," the "Ohio Psychological Association" and the "Ohio School Psychologists Association," or to the board, or failure to respond to an audit request regarding continuing education experience shall constitute fraud, misrepresentation, and deception, as defined in paragraph (A)(2) of rule 4783-7-03 of the Administrative Code, and shall be considered grounds for disciplinary action.

#### **4783-2-02 Procedures for recording, filing, and reporting continuing education.**

(A) Record of completion of continuing education.

(1) Each certified Ohio behavior analyst shall arrange with the "Behavior Analyst Certification Board," "Ohio Psychological Association" or the "Ohio School Psychologists Association," to record and maintain the record of all CE hours, and the CE experience in which the hours were accrued, that are to be submitted to the board in fulfillment of the CE requirements for certificate renewal. In accordance with the requirements of division (B) of section 4783.05 of the Revised Code, such record shall constitute the proof necessary to document completion of continuing education. The "Behavior Analyst Certification Board," the "Ohio Psychological Association" and the "Ohio School Psychologists Association," shall, pursuant to written agreements with the board, make determinations as to whether the CE program is substantially relevant to the practice of applied behavior analysis.

(2) All records maintained by the "Behavior Analyst Certification Board," "Ohio School Psychologists Association" and/or by the "Ohio Psychological Association" of CE credits that are to be submitted for qualification of certificate renewal of any psychologist or any school psychologist shall be available for board review, in accordance with procedures established by the board and the record-keeping entities. Records of continuing education not MADE available for board review shall not count toward the CE requirements for certificate renewal.

(B) The "Behavior Analyst Certification Board," "Ohio Psychological Association" and the "Ohio School Psychologists Association" shall report to the board the continuing education status of each certificate holder seeking certificate renewal and registered with that organization, in accordance with the agreement signed each year by the board, approving the arrangements with the recording association.

## **Chapter 4783-3 Definitions**

### **4783-3-01 Definitions.**

(C) "Board" shall mean the state board of psychology.

(I) "Client," as used in agency 4783 of the Administrative Code, means an individual receiving applied behavior analysis services and, if that person is a minor, that person's parents or legal guardians or any other receiver of applied behavior analysis services, including individuals, families, and groups.

(N) "Functional behavior assessment" means the determination of the underlying function or purpose of a behavior in order to develop an effective treatment plan, and may include a variety of systematic information gathering techniques regarding factors influencing the occurrence of a behavior (e.g. antecedents, consequences, setting events and motivating operations) including interview, direct observation and experimental analysis, and systematic manipulation of environmental variables in an attempt to demonstrate a relationship between an environmental event and targeted behavior.

(O) "Treatment plan" means a written document describing the presenting behavior problem(s) and describing the behavioral goals and interventions selected to alter the behavior. The treatment plan shall be based on information gathered from in-person assessments, review of records from other professionals, direct observations, and clinical interview data, and includes the selected interventions, an estimate of the length of time and/or number of sessions anticipated to achieve the goals, and specific statements about the measurement of progress toward achieving the goals.

(P) "Supervisee" means any individual practicing applied behavior analysis acting under the legal authority and direction of a certified Ohio behavior analyst.

(Q) "Supervision plan" means a written document that includes a list of the names and agreed upon responsibilities of all individuals implementing a treatment plan, their relationship with the client and their responsibilities relative to the implementation of the treatment plan, and describes the training and support services provided by the certified Ohio behavior analyst to both supervisees and non-supervisees.

## **Chapter 4783-6 Supervision**

### **4783-6-01 Purposes of supervision.**

(A) To protect the welfare of clients receiving applied behavior analysis services under the direction of a certified Ohio behavior analyst.

(B) To structure the activities of the supervisee so that competent applied behavior analysis services delivered by a non-certified person can safely be made available to clients.

(C) To ensure that non-certified persons function within the limits of his/her competence.

