

# BOARD OF PSYCHOLOGY (PSY)

## General information (PSY)

### Duties

The State Board of Psychology protects the public by implementing and enforcing ORC Chapter 4732 and Chapter 4783 and, by doing so, fosters the general health, safety, and well-being and safety of Ohioans who receive or seek psychological and behavior analytic services. The Psychology Board is comprised of nine (9) members (6 psychologists and 3 consumer advocates). Members are appointed by the Governor with advice and consent from the Ohio Senate. Among the Board's primary responsibilities are: ensuring that license applicants meet statutory and regulatory requirements for licensure; conducting pre-licensure examinations; initial licensing and biennial license renewal; biennial verification of continuing education compliance; registration, monitoring, and termination of supervised practice arrangements; monitoring for illegal practice; investigating complaints; conducting hearings; applying disciplinary actions in response to misconduct, typically via negotiated consent agreements; and, rule and policy making. The primary responsibility of the Ohio Board of Psychology is to protect the public relative to the practice of psychology, the practice of school psychology outside of school settings, and the practice of applied behavior analysis (an evidence-based treatment for Autism). As a result, essentially every issue before the Board relates in some way to public safety and the welfare of consumers of psychological and behavior analysis services.

The Psychology Board's 4,300 licensees are at the forefront of the healthcare system in Ohio, being found in private practices, public and private hospitals, medical schools, mental health clinics, Veteran's Affairs medical centers, university and college counseling centers, schools, industries, courts, and prisons. Each licensee must restrict one's practice to those areas in which he or she is competent and must strive to do no harm. The deeply human interactions that take place in a psychologist's practice typically reflect a complicated combination of hope and despair. The Psychology Board has the responsibility for regulating behavior that typically occurs when patients are highly vulnerable in terms of their emotional condition, self-concept, and relationships. Without the Board's key functions, the public would not be adequately insulated from unscrupulous, incompetent, and negligent providers. Ohio's consumers of psychological services expect from their psychologist compassion, competence, trust, confidentiality, and a clearly defined role. The Psychology Board exists to ensure that Ohioans get these things.

The Board protects the public by meeting the following broad program objectives:

- **Licensing.** Ensuring that only those applicants meeting the requirements of laws and rules are licensed or certified in a timely manner. The Board's Entrance Examiner (currently the Executive Director, since 2001) bears responsibility for admitting all psychologist candidates to the appropriate examination(s) after determining eligibility. The Board's Entrance Examiner conducts rapid and timely reviews of applications for admission to the Certified Ohio Behavior Analyst (COBA) pre-certification jurisprudence workshop (conducted by the Executive Director and a member of the Board) and the written jurisprudence examination.

## Duties

- **Enforcement.** Enforcing the laws and rules governing psychologists/school psychologists and Certified Ohio Behavior Analysts in a fair and consistent manner in an effort to ensure that license holders practice competently, legally, and ethically.
- **Education/Consultation.** Authorizing its staff, primarily the Executive Director, to provide timely and accurate information to members of the public and to applicants and license holders. This educational/consultation component is a less visible but important way to protect the public through the dissemination of information about the Board's laws, rules, and professional ethical principles, both in response to inquiries and by participating in continuing education programs conducted by the Executive Director and members of the Board targeting license and certification holders, students, and supervisees.
- **Interagency Cooperation.** Authorizing its Executive Director and staff members to correspond and collaborate with other state and federal entities, such as, but not limited to: Ohio Department of Jobs and Family Services; Office of the Attorney General's Medicaid Fraud Unit; the Counselor, Social Worker, and Marriage and Family Therapist Board; and, the State Medical Board, in an effort to foster the welfare of citizens and to hold accountable those persons who violate consumer's and patients' rights.

## Membership *(Current members, chairperson and other officers, and selection process.)*

Denise E. Rabold, Ph.D. (Term ends October 4, 2023)  
Columbus  
Psychologist/President

Douglas Cole, Ph.D. (Term ends October 4, 2023)  
Greene  
Psychologist/Secretary

Alice H. Randolph, Ed.D. (Term ends October 4, 2020)  
Port Clinton  
Psychologist

Benjamin W. Fields, Ph.D. (Term ends October 4, 2020)  
Columbus  
Psychologist

Kenneth R. Drude, Ph.D. (Term ends October 4, 2021)  
Dayton  
Psychologist

**Membership** *(Current members, chairperson and other officers, and selection process.)*

Kate Borges (Term Ends October 4, 2021)  
Columbus  
Consumer Advocate

Elaine Motylinski (Term Ends October 4, 2022)  
Cleveland  
Consumer Advocate

Karen Cousins (Term ends October 4, 2023)  
Columbus  
Consumer Advocate

Adam Jacobs, Ph.D. (Term ends October 4, 2024)  
Shaker Heights  
Psychologist

Psychology Board membership and appointments are governed under the following statute:

The governor, with the advice and consent of the senate, shall appoint a state board of psychology consisting of nine persons who are citizens of the United States and residents of this state. Three members shall be patient advocates who are not mental health professionals and who either are parents or other relatives of a person who has received or is receiving mental health services or are representatives of organizations that represent persons who have received or are receiving mental health services. At least one patient advocate member shall be a parent or other relative of a mental health service recipient, and at least one patient advocate member shall be a representative of an organization representing mental health service recipients. Each of the remaining members shall be a licensed psychologist or a school psychologist licensed by the state board of psychology. the effective date of this amendment. Of the patient advocate members whose positions are created on, one shall replace the current member who is not a psychologist or other health professional at the end of that member's term, one shall be appointed for a term that ends on October 5, 2003, and one shall be appointed for a term that ends on October 5, 2006. Thereafter, terms of office for all members shall be for five years, commencing on the sixth day of October and ending on the fifth day of October. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No person shall be appointed to more than two five-year terms in succession. The licensed psychologist and licensed school psychologist members of the board shall be so chosen that they represent the diverse fields of specialization and practice in the profession of psychology and the profession of school psychology. The governor may make such appointments from lists submitted annually by the Ohio Psychological Association, the Ohio School

**Membership** *(Current members, chairperson and other officers, and selection process.)*

Psychologists Association, and the Ohio association of black psychologists. A vacancy in an unexpired term shall be filled in the same manner as the original appointment.

**Budget** *(Current budget, description of budgeting process, sources of funding, and expected increases or decreases in budget or funding in future years.)*

The Psychology Board's FY21 budget allocation is \$696,000. Approximately 80% of the Board's annual expenditures are payroll costs. The Board is funded exclusively from its license fees deposited into the 4K90 Occupational Licensing Fund (no GRF funds are allocated to the Psychology Board). The Board submits biennial budget requests to OBM for inclusion in the biennial executive budget. The Board's budget allocation increases modestly each biennium, reflecting increased costs of doing business, mostly from DAS increases and contractual payroll increases. There are no expected budget increases of a substantial nature anticipated. the board's FY22-23 request has been submitted and comes in below the target (cap) for each of the two years.

**Workload** *(Assess current, past, and anticipated workload. Has the workload increased or decreased significantly in the preceding six years?)*

The Psychology Board's workload is divided among an office staff of 5 FTE and members of the Board. The Board has had 6 or 7 FTE historically, but eliminated a position around 2007 due to attrition. We went approximately one year at 4 FTE before hiring into a vacant investigator position in December 2012 to meet the demands of the investigation caseload. The workload can be characterized as steady and demanding and is anticipated to remain steady in the future. The Board members' roles extend well beyond attending board meetings, including resources put into the administration of pre-licensure oral jurisprudence examinations and oversight/consultation on investigations of complaints filed by consumers, clients, and patients. Over the past several years, the cumulative average number of hours submitted by members of the Board is approximately 480 hours combined. Approximately 90% of these hours are for the completion of Board responsibilities outside of board meetings.

**Staffing** *(How many staff are currently employed by the board? What are their roles? Are staffing levels proportionate to the board's current and anticipated workload?)*

The Psychology Board has been operating with five (5) FTE since 2012, a decrease from six (6) FTE. The 5 employees are office-based, currently on telework agreements due to COVID-19. The staffing level is appropriate for daily demands:

Executive Director (19 years Psychology Board tenure). Operational oversight and supervision of Board employees. Chief of enforcement; Board Entrance Examiner for approval of licenses issued; supervise investigations; budget preparation; monthly reconciliations of expenditures and revenue; liaison to other state agencies, boards, and commissions; issue licenses after determination of compliance with Board laws and rules; review applications and issue nonresident temporary permission to practice; Board meeting scheduling, preparation, and logistics; public relations and customer service.

Program Manager 1 (17 years Psychology Board tenure). Manager of licensing program; schedule examinations; asset management; COBA examination administration; public relations and customer service.

Investigator (15 years Psychology Board tenure). Investigations; case management; Public relations and customer service.

Investigator (8 years Psychology Board Tenure). Investigations; case management; Public relations and customer service.

Admin. Professional 2 (10 years Psychology Board tenure). Primary responsibility for customer service, including responsibility for main telephone line; office administration, including approval of service requests submitted to eLicense Ohio; invoice payment processing; entering deposits of revenue by check; daily oversight of general Board email inbox; monthly reconciliations of non-payroll expenditures.

**Administrative hearings and public complaints** *(Describe the Board's processes for administering discipline and addressing complaints. Assess the efficiency of the processes.)*

The formal complaint process is a structured process for patients, consumers, and organizations to follow. The process is efficient, especially with the implementation of complaint filing in the eLicense Ohio complaint portal (since 2018). The process is outlined on the Board's website, and in-office investigators are available to facilitate complaint filing by phone, email, and in-person. The complaint filing process includes identifying and demographic information, a complaint narrative, and legal releases of confidential information to establish the presence of a professional relationship. The Board's investigations are managed by a team of experts with intimate knowledge of the laws and rules governing psychologists and the laws and rules governing behavior analysts. Investigation teams include: 1) a Board investigator; 2) the Executive Director (who is a licensed psychologist); 3) a designated supervising Board member; and 4) the Board's AAG. Complaints are resolved through triage and determinations by the team about initiating a formal investigation or not, and whether informal educational intervention would serve to address any public safety issues present. Formal disciplinary actions are routinely settled via consent agreement if accountability and public protection can be met, although hearings are occasionally required to address serious complaints that cannot be handled via acceptable consent.

