

PROFESSIONAL LICENSURE BUREAU [645]

Adopted and Filed Emergency

The Iowa Board of Behavioral Science hereby amends Chapter 31, Licensure of Marital and Family Therapists and Mental Health Counselors”, Chapter 33, “Discipline for Marital and Family Therapists and Mental Health Counselors”, and Chapter 5 “Fees”, Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections, 147.76, and 154D.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 154D.

Purpose and Summary

The proposed amendments add licensing rules for two new professions, Behavior Analysts and Assistant Behavior Analysts. Sets license fees for the two new professions at \$300.

Reason for Adoption of Rule Making Without Prior Notice and Opportunity for Public Participation

Pursuant to Iowa Code section 17A.4(3), the ARRC approved emergency rulemaking because the ARRC found good cause that notice and public participation would be unnecessary, impractical, or contrary to the public interest. The rules merely implement the provisions of 2018 Iowa Acts Chapter 1106, which became effective January 1, 2019, without appreciably adding to those provisions.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Board also finds that the normal effective date of rule making, 35 days after publication, should be waived and the rule making made effective March 14, 2019 because the rule confers a benefit to those affected.

Adoption of Rule Making

This rule making was adopted by the Board on March 14, 2019.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC XXXX** to allow for public comment.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provisions accorded under 645—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on March 14, 2019.

The following rule-making action is adopted:

Item 1. Amend **Chapter 31**, title, as follows:

CHAPTER 31

LICENSURE OF MARITAL AND FAMILY THERAPISTS ~~AND~~ MENTAL HEALTH
COUNSELORS, BEHAVIOR ANALYSTS, AND ASSISTANT BEHAVIOR ANALYSTS

Item 2. Amend rule **645—31.1(154D)** Definitions as follows:

“BACB” means the Behavior Analyst Certification Board.

“Licensee” means any person licensed to practice as a marital and family therapist, ~~or~~ mental health counselor, behavior analyst, or assistant behavior analyst in the state of Iowa.

“License expiration date” means September 30 of even-numbered years for marital and family therapists and mental health counselors, and means the expiration date of the certification issued by the Behavior Analyst Certification Board for behavior analysts and assistant behavior analysts.

Item 3. Amend rule 31.2(154D) as follows:

645—31.2(154D) Requirements for permanent and temporary licensure as a mental health counselor or marriage and family therapist. The following criteria shall apply to licensure:

Item 4. Amend rule 31.3(154D) as follows:

645—31.3(154D) Examination requirements for mental health counselors and marital and family therapists. The following criteria shall apply to the written examination(s):

Item 5. Amend rule 31.8(154D) as follows:

645—31.8(154D) Licensure by endorsement for mental health counselors and marital and family therapists. An applicant who has been a licensed marriage and family therapist or mental

health counselor under the laws of another jurisdiction may file an application for licensure by endorsement with the board office.

Item 6. Amend rule 31.9(147) as follows:

645—31.9(147) Licensure of behavior analysts and assistant behavior analysts. by reciprocal agreement. ~~Rescinded IAB 1/14/09, effective 2/18/09.~~

31.9(1) The applicant shall complete a board-approved application. Application forms may be obtained from the board's Web site (<https://www.idph.iowa.gov/licensure>) or directly from the board office. All paper applications shall be sent to the Board of Behavioral Science, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

31.9(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

31.9(3) Each application shall be accompanied by the appropriate fees payable to the Board of Behavioral Science. The fees are nonrefundable.

31.9(4) For licensure as a behavior analyst, the applicant shall submit proof of current certification as a Board Certified Behavior Analyst or Board Certified Behavior Analyst-Doctoral issued by the BACB. For licensure as an assistant behavior analyst, the applicant shall submit proof of current certification as a Board Certified Assistant Behavior Analyst issued by the BACB.

Item 7. Amend 31.10(147) as follows:

645—31.10(147) License renewal for mental health counselors and marriage and family therapists.

Item 8. Adopt the following new rule **645—31.11(272C)**:

645—31.11(272C) Initial licensing, reactivation, and license renewal for behavior analysts and assistant behavior analysts. Exemptions for inactive practitioners.

31.11(1) An initial license for a behavior analyst or assistant behavior analyst shall be issued with the same expiration date as the applicant's current certification issued by BACB.

31.11(2) The biennial license renewal period for a behavior analyst or assistant behavior analyst shall run concurrent with the licensee's BACB certification. Each license renewed shall be given the expiration date that is on the licensee's current BACB certification. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

31.11(3) A licensee seeking renewal shall:

- a. Meet the continuing education requirements required by BACB to renew a certification.
- b. Maintain current certification as a Board Certified Behavior Analyst, Board Certified Behavior Analyst-Doctoral, or Board Certified Assistant Behavior Analyst issued by the BACB.
- c. Submit the completed renewal application and renewal fee before the license expiration date.

31.11(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license by may refer the adverse information for further consideration or disciplinary investigation.

31.11(5) A person licensed as a behavior analyst or assistant behavior analyst shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

31.11(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in

645—subrule 5.3(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

31.11(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not engage in the practice of applied behavior analysis for which a license is required in Iowa until the license is reactivated. A licensee who practices applied behavior analysis in a capacity that requires license in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

31.11(8) Reactivation. To apply for reactivation of an inactive license, a licensee shall submit a completed renewal application, proof of current certification, and shall be assessed a reactivation fee as specified in 645—subrule 5.3(5).

Item 9. Amend rule 31.6(17A,147,272C) as follows:

645—31.16(17A,147,272C) License reactivation for mental health counselors and marital and family therapists. To apply for reactivation of an inactive license, a licensee shall:

Item 10. Amend rule **645--31.17(17A,147,272C)** as follows:

645—31.17(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—31.16(17A,147,272C) or 31.11(8) prior to practicing mental health counseling, ~~or marital and family therapy,~~ or applied behavior analysis in this state.

Item 11. Amend **Chapter 33**, title, as follows:

CHAPTER 33

DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS, ~~AND~~ MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS, AND ASSISTANT BEHAVIOR ANALYSTS

Item 12. Amend rule ~~645—33.1(154D)~~ Definitions as follows:

“Licensee” means a person licensed to practice as a marital and family therapist, ~~or~~ mental health counselor, behavior analyst, or assistant behavior analyst in Iowa.

Item 13. Adopt the following new paragraph **33.2(1)“c”**:

c. Behavior analysts and assistant behavior analysts. Failure to comply with the current Behavior Analyst Certification Board (BACB) Professional and Ethical Compliance Code for Behavior Analysts, which is hereby adopted by reference. Copies of the Professional and Ethical Compliance Code may be obtained from the BACB Web site.

Item 14. Amend subrule 32.2(14) as follows:

Revocation, suspension, or other disciplinary action taken by a licensing authority or professional certifying entity of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority or certifying entity within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

Item 15. Amend subrule **33.2(24)** as follows:

33.2(24) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a marital and family therapist, ~~or a~~ mental health counselor, behavior analyst, or assistant behavior analyst.

Item 16. Amend subrule **33.2(26)** as follows:

33.2(26) Representing oneself as a licensed marital and family therapist, ~~or~~ mental health counselor, behavior analyst, or assistant behavior analyst when one's license has been suspended or revoked, or when one's license is on inactive status.

Item 17. Adopt the following new subrule **5.3(10)**:

5.3(10) License fee for license to practice as a behavior analyst or assistant behavior analyst is \$300.