

Effective 7/1/2015

58-61-710 Unprofessional conduct.

As used in this part, "unprofessional conduct" includes:

- (1) using or employing the services of any individual to assist a licensed behavior analyst, licensed assistant behavior analyst, registered behavior specialist, or registered assistant behavior specialist in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession for which the individual is licensed or the laws of the state, including:
 - (a) acting as a supervisor or accepting supervision of a supervisor without complying with or ensuring compliance with the requirements of administrative rule adopted by the division;
 - (b) engaging in and aiding or abetting conduct or practices that are false, dishonest, deceptive, or fraudulent;
 - (c) engaging in or aiding or abetting deceptive or fraudulent billing practices;
 - (d) failing to establish and maintain appropriate professional boundaries with a client or former client;
 - (e) engaging in or promising a personal, scientific, professional, financial, or other relationship with a client if it appears likely that such a relationship reasonably might impair the behavior analyst's or registered behavior specialist's objectivity or might harm or exploit the client;
 - (f) engaging in sexual activities or sexual contact with a client with or without client consent;
 - (g) engaging in sexual activities or sexual contact with a former client within two years of documented termination of services;
 - (h) engaging in sexual activities or sexual contact at any time with a former client who is especially vulnerable or susceptible to being disadvantaged because of the client's personal history, current mental status, or any condition that could reasonably be expected to place the client at a disadvantage, recognizing the power imbalance that exists or may exist between the behavior analyst or registered behavior specialist and the client;
 - (i) engaging in or aiding or abetting sexual harassment or any conduct that is exploitive or abusive with respect to a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;
 - (j) exploiting a client for personal gain;
 - (k) using a professional client relationship to exploit a client or other person for personal gain;
 - (l) failing to maintain appropriate client records for a period of not less than seven years from the documented termination of services to the client;
 - (m) failing to obtain informed consent from the client or legal guardian before taping, recording, or permitting third party observations of client care or records;
 - (n) failing to cooperate with the division during an investigation;
 - (o) using the abbreviated title of LBA unless licensed in the state as a behavior analyst;
 - (p) using the abbreviated title of LaBA unless licensed in the state as an assistant behavior analyst;
 - (q) failing to make reasonable efforts to notify a client and seek the transfer or referral of services, according to the client's needs or preferences, when a behavior analyst anticipates the interruption or termination of services to a client;
 - (r) failing to provide for orderly and appropriate resolution of responsibility for client care in the event that the employment or contractual relationship ends, according to the client's needs and preferences;
 - (s) failing to make reasonable steps to avoid abandoning a client who is still in need of services;
 - (t) failing to report conviction of a felony or misdemeanor directly relating to the practice of behavior analysis or public health and safety;

- (u) failing to report revocation or suspension of certification from the Behavior Analyst Certification Board; and
 - (v) failure to confine practice conduct to those acts or practices in which the individual is competent by education, training, and experience within limits of education, training, and experience; and
- (2) other conduct as further defined by administrative rule adopted by the division.

Enacted by Chapter 367, 2015 General Session