



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 12, 2018

TIME: 8:58 AM

WSR 18-09-036

Agency: Health Care Authority

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) **(If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)**

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: The agency is revising WAC 182-531A-0800, Applied behavior analysis (ABA) - Provider requirements, as follows:

- To align with new credentialing for Applied Behavioral Analysis providers through the Washington State Department of Health (DOH) under Chapter 246-805 WAC;
- To add requirements for providers to be recognized by the agency as centers of excellence (COEs); and
- To remove advanced registered nurse practitioners (ARNPs) from subsection (2), which lists professionals that automatically qualify as COEs because of provider specialty.

The new credentialing requirements for ABA providers are required under Substitute Senate Bill (SSB) 5488 of 2015. The information regarding COEs is being added to clarify requirements. The removal of ARNPs from subsection (2) is being done because ARNPs are listed under subsection (3), which lists professionals that require additional experience and training to qualify as COEs.

Citation of rules affected by this order:

New:
 Repealed:
 Amended: 182-531A-0800
 Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160, SSB5488, 64th Legislature, 2015 Regular Session

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 18-06-080 on March 6, 2018 (date).
 Describe any changes other than editing from proposed to adopted version: NA

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Web site:
 Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	<u>1</u>	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	<u>1</u>	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>1</u>	Repealed	___

Date Adopted: April 12, 2018

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-531A-0800 Applied behavior analysis (ABA)—Provider requirements.

Center of excellence.

(1) A center of excellence (COE) may be an entity or an individual. The COE's evaluating and prescribing providers must function as a multidisciplinary care team.

(2) The COE must employ:

(a) A person licensed under Title 18 RCW who is experienced in the diagnosis and treatment of autism spectrum disorders and is:

~~((i))~~ ~~((An advanced registered nurse practitioner (ARNP);~~

~~((ii))~~) A developmental pediatrician;

~~((iii))~~) (ii) A neurologist;

~~((iv))~~) (iii) A pediatric neurologist;

~~((v))~~) (iv) A pediatric psychiatrist;

~~((vi))~~) (v) A psychiatrist; or

~~((vii))~~) (vi) A psychologist; or

(b) A qualified medical provider who meets qualifications in subsection (3) of this section and who has been designated by the agency as a COE.

(3) The COE must be prequalified by the agency as meeting or employing people who meet the following criteria:

(a) ARNPs, physicians, and psychologists must have demonstrated expertise in diagnosing an autism spectrum disorder by:

(i) Using a validated diagnostic tool;

(ii) Confirming the diagnosis by observing the client's behavior and interviewing family members; or

(iii) Reviewing the documentation available from the client's primary care provider, individualized education plan, or individualized family service plan;

(b) ARNPs, physicians, and psychologists must understand the medically necessary use of applied behavior analysis (ABA); and

(c) ARNPs, physicians, and psychologists must be sufficiently qualified to conduct and document a comprehensive diagnostic evaluation, and develop a multidisciplinary clinical treatment plan under WAC 182-531A-0500(2).

(4) To be recognized as a COE by the agency, the provider must submit a signed COE Attestation form, HCA 13-009, to the agency.

(5) The COE must be enrolled with the agency or the client's managed care organization(~~(, unless the client has third party insurance)~~) to be reimbursed for services.

~~((5))~~ (6) Examples of providers who can qualify as a designated COE include:

(a) Multidisciplinary clinics;

(b) Individual qualified provider offices; and

(c) Neurodevelopmental centers.

~~((6))~~ (7) All ABA providers must meet the specified minimum qualifications and comply with applicable state laws.

Lead behavior analysis therapist.

~~((7))~~ (8) The lead behavior analysis therapist (LBAT) must ~~((be))~~:

(a) Be licensed by the department of health (DOH) to practice independently as ((an ARNP, physician, psychologist, or licensed mental health practitioner under Title 18 RCW, or credentialed as a certified counselor or certified counselor advisor under Title 18 RCW,)) a behavior analyst or an assistant behavior analyst with supervision from a licensed behavior analyst or licensed psychologist (see chapter 18.380 RCW) and be an eligible provider according to chapter 182-502 WAC; or

(b) ((Employed by or contracted with an agency that is enrolled as a participating provider and licensed by DOH as a hospital, a residential treatment facility, or an in-home services agency and be licensed by DOH to practice independently as an ARNP, physician, psychologist, licensed mental health practitioner, or credentialed as a counselor, under Title 18 RCW, and be an eligible provider according to chapter 182-502 WAC; or

(c) Employed or contracted with an agency that is enrolled as a participating provider and licensed by the department of social and health services' division of behavioral health and recovery (DBHR) with certification to provide ABA services, and be able to meet the staff requirements specified in chapter 388-877A WAC)). Be a DOH-licensed mental health counselor, DOH-licensed marriage and family therapist, DOH-licensed independent clinical social worker, DOH-licensed advanced social worker, or DOH-licensed psychologist (see chapter 18.380 RCW). Providers listed in this subsection must have a signed Applied Behavior Analysis (ABA) Attestation form, HCA 13-008, regarding certification as a board-certified behavior analyst (BCBA) or a board-certified assistant behavior analyst (BCaBA) on file with the agency.

