
POLICY TRANSMITTAL NO. 10-46	DATE: AUGUST 20, 2010
DEVELOPMENTAL DISABILITIES SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF INTERGOVERNMENTAL RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:100, Table of Contents; 100-18, Table of Contents; and 100-18-1.

EXPLANATION: **Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.**

OAC 340:100-18-1 is issued to comply with Section 1928 of Title 59 of the Oklahoma Statutes to provide for licensing of board certified behavior analysts and certification of board certified assistant behavior analysts.

Original signed on 8-19-10

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WF # 10-09 (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS as the rulemaking agency; the "2" specifies the Chapter number; and the "1" specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, OKDHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, OKDHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at 405-521-4326.

REMOVE

340:100, Table of Contents

INSERT

340:100, Table of Contents, 1 page only,
revised 8-13-10

340:100-18, Table of Contents, 1 page only,
issued 8-13-10

340:100-18-1, pages 1-9, issued 8-13-10

CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION

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Appendix A.	Application for Developmental Disabilities Services [REVOKED]
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Appendix C.	Case Management Process [REVOKED]
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Appendix F.	Developmental Disabilities Services Family Support Assistance Payment Program Annual Review and Report Appendix [REVOKED]
Appendix G.	Family Support Assistance Payment Program Affidavit of Understanding Regarding Family Assistance/Home and Community Based Waiver Services [REVOKED]
Appendix H.	Foster Home/Companion Program Application [REVOKED]
Appendix J.	Application for Volunteer Guardianship [REVOKED]
Appendix K.	Volunteer Reference Letter [REVOKED]
Appendix L.	Foster Home/Companion Assessment [REVOKED]
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SUBCHAPTER 18. LICENSING

340-100-18-1. Board Certified Behavior Analyst license and Board Certified Assistant Behavior Analyst certification

340:100-18-1. Board Certified Behavior Analyst license and Board Certified Assistant Behavior Analyst certification

Issued 8-13-10

(a) **Authority.** Section 1928 of Title 59 of the Oklahoma Statutes (59 O.S. § 1928) directs the Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services Division (DDSD) to provide for licensing of Board Certified Behavior Analysts (BCBA) and certification of Board Certified Assistant Behavior Analysts (BCaBA.)

(b) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) "**Applied behavior analysis**" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior through skill acquisition and the reduction of problematic behavior.

(2) "**Behavior Analyst Certification Board (Board)**" means the nationally accredited Behavior Analyst Certification Board.

(3) "**Board Certified Behavior Analyst (BCBA)**" means an individual who is certified by the nationally accredited Board and is licensed by OKDHS DDSD to provide applied behavior analysis services in Oklahoma.

(4) "**Board Certified Assistant Behavior Analyst (BCaBA)**" means an individual who is certified by the nationally accredited Board and is certified by OKDHS DDSD to provide applied behavior analysis services in Oklahoma.

(5) "**Co-employed relationship**" means the BCBA and BCaBA are employed by the same employer.

(6) "**Employee-employer relationship**" means the BCBA is the employer of the BCaBA.

(7) "**Human services professional**" means an individual licensed or certified by Oklahoma as a licensed:

(A) physical therapist or physical therapist assistant;

(B) occupational therapist or occupational therapist assistant;

(C) clinical social worker;

(D) masters social worker;

(E) social work associate;

(F) psychologist or health service psychologist;

(G) speech pathologist;

(H) audiologist;

(I) professional counselor or professional counselor candidate;

(J) marital and family therapist or marital and family therapist candidate; or

(K) behavioral practitioner or behavioral practitioner candidate.

(8) "**Licensed behavior analyst**" means an individual who is certified by the nationally accredited Board as a BCBA and is licensed by DDSD to provide applied behavior analysis services in Oklahoma.

(9) "**Oklahoma Licensed Behavior Analyst Board (OLBAB)**" means the state board responsible for licensing behavior analysts and regulating the practice of applied behavior analysis.

(10) "**Real-Time supervision**" means the observation of the provision of service with all parties participating in or monitoring live interactions.

(11) "**Supervisee**" means a person who acts under the extended authority of a licensed behavior analyst to provide applied behavior analysis services or a person who is training to provide such services.

(12) "**Supervision**" means the direct observation and professional guidance during the provision of service by a BCBA of a BCaBA.

(13) "**Two-way interactions**" means the observation of the provision of service using real-time visual and auditory contact through the use of technological devices.