**Administrative hearings and public complaints** *(Describe the Board's processes for administering discipline and addressing complaints. Assess the efficiency of the processes.)*

agreements. Data indicate that approximately 2% of licensees are named annually in formal complaints, and of those complaints, approximately 15% result in a formal action against the license.

## Psychologist's license

### Survey responses (PSY)

#### Description

Psychology is a doctoral-level profession. With an average of 6-8 years of post-undergraduate training, psychologists are the most comprehensively trained mental health professionals. The psychologist license authorizes the independent practice of psychology pursuant to ORC 4732.01:

#### **4732.01 Psychologist definitions.**

As used in this chapter:

- (A) "Psychologist" means any person who holds self out to the public by any title or description of services incorporating the words "psychologic," "psychological," "psychologist," "psychic," or any other terms that imply the person is trained, experienced, or an expert in the field of psychology.
- (B) "The practice of psychology" means rendering or offering to render to individuals, groups, organizations, or the public any service involving the application of psychological procedures to assessment, diagnosis, prevention, treatment, or amelioration of psychological problems or emotional or mental disorders of individuals or groups; or to the assessment or improvement of psychological adjustment or functioning of individuals or groups, whether or not there is a diagnosable pre-existing psychological problem. Practice of psychology includes the practice of school psychology. For purposes of this chapter, teaching or research shall not be regarded as the practice of psychology, even when dealing with psychological subject matter, provided it does not otherwise involve the professional practice of psychology in which an individual's welfare is directly affected by the application of psychological procedures.

**Description**

(C) "Psychological procedures" include but are not restricted to application of principles, methods, or procedures of understanding, predicting, or influencing behavior, such as the principles pertaining to learning, conditioning, perception, motivation, thinking, emotions, or interpersonal relationships; the methods or procedures of verbal interaction, interviewing, counseling, behavior modification, environmental manipulation, group process, psychological psychotherapy, or hypnosis; and the methods or procedures of administering or interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotions, or motivation.

The license requires a qualifying doctoral degree in psychology, a minimum of 3,600 hours of qualifying training, and passing scores on national and Board-administered examinations. There are several pathways to qualifying for the Board exam, including reciprocity and senior psychologist options.

**Type** (See R.C. 4798.01 for relevant definitions.)

License

**If the regulation is a registration, certification, or license requirement, please complete the following:**

|   |                 |
|---|-----------------|
| <b>Number issued annually</b>   | 150             |
| <b>Number renewed annually</b>  | Biannual: 3,500 |
| <b>Have there been significant increases or decreases in active registrations, certifications or licenses in the preceding six years?</b> | No              |

| If the regulation is a registration, certification, or license requirement, please complete the following:   |  |
|--|--|
| <b>Education or training requirements</b>  | Doctoral degree in psychology from a regionally accredited academic institution or a foreign institution meeting requirements and a minimum of 3,600 hours of satisfactory psychological training, or licensure in another jurisdiction and evidence of compliance with reciprocity requirements.  |
| <b>Experience requirements</b>   | Candidates not licensed by reciprocity shall evidence a minimum of 3,600 hours of qualifying supervised training.  |
| <b>Examination requirements</b> ( <i>Who administers the exam? How is the exam and administrator selected? What fees are charged? Does the Board receive any proceeds of those fees? If so, how are the proceeds used?</i> ) | Examination for Professional Practice in Psychology (EPPP): This is the national examination owned by the Association of State and Provincial Psychology Boards (ASPPB) and administered at Pearson VUE testing tests. The fee charged by ASPPB is \$600. Pearson Vue assesses a testing appointment fee of \$87.50. The Psychology Board does not receive any of these fees.  |
| <b>Continuing education requirements</b> ( <i>Including a description of the curriculum and the process of setting it.</i> )   | <ul style="list-style-type: none"> <li>▫ License holders are required to complete no fewer than 23 hours of qualifying continuing education credits biannually to qualify for license renewal. A minimum of four (4) hours shall be in ethics, professional conduct, and/or cultural competence. Continuing psychology education may be applied to meet the requirements if both of the following requirements are met:</li> <li>▫ (1) It is obtained through a program or course approved by the state board of psychology, the Ohio psychological association, the Ohio association of black psychologists, or the American psychological association or, in the case of a school psychologist who holds a license issued under this chapter or a licensed psychologist with a school psychology specialty, by the state board of education, the Ohio school psychologists association, or the national association of school psychologists;</li> <li>▫ (2) Completion of the program or course is recorded with the Ohio psychological association or the Ohio school psychologists association in accordance with rules adopted by the state board of psychology in accordance with division (A) of this section.</li> </ul> |
| <b>Initial fee</b>   | \$300  |

| If the regulation is a registration, certification, or license requirement, please complete the following:                                     |  |
|--|--|
| <b>Duration</b>  | 2 years  |
| <b>Renewal fee</b> <i>(If different from initial fee, please explain why.)</i>   | \$365; set in ORC 4732.14 (A)  |
| <b>Does the Board recognize uniform licensure requirements or allow for reciprocity?</b>   | The Board rules include reciprocity pathways for licensure. These include professional credentials issue by the National Register of Health Service Psychologists and Diplomate status by the American Board of Professional Psychology. The Board also recognizes “senior psychologists” with a track record of practice and no discipline for a minimum of ten (10) years prior to the Ohio application. These options include a waiver of evidence of passing the EPPP. |
| <b>Are there any similar national registrations, certifications, or licenses? Could they be used as a substitute for the state regulation?</b> | No   |
| <b>Are there any circumstances in which an individual may practice elements of the occupation without being regulated by the board?</b>        | Yes. ORC 4732.22 contains a list of individuals exempt from the licensing requirements and who may use techniques of a psychological nature without being licensed by the Board. These include recognized clergy, professionals licensed by other boards that regulate mental health services (e.g., counselors, social workers, psychiatric physicians), and other persons engaging in helping professions who do not hold themselves out as psychologists.               |
| <b>Is the Board permitted to exercise discretion in determining whether to register, certify, or license an individual?</b>                    | Board law and rules contain specific educational, training, and examination requirements. The Board has discretion to review applications for these requirements, although there is limited discretion if the qualifications are satisfied.  |
| <b>Other information</b> <i>(Significant attributes or prerequisites to licensure not addressed in this chart.)</i>                            | N/A  |

## Oversight and disciplinary authority of the Board respecting individuals engaged in the occupation.

### 4732.16 Investigations.

(A) The state board of psychology shall investigate alleged violations of this chapter or the rules adopted under it. Each investigation shall be assigned by the executive director or designated investigator to one of the members of the board who shall serve as the supervising member of the investigation.

As part of its conduct of investigations, the board may examine witnesses, administer oaths, and issue subpoenas, except that the board may not compel the attendance of the respondent in an investigation. A subpoena for patient record information may be issued only if the supervising member, executive director, secretary, and an attorney from the office of the attorney general determine that there is probable cause to believe that the complaint alleges a violation of this chapter and that the records sought are relevant to the alleged violation and material to the investigation. No member of the board who supervises the investigation or approves the issuance of a subpoena for patient records shall participate in further adjudication of the case. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation. On failure of a person to comply with a subpoena issued by the board and after reasonable notice to that person, the board may move for an order compelling the production of records or persons pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named in the subpoena, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a person whose practice is authorized by this chapter, service of the subpoena may be made by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for witnesses under section 119.094 of the Revised Code.

(B)

(1) The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, the patient privilege has been waived by the patient. Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

(2) The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other government agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same

### Oversight and disciplinary authority of the Board respecting individuals engaged in the occupation.

requirements regarding confidentiality as the board must comply with under division (B)(1) of this section, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession.

(3) In a judicial proceeding, any information the board receives pursuant to an investigation may be admitted into evidence only in accordance with the Ohio Rules of Evidence, but the court shall require that appropriate measures be taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

4732.17 Actions against applicants or license holders.

(A) Subject to division (F) of this section, the state board of psychology may take any of the actions specified in division (C) of this section against an applicant for or a person who holds a license issued under this chapter on any of the following grounds as applicable:

(1) Conviction, including a plea of guilty or no contest, of a felony, or of any offense involving moral turpitude, in a court of this or any other state or in a federal court;

(2) A judicial finding of eligibility for intervention in lieu of conviction for a felony or any offense involving moral turpitude in a court of this or any other state or in a federal court;

(3) Using fraud or deceit in the procurement of the license to practice psychology or school psychology or knowingly assisting another in the procurement of such a license through fraud or deceit;

(4) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;

(5) Willful, unauthorized communication of information received in professional confidence;

(6) Being negligent in the practice of psychology or school psychology;

(7) Inability to practice according to acceptable and prevailing standards of care by reason of a mental, emotional, physiological, or pharmacological condition or substance abuse;

(8) Subject to section 4732.28 of the Revised Code, violating any rule of professional conduct promulgated by the board;

(9) Practicing in an area of psychology for which the person is clearly untrained or incompetent;

(10) An adjudication by a court, as provided in section 5122.301 of the Revised Code, that the person is incompetent for the purpose of holding the license. Such person may have the person's license issued or restored only upon determination by a court that the person is

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competent for the purpose of holding the license and upon the decision by the board that such license be issued or restored. The board may require an examination prior to such issuance or restoration.

