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STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

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DIRECTOR

**MICHIGAN BOARD OF BEHAVIOR ANALYSTS  
RULES COMMITTEE WORK GROUP  
MEETING**

**MINUTES  
JANUARY 28, 2021**

The Michigan Board of Behavior Analysts, Rules Work Group, met on January 28, 2021. The meeting was held via Zoom.

**CALL TO ORDER**

Kimmy Catlin, Board Support, called the meeting to order at 8:04 a.m.

**ATTENDANCE**

**Members Present:** Stephanie Peterson, Ph.D., BCBA-D, Chairperson  
Conny Raaymakers, Ph.D., BCBA-D, Vice Chairperson  
Christie Nutkins, Ph.D., BCBA-D

**Members Absent:** None

**Staff Present:** Kimmy Catlin, Board Support, Board and Committees Section  
Weston MacIntosh, Senior Policy Analyst, Board and Committees Section

**Public Present:** Jeanna

**RULES DISCUSSION - Copy of the current rules are attached to this document.**

MacIntosh informed the Committee of the promulgation process and timeline.

**R 338.1824 Application for license by endorsement; qualifications.**

MacIntosh informed the Committee that this is a new rule due to recent legislative changes to the requirements for licensure by reciprocity, as it relates to licensees coming to this state from a Canadian province. MacIntosh said that the licensure by endorsement requirements will generally be the same as the general licensure requirements, as the BACB credential is recognized internationally.

Discussion was held.

**R 338.1825 Application for relicensure; qualifications.**

MacIntosh advised that revisions were made to the verification of licensure requirements of this rule. However, no other substantive changes were made to this rule.

**R 338.1832 Telehealth.**

Peterson inquired if it was implied that this does not transfer to other states.

MacIntosh stated that the general rule for health practitioners engaging in telehealth treatment requires the practitioner to hold a license in the jurisdiction where the patient is located.

**R 338.1833 Adoption of standards.**

MacIntosh informed the committee that this was updated to the most recent standards.

Raaymakers stated that a more recent standard has been released.

MacIntosh stated he will update the draft to reflect the most recent standard.

**ADJOURNMENT**

The meeting adjourned at 8:47 a.m.

Prepared by:  
Kimmy Catlin, Board Support  
Bureau of Professional Licensing

February 5, 2021

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

BEHAVIOR ANALYSTS - GENERAL RULES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16145, 16148, 18257, and 18259 of 1978 PA 368, MCL 333.16145, 333.16148, 333.18257, and 333.18259, and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 338.1801, R 338.1821, R 338.1823, R 338.1825, R 338.1827, R 338.1831, R 338.1833, and R 338.1835 of the Michigan Administrative Code are amended, and R 338.1824 and R 338.1832 are added, as follows:

PART 1. GENERAL PROVISIONS

R 338.1801 Definitions.

Rule 801. (1) As used in these rules:

- (a) "BACB" means the behavior analyst certification board, or its successor.
  - (b) "Board" means the Michigan board of behavior analysts created under section 18255 of the code, MCL 333.18255.
  - (c) "Code" means 1978 PA 368, MCL 333.1101 to 333.25211, known as the public health code.
  - (d) "Department" means the department of licensing and regulatory affairs.
- (2) ~~Except as otherwise defined in these rules, the terms~~ **A term** defined in the code ~~have~~ **has** the same meaning when used in these rules.

PART 2. LICENSURE

R 338.1821 Training standards for identifying victims of human trafficking; requirements.