#### **4783-6-02 Requirements pertaining to supervision.**

(A) Oversight of the treatment plan. An applied behavior analysis treatment plan will typically be delivered through a tiered structure using the services of supervisees, such as behavioral technicians or assistants, acting under the authority and direction of a certified Ohio behavior analyst. Non-supervisees such as family members, community care workers, teachers, and direct care providers, might also, upon agreement by the client and based on the professional judgment of the certified Ohio behavior analyst, be included in various capacities in the treatment plan. The certified Ohio behavior analyst shall exercise and retain oversight of the implementation of the treatment plan by both supervisees and non-supervisees.

(1) If in the professional judgment of the certified Ohio behavior analyst the individuals delivering the treatment plan are not competent or are unwilling to follow the treatment plan, the certified Ohio behavior analyst is responsible for retraining on the treatment plan, modifying the treatment plan, or if necessary, discontinuing the treatment plan.

(2) The certified Ohio behavior analyst has more specific responsibilities for supervisees working directly under the authority and direction of the certified Ohio behavior analyst, pursuant to paragraph (C) of this rule.

(B) Establishment of the supervision plan. The certified Ohio behavior analyst shall develop a supervision plan as a part of each client treatment plan for applied behavior analysis services.

(1) The supervision plan as defined in paragraph (R) of rule 4783-3-01 shall include the names of all supervisees and non-supervisees implementing the treatment plan, their relationship with the client and their responsibilities relative to the implementation of the treatment plan.

(2) The supervision plan shall specify the amount and type of individual and/or group training and supervision that will be provided to the individuals implementing the treatment plan.

(3) The supervision plan may incorporate any applicable professional training standards required for the supervisee to earn any national certification or state licensure or certification.

(C) Responsibilities of the supervisor

(1) The structure and process of supervision shall depend on the treatment goals, procedures and interventions, treatment setting, the training and experience of the supervisees and other providers, client caseload, treatment progress, and risk to the service recipient, either from the intervention or from the behavior(s) of concern.

(2) At a minimum, supervision shall include:

(a) Consultation with the supervisee(s) prior to the initiation of the treatment plan.

(b) Training regarding implementation of the treatment plan, data collection regarding effectiveness, and measurement of client progress.

(c) Consultation with the supervisee(s) prior to the modification of the treatment plan.

(d) Periodic direct observation of each supervisee implementing assessment and treatment procedures with clients, with performance evaluation and additional instruction as necessary.

(3) The frequency and intensity of face-to-face supervision shall be determined by the certified Ohio behavior analyst based upon the supervisee's credentials, experience, familiarity with the treatment plan, and by the responsibilities delegated, as well as any applicable professional training standards required for the supervisee to earn any national certification or state licensure or certification.

(4) The certified Ohio behavior analyst shall not delegate to any supervisee:

(a) The responsibility for completing the evaluation/assessment of the client, including direct observation.

(b) The responsibility for the development of the treatment plan, including goals, interventions, frequency and duration of treatment.

(c) The responsibility for review of data supporting the efficacy or lack of efficacy of the treatment plan, and for subsequent modifications to the treatment plan.

(d) The responsibility for ensuring that all supervisees and additional care providers who will implement the treatment plan are trained on the correct implementation procedures and the collection of data.

(e) The responsibility to maintain and retain the client's record as required in paragraph (B)(6) of rule 4783-7-01 of the Administrative Code.

(5) The certified Ohio behavior analyst shall be responsible for the outcome of the treatment plan and for providing the necessary supervision to protect the health and welfare of clients.

(6) The certified Ohio behavior analyst shall retain responsibility for referrals of clients to other professionals.

(7) A certified Ohio behavior analyst shall not assume supervisory responsibility for work that he/she is not personally competent to deliver.

(8) Before initiating applied behavior analysis services, the certified Ohio behavior analyst shall inform the client of the different roles and responsibilities of the supervisees, family members, community care workers, teachers, and direct care providers and others as to the implementation of the treatment plan.

(a) A supervisor has full responsibility to document in writing that each client is clearly informed of the roles and responsibilities of each supervisee and non-supervisee implementing the plan.

(b) The client shall be informed of the right to access the certified Ohio applied behavior analyst to discuss the treatment plan or review concerns.

(9) A certified Ohio behavior analyst is responsible for determining the competencies of the individuals implementing the treatment plan and shall not assign tasks that these individuals are not competent to perform.

