



Behavior Analysis Regulatory Board

OREGON REVISED STATUTES
(UNOFFICIAL COPY)
CHAPTER 676.802 – 830
& 676.150 & 676.992
2023 EDITION



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APPLIED BEHAVIOR ANALYSIS

676.802 Definitions for ORS 676.802 to 676.830. As used in ORS 676.802 to 676.830:

(1)(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce significant improvement in human social behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

(b) “Applied behavior analysis” does not mean psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy or long-term counseling as treatment modalities.

(2) “Licensed health care professional” means an individual whose scope of practice includes applied behavior analysis and who is licensed by:

(a) The Occupational Therapy Licensing Board;

(b) The Oregon Board of Licensed Professional Counselors and Therapists;

(c) The Oregon Medical Board;

(d) The Oregon State Board of Nursing;

(e) The Oregon Board of Physical Therapy;

(f) The State Board of Examiners for Speech-Language Pathology and Audiology;

(g) The State Board of Licensed Social Workers; or

(h) The Oregon Board of Psychology. [2015 c.674 §1; 2017 c.6 §27; 2019 c.43 §10; 2023 c.500

§1]

676.805 [2013 c.771 §11; 2015 c.674 §15; renumbered 676.825 in 2015]

676.806 Behavior Analysis Regulatory Board. (1) There is created, within the Health Licensing Office, the Behavior Analysis Regulatory Board consisting of nine members appointed by the Governor, including:

(a) Four members who are licensed by the board under ORS 676.810;

(b) One member who is a licensed psychiatrist, with experience or training in treating autism spectrum disorder;

(c) One member who is a licensed psychologist, with experience or training in treating autism spectrum disorder;

(d) One member who is a licensed developmental pediatrician, with experience or training in treating autism spectrum disorder;

(e) One member of the general public who does not have a financial interest in the provision of applied behavior analysis and does not have a ward or family member who has been diagnosed with autism spectrum disorder; and

(f) One member who is a parent, guardian or family member of an individual who has been diagnosed with autism spectrum disorder and has received some form of applied behavior analysis therapy.

(2) Not more than one member of the board may be an employee of an insurer.

(3) The appointments of the members of the board are subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(4) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on November 1 next following. A member is eligible for reappointment. If there is

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a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(5) A member of the board is entitled to compensation and expenses as provided in ORS 292.495.

(6) The board shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the board determines.

(7) A majority of the members of the board constitutes a quorum for the transaction of business.

(8) The board shall meet at least once every year as determined by the office. The board may also meet at other times and places specified by the call of the chairperson or of a majority of the members of the board. [Formerly 676.800]

676.810 Board duties; licensure of behavior analysts and assistant behavior analysts; rules. (1) The Behavior Analysis Regulatory Board shall establish by rule criteria and procedures for the licensing of:

- (a) Behavior analysts; and
- (b) Assistant behavior analysts.

(2) The criteria for the licensing of a behavior analyst:

(a) Must include the requirement that the applicant have successfully completed a state and nationwide criminal records check that requires fingerprinting; and

(b) May include, but are not limited to, the requirement that the applicant:

(A) Be certified by the Behavior Analyst Certification Board, Incorporated, or its successor agency, or another agency approved by the Behavior Analysis Regulatory Board, as a board certified behavior analyst or equivalent; or

(B) Meet other requirements of the board that include the submission of a declaration to the Health Licensing Office that satisfies the requirements of section 4, chapter 771, Oregon Laws 2013.

(3) The criteria for the licensing of an assistant behavior analyst:

(a) Must include the requirement that the applicant have successfully completed a state and nationwide criminal records check that requires fingerprinting; and

(b) May include, but are not limited to, the requirement that the applicant:

(A) Be certified by the Behavior Analyst Certification Board, Incorporated, or its successor agency, or another agency approved by the Behavior Analysis Regulatory Board, as a board certified assistant behavior analyst or equivalent; and

(B) Be supervised by a behavior analyst who is licensed by the board.

(4) The Behavior Analysis Regulatory Board shall adopt rules to establish guidelines for the professional methods and procedures to be used by individuals licensed under this section. [2015 c.674 §3]

676.815 Behavior analysis interventionists; rules. (1) The Health Licensing Office, in consultation with the Behavior Analysis Regulatory Board, shall establish by rule criteria for the registration of behavior analysis interventionists. The criteria must include, but are not limited to, the requirement that the applicant:

(a) Have a high school diploma, a modified diploma, a certificate for passing an approved high school equivalency test such as the General Educational Development (GED) test or a degree from a post-secondary institution;

(b) Be at least 18 years of age;

(c) Have successfully completed a state and nationwide criminal records check that requires fingerprinting;

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(d) Have completed at least 40 hours of professional training in applied behavior analysis approved by the office by rule; and

(e) Receive ongoing training and supervision by a licensed behavior analyst, by a licensed assistant behavior analyst or by another licensed health care professional.

