

1 21 NCAC 05 .0102 is adopted as published in 37:03 NCR 231-235:
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3 **SECTION .0100 – GENERAL**
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5 **21 NCAC 05 .0102 BOARD ADDRESS AND WEBSITE**

6 (a) Unless otherwise directed, all correspondence shall be mailed to the following address:

7 701 Exposition Place

8 Suite 206

9 Raleigh, NC 27615

10 (b) The Board website shall be www.ncbehavioranalystboard.org.

11
12 *History Note:* *Authority G.S. 90-734;*

13 *Eff. ~~December 1, 2022~~ February 1, 2023*

1 21 NCAC 05 .0201 is adopted with changes as published in 37:03 NCR 231-235 as follows:

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3 **SECTION .0200 – APPLICATIONS**

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5 **21 NCAC 05 .0201 APPLICATION FOR LICENSURE OF LICENSED BEHAVIOR ANALYST AND**
6 **LICENSED ASSISTANT BEHAVIOR ANALYST**

7 (a) The Behavior Analyst License applicant shall submit the following to the Board:

- 8 ~~(1) Completed application developed and provided by the Board;~~
9 ~~(2) Official documentation of the education degree required for license;~~
10 (3) (1) Documentation of all previous professional human services licenses held by the applicant;
11 (4) (2) Attestation that the applicant has read and agrees to adhere to the current version of the Ethics Code
12 for Behavior Analysts published by the certifying entity;
13 (5) (3) Documentation of all work experience in the field of behavior analysis, including internships,
14 practicum, and other field experience completed as part of an educational course of study;
15 (6) (4) Documentation of all certifications of behavior analysis currently or previously granted by national
16 or other state certification ~~bodies;~~ bodies as described in Rule .0203 of this Chapter.
17 (7) (5) Payment of all required fees; ~~and~~
18 (8) (6) Signed consent form provided by the State Bureau of Investigation or NC Department of Justice
19 authorizing the completion of a certified criminal records check based on the applicant's fingerprints
20 provided to a local law enforcement ~~office;~~ office; ~~and~~
21 (7) Two letters of reference as described in Rule .0202 of this Chapter.

22 (b) The Assistant Behavior Analyst License applicant shall submit the following to the Board:

- 23 ~~(1) Completed application developed and provided by the Board;~~
24 ~~(2) Official documentation of the education degree required for license;~~
25 (3) (1) Documentation of all previous professional human services licenses held by the applicant;
26 (4) (2) Attestation that the applicant has read and agrees to adhere to the current version of the Ethics Code
27 for Behavior Analysts published by the certifying entity;
28 (5) (3) Documentation of all work experience in the field of behavior analysis, including internships,
29 practicum, and other field experience completed as part of an educational course of study;
30 (6) (4) Documentation of all certifications of behavioral analysis currently or previously granted by
31 national or other state certification ~~bodies;~~ bodies as described in Rule .0203 of this Chapter.
32 (7) (5) Payment of all required fees; ~~and~~
33 (8) (6) Signed consent form provided by the State Bureau of Investigation or NC Department of Justice
34 authorizing the completion of a certified criminal records check based on the applicant's fingerprints
35 provided to a local law enforcement ~~office;~~ office; ~~and~~
36 (7) Two letters of reference as described in Rule .0202 of this Chapter.

1 *History Note:* Authority ~~G.S. 90-736-738;~~ G.S. 90-734; 90-736; 90-737; 90-738;
2 *Eff.* ~~December 1, 2022~~ February 1, 2023.
3

1 21 NCAC 05 .0202 is adopted with changes as published in 37:03 NCR 231-235:

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3 **21 NCAC 05 .0202 REFERENCES**

4 (a) The application for Behavior Analyst License and Assistant Behavior Analyst shall include two letters of
5 reference, to be submitted to the Board using a portal in the application software by the applicant. The two letters of
6 references shall include:

- 7 (1) Name name of reference and applicant;
- 8 (2) Period period of time the reference has known the applicant;
- 9 (3) Nature nature of professional relationship; and
- 10 (4) Knowledge knowledge of the applicant's training, experience, professional skills, and adherence to
11 legal and ethical standards.