~~((8))~~ (9) The LBAT must enroll as a servicing provider under chapter 182-502 WAC, be authorized to supervise ancillary providers, and be:

(a) A ((board-certified behavior analyst (BCBA) with proof of board certification through the Behavior Analysis Certification Board (BACB)) DOH-licensed behavior analyst (LBA) (see chapter 18.380 RCW); or

(b) ((Eligible to sit for board certification under standards set by the BACB; or

(c) Certified by the BACB as an assistant behavior analyst (BCaBA) and practice according to the scope and responsibilities defined by the BACB)) A DOH-licensed assistant behavior analyst (LABA) (see chapter 18.380 RCW).

~~((9))~~ (10) If the LBAT's role is filled by a ((BCaBA)) LABA, the responsibilities below must be fulfilled by both the ((BCaBA)) LABA and the supervising ((BCBA)) LBA or licensed psychologist, as required by ((the BACB)) DOH under chapter 246-805 WAC. The LBAT must:

(a) Develop and maintain an ABA therapy treatment plan that is comprehensive, incorporating treatment provided by other health care professionals, and that states how all treatment will be coordinated; and

(b) Supervise at least five percent of the total direct care provided by the ((therapy assistant)) certified behavior technician per week.

~~((Therapy assistant.~~

~~(10) The therapy assistant (TA) must be:~~

~~(a) Able to practice independently by being licensed)) **Certified behavior technician.**~~

(11) The certified behavior technician (CBT) must:

~~(a) Be certified by DOH as a ((licensed mental health practitioner or credentialed as a counselor)) CBT under ((Title 18)) chapter 18.380 RCW in good standing with no license restrictions; or~~

~~(b) ((Employed by or contracted with an agency enrolled as a participating provider and licensed by DOH as a hospital, a residential treatment facility, or an in-home services agency with a home health service category to provide ABA services, and be able to practice independently by being licensed by DOH as a licensed mental health practitioner or credentialed as a counselor under Title 18 RCW in good standing with no license restrictions; or~~

~~(c) Employed by or contracted with an agency enrolled as a participating provider and licensed by DBHR as a community mental health agency with certification to provide ABA services, and be able to meet the staff requirements specified in chapter 388-877A WAC;~~

~~(11)) Be a DOH-licensed mental health counselor, DOH-licensed marriage and family therapist, DOH-licensed independent clinical social worker, DOH-licensed advanced clinical social worker, or DOH-licensed psychologist (see chapter 18.380 RCW). Providers listed in this subsection must have a signed Applied Behavior Analysis (ABA) Attestation form, HCA 13-0008, regarding ABA qualifications on file with the agency.~~

(12) The ((TA)) CBT must enroll as a ((performing or)) servicing provider ((and have:

~~(a) Sixty hours of ABA training that includes applicable ABA principles and techniques, services, and caring for a client with core symptoms of autism; and~~

~~(b) A letter of attestation signed by the lead LBAT, documenting that the ((TA)) CBT has demonstrated competency in implementing ABA therapy treatment plans and delivering ABA services.~~

~~(12)) under chapter 182-502 WAC.~~

(13) The ((TA)) CBT must:

~~(a) Deliver services according to the ABA therapy treatment plan; ((and))~~

~~(b) Be supervised by ((an LBAT)) a DOH-licensed professional who meets the requirements under ((subsection (7), (8), and (9) of this section)) WAC 246-805-330; and~~

~~(c) Review the client's progress with the ((LBAT)) supervisor at least every two weeks to confirm that the ABA therapy treatment plan still meets the client's needs. If changes are clinically indicated, they must be made by the ((LBAT)) supervisor.~~

Facility-based day program.

~~((13)) (14) All facility-based day program providers must meet the requirements under WAC 182-531A-0600 (3)(a), and meet the following ((licensure)) requirements:~~

~~(a) Outpatient hospital facilities must meet the applicable DOH licensure requirements under chapter 246-320 WAC;~~

~~(b) ((A clinic or nonhospital based facility must be licensed as a community mental health agency by DBHR under chapter 388-877A WAC;~~

~~(c) Any provider rendering direct ABA services in the facility-based day program must meet the qualifications and applicable licensure or certification requirements as described in this subsection, as applicable; ((and~~

~~(d)) (c) Any provider serving as a member of the multidisciplinary care team must be licensed or certified under Title 18 RCW; and~~

(d) Have a signed ABA Day Program Capacity Attestation form, HCA 13-0007, on file with the agency.