(11) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers psychological services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;

(12) Advertising that the person will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers psychological services, would otherwise be required to pay;

(13) Any of the following actions taken by the agency responsible for authorizing or certifying the person to practice or regulating the person's practice of a health care occupation or provision of health care services in this state or another jurisdiction, as evidenced by a certified copy of that agency's records and findings for any reason other than the nonpayment of fees:

(a) Limitation, revocation, or suspension of the person's license to practice;

(b) Acceptance of the person's license surrender;

(c) Denial of a license to the person;

(d) Refuse to renew or reinstate the person's license;

(e) Imposition of probation on the person;

(f) Issuance of an order of censure or other reprimand against the person;

(g) Other negative action or finding against the person about which information is available to the public.

(14) Offering or rendering psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;

(15) Offering or rendering psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code;

(16) Unless the person is a school psychologist licensed by the state board of education:

(a) Offering or rendering school psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;

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(b) Offering or rendering school psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code.

(17) Violating any adjudication order or consent agreement adopted by the board;

(18) Failure to submit to mental, cognitive, substance abuse, or medical evaluations, or a combination of these evaluations, ordered by the board under division (E) of this section.

(B) Notwithstanding divisions (A)(11) and (12) of this section, sanctions shall not be imposed against any license holder who waives deductibles and copayments:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copays shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Such consent shall be made available to the board upon request.

(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

(C) For any of the reasons specified in division (A) of this section, the board may do one or more of the following:

(1) Refuse to issue a license to an applicant;

(2) Issue a reprimand to a license holder;

(3) Suspend the license of a license holder;

(4) Revoke the license of a license holder;

(5) Limit or restrict the areas of practice of an applicant or a license holder;

(6) Require mental, substance abuse, or physical evaluations, or any combination of these evaluations, of an applicant or a license holder;

(7) Require remedial education and training of an applicant or a license holder.

(D) When it revokes the license of a license holder under division (C)(4) of this section, the board may specify that the revocation is permanent. An individual subject to permanent revocation is forever thereafter ineligible to hold a license, and the board shall not accept an application for reinstatement of the license or issuance of a new license.

(E) When the board issues a notice of opportunity for a hearing on the basis of division (A)(7) of this section, the supervising member of the board, with cause and upon consultation with the board's executive director and the board's legal counsel, may compel the applicant or license holder to submit to mental, cognitive, substance abuse, or medical evaluations, or a combination of these evaluations, by a person or

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persons selected by the board. Notice shall be given to the applicant or license holder in writing signed by the supervising member, the executive director, and the board's legal counsel. The applicant or license holder is deemed to have given consent to submit to these evaluations and to have waived all objections to the admissibility of testimony or evaluation reports that constitute a privileged communication. The expense of the evaluation or evaluations shall be the responsibility of the applicant or license holder who is evaluated.

(F) Before the board may take action under this section, written charges shall be filed with the board by the secretary and a hearing shall be had thereon in accordance with Chapter 119. of the Revised Code, except as follows:

(1) On receipt of a complaint that any of the grounds listed in division (A) of this section exist, the state board of psychology may suspend a license issued under this chapter prior to holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that there is an immediate threat to the public. A telephone conference call may be used to conduct an emergency meeting for review of the matter by a quorum of the board, taking the vote, and memorializing the action in the minutes of the meeting.

After suspending a license pursuant to division (F)(1) of this section, the board shall notify the license holder of the suspension in accordance with section 119.07 of the Revised Code. If the individual whose license is suspended fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the license.

(2) The board shall adopt rules establishing a case management schedule for pre-hearing procedures by the hearing examiner or presiding board member. The schedule shall include applicable deadlines related to the hearing process, including all of the following:

(a) The date of the hearing;

(b) The date for the disclosure of witnesses and exhibits;

(c) The date for the disclosure of the identity of expert witnesses and the exchange of written reports;

(d) The deadline for submitting a request for the issuance of a subpoena for the hearing as provided under Chapter 119. of the Revised Code and division (F)(4) of this section.

(3) Either party to the hearing may submit a written request to the other party for a list of witnesses and copies of documents intended to be introduced at the hearing. The request shall be in writing and shall be served not less than thirty-seven days prior to the hearing, unless the hearing officer or presiding board member grants an extension of time to make the request. Not later than thirty days before the hearing, the responding party shall provide the requested list of witnesses, summary of their testimony, and copies of documents to the requesting party, unless the hearing officer or presiding board member grants an extension. Failure to timely provide a list or copies requested in accordance with this section may, at the discretion of the hearing officer or presiding board member, result in exclusion from the hearing of the witnesses, testimony, or documents.

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(4) In addition to subpoenas for the production of books, records, and papers requested under Chapter 119. of the Revised Code, either party may ask the board to issue a subpoena for the production of other tangible items.

The person subject to a subpoena for the production of books, records, papers, or other tangible items shall respond to the subpoena at least twenty days prior to the date of the hearing. If a person fails to respond to a subpoena issued by the board, after providing reasonable notice to the person, the board, the hearing officer, or both may proceed with enforcement of the subpoena pursuant to section 119.09 of the Revised Code.

**How much revenue is derived from fees charged by the Board to individuals engaged in the occupation (such as license and renewal fees)? How is that revenue used?**

Biannually, license applicants and license holders submit approximately \$1.5 million to the Psychology Board for deposit into the 4K90 account pursuant to:

4732.08 Depositing receipts.

All receipts of the state board of psychology from any source, including moneys collected under Chapter 4783. of the Revised Code, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund.”

Overall, to regulate all license types, the Psychology Board is allotted biennial operating funds in an amount significantly less than its generated revenue. For example, in FY18-19, the Psychology Board received revenue from applicants and license holders of approximately \$1,488,000. The Board’s biennial expenditures for FY18-19 were approximately \$1,276,000, which was below our total allocation. The Board therefore remains self-funding and has not, since its inception in 1972, required Controlling Board approval of funding in excess of the Executive Budget allocations.

**Describe any federal regulations that apply to the occupation. Does federal law require the state to regulate the occupation?**

There are no federal laws to our knowledge that require the state to regulate the practice of psychology.

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

▫ The practice of psychology is regulated under ORC 4732 because of the hazardous nature of psychological procedures, evaluations, and interventions. Harm comes in the form of patient rights violations, including but not limited to breaches of confidentiality, negligence (failing to provide care within a prevailing standard of care), failure to receive informed consent to services, sexual and financial exploitation, practicing while impaired, and rendering forensic psychology opinions in a biased manner. The Board’s regulations are intended to foster the general health, safety, and welfare of Ohio’s consumers of psychological services, including protection from incompetent and dangerous practices, fraud, and exploitation. Ohioans have a right to be free from the harm that can occur when exposed to incompetent and exploitative services. The Ohio General Assembly, via ORC 4732.17, authorizes the Board to hold psychologists accountable on the following grounds:

**4732.17 Actions against applicants or license holders.**

(A) Subject to division (F) of this section, the state board of psychology may take any of the actions specified in division (C) of this section against an applicant for or a person who holds a license issued under this chapter on any of the following grounds as applicable:

- (1) Conviction, including a plea of guilty or no contest, of a felony, or of any offense involving moral turpitude, in a court of this or any other state or in a federal court;
- (2) A judicial finding of eligibility for intervention in lieu of conviction for a felony or any offense involving moral turpitude in a court of this or any other state or in a federal court;
- (3) Using fraud or deceit in the procurement of the license to practice psychology or school psychology or knowingly assisting another in the procurement of such a license through fraud or deceit;
- (4) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;
- (5) Willful, unauthorized communication of information received in professional confidence;
- (6) Being negligent in the practice of psychology or school psychology;
- (7) Inability to practice according to acceptable and prevailing standards of care by reason of a mental, emotional, physiological, or pharmacological condition or substance abuse;
- (8) Subject to section 4732.28 of the Revised Code, violating any rule of professional conduct promulgated by the board;
- (9) Practicing in an area of psychology for which the person is clearly untrained or incompetent;
- (10) An adjudication by a court, as provided in section 5122.301 of the Revised Code, that the person is incompetent for the purpose of holding the license. Such person may have the person’s license issued or restored only upon determination by a court that the person is

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

competent for the purpose of holding the license and upon the decision by the board that such license be issued or restored. The board may require an examination prior to such issuance or restoration.

(11) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers psychological services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;

(12) Advertising that the person will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers psychological services, would otherwise be required to pay;

(13) Any of the following actions taken by the agency responsible for authorizing or certifying the person to practice or regulating the person’s practice of a health care occupation or provision of health care services in this state or another jurisdiction, as evidenced by a certified copy of that agency’s records and findings for any reason other than the nonpayment of fees:

(a) Limitation, revocation, or suspension of the person’s license to practice;

(b) Acceptance of the person’s license surrender;

(c) Denial of a license to the person;

(d) Refuse to renew or reinstate the person’s license;

(e) Imposition of probation on the person;

(f) Issuance of an order of censure or other reprimand against the person;

(g) Other negative action or finding against the person about which information is available to the public.

(14) Offering or rendering psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;

(15) Offering or rendering psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code;

(16) Unless the person is a school psychologist licensed by the state board of education:

(a) Offering or rendering school psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

(b) Offering or rendering school psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code.

(17) Violating any adjudication order or consent agreement adopted by the board;

(18) Failure to submit to mental, cognitive, substance abuse, or medical evaluations, or a combination of these evaluations, ordered by the board under division (E) of this section.

**Is the regulation effective at preventing the harm described above? Are there other, less restrictive ways to prevent the harm?**

The Psychology Board has the responsibility for regulating behavior that typically occurs when patients are highly vulnerable in terms of their emotional condition, self-concept, and relationships. Ohio’s consumers of psychological services expect from their psychologists a certain level of compassion, competence, trust, confidentiality, and a clearly defined role. No set of regulatory laws and rules can prevent all harm among those in the regulated community. Therefore, there need to be clear statutory do’s and don’ts and rules of professional conduct rooted in patient rights and prevailing standards of care. The Board’s educational, training, and examination requirements for psychologists are effective and clear. The Board’s laws and rules governing complaint filing and investigations provide an efficient process rooted in due process for the license holder and compassion and trauma-based support for the complainant.