12 ~~(b) Letters of reference shall be submitted electronically to the Board.~~

13

14 *History Note:* Authority G.S. 90-737.2; 90-737.3; 90-734; 90-736;

15 Eff. December 1, 2022 February 1, 2023.

16

1 21 NCAC 05 .0203 is adopted with changes as published in 37:03 NCR 231-235:

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3 **21 NCAC 05 .0203 CERTIFICATION**

4 (a) The applicant for Behavior Analyst License ~~and or~~ Assistant Behavior Analyst shall submit an official copy of the
5 applicant's Behavior Analyst certification to the Board.

6 ~~(b) The applicant for Assistant Behavior Analyst shall submit an official copy of the applicant's Behavior Analyst
7 certification to the Board.~~

8 ~~(e) (b)~~ The Board shall accept electronic submissions of the Behavior Analyst certification electronically submitted to
9 the Board on behalf of the applicant.

10

11 *History Note:* Authority G.S. 90-737.2; 90-737.3; 90-734; 90-736; 90-737; 90-738;

12 *Eff.* December 1, 2022 February 1, 2023.

13

1 21 NCAC 05 .0301 is adopted as published in 37:03 NCR 231-235:

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3 **SECTION .0300 - FEES**
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5 **21 NCAC 05 .0301 FEES**

6 (a) The fees to obtain a Behavior Analyst License shall be:

- 7 (1) Application Fee – Two hundred fifty dollars (\$250.00);
8 (2) Renewal Fee – Two hundred dollars (\$200.00);
9 (3) Late Renewal Fee – Fifty dollars (\$50.00);
10 (4) Reciprocity Fee – Two hundred fifty dollars (\$250.00); and
11 (5) Temporary License Fee – One hundred dollars (\$100.00).

12 (b) The fees to obtain an Assistant Behavior Analyst License shall be:

- 13 (1) Application Fee – Two hundred dollars (\$200.00);
14 (2) License renewal Fee – One hundred fifty dollars (\$150.00);
15 (3) Late renewal Fee – Fifty dollars (\$50.00);
16 (4) Reciprocal license application Fee – Two hundred dollars (\$200.00); and
17 (5) Temporary license application Fee – One hundred dollars (\$100.00).

18 (c) The Board may amend any fee imposed on an applicant or licensee in accordance with G.S. 93B-15.
19

20 History Note: Authority G.S. 90-743;
21 Eff. December 1, 2022.

1 21 NCAC 05 .0401 is adopted with changes as published in 37:03 NCR 231-235:

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3 **SECTION .0400 – SUPERVISION ~~AND TELEHEALTH~~**
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5 **21 NCAC 05 .0401 SUPERVISION OF ASSISTANT BEHAVIOR ANALYST**

6 (a) Applicants for licensure as an assistant behavior analyst shall provide to the Board a supervisory agreement signed
7 by between the licensed behavior analyst and the licensed assistant behavior analyst.

8 (b) Applicants for licensure as an assistant behavior analyst shall maintain a copy of the signed supervisory agreement
9 and any supervisory documentation, evaluations or supervision logs, while supervised. The supervisor of the licensed
10 assistant behavior analyst shall maintain a copy of the signed supervisor agreement, supervision logs, and evaluations
11 and supervisory documentation for at least seven years following the termination of the supervisory relationship. This
12 documentation shall be made available to the Board upon request.

13 ~~(c) Delegation shall be made if, in the judgment of the licensed behavior analyst, the task The licensed behavior~~
14 ~~analyst may delegate tasks or procedures can be properly and safely performed by an appropriately trained to an~~
15 ~~assistant behavior analyst or other person, and the delegation does not jeopardize the health or safety of the client.~~
16 ~~analyst in accordance with the supervisory agreement.~~

17 ~~(d)~~ (c) Supervision activities by the licensed behavior analyst include:

- 18 (1) Direct observation of the supervisee implementing behavior analytic assessment and intervention
19 procedures with clients in natural environments and/or and or training others to implement them,
20 with feedback from the supervisor. The observation may be done in-person, on-site, or using
21 asynchronous or synchronous formats.
- 22 (2) One-to-one, live, person-to-person, or synchronous virtual interactions between supervisor and
23 supervisee to review and discuss assessment and treatment plans and procedures, client assessment
24 and progress data and reports, published research, ethical and professional standards and guidelines,
25 professional development needs and opportunities, and relevant laws, regulations, and policies.
- 26 (3) Live, person-to-person, or synchronous virtual interactions between a supervisor and a group of
27 supervisees to review and discuss assessment and treatment plans and procedures, client assessment
28 and progress data and reports, published research, ethical and professional standards and guidelines,
29 professional development needs and opportunities, and relevant laws, regulations, and policies.
- 30 (4) Informal interactions between supervisors and supervisees via telephone, electronic mail, and other
31 written communication are encouraged but shall not be considered formal supervision for the
32 purposes of this Chapter. The frequency and nature of supervision interactions shall be consistent
33 with the supervisory requirements set forth by the certifying entity in the Board Certified Assistant
34 Behavior Analyst (BCaBA) handbook, as defined in G.S. 90-732, which is hereby incorporated by
35 reference, including subsequent amendments and editions, and may be found at
36 <https://www.bacb.com/> at no cost.