(c) **Qualifications.**

(1) Each person wishing to practice as a licensed behavior analyst or a certified

assistant behavior analyst in Oklahoma applies to DDSD using Form 06LC001E, Application for BCBA License and BCaBA Certification, and furnishes evidence that such person:

(A) is at least 21 years old;

(B) has passed the Board examination and is certified by the Board as a BCBA or a BCaBA, as applicable;

(C) has not had a professional license or state certification refused, revoked, suspended, or restricted and does not have a complaint, allegation, or investigation pending in any regulatory jurisdiction in the United States or in another country for reasons that relate to unprofessional conduct unless DDSD finds that the conduct has been corrected or that mitigating circumstances exist that prevent resolution; and

(D) has at least the minimum graduate or undergraduate degree, appropriate for the level of certification, from an institution of higher learning in a qualifying field of study determined by the Board.

(2) No person can claim the title of licensed behavior analyst or certified assistant behavior analyst unless that person meets the applicable requirements and obtains a license or certification per this Section.

(A) Supervisees provide applied behavior analysis under the supervision of a licensed behavior analyst.

(B) This Section does not restrict the practice of applied behavior analysis by human services professionals, provided such individuals are working within the scope of their professions and the practice of applied behavior analysis is commensurate with their level of training and experience.

(C) A violation of this subsection is punishable by a fine of not more than \$500, the suspension or revocation of a license or certification issued pursuant to this Section, or both fine and loss of licensure or certification.

(d) **Application.** Oklahoma licenses and certificates are issued for two year terms following the initial certification period by the Board.

(1) **Licensure.** A person requesting licensure provides:

(A) for an initial request:

(i) current certification from the Board;

(ii) a photo copy of valid photo identification;

(iii) Form 06LC001E;

(iv) Form 06LC002E, Professional Reference for BCBA License and BCaBA Certification;

(v) Form 06LC003E, Certification of Autism Internship/Practicum Designation for BCBA License, as applicable; and

(vi) Form 06LC004E, Statement of Professional Disclosure for BCBA License and BCaBA Certification;

(B) for a renewal:

(i) current certification from the Board;

(ii) a photo copy of valid photo identification;

(iii) 06LC001E; and

(iv) Form 06LC004E; and

(C) for autism internship designation the respective institution of higher education completes Form 06LC003E, certifying the applicant has completed a 1000 hour BCBA supervised internship serving individuals with autism using evidence based applied behavior analysis approaches. A BCBA can petition OLBAB to consider professional hours of supervised autism internship outside of a institution of higher education program for consideration of alternative autism internship designation. All individuals licensed may provide applied behavior analytic service to persons with autism spectrum disorder, but only those completing the internship or approved by the OLBAB as specified in this paragraph may represent that they have the autism internship.

(2) **Certification.** A person requesting certification must provide:

(A) for an initial request:

(i) current certification from the Board;

(ii) a photo copy of a valid photo identification;

(iii) Form 06LC001E;

(iv) Form 06LC002E;

(v) Form 06LC004E; and

(vi) Form 06LC005E, BCaBA Professional Supervision;

(B) for re-certification:

(i) current certification from the Board;

(ii) a photo copy of a valid photo identification;

(iii) Form 06LC001E;

(iv) Form 06LC004E; and

(v) Form 06LC005E.

(e) **Licensure and certification.** A person licensed or certified by DDSD:

(1) maintains active status and fulfill all requirements of national certification or recertification with the Board;

(2) conducts professional activities in accordance with standards found in the Guidelines for Responsible Conduct and Professional Disciplinary Standards established by the Board and available on their Web site at www.bacb.com; and

(3) applies for license or certification renewal on or before April 30 of each odd numbered year to continue practicing in Oklahoma.

(f) **Fees.**

(1) BCBA licensure fees:

(A) for initial licensing are pro-rated on a rounded average of \$50 for each full calendar year remaining on the national Board certification; and

(B) \$100 for each two year license thereafter.

(2) BCaBA certification fees:

(A) for initial certification are pro-rated on a rounded average of \$25 for each full calendar year remaining on the national Board certification; and

(B) \$50 for each two year certification thereafter.

(g) **Requirements of supervision.** A certified BCaBA works under the supervision of a licensed BCBA. A BCBA provides supervision to a maximum of six BCaBAs at any time. Supervision by the BCBA occurs for a minimum of two hours for each 40 hours of services provided by a BCaBA.