Rule 821. (1) ~~Pursuant to~~ **Under** section 16148 of the code, MCL 333.16148, an individual seeking licensure or registration or who is licensed or registered shall complete

training in identifying victims of human trafficking that ~~meets~~ **satisfies** the following standards:

- (a) Training content shall cover all of the following:
    - (i) Understanding the types and venues of human trafficking in the United States.
    - (ii) Identifying victims of human trafficking in health care settings.
    - (iii) Identifying the warning signs of human trafficking in health care settings for adults and minors.
    - (iv) Resources for reporting the suspected victims of human trafficking.
  - (b) Acceptable providers or methods of training include any of the following:
    - (i) Training offered by a nationally recognized or state-recognized health-related organization.
    - (ii) Training offered by, or in conjunction with, a state or federal agency.
    - (iii) Training obtained in an educational program ~~that has been~~ approved by the ~~board~~ for initial licensure or registration, or by a college or university.
    - (iv) Reading an article related to the identification of victims of human trafficking that ~~meets~~ **satisfies** the requirements of subdivision (a) of this subrule and is published in a peer review journal, health care journal, or professional or scientific journal.
  - (c) Acceptable modalities of training may include any of the following:
    - (i) Teleconference or ~~webinar~~. **online seminar.**
    - (ii) Online presentation.
    - (iii) Live presentation.
    - (iv) Printed or electronic media.
- (2) The department may select and audit a sample of individuals and request documentation of proof of completion of training. If audited by the department, an individual shall provide an acceptable proof of completion of training, including either of the following:
- (a) Proof of completion certificate issued by the training provider that includes the date, provider name, name of training, and individual's name.
  - (b) A self-certification statement by an individual. The certification statement shall include the individual's name and either of the following:
    - (i) For training completed ~~pursuant to~~ **under** subrule (1)(b)(i) to (iii) of this rule, the date, training provider name, and name of training.
    - (ii) For training completed ~~pursuant to~~ **under** subrule (1)(b)(iv) of this rule, the title of article, author, publication name of peer review journal, health care journal, or professional or scientific journal, and date, volume, and issue of publication, as applicable.
- (3) ~~Pursuant to~~ **Under** section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule ~~shall~~ apply for license ~~or registration~~ renewals beginning with the ~~first 2023~~ renewal cycle ~~after the promulgation of this rule~~ and for initial licenses ~~or registrations~~ issued ~~5 or more years after the promulgation of this rule~~. **beginning January 7, 2024.**

R 338.1823 Application for license; qualifications.

Rule 823. (1) In addition to ~~meeting satisfying~~ the requirements of the code, the department shall issue a behavior analyst license to ~~a person~~ **an applicant** who satisfies all ~~of the following:~~ **following requirements:**

- (a) ~~Submits~~ **Provides** a completed application on a form provided by the department.
- (b) Pays the required fee to the department.
- (c) Has ~~the BACB issue directly to the department~~ proof of current certification in good standing with the BACB.
- (d) Has not been convicted of a listed offense ~~as that term is defined in~~ **under** section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant ~~whose application was denied under this subrule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232.~~ **MCL 333.16232, if denied under this subdivision.**

(2) In addition to ~~meeting satisfying~~ the requirements of the code, the department shall issue an assistant behavior analyst license to ~~a person~~ **an applicant** who satisfies all ~~of the following:~~ **following requirements:**

- (a) ~~Submits~~ **Provides** a completed application on a form provided by the department.
- (b) Pays the required fee to the department.
- (c) Has ~~the BACB issue directly to the department~~ proof of current certification in good standing with the BACB.
- (d) Has not been convicted of a listed offense ~~as that term is defined in~~ **under** section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant ~~whose application was denied under this subrule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232.~~ **MCL 333.16232, if denied under this subdivision.**

(e) Provides proof acceptable to the department that ~~he or she~~ **supervision** will be ~~supervised by~~ **occur under** a Michigan licensed behavior analyst in this state who is currently certified and in good standing with the BACB, and that the supervision ~~complies with~~ **satisfies** current BACB supervision requirements.