**Are there any changes the Board would like to see implemented?**

The public would benefit from the inclusion of a Certified Ohio Behavior Analyst (COBA) on the Board. The Board’s board member appointment requirements were not amended when taking on the regulation of COBA’s in 2013. The requirement to have six (6) psychologists/school psychologists and three (3) consumer advocates could be enhanced by a statutory change to 4732.02 requiring that there be a COBA on the Board or a psychologist who is also a COBA. This would help by ensuring that there is a board member who is trained and expert in Applied Behavior Analysis to assist with investigations specific to the practice of ABA (most of the complaints are in the context of services being rendered to children on the Autism Spectrum).

**Comparison to other states** *(How many other states regulate the occupation? How do Ohio's regulations compare to those others states? Is Ohio more restrictive? Less restrictive? Or somewhere in between?)*

The practice of psychology is regulated by all 50 states, the District of Columbia, and U.S. territories. As a member of the Association of state and Provincial Psychology Boards (ASPPB), the Board is familiar with the regulations of other states. Professional conduct (ethics) rules evidence minor variability from state to state, although there is significant variability in state laws related to licensure qualifications. The Board's educational and training requirements for licensure are among the least restrictive and most flexible in the country. For example, approximately 50% of states require that the doctoral degree be awarded by a program that is accredited by the American Psychological Association (APA), and 70% of states require a minimum of one year of full-time post-doctoral training to qualify for licensure as a psychologist. The Ohio Board of Psychology has required neither since 2010, when HB503 eliminated a substantial barrier to licensure (the post-doctoral year of training).

Specifically, the Ohio Board's law provides applicants with nationally-recognized flexibility in terms of the academic program and the timing of qualifying supervised experience. In 2009 (HB503, 127th GA), the Board supported legislation that was enacted and which eliminated the post-doctoral training year requirement for applicants with doctoral degrees from APA-accredited programs, shaving at least a year off the requirements, and admitting psychologists into the workforce without unnecessary delay. The flexibility extends to the nature of the doctoral programs as well. Specifically, the Board continues to recognize doctoral degrees in psychology from programs not accredited by the APA as long as the academic institution holds regional accreditation by the American Council on Education. Applicants with non-accredited degrees remain eligible for licensure if they complete the post-doc year of training. This is a creative and flexible model of licensure that gives wide berth to various educational and training models.

The process leading to HB503 involved stakeholders from the academic and training communities in the wake of a major policy shift by the American Psychological Association (APA). Prior to the policy change, all states required a minimum of at least one-year of post-doctoral training prior to the issuance of the psychologist license. APA changed their model legislation by eliminating the post-doc year as mandatory, largely because the amount and quality of training within doctoral programs has improved so much over the past couple of decades. The Board supported the change to Ohio law to eliminate the post-doc year of training because we retained the requirement for 3,600 hours of training by allowing up to half of those hours to be completed under supervision within the doctoral program. Since 2010, this has resulted in approximately 50% of psychologist applicants to be licensed approximately one year earlier than would have been the case when the post-doc training year was mandatory.

## Surrounding state comparison (LSC)

| Psychologist          |  |   |  |  |  |   |
|-----------------------|--|---|--|--|--|---|
|                       | Ohio   | Indiana   | Kentucky   | Michigan   | Pennsylvania   | West Virginia   |
| License required?     | Yes ( <i>R.C. 4732.09, 4732.13, and 4732.21</i> )  | Yes ( <i>Ind. Code Ann. 25-33-1-14(b)</i> )   | Yes ( <i>Ky. Rev. Stat. Ann. 319.005(1)</i> )  | Yes ( <i>Mich. Comp. Laws 333.18211(1)</i> )   | Yes ( <i>63 Pa. Cons. Stat. 1203</i> )   | Yes ( <i>W. Va. Code Ann. 30-21-3</i> )   |
| Education or training | Meets one of the following: <ol style="list-style-type: none"> <li>Received a doctorate, from an accredited institution and a program accredited by certain professional psychological associations;</li> <li>Received a doctorate in psychology or school psychology, but the program is not accredited by</li> </ol> | Possesses a doctoral degree in psychology from a recognized postsecondary educational institution and from an approved psychology ( <i>Ind. Code Ann. 25-33-1-5.1(a)(4)</i> ) | Meets both of the following: <ol style="list-style-type: none"> <li>Received a doctoral degree in psychology that is acceptable to the Board of Examiners of Psychology from a regionally accredited educational institution, or a doctoral degree from an educational institution outside the U.S. that would have</li> </ol> | Received a doctoral degree, either in psychology or a closely related field, from a degree program that meets the following: <ol style="list-style-type: none"> <li>Is offered by a Board of Psychology-approved college, university, or institution and includes appropriate psychology education and training;</li> <li>Has appropriate</li> </ol> | Holds either: <ol style="list-style-type: none"> <li>A PhD in psychology, a Doctor in psychology, or a Doctor of Education in psychology; or</li> <li>A doctoral degree in a field related to psychology</li> </ol> ( <i>63 Pa. Cons. Stat. 1206(a)(2)</i> ) | Holds either: <ol style="list-style-type: none"> <li>A PhD (or equivalent); or</li> <li>A master's degree in psychology from an accredited higher education institution with adequate course study in psychology</li> </ol> ( <i>W. Va. Code Ann. 30-21-7(a)(3)</i> ) |

| Psychologist |  |         |  |   |              |               |
|--------------|--|---------|--|---|--------------|---------------|
|              | Ohio   | Indiana | Kentucky   | Michigan  | Pennsylvania | West Virginia |
|              | <p>the professional psychological associations (referred to above);</p> <p>3. Received an equivalent degree to a psychology doctorate earned outside the U.S. or Canada; or</p> <p>4. Held a psychologist license, certificate, or registration required for practice in another U.S. or Canadian jurisdiction for at least ten years and meets educational, experience,</p> |         | <p>been similarly accredited had it been in the U.S.;</p> <p>2. Passed the Examination for Profession Practice in Psychology at the doctoral level</p> <p><i>(Ky. Rev. Stat. Ann. 319.050(2)(b) and (c))</i></p> | <p>accreditation/ registration by any of certain professional psychological associations or entities</p> <p><i>(Mich. Comp. Laws 333.18223(1)(a))</i></p> |              |               |

| Psychologist |   |         |   |   |   |  |
|--------------|---|---------|---|---|---|--|
|              | Ohio  | Indiana | Kentucky  | Michigan  | Pennsylvania  | West Virginia  |
|              | and professional requirements established by the State Board of Psychology<br><i>(R.C. 4732.10(B)(3))</i>   |         |   |   |   |  |
| Experience   | Two years of supervised professional experience in psychological work (that includes one year of predoctoral internship) or, if received an equivalent degree or doctorate from a program without accreditation (as described above), two years of supervised experience in psychological | N/A     | Two years of supervised professional experience (that includes one year of internship) <i>(Ky. Rev. Stat. Ann. 319.050(2)(d))</i> | Both of the following:<br><br>1. Internship integrated with the doctoral program or an equivalent postdoctoral internship;<br><br>2. One year postdoctoral experience in the practice of psychology<br><br><i>(Mich. Admin. Code R.</i> | Two years of supervised experience <i>(63 Pa. Cons. Stat. 1206(a)(2))</i> | For PhDs (or equivalent degree): 1,800 hours of predoctoral internship<br><br>For master's degrees: five years postdegree experience providing psychological services<br><br><i>(W. Va. Code Ann. 30-21-7(a)(4))</i> |

| Psychologist          |   |  |   |   |  |  |
|-----------------------|---|--|---|---|--|--|
|                       | Ohio  | Indiana                                    | Kentucky  | Michigan  | Pennsylvania                             | West Virginia  |
|                       | work (that includes one year of postdoctoral internship) (R.C. 4732.10(B)(4) and (5)) |  |   | 338.2543(b) and (c)   |  |  |
| Exam                  | Yes (R.C. 4732.10(A))   | Yes (Ind. Code Ann. 25-33-1-5.1(a)(7))     | Yes (Ky. Rev. Stat. Ann. 319.050(1))                  | Yes (Mich. Admin. Code R. 338.2545)   | Yes (63 Pa. Cons. Stat. 1206(a)(3))      | Yes (W. Va. Code Ann. 30-21-7; W. Va. Code R. 17-3-14) |
| Continuing education  | 23 hours (R.C. 4732.141(A) and (D))   | 40 hours (Ind. Code Ann. 25-33-2-2(a))     | 39 hours (201 Ky. Admin. Regs. 26:175, Section 2 (1)) | 30 hours (Mich. Admin. Code R. 338.2581(2))   | 30 hours (49 Pa. Code 41.59(b))          | 20 hours (W. Va. Code R. 17-3-20)                      |
| Initial licensure fee | \$300 (R.C. 4732.14; O.A.C. 4732-1-03(A))   | \$100 (868 Ind. Admin. Code 1.1.-12-1.5)   | \$250 (201 Ky. Admin. Regs. 26:160(4)(a))             | \$162.20 (Michigan Licensing and Regulatory Affairs, Bureau of Professional Licensing, <a href="#">Psychology Licensing Guide</a> ) | \$105 (49 Pa. Code 41.12)                | \$133 (W. Va. Code R. 17-1-2)                          |
| License duration      | Two years (R.C. 4732.14; O.A.C. 4732-1-06)  | Two years (868 Ind. Admin. Code 1.1.-15-2) | Three years (Ky. Rev. Stat. Ann. 319.071(1))          | Two years (Michigan Licensing and Regulatory  | Two years (49 Pa. Code 41.11(c) and (d)) | Two years (W. Va. Code Ann. 30-21-8(b))                |

| Psychologist |   |  |   |   |                                    |  |
|--------------|---|--|---|---|------------------------------------|--|
|              | Ohio  | Indiana  | Kentucky  | Michigan  | Pennsylvania                       | West Virginia                          |
|              |   |  |   | <i>Affairs, Bureau of Professional Licensing, <a href="#">Psychology FAQ</a></i>  |                                    |  |
| Renewal fee  | \$365 ( <i>R.C. 4732.14(A); O.A.C. 4732-1-03(B)</i> ) | \$100 ( <i>868 Ind. Admin. Code 1.1-12-1.5</i> ) | \$450 ( <i>201 Ky. Admin. Regs. 26:160(5)</i> ) | \$205.50 ( <i>Michigan Licensing and Regulatory Affairs, Bureau of Professional Licensing, <a href="#">Psychology Licensing Guide</a></i> ) | \$300 ( <i>49 Pa. Code 41.12</i> ) | \$450 ( <i>W. Va. Code R. 17-1-2</i> ) |