37 ~~(e) The frequency and nature of supervision interactions shall be consistent with the supervisory requirements set~~
38 ~~forth by the certifying entity, as defined in G.S. 90-732.~~

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2 *History Note:* Authority G.S. 90-734; 90-738; 90-732; 90-739

3 *Eff.* December 1, 2022 February 1, 2023.

1 21 NCAC 05 .0402 is adopted with changes as published in 37:03 NCR 231-235 as follows:
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3 **21 NCAC 05 .0402 SUPERVISION OF BEHAVIOR TECHNICIANS**

4 (a) Behavior technicians shall be supervised by a licensed behavior analyst or a licensed assistant behavior analyst.

5 (b) Any licensed behavior analyst or licensed assistant behavior analyst employing or supervising behavior
6 technicians who are implementing applied behavior analysis interventions designed by the licensed behavior analyst
7 or licensed assistant behavior analyst shall maintain professional responsibility for the quality of the interventions
8 rendered and for the effects of the interventions upon the client, patient, or other individuals.

9 (c) The behavior analyst shall have face-to-face contact, including in-person ~~and/or or~~ synchronous virtual
10 interactions, during the course of services with all patients, clients, or other recipients of services delivered by behavior
11 technicians as part of the interventions designed by the licensed behavior ~~analyst's analysts~~ or licensed assistant
12 behavior ~~analyst's analysts~~.

13 (d) Any licensed behavior analyst or licensed assistant behavior analyst employing or supervising behavior
14 technicians who are implementing applied behavior analysis interventions designed by the licensed behavior analyst
15 or licensed assistant behavior analyst shall maintain sufficient documentation to demonstrate their adherence to this
16 Rule. ~~Such This~~ documentation ~~may shall be include but is not limited to~~ supervision contracts, supervision logs,
17 ~~supervision notes, and~~ meeting notes. The licensed behavior analyst or licensed assistant behavior analyst shall
18 maintain this documentation ~~of the employee's or supervisee's training~~ for at least seven years following the
19 termination of applied behavior analysis services by the behavior technician.

20 (e) Behavior technicians shall be utilized to perform only:

21 (1) ~~Non non~~-client-related tasks, ~~including but not limited to clerical clerical tasks, clerical, and~~
22 maintenance activities, and the preparation of the work area and equipment; ~~and~~

23 (2) ~~Certain routine client related Client client-related~~ tasks that, in the opinion of and under the
24 supervision of a licensed behavior analyst or a licensed assistant behavior analyst, have no potential
25 to adversely impact the client or the client's treatment plan and do not constitute the practice of
26 behavior analysis, ~~and The behavior technician shall not design assessment or intervention plans or~~
27 ~~procedures.~~

28 ~~(3) The behavior technician shall not design assessment or intervention plans or procedures. procedures.~~

29 (f) Failure of any licensed behavior analyst or licensed assistant behavior analyst to ~~train and~~ supervise behavior
30 technicians shall subject that licensed behavior analyst or licensed assistant behavior analyst to disciplinary action
31 pursuant to 21 NCAC 05 .0603.

32
33 *History Note:* Authority G.S. ~~90-734; 90-732; 90-745;~~
34 Eff. ~~December 1, 2022 February 1, 2023.~~

1 21 NCAC 05 .0501 is adopted with changes as published in 37:03 NCR 231-235:

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3 **SECTION .0500 - ETHICS**
4

5 **21 NCAC 05 .0501 ETHICS**

6 The Board shall use The Ethics Code for Behavior Analysts, which is hereby incorporated by reference, including
7 subsequent amendments and editions, and may be found at <https://www.bacb.com/> at no cost, these policies,
8 publications, guidelines, and casebooks developed by the certifying entity in determining whether ethical violations
9 of the Ethics Code for Behavior Analysts have occurred. In addition, publications, guidelines, policies, and
10 statements provided by the certifying entity and bodies may shall also be used in interpreting the Ethics Code for
11 Behavior Analysts.