(3) ~~An applicant shall have his or her license, certification, or registration verified by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or has ever held a license, certification, or registration as a behavior analyst or assistant behavior analyst. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.~~ **An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall satisfy the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.**

#### **R 338.1824 Application for license by endorsement; qualifications.**

Rule 824. (1) **An applicant for a behavior analyst license by endorsement who satisfies the requirements of the code and this rule satisfies the requirements of**

section 16186 of the code, MCL 333.16186. The department shall issue a behavior analyst license to an applicant who satisfies all the following requirements:

- (a) Provides a completed application on a form provided by the department.
- (b) Pays the required fee to the department.
- (c) Holds a current behavior analyst license in another state or in a province of Canada.

(d) Has proof of current certification in good standing with the BACB.

(e) Has not been convicted of a listed offense under section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant may request a hearing under section 16232 of the code, MCL 333.16232, if denied under this subdivision.

(2) An applicant for an assistant behavior analyst license by endorsement who satisfies the requirements of the code and this rule satisfies the requirements of section 16186 of the code, MCL 333.16186. The department shall issue an assistant behavior analyst license to an applicant who satisfies all the following requirements:

- (a) Provides a completed application on a form provided by the department.
- (b) Pays the required fee to the department.
- (c) Holds a current assistant behavior analyst license in another state or in a province of Canada.

(d) Has proof of current certification in good standing with the BACB.

(e) Has not been convicted of a listed offense under section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant may request a hearing under section 16232 of the code, MCL 333.16232, if denied under this subdivision.

(f) Provides proof acceptable to the department that supervision will occur under a Michigan licensed behavior analyst in this state who is currently certified and in good standing with the BACB, and that the supervision satisfies current BACB supervision requirements.

(3) An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall satisfy the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

#### R 338.1825 ~~Relicensure.~~ **Application for relicensure; qualifications.**

Rule 825. (1) An applicant ~~whose license has lapsed for less than 3 years preceding the date of application for relicensure~~ may be relicensed **within 3 years after the expiration date of the license** under section 16201(3) of the code, ~~MCL 333.16201(3), MCL 333.16201,~~ if the applicant satisfies all of the following requirements:

- (a) ~~Submits~~ **Provides** a completed application on a form provided by the department.
- (b) Pays the required fee to the department.

(c) ~~Has the BACB issue directly to the department~~ proof of current certification in good standing with the BACB.

(d) Has not been convicted of a listed offense ~~as that term is defined in~~ **under** section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant ~~whose application was denied under this subrule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232~~. **MCL 333.16232, if denied under this subdivision.**

(e) Establishes ~~that he or she is~~ of good moral character as defined under sections (1) to (7) of 1974 PA 381, MCL 338.41 to 338.47.

(f) If applying for relicensure as an assistant behavior analyst, provides proof acceptable to the department that ~~he or she~~ **supervision will be supervised by occur under** a Michigan licensed behavior analyst in this state who is currently certified and in good standing with the BACB, and that the supervision ~~complies with~~ **satisfies** current BACB supervision requirements.

(2) An applicant ~~whose license has lapsed for 3 years or more preceding the date of application for relicensure~~ may be relicensed **more than 3 years after the expiration date of the license** under section 16201(4) of the code, ~~MCL 333.16201(4)~~, **MCL 333.16201**, if the applicant satisfies all of the following requirements:

(a) ~~Submits~~ **Provides** a completed application on a form provided by the department.

(b) Pays the required fee to the department.

(c) ~~Has the BACB issue directly to the department~~ proof of current certification in good standing with the BACB.

(d) Has not been convicted of a listed offense ~~as that term is defined in~~ **under** section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant ~~whose application was denied under this subrule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232~~. **MCL 333.16232, if denied under this subdivision.**

(e) Establishes ~~that he or she is~~ of good moral character as defined under sections (1) to (7) of 1974 PA 381, MCL 338.41 to 338.47.

(f) ~~Submits~~ **Provides** fingerprints as required under section 16174(3) of the code, ~~MCL 333.16174(3)~~. **MCL 333.16174.**

(g) If applying for relicensure as an assistant behavior analyst, provides proof acceptable to the department that ~~he or she~~ **supervision will be supervised by occur under** a Michigan licensed behavior analyst in this state who is currently certified and in good standing with the BACB, and that the supervision ~~complies with~~ **satisfies** current BACB supervision requirements.