## School psychologist's license

### Survey responses (PSY)

| Description   |
|---|
| <p>There are two school psychologist licenses issued in the state of Ohio. The Ohio Department of Education (ODE) issues a license for the practice of school psychology in school settings. The Psychology Board issues a school psychologist license that authorizes the practice of school psychology outside of school settings. The Board's license requires an additional three (3) years of experience beyond that required by ODE, a recent passing score on the national school psychology examination (Praxis) and a passing score on the Psychology Board's oral jurisprudence examination.</p> <p>ODE therefore has regulatory oversight of its school psychologists issued licenses to practice in school settings. Those school psychologists who wish to make services more broadly available to students and families outside of the school setting—for example, second opinion</p> |

**Description**

evaluations, more intensive evaluations during summers, and highly personalized assessment and interventions specific to educationally-related learning problems—seek the Psychology Board’s license.

**Type** *(See R.C. 4798.01 for relevant definitions.)*

License

**If the regulation is a registration, certification, or license requirement, please complete the following:**

|   |   |
|---|---|
| <b>Number issued annually</b>   | 15  |
| <b>Number renewed annually</b>  | 200 (biannual)  |
| <b>Have there been significant increases or decreases in active registrations, certifications or licenses in the preceding six years?</b> | No  |
| <b>Education or training requirements</b>   | Minimum of a master’s degree in school psychology from a regionally accredited academic institution |

| If the regulation is a registration, certification, or license requirement, please complete the following:   |  |
|--|--|
| <b>Experience requirements</b>   | Four years full-time experience working as a school psychologist in a school setting   |
| <b>Examination requirements</b> ( <i>Who administers the exam? How is the exam and administrator selected? What fees are charged? Does the Board receive any proceeds of those fees? If so, how are the proceeds used?</i> ) | The Praxis School Psychology Specialty Examination is administered by the Educational Testing Service (ETS). It is the national examination for school psychologist licensure in the U.S. The cost charged by ETS is \$120, and the Psychology board does not receive any of those fees.   |
| <b>Continuing education requirements</b> ( <i>Including a description of the curriculum and the process of setting it.</i> )   | <ul style="list-style-type: none"> <li>▫ License holders are required to complete no fewer than 23 hours of qualifying continuing education credits biannually to qualify for license renewal. A minimum of four (4) hours shall be in ethics, professional conduct, and/or cultural competence. Continuing psychology education may be applied to meet the requirements if both of the following requirements are met:</li> <li>▫ (1) It is obtained through a program or course approved by the state board of psychology, the Ohio psychological association, the Ohio association of black psychologists, or the American psychological association or, in the case of a school psychologist who holds a license issued under this chapter or a licensed psychologist with a school psychology specialty, by the state board of education, the Ohio school psychologists association, or the national association of school psychologists;</li> <li>▫ (2) Completion of the program or course is recorded with the Ohio psychological association or the Ohio school psychologists association in accordance with rules adopted by the state board of psychology in accordance with division (A) of this section.</li> </ul> |
| <b>Initial fee</b>   | \$300  |
| <b>Duration</b>  | 2 years  |
| <b>Renewal fee</b> ( <i>If different from initial fee, please explain why.</i> )   | \$365; set in ORC 4732.14 (A)  |

| <b>If the regulation is a registration, certification, or license requirement, please complete the following:</b>                              |   |
|--|---|
| <b>Does the Board recognize uniform licensure requirements or allow for reciprocity?</b>   | No.   |
| <b>Are there any similar national registrations, certifications, or licenses? Could they be used as a substitute for the state regulation?</b> | The National Association of School Psychologists (NASP) offers a private credential “Nationally Certified School Psychologist (NCSP).” This credential could be used for ODE licensure because it is entry-level and is based only on a master’s degree and a passing Praxis test core. It does not require the additional experience that is conducted by the Board (set in ORC 4732.10), and does not require a passing score on the Ohio oral jurisprudence examination.   |
| <b>Are there any circumstances in which an individual may practice elements of the occupation without being regulated by the board?</b>        | <p>Yes. Most school psychologist in Ohio are only licensed by the ODE. By law, those individuals practicing only in school settings do not require licensure by the Psychology Board. This exemption is found here:</p> <p>4732.22 Exemptions from licensing requirements.</p> <p>(A) The following persons are exempted from the licensing requirements of this chapter:</p> <p>(1) A person who holds a license or certificate issued by the state board of education authorizing the practice of school psychology, while practicing school psychology within the scope of employment by a board of education or by a private school meeting the standards prescribed by the state board of education under division (D) of section 3301.07 of the Revised Code, or while acting as a school psychologist within the scope of employment in a program for children with disabilities established under Chapter 3323. or 5126. of the Revised Code. A person exempted under this division shall not offer psychological services to any other individual, organization, or group for remuneration, monetary or otherwise, unless the person is licensed by the state board of psychology.</p> |
| <b>Is the Board permitted to exercise discretion in determining whether to register, certify, or license an individual?</b>                    | Board law and rules contain specific educational, training, and examination requirements. The Board has discretion to review applications for these requirements, although there is limited discretion if the qualifications are satisfied.   |

**If the regulation is a registration, certification, or license requirement, please complete the following:**

**Other information** (*Significant attributes or prerequisites to licensure not addressed in this chart.*)

N/A

**Oversight and disciplinary authority of the Board respecting individuals engaged in the occupation.**

**4732.16 Investigations.**

(A) The state board of psychology shall investigate alleged violations of this chapter or the rules adopted under it. Each investigation shall be assigned by the executive director or designated investigator to one of the members of the board who shall serve as the supervising member of the investigation.

As part of its conduct of investigations, the board may examine witnesses, administer oaths, and issue subpoenas, except that the board may not compel the attendance of the respondent in an investigation. A subpoena for patient record information may be issued only if the supervising member, executive director, secretary, and an attorney from the office of the attorney general determine that there is probable cause to believe that the complaint alleges a violation of this chapter and that the records sought are relevant to the alleged violation and material to the investigation. No member of the board who supervises the investigation or approves the issuance of a subpoena for patient records shall participate in further adjudication of the case. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation. On failure of a person to comply with a subpoena issued by the board and after reasonable notice to that person, the board may move for an order compelling the production of records or persons pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named in the subpoena, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a person whose practice is authorized by this chapter, service of the subpoena may be made by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for witnesses under section 119.094 of the Revised Code.

(B)

(1) The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants

### Oversight and disciplinary authority of the Board respecting individuals engaged in the occupation.

unless proper consent is given or, in the case of a patient, the patient privilege has been waived by the patient. Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

(2) The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other government agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as the board must comply with under division (B)(1) of this section, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession.

(3) In a judicial proceeding, any information the board receives pursuant to an investigation may be admitted into evidence only in accordance with the Ohio Rules of Evidence, but the court shall require that appropriate measures be taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

Added by 130th General Assembly File No. 51, HB 83, §1, eff. 3/20/2014.

4732.17 Actions against applicants or license holders.

(A) Subject to division (F) of this section, the state board of psychology may take any of the actions specified in division (C) of this section against an applicant for or a person who holds a license issued under this chapter on any of the following grounds as applicable:

(1) Conviction, including a plea of guilty or no contest, of a felony, or of any offense involving moral turpitude, in a court of this or any other state or in a federal court;

(2) A judicial finding of eligibility for intervention in lieu of conviction for a felony or any offense involving moral turpitude in a court of this or any other state or in a federal court;

(3) Using fraud or deceit in the procurement of the license to practice psychology or school psychology or knowingly assisting another in the procurement of such a license through fraud or deceit;

(4) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;

(5) Willful, unauthorized communication of information received in professional confidence;

(6) Being negligent in the practice of psychology or school psychology;

(7) Inability to practice according to acceptable and prevailing standards of care by reason of a mental, emotional, physiological, or pharmacological condition or substance abuse;

**Oversight and disciplinary authority of the Board respecting individuals engaged in the occupation.**

(8) Subject to section 4732.28 of the Revised Code, violating any rule of professional conduct promulgated by the board;

(9) Practicing in an area of psychology for which the person is clearly untrained or incompetent;

(10) An adjudication by a court, as provided in section 5122.301 of the Revised Code, that the person is incompetent for the purpose of holding the license. Such person may have the person's license issued or restored only upon determination by a court that the person is competent for the purpose of holding the license and upon the decision by the board that such license be issued or restored. The board may require an examination prior to such issuance or restoration.

(11) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers psychological services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;

(12) Advertising that the person will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers psychological services, would otherwise be required to pay;

(13) Any of the following actions taken by the agency responsible for authorizing or certifying the person to practice or regulating the person's practice of a health care occupation or provision of health care services in this state or another jurisdiction, as evidenced by a certified copy of that agency's records and findings for any reason other than the nonpayment of fees:

(a) Limitation, revocation, or suspension of the person's license to practice;

(b) Acceptance of the person's license surrender;

(c) Denial of a license to the person;

(d) Refuse to renew or reinstate the person's license;

(e) Imposition of probation on the person;

(f) Issuance of an order of censure or other reprimand against the person;

(g) Other negative action or finding against the person about which information is available to the public.

