

## NOTICE OF INTENT

### Department of Health Behavior Analyst Board

Supervision Requirements  
(LAC 46:VIII.503 and 511)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, the Behavior Analyst Board intends to amend §503 A., §503 B., and B.2, §511.A, A.1, A.2, A.3, A.4, A.5, and §511.B.

Amendments are necessary to clarify face-to-face contact, real time 1:1 contact, on-site contact, and the use of electronics in supervision.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part VIII. Behavior Analysts

#### Chapter 5. Supervision Requirements

#### Subchapter A. Supervision Requirements for State Certified Assistant Behavior Analysts (SCABA)

#### §503. Supervision Requirements

A. The manner of supervision shall depend on the treatment setting, patient/client caseload, and the competency of the SCABA. At a minimum, for full-time SCABAS, working at least 30 hours per week, a face-to-face supervisory meeting shall occur not less than once every four weeks, with each supervisory session lasting no less than one hour for full-time SCABAS. In-person, on-site observation is preferred. However, this face-to-face supervision may be conducted via web cameras, videoconferencing, or similar means in lieu of the supervisor being physically present in the same geographic space as the technician, provided the remote methods comply with all relevant privacy protection laws and regulations. Face-to-face supervision conducted remotely requires two-way video and audio capability, real-time 1:1 contact must occur while the client's session is occurring; and on-site requires the SCABA to be on-site with the client. The qualifying supervision activities may include:

A.1 - A.2. ...

B. More frequent supervisory activities may be necessary as determined by the LBA or SCABA dependent on the level of expertise displayed by the SCABA, the practice setting, and/or the complexity of the patient/client caseload. Supervision should occur in a schedule and mode consistent with evidence-based practice and sufficient to ensure competence in the delivery of each client's current treatment program. The qualifying supervision may include, but are not limited to:

B.1. ...

2. camera surveillance of sessions in which a supervisor only views the sessions remotely and communication occurs via text-messages, electronic mail, or other written or typed communication is allowed as additional supervision, but is a non-qualifying supervision activity.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analysts Board, LR 40:1933 (October 2014), amended by the Department of Health, Behavior Analyst Board, LR 42:1516 (September 2016), amended by the Department of Health, Behavior Analyst Board, LR 45:

#### Subchapter B. Supervision Requirements for Registered Line Technicians (RLT)

#### §511. Supervision Requirements

A. The manner of supervision shall depend on the treatment setting, client caseload, and the competency of the RLT. It must be noted these are the minimum requirements and every LBA is still responsible for assuring supervision is provided at a frequency and mode that sufficiently addresses the needs of each individual client. The qualifying supervision must include the following criteria:

1. Each RLT must be supervised for a minimum of 5 percent of the hours spent providing applied behavior-analytical services per month.

2. Supervision must include at least two face-to-face contacts per month. At least one of the face-to-face contacts requires the supervisor observe the RLT providing services. In-person, on-site observation is preferred; however, via web cameras, videoconferencing, or similar means in lieu of the supervisor being physically present in the same geographic space as the technician, provided the remote methods comply with all relevant privacy protection laws and regulations is allowed. Face-to-face supervision conducted remotely requires two-way video and audio capability.

3. It must be noted these are minimum requirements and all Licensed Behavior Analysts are still responsible for assuring supervision is provided at a frequency and mode to sufficiently address the needs of each individual client.

4. The LBA may delegate supervisory responsibilities to a SCABA under their direct supervision or another LBA. The LBA of record is ultimately responsible for all supervision requirements.

5. Other supervisory activities may include real-time interactions between a supervising LBA or SCABA and a group of RLTs to review and discuss assessment and treatment plans and procedures, client assessment and progress data and reports, published research, ethical and professional standards and guidelines, professional development needs and opportunities, and relevant laws, regulations and policies.

B. More frequent supervisory activities may be necessary as determined by the LBA, SCABA, or RLT, dependent on the level of expertise displayed by the RLT, the practice setting, and/or the complexity of the client caseload. Supervision should occur at a schedule consistent with evidence-based practice and sufficient to ensure competency in the delivery of each of the client's current treatment programs. These additional supervisory activities; however, do not qualify towards minimum supervision requirements. Examples of additional non-qualifying supervision includes camera surveillance of sessions in which a supervisor only views the sessions remotely and communication occurs via text-messages, electronic mail, or other written or typed communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analysts Board, LR 40:1933 (October 2014), amended by the Department of Health, Behavior Analyst Board, LR 42:1516 (September 2016), amended by the Department of Health, Behavior Analyst Board, LR 45:

#### **Family Impact Statement**

The Behavior Analyst Board hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule and adoption of the rule related to supervision is being implemented to guarantee the licensing authority can safeguard the public welfare of this state and will have no known foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personality responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

The proposed Rule amends LAC 46:VIII. Chapter 5. The Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Provider Impact Statement**

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on: the staffing level requirements or qualifications required to provide the same level of service; the total direct or indirect cost to the providers to provide the same level of service; or the overall ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments to Rhonda Boe, Executive Director, 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, LA 70816. All comments must be submitted by 12 p.m. on November 9, 2019.

Rhonda Boe  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Supervision Requirements**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will result in a one-time cost of approximately \$450 in FY 20 for the LA Behavior Analyst Board (LBAB) to publish the proposed amendment and final rule in the *Louisiana Register*. This cost will be funded utilizing existing SGR collections for the LBAB. The proposed rule change clarifies qualifying supervision requirements, including electronic means, for state-certified assistant behavior analysts (SCABAs) and registered line technicians (RLTs).

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will not affect revenue collections for state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change to the supervision requirements for SCABAs and RLTs clarify what may constitute face-to-face contact, real time 1:1 contact, on-site contact, and what constitutes qualifying supervisory activities utilizing electronic means. Furthermore, the proposed rule changes allow RLTs to receive their mandatory 5 percent of supervised practice hours each month to occur electronically. These supervisory changes may benefit SCABAs and RLTs by allowing them to practice in certain areas without a supervising licensed behavior analyst being physically present, but available to oversee and supervise services via electronic means, which may allow for increased clients. Furthermore, the proposed rule changes may benefit clients in rural areas by providing new or additional access to behavior analysis services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes to the supervision requirements may increase competition and employment in rural areas. This is based on the clarification of electronic supervision guidelines, which allow behavior analysis providers to offer services to rural areas in a cost-effective way to both provider and client.

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