

## WSR 25-07-008

## PROPOSED RULES

## HEALTH CARE AUTHORITY

[Filed March 6, 2025, 4:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-03-076.

Title of Rule and Other Identifying Information: WAC

182-531A-0800 Applied behavior analysis (ABA)—Provider requirements.

Hearing Location(s): On April 22, 2025, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance at [https://us02web.zoom.us/webinar/register/WN\\_lmfkt8yLSuaGbGRePeDM4w](https://us02web.zoom.us/webinar/register/WN_lmfkt8yLSuaGbGRePeDM4w).

If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than April 23, 2025.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax 360-586-9727, beginning March 7, 2025, at 8:00 a.m., by April 22, 2025, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication relay service 711, email [Johanna.Larson@hca.wa.gov](mailto:Johanna.Larson@hca.wa.gov), by April 4, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is revising this section to add psychiatric mental health nurse practitioners as diagnosing and prescribing providers for ABA and clarify that the providers listed in subsection (4)(a) may require additional center of excellence (COE) training for diagnosing and prescribing ABA for adults age 21 and over. Additionally, providers listed in subsection (4) must complete the required COE training for all ages.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160.

Statute Being Implemented: RCW 41.05.021 and 41.05.160.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Alyssa Jennings, P.O. Box 42716, Olympia, WA 98504, 360-725-1194.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

Scope of exemption for rule proposal from Regulatory Fairness Act Requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The revisions add psychiatric mental health nurse practitioners to the list of qualified medical providers who may also be designated by the agency as a COE provider when requirements

are met. These revisions do not impose more-than-minor costs on small businesses.

March 6, 2025  
Wendy Barcus  
Rules Coordinator

## RDS-6193.2

AMENDATORY SECTION (Amending WSR 23-20-128, filed 10/4/23, effective 11/4/23)

### **WAC 182-531A-0800 Applied behavior analysis (ABA)—Provider requirements.**

#### **Center of excellence.**

(1) For the purposes of this chapter, center of excellence (COE) refers to an individual provider, not a facility.

(2) A center of excellence (COE) must be an evaluating and prescribing provider.

(3) The COE provider must be:

(a) A person licensed under Title 18 RCW who is experienced in the diagnosis and treatment of autism spectrum disorders and is:

(i) A developmental pediatrician;

(ii) A neurologist;

(iii) A pediatric neurologist;

(iv) A pediatric psychiatrist;

(v) A psychiatrist; or

(vi) A psychologist; or

(b) A qualified medical provider who meets qualifications in subsection (4) of this section and who has been designated by the agency as a COE provider.

(4) With the exception of providers listed in subsection (3)(a) of this section, (~~ARNPs~~) advanced registered nurse practitioners (ARNPs) including psychiatric mental health nurse practitioners, physicians, physician assistants, and naturopaths must complete the required COE training, for all ages, authorized by the agency. The COE provider must be prequalified by the agency and meet the following criteria:

(a) ARNPs including psychiatric mental health nurse practitioners, physicians, physician assistants, and naturopaths must have demonstrated expertise in diagnosing an autism spectrum disorder by:

(i) Using a validated diagnostic tool;

(ii) Confirming the diagnosis by observing the client's behavior and interviewing family members; or

(iii) Reviewing the documentation available from the client's primary care provider, individualized education plan, or individualized family service plan;

(b) ARNPs including psychiatric mental health nurse practitioners, physicians, physician assistants, and naturopaths must understand the medically necessary use of applied behavior analysis (ABA); and

(c) ARNPs including psychiatric mental health nurse practitioners, physicians, physician assistants, and naturopaths must be suffi-

ciently qualified to conduct and document a comprehensive diagnostic evaluation and develop a multidisciplinary clinical treatment plan under WAC 182-531A-0500(2).

(5) To be recognized as a COE by the agency, the provider, as listed in subsection (4)(a) of this section, must submit a signed COE Attestation form, HCA 13-0009, to the agency.

(6) Providers listed in subsection (4)(a) of this section may require additional COE training for diagnosing and prescribing ABA for adults age 21 and over.

(7) To be reimbursed for fee-for-service or agency-contracted managed care organization (MCO) services:

(a) All COE providers must be enrolled with the agency.

(b) All COEs providing services to clients enrolled with an agency-contracted MCO must also be contracted with the MCO, per the MCO contract specifications in accordance with 42 C.F.R. § 438.14.

~~((7))~~ (8) All ABA providers must meet the specified minimum qualifications and comply with applicable state laws.

#### **Lead behavior analysis therapist.**

~~((8))~~ (9) The lead behavior analysis therapist (LBAT) must:

(a) Be licensed by the department of health (DOH) to practice independently as a behavior analyst or an assistant behavior analyst with supervision from a licensed behavior analyst or licensed psychologist (see chapter 18.380 RCW) and be an eligible provider according to chapter 182-502 WAC; or

(b) Be a DOH-licensed mental health counselor, DOH-licensed marriage and family therapist, DOH-licensed independent clinical social worker, DOH-licensed advanced social worker, or DOH-licensed psychologist (see chapter 18.380 RCW). Providers listed in this subsection must have a signed Applied Behavior Analysis (ABA) Attestation form, HCA 13-0008, regarding certification as a board-certified behavior analyst (BCBA) or a board-certified assistant behavior analyst (BCaBA) on file with the agency.

~~((9))~~ (10) The LBAT must enroll as a servicing provider under chapter 182-502 WAC, be authorized to supervise ancillary providers, and be:

(a) A DOH-licensed behavior analyst (LBA) (see chapter 18.380 RCW); or

(b) A DOH-licensed assistant behavior analyst (LABA) (see chapter 18.380 RCW).

~~((10))~~ (11) If the LBAT's role is filled by a LABA, the responsibilities below must be fulfilled by both the LABA and the supervising LBA or licensed psychologist, as required by DOH under chapter 246-805 WAC. The LBAT must:

(a) Develop and maintain an ABA therapy treatment plan that is comprehensive, incorporating treatment provided by other health care professionals, and that states how all treatment will be coordinated; and

(b) Supervise at least five percent of the total direct care provided by the certified behavior technician per week.

#### **Certified behavior technician.**

~~((11))~~ (12) The certified behavior technician (CBT) must be certified by DOH as a CBT under chapter 18.380 RCW in good standing with no license restrictions.

~~((12))~~ (13) The CBT must enroll as a servicing provider under chapter 182-502 WAC.

~~((13))~~ (14) The CBT must:

- (a) Deliver services according to the ABA therapy treatment plan;
- (b) Be supervised by a DOH-licensed professional who meets the requirements under WAC 246-805-330; and
- (c) Review the client's progress with the supervisor at least every two weeks to confirm that the ABA therapy treatment plan still meets the client's needs. If changes are clinically indicated, they must be made by the supervisor.

**Facility-based day program.**

~~((14))~~ (15) All facility-based day program providers must meet the requirements under WAC 182-531A-0600 (3)(a), and meet the following requirements:

- (a) Outpatient hospital facilities must meet the applicable DOH licensure requirements under chapter 246-320 WAC;
- (b) Any provider rendering direct ABA services in the facility-based day program must meet the qualifications and applicable licensure or certification requirements as described in this subsection, as applicable;
- (c) Any provider serving as a member of the multidisciplinary care team must be licensed or certified under Title 18 RCW; and
- (d) Have a signed ABA Day Program Capacity Attestation form, HCA 13-0007, on file with the agency.