(14) Offering or rendering psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;

(15) Offering or rendering psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code;

**Oversight and disciplinary authority of the Board respecting individuals engaged in the occupation.**

(16) Unless the person is a school psychologist licensed by the state board of education:

(a) Offering or rendering school psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;

(b) Offering or rendering school psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code.

(17) Violating any adjudication order or consent agreement adopted by the board;

(18) Failure to submit to mental, cognitive, substance abuse, or medical evaluations, or a combination of these evaluations, ordered by the board under division (E) of this section.

(B) Notwithstanding divisions (A)(11) and (12) of this section, sanctions shall not be imposed against any license holder who waives deductibles and copayments:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copays shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Such consent shall be made available to the board upon request.

(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

(C) For any of the reasons specified in division (A) of this section, the board may do one or more of the following:

(1) Refuse to issue a license to an applicant;

(2) Issue a reprimand to a license holder;

(3) Suspend the license of a license holder;

(4) Revoke the license of a license holder;

(5) Limit or restrict the areas of practice of an applicant or a license holder;

(6) Require mental, substance abuse, or physical evaluations, or any combination of these evaluations, of an applicant or a license holder;

(7) Require remedial education and training of an applicant or a license holder.

### Oversight and disciplinary authority of the Board respecting individuals engaged in the occupation.

(D) When it revokes the license of a license holder under division (C)(4) of this section, the board may specify that the revocation is permanent. An individual subject to permanent revocation is forever thereafter ineligible to hold a license, and the board shall not accept an application for reinstatement of the license or issuance of a new license.

(E) When the board issues a notice of opportunity for a hearing on the basis of division (A)(7) of this section, the supervising member of the board, with cause and upon consultation with the board's executive director and the board's legal counsel, may compel the applicant or license holder to submit to mental, cognitive, substance abuse, or medical evaluations, or a combination of these evaluations, by a person or persons selected by the board. Notice shall be given to the applicant or license holder in writing signed by the supervising member, the executive director, and the board's legal counsel. The applicant or license holder is deemed to have given consent to submit to these evaluations and to have waived all objections to the admissibility of testimony or evaluation reports that constitute a privileged communication. The expense of the evaluation or evaluations shall be the responsibility of the applicant or license holder who is evaluated.

(F) Before the board may take action under this section, written charges shall be filed with the board by the secretary and a hearing shall be had thereon in accordance with Chapter 119. of the Revised Code, except as follows:

(1) On receipt of a complaint that any of the grounds listed in division (A) of this section exist, the state board of psychology may suspend a license issued under this chapter prior to holding a hearing in accordance with Chapter 119. of the Revised Code if it determines, based on the complaint, that there is an immediate threat to the public. A telephone conference call may be used to conduct an emergency meeting for review of the matter by a quorum of the board, taking the vote, and memorializing the action in the minutes of the meeting.

After suspending a license pursuant to division (F)(1) of this section, the board shall notify the license holder of the suspension in accordance with section 119.07 of the Revised Code. If the individual whose license is suspended fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the license.

(2) The board shall adopt rules establishing a case management schedule for pre-hearing procedures by the hearing examiner or presiding board member. The schedule shall include applicable deadlines related to the hearing process, including all of the following:

(a) The date of the hearing;

(b) The date for the disclosure of witnesses and exhibits;

(c) The date for the disclosure of the identity of expert witnesses and the exchange of written reports;

(d) The deadline for submitting a request for the issuance of a subpoena for the hearing as provided under Chapter 119. of the Revised Code and division (F)(4) of this section.

(3) Either party to the hearing may submit a written request to the other party for a list of witnesses and copies of documents intended to be introduced at the hearing. The request shall be in writing and shall be served not less than thirty-seven days prior to the hearing, unless the

**Oversight and disciplinary authority of the Board respecting individuals engaged in the occupation.**

hearing officer or presiding board member grants an extension of time to make the request. Not later than thirty days before the hearing, the responding party shall provide the requested list of witnesses, summary of their testimony, and copies of documents to the requesting party, unless the hearing officer or presiding board member grants an extension. Failure to timely provide a list or copies requested in accordance with this section may, at the discretion of the hearing officer or presiding board member, result in exclusion from the hearing of the witnesses, testimony, or documents.

(4) In addition to subpoenas for the production of books, records, and papers requested under Chapter 119. of the Revised Code, either party may ask the board to issue a subpoena for the production of other tangible items.

The person subject to a subpoena for the production of books, records, papers, or other tangible items shall respond to the subpoena at least twenty days prior to the date of the hearing. If a person fails to respond to a subpoena issued by the board, after providing reasonable notice to the person, the board, the hearing officer, or both may proceed with enforcement of the subpoena pursuant to section 119.09 of the Revised Code.

**How much revenue is derived from fees charged by the Board to individuals engaged in the occupation (such as license and renewal fees)? How is that revenue used?**

Biannually, school psychologist license applicants and license holders account for approximately \$80,000 in revenue deposited to the 4K90 account. All deposits are credited to the Psychology board and are allocated to the contributing boards during the biennial budget process pursuant to:

4732.08 Depositing receipts.

All receipts of the state board of psychology from any source, including moneys collected under Chapter 4783. of the Revised Code, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund.”

Overall, to regulate all license types, the Psychology Board is allotted biennial operating funds in an amount significantly less than its generated revenue. For example, in FY18-19, the Psychology Board received revenue from applicants and license holders of approximately \$1,488,000. The Board’s biennial expenditures for FY18-19 were approximately \$1,276,000, which was below our total allocation. The Board therefore remains self-funding and has not, since its inception in 1972, required Controlling Board approval of funding in excess of the Executive Budget allocations.

**Describe any federal regulations that apply to the occupation. Does federal law require the state to regulate the occupation?**

There are no federal laws to our awareness that require the state to regulate the practice of school psychology.

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

▫ The practice of school psychology is regulated under ORC 4732 because of the hazardous nature of psychological procedures, evaluations, interventions. Harm comes in the form of patient rights violations, including but not limited to breaches of confidentiality, negligence (failing to provide care within a prevailing standard of care), failure to receive informed consent to services, sexual and financial exploitation, practicing while impaired, and rendering forensic psychology opinions in a biased manner. The Board’s regulations are intended to foster the general health, safety, and welfare of Ohio’s consumers of psychological services, including protection from incompetent and dangerous practices, fraud, and exploitation. The Ohio General Assembly, via ORC 4732.17, authorizes the Board to hold psychologists accountable on the following grounds:

**4732.17 Actions against applicants or license holders.**

(A) Subject to division (F) of this section, the state board of psychology may take any of the actions specified in division (C) of this section against an applicant for or a person who holds a license issued under this chapter on any of the following grounds as applicable:

- (1) Conviction, including a plea of guilty or no contest, of a felony, or of any offense involving moral turpitude, in a court of this or any other state or in a federal court;
- (2) A judicial finding of eligibility for intervention in lieu of conviction for a felony or any offense involving moral turpitude in a court of this or any other state or in a federal court;
- (3) Using fraud or deceit in the procurement of the license to practice psychology or school psychology or knowingly assisting another in the procurement of such a license through fraud or deceit;
- (4) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;
- (5) Willful, unauthorized communication of information received in professional confidence;

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

- (6) Being negligent in the practice of psychology or school psychology;
- (7) Inability to practice according to acceptable and prevailing standards of care by reason of a mental, emotional, physiological, or pharmacological condition or substance abuse;
- (8) Subject to section 4732.28 of the Revised Code, violating any rule of professional conduct promulgated by the board;
- (9) Practicing in an area of psychology for which the person is clearly untrained or incompetent;
- (10) An adjudication by a court, as provided in section 5122.301 of the Revised Code, that the person is incompetent for the purpose of holding the license. Such person may have the person’s license issued or restored only upon determination by a court that the person is competent for the purpose of holding the license and upon the decision by the board that such license be issued or restored. The board may require an examination prior to such issuance or restoration.
- (11) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers psychological services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;
- (12) Advertising that the person will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers psychological services, would otherwise be required to pay;
- (13) Any of the following actions taken by the agency responsible for authorizing or certifying the person to practice or regulating the person’s practice of a health care occupation or provision of health care services in this state or another jurisdiction, as evidenced by a certified copy of that agency’s records and findings for any reason other than the nonpayment of fees:
  - (a) Limitation, revocation, or suspension of the person’s license to practice;
  - (b) Acceptance of the person’s license surrender;
  - (c) Denial of a license to the person;
  - (d) Refuse to renew or reinstate the person’s license;
  - (e) Imposition of probation on the person;
  - (f) Issuance of an order of censure or other reprimand against the person;
  - (g) Other negative action or finding against the person about which information is available to the public.

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

- (14) Offering or rendering psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;
- (15) Offering or rendering psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code;
- (16) Unless the person is a school psychologist licensed by the state board of education:
  - (a) Offering or rendering school psychological services after a license issued under this chapter has expired due to a failure to timely register under section 4732.14 of the Revised Code or complete continuing education requirements;
  - (b) Offering or rendering school psychological services after a license issued under this chapter has been placed in retired status pursuant to section 4732.142 of the Revised Code.
- (17) Violating any adjudication order or consent agreement adopted by the board;
- (18) Failure to submit to mental, cognitive, substance abuse, or medical evaluations, or a combination of these evaluations, ordered by the board under division (E) of this section.

**Is the regulation effective at preventing the harm described above? Are there other, less restrictive ways to prevent the harm?**

The Psychology Board has the responsibility for regulating the behavior of school psychologists that typically occurs when patients are highly vulnerable in terms of their emotional condition, self-concept, and relationships. Ohioans typically seek services when there is a crisis of living. Ohio’s consumers of psychological services expect from their psychologist compassion, competence, trust, confidentiality, and a clearly defined role. No set of laws and regulations alone can prevent all harm among those in the regulated community. However, there need to be clear statutory do’s and don’ts and rules of professional conduct rooted in patient rights and prevailing standards of care. The Board’s educational, training, and examination requirements for school psychologists are effective and clear. The Board’s laws and rules governing complaint filing and investigations provide an efficient process rooted in due process for the license holder and compassion and support for the complainant.