12
13 *History Note:* Authority G.S. 90-731; 90-734; 90-743;-90-742;

14 Eff. December 1, 2022 February 1, 2023.
15

1 21 NCAC 05 .0601 is adopted with changes as published in 37:03 NCR 231-235:
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3 **SECTION .0600 – DISCIPLINARY INVESTIGATION**
4

5 **21 NCAC 05 .0601 COMPLAINT PROCEDURES**

6 (a) Initiation. Any individual with personal knowledge that any person has violated the Code of Conduct, any other
7 rules of the Board, this Subchapter, or G.S. 90, Article 43, may file a complaint against or behavior technician the
8 behavior analyst professional by submitting a complaint through by submitting the Ethics Complaint Form found on
9 the Board's website.

10 (b) Form. The complaint shall be in written or typed or handwritten format stating the nature of the alleged offense
11 and signed or attested to be true by the complainant. The complaint shall include:

- 12 (1) the name, address, and telephone number of the complainant;
13 (2) the name and address of the person against whom the complaint is made; made ("respondent"); and
14 (3) a statement of the facts that describes describe the allegations against the person.

15 (c) The complaint shall be investigated as set out in Rule .0602 of this Chapter.

16 (d) Following an Upon completion of the investigation of the complaint, the ethics committee shall try to reach a
17 settlement through informal procedures pursuant to G.S. 150B-22. Upon completion of the investigation, the ethics
18 committee shall take action as set out in Rule .0602(e) of this Chapter.

19 (e) Once If the ethics committee concludes there is a basis to schedule a disciplinary hearing before the Board, the
20 committee chairperson shall notify the person against whom the complaint is made; respondent. The notice to the
21 respondent shall include the following:

- 22 (1) state the section(s) sections of the Code of Conduct, other rules of the Board, this Subchapter, or
23 G.S. 90, Article 43 which that the complaint alleges has been violated;
24 (2) direct that the respondent reply to the Board in writing and by certified mail within 15 days of receipt
25 of this notice; and
26 (3) inform the respondent that failure to respond in writing within 15 days may result in revocation of
27 credential. a license.

28 (f) Notice shall be given The Board shall issue notice by regular postage mail, certified mail, or personal service at
29 the last known address of the respondent. If given by certified mail, notice shall be deemed to have been given on the
30 delivery date appearing on the return receipt.

31 (g) The Board may receive official correspondence in an ethics case through e-mail in order to further conduct the
32 investigation or when the subject of an investigation is unable to use or has been unresponsive to certified mail or
33 other methods of delivery. The Board may use local law enforcement or a private investigator licensed by the Private
34 Protective Services Board to personally serve a respondent.

35 (h) If notice cannot be given either by regular postage mail, personal service, or by certified mail, a notice that a
36 complaint has been brought against the respondent shall then be given by publication. A party that cannot with due
37 diligence be served by personal delivery or certified mail may be given notice to respond to a complaint by publication.

38 Service of notice by publication shall consist of publishing a notice by publication once a week for three successive

1 weeks in a newspaper that is qualified for legal advertising in accordance with G.S. 1-597 and G.S. 1-598 and
2 circulated in the area where the ~~party to be served respondent~~ is believed ~~by the serving party to be located,~~ or if there
3 ~~is no reliable information concerning the location of the party then in a newspaper circulated in the county of~~
4 ~~respondent's last address provided to the Board by the respondent. to be located.~~ There shall be mailed to the party at
5 ~~or prior to the first publication a copy of the notice to respond by publication to the respondent's last known address.~~
6 ~~Upon completion of service there shall be filed with the Board by the ethics committee chairperson an affidavit~~
7 ~~showing the publication and mailing substantially in accordance with the requirement of G.S. 1-75.10(2), the~~
8 ~~circumstances warranting the use of service by publication, and information, if any, regarding the location of the party~~
9 ~~served.~~ The notice shall include a statement by the Board that a complaint has been made against the respondent that
10 is scheduled to be heard by the Board within 90 days. The notice shall inform respondent that respondent shall be
11 given 30 days from the date of the last date of publication in which to respond to the service by publication for the
12 purpose of notifying the Board of respondent's whereabouts. Response shall be made in writing to the Board at the
13 address provided by the Board in its notice. If respondent provides the Board with information whereby ~~respondent~~
14 ~~he or she~~ can be served by the deadline ~~specific specified~~ in the notice, the Board shall provide notice either personally
15 or by certified mail as provided in Paragraph (g) of this Rule. Failure of respondent notified by publication of a
16 complaint brought by the Board shall be treated as a failure of respondent to reply to the charges.

