

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:	39772	Date filed:	9-28-2015
State Admin Rule Filing Id:		Time filed:	
	Agency No.	Rule No.	Section No.
Utah Admin. Code Ref (R no.):	R 156	- 61a	-
Changed to Admin. Code Ref. (R no.):	R	-	-

1. Agency:	Commerce/Division of Occupational and Professional Licensing		
Room no.:			
Building:	Heber M. Wells Building		
Street address 1:	160 East 300 South		
Street address 2:			
City, state, zip:	Salt Lake City UT 84111-2316		
Mailing address 1:	PO Box 146741		
Mailing address 2:			
City, state, zip:	Salt Lake City UT 84114-6741		
Contact person(s):			
Name:	Phone:	Fax:	E-mail:
Dane Ishihara	801-530-7632	801-530-6511	dishihara@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

- 2. Title of rule or section (catchline):**
Behavior Analyst Licensing Act Rule
- 3. Type of notice:**
New XXX; Amendment ___; Repeal ___; Repeal and Reenact ___
- 4. Purpose of the rule or reason for the change:**
During the 2015 General Legislative Session, S.B. 246 passed and amended Title 58, Chapter 61, the Psychologist Licensing Act, to establish a license for applied behavior analyst and an assistant behavior analyst and a registration for a behavior specialist and an assistant behavior specialist. The Division and the Psychologist Licensing Board have reviewed this new rule and the purpose of this rule filing is to create this rule in order to add further clarification to the new requirements by defining terms, establishing qualifications for licensure, and establishing unprofessional conduct standards.
- 5. This change is a response to comments from the Administrative Rules Review Committee.**

No XXXX; Yes _____

6. Summary of the rule or change:

Section 701: New section creates new rule title. Section 702: New section defines profession-related terms. Section 704: New section establishes renewal procedures. Section 705: New section establishes the examination requirements to become licensed as an applied behavior analyst and an assistant behavior analyst. Section 705a: New section clarifies equivalent degree requirements for licensure as a licensed behavior analyst. Section 710: New section adds unprofessional conduct standards.

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No ; Yes XXX

The Division will incur minimal costs of approximately \$75.00 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. Other than printing and distribution costs, this rule filing will not have any impact beyond the impact considered from the statutory changes made through S.B. 246 on the state budget.

B) Local government:

Affected: No XXX; Yes _____

S.B. 246 requires governmental agencies providing autism services to use licensed or registered providers. In order to qualify for licensure or registration, providers will be required to meet the requirements specified by this new licensing act and this rule filing. This rule filing will not have any impact beyond the impact considered from the statutory changes made through S.B. 246 on local governments.

C) Small businesses ("small business" means a business employing fewer than 50 persons):

Affected: No XXX Yes

S.B. 246 requires small businesses providing autism services to use licensed or registered providers. In order to qualify for licensure or registration, providers will be required to meet the requirements specified by this new licensing act and this rule filing. This rule filing will not have any impact beyond the impact considered from the statutory changes made through S.B. 246 on small businesses.

D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

Affected: No XXX; Yes _____

This rule filing will not have any impact beyond the impact considered from the statutory changes made through S.B. 246 on other persons.

8. Compliance costs for affected persons:

The proposed amendments apply only to applicants for licensure as an applied behavior analyst or assistant behavior analyst and applicants for registration as a behavior specialist or assistant behavior specialist. This rule filing will not have any impact beyond the impact considered from the statutory changes made through S.B. 246 on affected persons.

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

As stated in the rule analysis, this filing responds to Legislative action (S.B. 246, 2015), which required a licensing process for behavior analysts and behavior specialists who provide autism services. No fiscal impact to businesses is anticipated beyond that considered by the Legislature in determining to require licensure.

B) Name and title of department head commenting on the fiscal impacts:

Francine A. Gian, Executive Director

10 This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

Subsection 58-1-106(1)(a)

Subsection 58-1-202(1)(a)

Section 58-61-101

11 This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; if none, leave blank):

	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)	Professional and Ethical Compliance Code for Behavior Analysts	
Publisher	Behavior Analyst Certification Board	
Date Issued		
Issue, or version	January 1, 2016	
ISBN Number (optional)		
ISSN Number (optional)		
Cost of Incorporated Reference	-0-	
Action: Adds, updates, or removes	Adds	

(If this rule incorporates more than two items by reference, please attach additional pages)

12 The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy): 11/16/2015

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
10/20/2015	8:30 A.M.	160 East 300 South, Conference Room 474 (4th floor), Salt Lake City, Utah

13 This rule change may become effective on (mm/dd/yyyy): 11/23/2015

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

14 Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")); may not include the name of the agency

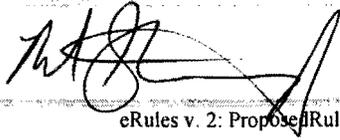
licensing
behavior specialist
behavior analyst

15 Attach an RTF document containing the text of this rule change (filename): R156-61a.pro

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

AGENCY AUTHORIZATION

Agency head or
designee, and title:



Date
(mm/dd/yyyy)
: 9/23/2015

R156. Commerce, Occupational and Professional Licensing.