Less restrictive ways to prevent harm are not appropriate in this area of regulatory law, most notably due to the importance of context in the conduct of investigations and the negotiation of disciplinary actions. For example, state policy holds in ORC 103.27 that protecting the general health, safety, and welfare is consistent with conducting periodic inspections. However, the practice of psychology is not amenable to inspections because of privacy and confidentiality. When maintaining accountability in the practice of psychology, it is not so simple as entering an establishment to conduct observations or take inventory, etc. On the contrary, many violations in the practice of psychology occur in private or within a confidential process that requires the expertise of Board members and seasoned career employees to unravel, interpret,

**Is the regulation effective at preventing the harm described above? Are there other, less restrictive ways to prevent the harm?**

and understand. Understanding the nuance and the context within which complaints are filed and allegations are made is critical both for the complainant and for the license holder subject to a complaint. In addition to protecting the general health, safety and welfare of Ohioans, patient complaints about financial issues or fraud are always rooted in context and can be nuanced. This is why occupational expertise is required at the Psychology Board. Psychologist board members and psychology investigators are the best equipped to answer questions raised in investigations. The Board asserts that there must be a public complaint process that can result in detailed investigations including a review of records, and only the patient can release records to the Board. Psychologists are put on notice about the law and rules of professional conduct when issued the license, and disciplinary actions are made public.

**Are there any changes the Board would like to see implemented?**

The Board's state at ORC 4732.11 (D) requires the appointment of a School Psychology Examination Committee. This made sense many years ago, when the committee administered an essay examination and a special oral examination to school psychology license candidates. However, the essay examination was discontinued in approximately 2008, and the Board has been administering the same oral examination to the school psychology candidates as to the psychologist candidates since approximately 2010. The number of school psychology applicants is modest, and members of the Board have been able to integrate the examinations into their schedules without the need to ask members of the School Psychology Examination Committee to administer exams. Therefore, the committee specified in ORC 4732.11 (D) is redundant and expensive, in that it costs money from the Board budget to carry committee members on payroll, and pay for their annual financial disclosure statements filed with the Ohio Ethics Commission. The committee is no longer needed to serve its designated function, so ORC 4732.11 (D) could be struck.

**Comparison to other states** *(How many other states regulate the occupation? How do Ohio's regulations compare to those others states? Is Ohio more restrictive? Less restrictive? Or somewhere in between?)*

The Board's regulations in the area of School Psychology are generally consistent with other state board of psychology that regulate the practice of school psychologists outside of school settings. This is known as a masters-level limited license, and those states that issue such a license tend to show uniformity in this area of licensure.

## Surrounding state comparison (LSC)

| School Psychologist   |   |  |  |  |  |  |
|-----------------------|---|--|--|--|--|--|
|                       | Ohio  | Indiana  | Kentucky   | Michigan   | Pennsylvania   | West Virginia  |
| License required?     | Yes ( <i>R.C. 4732.09, 4732.13, and 4732.21</i> )   | Yes – independent practice endorsement ( <i>511 Ind. Admin. Code 19-1-2</i> )  | Yes ( <i>Ky. Rev. Stat. Ann. 319.005(1)</i> )  | Yes ( <i>Mich. Admin. Code R. 380.202</i> )  | Yes – educational specialist certificate ( <i>24 Pa. Cons. Stat. 2070.2 and 2070.1b; 22 Pa. Code 49.1, 49.102, and 49.103</i> )  | Yes ( <i>W. Va. Code Ann. 30-21-3; W. Va. Code R. 17-3-16.1.a, and 16.1.b</i> )  |
| Education or training | Meets both of the following:<br><br>1. Received at least a master’s degree in school psychology, or equivalent degree, from an educational institution accredited or recognized by national or regional accrediting agencies as | Meets all of the following:<br><br>1. Currently licensed as a school psychologist in Indiana;<br><br>2. Employed by certain entities at least 30 hours per week, unless one of the following applies:<br><br>a. The individual is retired from | Meets both of the following:<br><br>1. Received a doctoral degree in school psychology that is acceptable to the Board from a regionally accredited educational institution, or a doctoral degree in school psychology | Possess both of the following:<br><br>1. A Michigan preliminary school psychologist certificate;<br><br>2. A specialist-level degree, or an equivalent, in school psychology with at least 60 semester credit hours in the topic | Meets all of the following:<br><br>1. Completes a Department-approved induction program;<br><br>2. 24 credit hours of either:<br><br>a. Collegiate study, or its equivalent, in Department-approved credits; | Meets the following:<br><br>1. Obtained a valid certificate of school psychology from the State Superintendent of Schools, a Certificate of Advance Study (CAS) in school psychology, and a master’s degree in |

| School Psychologist |  |   |  |  |   |   |
|---------------------|--|---|--|--|---|---|
|                     | Ohio   | Indiana   | Kentucky   | Michigan   | Pennsylvania  | West Virginia   |
|                     | <p>maintaining satisfactory standards, including those approved by the State Board of Education;</p> <p>2. Completed 60 quarter hours, or semester-hour equivalent, at the graduate level, of accredited study in coursework relevant to school psychology<br/><i>(R.C. 4732.10(C)(1) and (4))</i></p> | <p>full-time or part-time employment as a school psychologist; or</p> <p>b. The individual has a medical condition or disability that restricts mobility required for school employment;</p> <p>3. Received 60 semester hour master's or specialist degree in school psychology from one of the following:</p> <p>a. A recognized institution</p> | <p>from an educational institution outside the U.S. that would have been similarly accredited had it been in the U.S.;</p> <p>2. Passed the Examination for Profession Practice in Psychology at the doctoral level</p> <p><i>(Ky. Rev. Stat. Ann. 319.050(2)(b) and (c); email correspondence with Chessica Nation, Administrative Section Supervisor, Department of Professional Licensing, August 24, 2020)</i></p> | <p><i>(Mich. Admin. Code R. 380.204, 380.205, and 380.206)</i></p> | <p>b. Credits from an intermediate unit; or</p> <p>c. Any combination of the two<br/><i>(22 Pa. Code 49.103(1) and (3))</i></p> | <p>school psychology from a Board of Examiners of Psychologists-approved institution of higher education; or received equivalent training as determined by the Board</p> <p><i>(W. Va. Code Ann. 30-21-7b(1) and 30-21-7c(1))</i></p> |

| School Psychologist |  |  |  |  |  |  |
|---------------------|--|--|--|--|--|--|
|                     | Ohio   | Indiana  | Kentucky   | Michigan   | Pennsylvania   | West Virginia  |
|                     |  | <p>of higher learning; or</p> <p>b. A non-U.S. institution that has a program that meets the State Psychology Board's standards</p> <p><i>(511 Ind. Admin. Code 19-1-4(1), (2), and (3))</i></p>                           |  |  |  |  |
| Experience          | <p>Completes the following:</p> <ol style="list-style-type: none"> <li>1. An internship in an educational institution approved by the Ohio Department of Education (ODE) for school psychology supervised</li> </ol> | <p>All of the following:</p> <ol style="list-style-type: none"> <li>1. Complete graduate-level coursework and a practicum in assessment and counseling;</li> <li>2. 1,200 hours of school psychology experience</li> </ol> | <p>Two years of supervised professional experience (that includes one year of internship) <i>(Ky. Rev. Stat. Ann. 319.050(2)(d))</i></p> | <p>1,200-clock-hour internship with students in an approved school psychology prep program, with a minimum of 600 hours in a school setting with supervision <i>(Mich. Admin. Code R. 380.206(1)(c))</i></p> | <p>Held an Education Specialist I certificate for three years <i>(22 Pa. Code 49.103(2))</i></p> | <p>Three academic years of supervised experience in school psychology, which includes one year post degree internship or externship towards completion of the requirements for a CAS in school psychology or</p> |

| School Psychologist |  |   |          |          |              |   |
|---------------------|--|---|----------|----------|--------------|---|
|                     | Ohio   | Indiana   | Kentucky | Michigan | Pennsylvania | West Virginia   |
|                     | <p>experience or one year of other training experience acceptable to the Board;</p> <p>2. 27 months, exclusive of internship, of one of the following:</p> <p>a. A full-time experience as a certificated school psychologist employed by a public or a private school meeting ODE's standards; or</p> <p>b. An experience the Board</p> | <p>beyond the master's degree level (at least 600 hours of which are in a school setting with supervision by a licensed psychologist, school psychologist, or physician);</p> <p>3. 400 hours of supervised experience in identification and referral of mental and behavioral disorders; and</p> <p>4. 52 hours of supervision with a licensed physician, psychologist, or a school psychologist</p> |          |          |              | <p>similar designation approved the Board (<i>W. Va. Code Ann. 30-21-7b(2)</i>)</p> <p>Two additional years of Board-approved supervision by a licensed school psychologist are needed for Level 2 status (<i>W. Va. Code Ann. 30-21-7c(2)</i>)</p> |