17 (i) Failure of the respondent to reply to the charges, including each specific allegation, may be considered an
18 admission of the facts contained in the allegation(s).

19
20 *History Note:* Authority G.S. ~~90-731-737; 90-731;90-734; 90-742; 90-744; 90-746; 90-747;~~
21 *Eff.* ~~December 1, 2022 February 1, 2023.~~
22

1 21 NCAC 05 .0602 is adopted with changes as published in 37:03 NCR 231-235:

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3 **21 NCAC 05 .0602 INVESTIGATION OF COMPLAINT**

4 (a) The ~~Ethics Committee~~ ethics committee shall consist of a member of the Board as chairperson, in consultation
5 with the Board administrator administrative director, or their designee designee, and the Board's legal counsel. ~~The~~
6 ethics committee shall investigate the allegations in the complaint. The chairperson may appoint any person(s) another
7 Board member or name a subcommittee of the Board to serve as on the ~~investigating entity~~ ethics committee, if they
8 determine there is a conflict of interest or that the complaint is outside of their investigatory skillset, to prepare an
9 investigative report.

10 (b) The ~~investigating entity~~ ethics committee may contact the complainant and person against whom the complaint is
11 made.

12 (c) Upon completion of the investigation, the ethics committee ~~chairperson in consultation with the investigating~~
13 entity may determine that:

14 (1) the person against whom the complaint is made is not a licensee or applicant of the Board, and does
15 not qualify for an exemption pursuant to G.S. 90-745. The ethics committee shall cease disciplinary
16 action and the chairperson shall refer the matter for prosecution pursuant to G.S. 90-746.

17 ~~(1)~~ (2) the complaint is without merit. The ethics committee shall dismiss the complaint. The chairperson
18 shall notify ~~the complainant that the complaint is dismissed and shall notify the respondent both~~
19 parties of the dismissal; and

20 ~~(2)~~ (3) upon completion of an investigation wherein the complaint is found to have merit and or is not
21 dismissed, the ~~Ethics Committee~~ ethics committee chairperson may:

22 (A) offer an informal settlement resolution pursuant to G.S. 150B-22;

23 (B) schedule a meeting with the respondent;

24 ~~(C)~~ refer the report to the ethics committee or its hearing panel;

25 ~~(D)~~ (C) schedule notice a formal hearing before the Board; or

26 ~~(E)~~ (D) the chairperson may take a voluntary dismissal of the case where the respondent
27 relinquishes their credential license for an agreed upon period of time. time through a
28 consent order.

29 ~~(d) The Ethics Committee members or its subcommittees shall review a report referred by the Ethics Committee~~
30 chairperson and may take any of the following actions:

31 (1) dismiss the complaint;

32 (2) remand the matter to the investigating entity in order to obtain additional evidence sufficient upon
33 which to base a decision;

34 (3) make a written offer of informal resolution;

35 (4) schedule a meeting with the respondent whereby the dispute may be settled through informal
36 procedures; or

37 (5) schedule a disciplinary hearing, in accordance with G.S. 150B, Article 3A, before the Board.

38

1 *History Note:* Authority G.S. 90-731-737; 90-734; 90-742; 150B-22; 150B-38; 150B-39; 150B-40; 150B-41;
2 150B-42;
3 *Eff.* December 1, 2022 February 1, 2023.
4

1 21 NCAC 05 .0603 is adopted with changes as published in 37:03 NCR 231-235:

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3 **21 NCAC 05 .0603 METHOD OF DISCIPLINE**

4 (a) In the course of the disciplinary Following an investigation or hearing the Board may:

- 5 (1) deny a credential; license;
- 6 (2) revoke a credential; license;
- 7 (3) suspend a credential license until further order of the Board or for a specified period of time;
- 8 (4) reprimand the Respondent; or
- 9 (5) take other actions not to be considered a disciplinary action, including a letter of caution or letter of
- 10 warning without the consent of the Respondent.

11 (b) Disciplinary or other actions by the Board with the Respondent's consent may be stayed while the Respondent

12 satisfies all of the conditions of the consent order.

13

14 *History Note:* Authority G.S. 90-734 90-731-737; 90-742;

15 Eff. December 1, 2022 February 1, 2023.

16