(1) Supervision requirements include:

(A) real-time supervision:

(i) a minimum of one of two supervision sessions are conducted using real-time supervision; and

(ii) not more than half of the supervisory requirements are satisfied in a group setting; and

(B) qualifying supervision beyond the requirements of real-time supervision includes the use of two-way interactions, review of materials submitted by the BCaBA, and observation of the BCaBA demonstrating professional skills.

(2) A formal professional relationship must exist between a supervising BCBA and BCaBA that may include:

(A) a co-employed relationship; or

(B) an employee-employer relationship.

(3) BCaBAs submit Form 06LC005E to OLBAB within ten business days of any change in supervision status.

(h) Oklahoma Licensed Behavior Analyst Board.

(1) OLBAB consists of five members:

(A) three licensed BCBA's who may be employed by OKDHS appointed to the OLBAB by the OKDHS Director;

(B) one BCaBA who may be employed by OKDHS appointed to the OLBAB by the OKDHS Director; and

(C) one member designated by Oklahoma Health Care Authority (OHCA) who is a person with behavioral health expertise employed by OHCA.

(2) The chair of OLBAB is appointed by the OKDHS Director.

(3) Administrative support of the OLBAB is provided by DDS staff as designated by the DDS director.

(4) OLBAB meets a minimum of four times per calendar year.

(5) Travel expenses for members of OLBAB are reimbursed per 74 O.S. §.500.4.

(6) OLBAB maintains a list of all persons licensed or certified to provide behavior analytic services in Oklahoma and provides a copy of the list to any interested person upon written request.

(i) Ethics.

(1) Any person licensed or certified by DDS as either a BCBA or a BCaBA reports within five business days any sanction, denial of initial or renewal certification, revocation, suspension or any other limitation of certification or combination of sanctions by the Board. If a person loses Board certification for any reason, he or she immediately forfeits the Oklahoma license or certification and must notify OLBAB within five business days of such notice from the Board and must immediately stop providing BCBA or BCaBA services in Oklahoma.

(2) Grounds for forfeiture or non-renewal of a license or certification for practice in Oklahoma include:

(A) obtaining or attempting to obtain a license or certification by making a false or misleading statement, failure to make a required statement, or fraud or deceit in any communication to OLBAB;

(B) gross or repeated negligence, incompetence, misconduct, or malpractice in professional work, including, but not limited to:

(i) any physical or mental condition that currently impairs competent professional performance or poses a substantial risk to the recipient of behavior analysis services;

- (ii) professional conduct that constitutes an extreme and unjustified deviation from the customary standard of practice accepted in the applied behavior analytic community and creates a serious risk of harm to or deception of service recipients;
 - (iii) abandonment of a service recipient resulting in the termination of imminently needed care without adequate notice or provision for transition;
 - (iv) professional record keeping or data collection that constitutes an extreme and unjustified deviation from the customary standard of practice for the field, or deceptively altering service recipient's records or data;
 - (v) engaging in blatant fraud, deception, misrepresentation, false promise or pretense, intimidation in the practice of applied behavior analysis, or in solicitation of service recipients; and
 - (vi) the unauthorized material disclosure of confidential service recipient information;
- (C) limitation, sanction, revocation, or suspension by a health care organization, professional organization, or other private or governmental body, relating to behavior analysis practice, public health or safety, or behavior analysis certification;
- (D) any conviction of a felony or misdemeanor directly relating to behavior analysis practice or public health or safety; or
- (E) failure to adequately supervise or be supervised in accordance with the BACB Standards for Supervision.
- (3) Applicants and persons holding a current license or certificate reports to the OLBAB within 30 days of occurrence:
- (A) a change in name, address, or other vital information;
 - (B) the filing of any criminal or civil charges;
 - (C) the initiation of any disciplinary charges, investigations, or findings/sanctions by a health care organization, federal or state agency, or other professional association; and
 - (D) any other change in information provided by the applicant or person holding

a current license or certificate to the OLBAB.

(j) **Complaint investigation.** All complaints regarding unprofessional conduct of a BCBA or BCaBA are submitted to OLBAB in writing. The program administrator for the OKDHS DDSD Quality Assurance Program assists OLBAB with investigations and reports any findings to the Board for action.

(k) **Sanctions.** Sanctions are determined by the Board.