(2) The office shall adopt rules to establish guidelines for the professional methods and procedures to be used by behavior analysis interventionists registered under this section.

(3) The office shall adopt rules to establish a process to issue a provisional registration to an applicant for registration under subsection (1) of this section. The provisional registration:

(a) Must be issued to the applicant if the applicant meets the criteria for registration under subsection (1) of this section;

(b) Must be issued within five business days of the date on which the office received the completed application for registration under subsection (1) of this section if, within the five-day period, the office has not issued to the applicant a registration under subsection (1) of this section; and

(c) Expires on the date on which registration under subsection (1) of this section is issued to the applicant or, if the applicant is denied registration, on the date on which the registration is denied.

[2015 c.674 §4; 2017 c.66 §26; 2017 c.167 §1; 2017 c.726 §13; 2023 c.394 §1; 2023 c.500 §2]

676.820 Use of titles “licensed behavior analyst,” “licensed assistant behavior analyst,” “registered behavior analysis interventionist.” (1) An individual licensed under ORS 676.810 or registered under ORS 676.815 may practice applied behavior analysis.

(2) Only an individual who is licensed under ORS 676.810 or registered under ORS 676.815 may use the title “licensed behavior analyst,” “licensed assistant behavior analyst” or “registered behavior analysis interventionist.” [2015 c.674 §5]

676.825 Disciplinary authority over persons licensed or registered. In the manner prescribed in ORS chapter 183 for contested cases and in consultation with the Behavior Analysis Regulatory Board, the Health Licensing Office may impose a form of discipline listed in ORS 676.612 against any person licensed or registered under ORS 676.810 or 676.815 for any of the prohibited acts listed in ORS 676.612 and for any violation of a rule adopted under ORS 676.802 to 676.830. [Formerly 676.805; 2023 c.500 §3]

676.830 Health benefit plan credentialing for applied behavior analysis providers. A health benefit plan as defined in ORS 743B.005 may establish credentialing requirements for the provision of applied behavior analysis by licensed health care professionals, behavior analysts or assistant behavior analysts licensed under ORS 676.810 or by behavior analysis interventionists registered by the Health Licensing Office under ORS 676.815. [2015 c.674 §17; 2023 c.500 §4]

REPORTING OBLIGATIONS

676.150 Duty to report prohibited or unprofessional conduct, arrests and convictions; investigation; confidentiality; immunity from liability. (1) As used in this section:

(a) “Board” means the:

(A) State Board of Examiners for Speech-Language Pathology and Audiology;

(B) State Board of Chiropractic Examiners;

(C) State Board of Licensed Social Workers;

(D) Oregon Board of Licensed Professional Counselors and Therapists;

(E) Oregon Board of Dentistry;

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- (F) Board of Licensed Dietitians;
 - (G) State Board of Massage Therapists;
 - (H) Oregon Board of Naturopathic Medicine;
 - (I) Oregon State Board of Nursing;
 - (J) Long Term Care Administrators Board;
 - (K) Oregon Board of Optometry;
 - (L) State Board of Pharmacy;
 - (M) Oregon Medical Board;
 - (N) Occupational Therapy Licensing Board;
 - (O) Oregon Board of Physical Therapy;
 - (P) Oregon Board of Psychology;
 - (Q) Board of Medical Imaging;
 - (R) State Board of Direct Entry Midwifery;
 - (S) State Board of Denture Technology;
 - (T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
 - (U) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers;
 - (V) Oregon State Veterinary Medical Examining Board;
 - (W) State Mortuary and Cemetery Board; or
 - (X) Behavior Analysis Regulatory Board.
- (b) “Licensee” means a health professional licensed or certified by or registered with a board.
- (c) “Prohibited conduct” means conduct by a licensee that:
- (A) Constitutes a criminal act against a patient or client; or
 - (B) Constitutes a criminal act that creates a risk of harm to a patient or client.
- (d) “Unprofessional conduct” means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee’s profession or conduct that endangers the health, safety or welfare of a patient or client.
- (2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has engaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the conduct without undue delay, but in no event later than 10 working days after the reporting licensee learns of the conduct.
- (3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee’s board within 10 days after the conviction or arrest.
- (4) The board responsible for a licensee who is reported to have engaged in prohibited or unprofessional conduct shall investigate in accordance with the board’s rules. If the board has reasonable cause to believe that the licensee has engaged in prohibited conduct, the board shall present the facts to an appropriate law enforcement agency without undue delay, but in no event later than 10 working days after the board finds reasonable cause to believe that the licensee engaged in prohibited conduct.
- (5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection (2) of this section or the licensee’s conviction or arrest as required by subsection (3) of this section is subject to discipline by the board responsible for the licensee.
- (6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section commits a Class A violation.