(10) A certified Ohio behavior analyst shall not provide supervision to any person with whom he/she has a relationship that might impair the objectivity, judgment, and/or competence of the certified Ohio behavior analyst.

(a) A certified Ohio behavior analyst shall not designate as a supervisee any person who has administrative or funding authority over him/her. It is understood that parents or legal guardians may be part of implementing a treatment plan that is supervised by a certified Ohio behavior analyst.

(b) There should be no direct family relationship between a certified Ohio behavior analyst and a supervisee.

(11) A certified Ohio behavior analyst shall not supervise any person who he/she knows is illegally providing applied behavior analysis services to the public either within or outside of the supervisory relationship.

(12) The certified Ohio behavior analyst, under whose authority and direction the supervisee is acting under paragraphs (B)(3) and (B)(4) of rule 4783-5-01 shall sign an attestation stating that the certified Ohio behavior analyst is responsible for the care provided by the individual. These attestations shall be retained as by the certified Ohio behavior analyst but should not be sent to the board unless requested.

(13) A certified Ohio behavior analyst shall keep records of supervision. These records shall include the signed attestation meeting requirements of paragraph (8) of this rule, supervision plans for each client treatment plan, dates of training on treatment

plans, procedures, and interventions, and the supervision provided when treatment plans are reviewed or modified. These records shall be maintained for a period of five years following the termination of supervision and shall be made available to the board upon request.

(14) A supervisor shall not engage in sexual intercourse or other sexual intimacies with any supervisee or engage in sexual harassment or any verbal or nonverbal conduct that is sexual in nature with a supervisee, family member, community care worker, teacher, or direct care provider implementing the treatment plan.

(15) A supervisor shall not exploit a supervisee for financial gain or with excessive work demands.

(16) The violation of any statute or rule of the board by a supervisee may result in an investigation of the adequacy of the supervision.

## **Chapter 4783-7 Disciplinary Action**

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

(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.

(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 (5) of rule 4783-6-02, 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, supervises 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 Chapter 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.

## **Related Laws**

### **ORC 2151.421**

#### **Reporting child abuse or neglect.**

(A) (1) (a) No person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person

making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) [Effective 9/17/2014]Division (A)(1)(a) of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; speech pathologist or audiologist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp or child day care administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; person engaged in social work or the practice of professional counseling; agent of a county humane society; person, other than a cleric, rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion; employee of a county department of job and family services who is a professional and who works with children and families; superintendent or regional administrator employed by the department of youth services; superintendent, board member, or employee of a county board of developmental disabilities; investigative agent contracted with by a county board of developmental disabilities; employee of the department of developmental disabilities; employee of a facility or home that provides respite care in accordance with section 5123.171 of the Revised Code; employee of a home health agency; employee of an entity that provides homemaker services; a person performing the duties of an assessor pursuant to Chapter 3107. or 5103. of the Revised Code; third party employed by a public children services agency to assist in providing child or family related services; court appointed special advocate; or guardian ad litem.

## **ORC 5101.61**

### **Reporting abuse, neglect or exploitation of adult.**

(A) As used in this section:

Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist (includes Board-license school psychologists), any employee of a hospital as defined in section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of an adult care facility as defined in section 3722.01 of the Revised Code, any employee of a community alternative home as defined in section 3724.01 of the Revised Code, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, clergyman, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused,

neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services. This section does not apply to employees of any hospital or public hospital as defined in section 5122.01 of the Revised Code.

(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause reports to be made of such belief to the department.

(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

(1) The name, address, and approximate age of the adult who is the subject of the report;

(2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known;

(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult;

(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.

(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 5101.62 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose.

### **5101.60 Adult protective services definitions.**

As used in sections 5101.60 to 5101.71 of the Revised Code:

(A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. An "independent living arrangement" includes an adult care facility licensed pursuant to Chapter 5119. of the

Revised Code, but does not include other institutions or facilities licensed by the state or facilities in which a person resides as a result of voluntary, civil, or criminal commitment.

(K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.