(3) ~~An applicant shall have his or her license, certification, or registration verified by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or has ever held a license, certification, or registration as a behavior analyst or assistant behavior analyst. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.~~ **An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall satisfy the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.**

R 338.1827 Application for renewal of license; qualifications.

Rule 827. (1) The department shall renew a behavior analyst license for a current licensee who satisfies all of the following: **following requirements:**

- (a) ~~Submits~~ **Provides** a completed application on a form provided by the department.
- (b) Pays the required fee to the department.
- (c) ~~Has the BACB issue directly to the department~~ proof of current certification in good standing with the BACB.
- (d) Has not been convicted of a listed offense ~~as that term is defined in~~ **under** section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant ~~whose application was denied under this subrule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232.~~ **MCL 333.16232, if denied under this subdivision.**

(2) The department shall renew an assistant behavior analyst license for a current licensee who satisfies all of the following: **following requirements:**

- (a) ~~Submits~~ **Provides** a completed application on a form provided by the department.
- (b) Pays the required fee to the department.
- (c) ~~Has the BACB issue directly to the department~~ proof of current certification in good standing with the BACB.
- (d) Has not been convicted of a listed offense ~~as that term is defined in~~ **under** section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant ~~whose application was denied under this subrule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232.~~ **MCL 333.16232, if denied under this subdivision.**

(e) Provides proof acceptable to the department that ~~he or she~~ **supervision** will be supervised by **occur under** a Michigan licensed behavior analyst in this state who is currently certified and in good standing with the BACB, and that the supervision ~~complies with~~ **satisfies** current BACB supervision requirements.

### PART 3. STANDARDS OF PRACTICE

R 338.1831 Certification; requirement.

Rule 831. A licensee shall ~~maintain~~ **keep** active status certification with the ~~BACB.~~ **BACB throughout the duration of the license cycle.**

**R 338.1832 Telehealth.**

**Rule 107. (1) A licensee must obtain consent for treatment before providing a telehealth service under section 16284 of the code, MCL 333.16284.**

**(2) A licensee must keep proof of consent for telehealth treatment in the patient's up-to-date medical record and follow section 16213 of the code, MCL 333.16213.**

**(3) A licensee providing any telehealth service shall do both of the following:**

- (a) Act within the scope of the licensee's practice.**
- (b) Exercise the same standard of care applicable to a traditional, in-person health care service.**



R 338.1833 Adoption of standards.

Rule 833. ~~The board adopts by reference the professional standards of the BACB,~~ **BACB are adopted by reference**, as specified in the publication entitled ~~“Professional and Ethical Compliance Code for Behavior Analysts” August 2014.~~ **“Ethical Code for Behavior Analysts,” effective January 1, 2022.** The standards are available from the BACB’s website at ~~<https://www.bacb.com/wp-content/uploads/2017/09/170706-compliance-code-english.pdf>~~ **<https://www.bacb.com/ethics-information/ethics-codes/>** at no cost. Copies of the standards are available for inspection and distribution at **the cost of 10 cents per page** from the Board of Behavior Analysts, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 W. Ottawa Street, P.O. Box 30670, Lansing, MI 48909.

R 338.1835 Permanent revocation; grounds; hearing.

Rule 835. (1) Notwithstanding sections 16221, 16226, and 16245 of the code, MCL 333.16221, 333.16226, and 333.16245, a licensee’s license shall be permanently revoked if ~~he or she is convicted of a listed offense as that term is defined~~ under section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, while licensed under this part.

(2) A licensee ~~whose license was permanently revoked under subrule (1) of this rule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232.~~ **MCL 333.16232, if revocation of the license occurs under subrule (1) of this rule.**