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(7)(a) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this section is confidential under ORS 676.175.

(b) A board may disclose a report as provided in ORS 676.177.

(c) If the Health Licensing Office receives a report described in this subsection, the report is confidential and the office may only disclose the report pursuant to ORS 676.595 and 676.599.

(8) Except as part of an application for a license or for renewal of a license and except as provided in subsection (3) of this section, a board may not require a licensee to report the licensee's criminal conduct.

(9) The obligations imposed by this section are in addition to and not in lieu of other obligations to report unprofessional conduct as provided by statute.

(10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.

(11) A board and the members, employees and contractors of the board are immune from civil liability for actions taken in good faith as a result of a report received under subsection (2) or (3) of this section. [2009 c.536 §1; 2011 c.630 §21; 2011 c.703 §44; 2011 c.715 §19; 2011 c.720 §213; 2017 c.6 §22; 2018 c.61 §19; 2019 c.43 §5; 2019 c.456 §13; 2023 c.500 §11]

PENALTIES

676.992 Civil penalties. (1) Except as provided in subsection (3) of this section, and in addition to any other penalty or remedy provided by law, the Health Licensing Office may impose a civil penalty not to exceed \$5,000 for each violation of the following statutes and any rule adopted under the following statutes:

- (a) ORS 688.701 to 688.734 (athletic training);
- (b) ORS 690.005 to 690.225 (cosmetology);
- (c) ORS 680.500 to 680.565 (denture technology);
- (d) Subject to ORS 676.616 and 687.445, ORS 687.405 to 687.495 (direct entry midwifery);
- (e) ORS 690.350 to 690.410 (tattooing, electrolysis, body piercing, earlobe piercing, dermal implanting and scarification);
- (f) ORS 694.015 to 694.170 (dealing in hearing aids);
- (g) ORS 688.800 to 688.840 (respiratory therapy and polysomnography);
- (h) ORS chapter 700 (environmental sanitation);
- (i) ORS 675.365 to 675.410 (sexual abuse specific treatment);
- (j) ORS 678.710 to 678.820 (nursing home administrators and residential care facility administrators);
- (k) ORS 691.405 to 691.485 (dietitians);
- (L) ORS 676.612 (prohibited acts);
- (m) ORS 676.802 to 676.830 (applied behavior analysis);
- (n) ORS 681.700 to 681.730 (music therapy);
- (o) ORS 676.630 to 676.660 (advanced nonablative esthetics procedure);
- (p) ORS 681.740 to 681.758 (art therapy);
- (q) ORS 676.665 to 676.689 (lactation consultation);
- (r) ORS 676.730 to 676.748 (genetic counseling); and
- (s) ORS 676.750 to 676.789 (signed language interpretation).

(2) The office may take any other disciplinary action that it finds proper, including but not limited to assessment of costs of disciplinary proceedings, not to exceed \$5,000, for violation of any statute

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listed in subsection (1) of this section or any rule adopted under any statute listed in subsection (1) of this section.

(3) Subsection (1) of this section does not limit the amount of the civil penalty resulting from a violation of ORS 694.042.

(4) In imposing a civil penalty under this section, the office shall consider the following factors:

(a) The immediacy and extent to which the violation threatens the public health or safety;

(b) Any prior violations of statutes, rules or orders;

(c) The history of the person incurring a penalty in taking all feasible steps to correct any violation;
and

(d) Any other aggravating or mitigating factors.

(5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(6) The moneys received by the office from civil penalties under this section shall be deposited in the Health Licensing Office Account and are continuously appropriated to the office for the administration and enforcement of the laws the office is charged with administering and enforcing that govern the person against whom the penalty was imposed. [2003 c.547 §4; 2005 c.648 §14; 2007 c.841 §17; 2009 c.701 §17; 2009 c.768 §31; 2011 c.346 §31; 2011 c.630 §20; 2011 c.715 §21; 2013 c.82 §5; 2013 c.314 §17; 2013 c.568 §33; 2013 c.657 §10; 2013 c.771 §17; 2015 c.632 §6; 2015 c.674 §16; 2015 c.722 §11; 2017 c.155 §13; 2017 c.421 §9; 2017 c.499 §20; 2018 c.61 §25; 2021 c.231 §14; 2023 c.414 §26; 2023 c.500 §5]