R156-61a. Behavior Analyst Licensing Act Rule.

R156-61a-701. Title.

This rule is known as the "Behavior Analyst Licensing Act Rule."

R156-61a-702. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 61, as used in this rule:

(1) "BACB" means Behavior Analyst Certification Board.

(2) "BCaBA" means Board Certified Assistant Behavior Analyst.

(3) "BCBA" means Board Certified Behavior Analyst.

(4) (a) "Experiential behavior analyst training" means:

(i) practical training experience providing behavior analysis services, including completing assessments, developing programs, implementing programs, training on programs, and ongoing monitoring of programs under supervision of a licensed behavior analyst; and

(ii) participating in at least one supervisory session every two weeks for no less than 5% of the total hours spent completing supervised hours.

(b) "Experiential behavior analyst training does not mean:

(i) attending meetings with little or no behavior-analytic content;

(ii) providing interventions that are not based in behavior analysis;

(iii) performing non-behavioral administrative activities;

(iv) completed non-behavioral assessments (e.g., diagnostic assessments, intellectual assessments); or

(v) completing paperwork, documentation, billing or any other activities that are not directly related to behavior analysis.

(5) "LaBA" means Licensed Assistant Behavior Analyst.

(6) "LBA" means Licensed Behavior Analyst.

(7) "Qualified supervisor" means a:

(a) LBA or psychologist who is licensed in good standing with the Division and has completed the supervision and experience training module administered by the BACB, who is supervision a LaBA or supervisee working towards obtaining the required experience to become licensed; or

(b) RBS, LBA or psychologist who is in good standing with the Division who is supervising a RaBS.

(8) "RaBS" means Registered Assistant Behavior Specialist.

(9) "RBS" means Registered Behavior Specialist.

(10) "Supervision contract" means a written contract between the qualified supervisor or a LaBA, RaBS, or a supervisee working towards obtaining the required experience to become licensed that includes at a minimum the following:

(a) the responsibilities of the supervisor and supervisee;

(b) a description of the appropriate activities and instructional objectives;

(c) the objective and measurable circumstances under which the supervisor will sign the supervision form;

(d) the consequences should the parties not adhere to their responsibilities, including proper termination of the contract; and

(e) an attestation that both parties will adhere to the Professional and Ethical Compliance Code for Behavior Analysts issued by the BACB.

(11) "Supervision form" means a form to document ongoing supervision that includes at a minimum the following:

(a) the date of each supervisory meeting;

(b) the duration of each supervisory meeting;

(c) the format of meeting (i.e. individual or small group);

(d) an evaluation of supervisee performance; and

(e) signature and date lines for supervisor and supervisee indicating when the form was completed and signed.

R156-61a-704. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 61 is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-61a-705. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsection 58-61-705(1)(f), an applicant for licensure as a LBA shall pass the BCBA Examination developed by the BACB.

(2) In accordance with Subsection 58-61-705(2)(f), an applicant for licensure as a LaBA shall pass the Board Certified Assistant Behavior Analyst Examination developed by the BACB.

(3) The passing score for each exam is 76%.

R156-61a-705a. Qualifications for Licensure as a LBA - Equivalent Master or Doctorate Degree.

(1) In accordance with Subsection 58-61-705(1)(d), an equivalent master or doctorate degree is a master or doctorate degree from an accredited university that:

(a) is in one of the following educational fields:

(i) education;

(ii) human services;

(iii) engineering;

(iv) medicine; or

(v) a field related to behavior analysis; and

(2) includes coursework in behavior analysis as approved and verified by the BACB.

R156-61a-710. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) failing to meet the requirements of Subsection R156-61a-702(7) while acting as a qualified supervisor;

(2) accepting supervision from an individual who does not meet the

requirements of Subsection R156-61a-702(7);

(3) acting as a qualified supervisor of a LaBA, RaBS, or supervisee working towards obtaining the required experience to become licensed without first entering into a supervision contract as defined in Subsection R156-61a-702(10);

(4) accepting supervision from a qualified supervisor without first entering into a supervision contract as defined in Subsection R156-61a-702(10);

(5) acting as a qualified supervisor and failing to maintain supervision forms as defined in Subsection R156-61a-702(11); and

(6) failing to abide by the provisions of the Professional and Ethical Compliance Code for Behavior Analysts, issued by the BACB, effective January 1, 2016, which is adopted and incorporated by reference.

KEY: licensing, behavior analyst, behavior specialist

Date of Enactment or Last Substantive Amendment: 2015

Authorizing, and Implemented or Interpreted Law: 58-1-106(1) (a); 58-1-202(1) (a); 58-61-101