



EXPEDITED RULE MAKING

CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON
FILED

DATE: May 18, 2018

TIME: 3:44 PM

WSR 18-11-092

Agency: Health Care Authority

Title of rule and other identifying information: (describe subject)
WAC 182-531A-0800 Applied behavior analysis (ABA) – Provider requirements

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
Corrects typographical errors

Reasons supporting proposal: The agency is revising this rule to correct typographical errors in two form numbers. In WAC 182-531A-0800(4), the correct form number is HCA 13-0009, not 13-009. In WAC 182-531A-0800(8)(b), the correct form number is HCA 13-0008, not 13-008. This correction is necessary so that providers can find the correct form on HCA's Forms web page.

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Statute being implemented: RCW 41.05.021, 41.05.160

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Name of proponent: (person or organization) Health Care Authority

Private
 Public
 Governmental

Name of agency personnel responsible for:

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Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Expedited Adoption - Which of the following criteria was used by the agency to file this notice:

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

Expedited Repeal - Which of the following criteria was used by the agency to file notice:

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4): Corrects typographical errors

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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AND RECEIVED BY (date) July 24, 2018

Date: May 18, 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) A developmental pediatrician;

(ii) A neurologist;

(iii) A pediatric neurologist;

(iv) A pediatric psychiatrist;

(v) A psychiatrist; or

(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~~)) 13-0009, to the agency.

(5) The COE must be enrolled with the agency or the client's managed care organization to be reimbursed for services.

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

(a) Multidisciplinary clinics;

(b) Individual qualified provider offices; and

(c) Neurodevelopmental centers.

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

Lead behavior analysis therapist.

(8) The lead behavior analysis therapist (LBAT) must:

(a) Be licensed by the department of health (DOH) to practice independently as a behavior analyst or an assistant behavior analyst with supervision from a licensed behavior analyst or licensed psychol-

ogist (see chapter 18.380 RCW) and be an eligible provider according to chapter 182-502 WAC; or

(b) 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~~) 13-0008), regarding certification as a board-certified behavior analyst (BCBA) or a board-certified assistant behavior analyst (BCaBA) on file with the agency.

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

(a) A DOH-licensed behavior analyst (LBA) (see chapter 18.380 RCW); or

(b) A DOH-licensed assistant behavior analyst (LABA) (see chapter 18.380 RCW).

(10) If the LBAT's role is filled by a LABA, the responsibilities below must be fulfilled by both the LABA and the supervising LBA or licensed psychologist, as required by 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 certified behavior technician per week.

Certified behavior technician.

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

(a) Be certified by DOH as a CBT under chapter 18.380 RCW in good standing with no license restrictions; or

(b) 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 13-0008, regarding ABA qualifications on file with the agency.

(12) The CBT must enroll as a servicing provider under chapter 182-502 WAC.

(13) The CBT must:

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

(b) Be supervised by a DOH-licensed professional who meets the requirements under WAC 246-805-330; and

(c) Review the client's progress with the 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 supervisor.

Facility-based day program.

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

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

(b) 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;

- (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.