| School Psychologist  |  |   |   |  |   |   |
|----------------------|--|---|---|--|---|---|
|                      | Ohio   | Indiana   | Kentucky  | Michigan   | Pennsylvania  | West Virginia   |
|                      | deems equivalent<br><i>(R.C. 4732.10(C) (5) and (6))</i> | that meets certain requirements<br><i>(511 Ind. Admin. Code 19-1-4(4) to (7))</i> |   |  |   |   |
| Exam                 | Yes <i>(R.C. 4732.11(B)(1))</i>                          | Yes <i>(511 Ind. Admin. Code 19-1-4(10))</i>                                      | Yes <i>(Ky. Rev. Stat. Ann. 319.050(1))</i>                 | N/A  | Yes <i>(Pennsylvania Department of Education, CSPG 7-Level II (Permanent) Certification)</i>  | Yes <i>(W. Va. Code Ann. 30-21-7b(3) and 30-21-7c(3))</i> |
| Continuing education | 23 hours <i>(R.C. 4732.141(A)(1))</i>                    | 90 hours <i>(511 Ind. Admin. Code 14-2-3(e))</i>                                  | 39 hours <i>(201 Ky. Admin. Regs. 26:175, Section 2(1))</i> | 150 hours <i>(Mich. Admin. Code R. 380.206(7))</i> | Must meet one of the following every five years in order to maintain active Education Specialist II certification:<br><br>1. Six credits of collegiate study;<br><br>2. Six credits of continuing professional education courses; | 30 hours <i>(W. Va. Code R. 17-3-20.6)</i>                |

| School Psychologist   |                                      |   |  |  |  |  |
|-----------------------|--------------------------------------|---|--|--|--|--|
|                       | Ohio                                 | Indiana   | Kentucky   | Michigan   | Pennsylvania   | West Virginia                            |
|                       |                                      |   |  |  | 3. 180 hours of continuing professional education courses, programs, activities, etc.; or<br><br>4. Any combination of the above equaling 180 hours, with one credit equaling 30 hours<br><br><i>(24 Pa. Cons. Stat. 12-1205.2(a)(1) to (4) and (b))</i> |  |
| Initial licensure fee | \$300 ( <i>O.A.C. 4732-1-03(A)</i> ) | \$70 ( <i>Indiana Department of Education, Licensing Fees</i> ) | \$250 ( <i>201 Ky. Admin. Regs. 26:160(4)(a)</i> ) | \$160 (in-state)<br>\$210 (out-of-state)<br><i>(Mich. Comp. Laws 380.1538(1)(a)(xi))</i> | \$200 one-time fee for certification as Education Specialist I and another for Education Specialist II<br><i>(Pennsylvania Department of</i>   | \$133 ( <i>W. Va. Code R. 17-1-2.1</i> ) |

| School Psychologist |  |   |   |   |   |   |
|---------------------|--|---|---|---|---|---|
|                     | Ohio                                     | Indiana   | Kentucky  | Michigan  | Pennsylvania  | West Virginia   |
|                     |  |   |   |   | <i>Education, Application Fees</i>  |   |
| License duration    | Two years ( <i>O.A.C. 4732-1-03(B)</i> ) | Five years ( <i>511 Ind. Admin. Code 14-3-2</i> )               | Three years ( <i>Ky. Rev. Stat. Ann. 319.071(1)</i> ) | Five years ( <i>Mich. Admin. Code R. 380.206(5)</i> ) | Education Specialist I certification expires after six years, Education Specialist II certification does not expire but can become inactive if continuing education requirements are not met ( <i>22 Pa. Code 49.2(a); Pennsylvania Department of Education, Level II Certification</i> ) | Three years ( <i>W. Va. Code R. 17-1-2.3.3 and 17-1-2.3.4</i> )   |
| Renewal fee         | \$365 ( <i>O.A.C. 4732-1-03(B)</i> )     | \$35 ( <i>Indiana Department of Education, Licensing Fees</i> ) | \$450 ( <i>201 Ky. Admin. Regs. 26:160(5)</i> )       | \$160 ( <i>Mich. Comp. Laws 380.1538(1)(b)(vi)</i> )  | N/A   | \$200 ( <i>W. Va. Code R. 17-1-2.1. and 2.3.3</i> )<br>\$300 for Level 2 ( <i>W. Va. Code R. 17-1-2.3.4</i> ) |

## Certified Ohio behavior analyst

### Survey responses (PSY)

#### Description

The Psychology Board has been regulating the practice of applied behavior analysis (ABA) since 2013, when HB59 of the 130<sup>th</sup> General Assembly was enacted as ORC 4783.

4783.01 Definitions.

As used in this chapter:

(A) “Certified Ohio behavior analyst” means an individual holding a current, valid certificate issued under section 4783.04 of the Revised Code.

(B)

(1) “Practice of applied behavior analysis” means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior and includes the following:

(a) The empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis;

(b) Interventions based on scientific research and the direct observation and measurement of behavior and the environment;

(c) Utilization of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.

(2) “Practice of applied behavior analysis” does not include psychological testing, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities.

Certified Ohio Behavior Analysts (COBA) are trained to provide evidence-based assessments and interventions, most frequently with children on the Autism Spectrum. The increasing incidence and prevalence of Autism Spectrum Disorders (ASD) has led to a critical need for tested interventions in Ohio and across the country. This license authorizes license holders to engage in the independent practice of ABA and the oversight and supervision of treatment plans administered by supervisees. The COBA license requires a minimum of a master’s degree in Applied Behavior Analysis, an active, valid credential called the Board Certified Behavior Analyst (BCBA), issued by the Behavior Analyst Certification Board, attendance at the Board-led jurisprudence workshop, and a passing score on a written examination covering the Ohio laws and rules governing Certified Ohio Behavior Analysts.

**Type** (See R.C. 4798.01 for relevant definitions.)

License

**If the regulation is a registration, certification, or license requirement, please complete the following:**

|   |   |
|---|---|
| <b>Number issued annually</b>   | 120   |
| <b>Number renewed annually</b>  | 650   |
| <b>Have there been significant increases or decreases in active registrations, certifications or licenses in the preceding six years?</b> | Significant increase. The first COBA was issued in March 2014. Over the past six (6) years, the Board has issued in excess of 800 licenses, with a current Active total of 672.   |
| <b>Education or training requirements</b>   | Pursuant to ORC 4783. 04, applicants shall evidence a valid BCBA issued by the Behavior Analyst Certification Board. This is a private certification that requires a minimum of a master's degree in Applied Behavior Analysis and specific documented experiences. |
| <b>Experience requirements</b>  | 2000 hours. The experience requirements for the BCBA are set by the Behavior Analyst Certification Board.   |

**If the regulation is a registration, certification, or license requirement, please complete the following:**

**Examination requirements** (*Who administers the exam? How is the exam and administrator selected? What fees are charged? Does the Board receive any proceeds of those fees? If so, how are the proceeds used?*)

The Behavior Analyst Certification Board owns and administers the BCBA examination. The fee is \$125, and the Psychology Board does not receive any funds from that process. The COBA law, at ORC 4783.04, requires that the applicant demonstrate an understanding of the law regarding behavioral health practice. By Board rule, the candidates are required to attend a workshop and pass a written examination on the laws and rules governing COBA's.

**Continuing education requirements** (*Including a description of the curriculum and the process of setting it.*)

For biennial license renewal, there shall be evidence of 23 hours of qualifying continuing education in the previous 2 years.

4783-2-01 Scope, responsibilities, and requirements for continuing education.

(A) Scope. Every certified Ohio behavior analyst subject to continuing education (CE) requirements as set forth in division (B) of section 4783.05 of the Revised Code shall meet the requirements of that section.

(B) Responsibilities:

(1) In accordance with the requirements of sections 4783.05 of the Revised Code, it shall be the responsibility of each certified Ohio behavior analyst submitting a biennial registration of a certificate to certify to the board that the CE experience required for certificate renewal has been completed. Other than as provided for in paragraph (C)(8) of rule 4783-2-01 of the Administrative Code, each certificate holder shall complete biennially no fewer than twenty three hours of approved CE substantially relevant to the practice of applied behavior analysis, including no fewer than four hours in ethics and professional conduct and/or the role of culture and/or ethnic identity in the provision of applied behavior analysis services.

(2) Certificate holders who demonstrate active certification as a board certified behavior analyst by the behavior analyst certification board or its successor organization at the time of submitting a biennial registration of a certificate or request for reinstatement of an expired certificate shall be deemed to have completed sufficient biennial CE to meet the requirements of paragraph (B)(1) of this rule and to have certified to the board that the CE requirements have been met.

(3) For certificate holders who do not demonstrate active certification as a board certified behavior analyst by the behavior analyst certification board or its successor organization at the

**If the regulation is a registration, certification, or license requirement, please complete the following:**

|                           |  |
|---------------------------|--|
|                           | <p>time of submitting a biennial registration of a certificate, CE may be applied to meet the requirements of paragraph (B)(1) of this rule if both of the following requirements are met:</p> <p>(a) It is obtained through a program or course approved by the board, the “Behavior Analyst Certification Board,” the “Ohio Psychological Association,” the “Association of Black Psychologists,” the “American Psychological Association,” the “Ohio School Psychologists Association,” or the “National Association of School Psychologists”; and</p> <p>(b) Completion of the program or course is recorded with the “Ohio Psychological Association,” or the “Ohio School Psychologists Association.”</p> <p>(4) The state board of psychology may disapprove any program or course that has been approved by the “Behavior Analyst Certification Board,” the “Ohio Psychological Association,” the “Association of Black Psychologists,” the “American Psychological Association,” the “Ohio School Psychologists Association,” or the “National Association of School Psychologists. Such program or course may not be applied to meet the requirement of paragraph (B)(1) of this rule.</p> <p>(5) Each certificate holder shall personally maintain CE records for three years following the renewal deadline for which the credits were used to satisfy requirements for certificate renewal.</p> <p>(6) Each certified Ohio behavior analyst shall be given a sufficient choice of CE acceptable to the board to ensure that each person has had a reasonable opportunity to participate in CE that is relevant to that person’s practice in terms of subject matter and level. This requirement shall be judged to be met so long as a certified Ohio behavior analyst does not register a challenge and supply adequate documentation in writing to the board by March first of the year of required biennial registration. The board shall arrange for appropriate CE to be made available in case of a valid challenge. The validity of a challenge, as judged by the board, shall be binding.</p> |
| <p><b>Initial fee</b></p> | <p>\$125</p>   |
| <p><b>Duration</b></p>    | <p>2 years</p>   |

| If the regulation is a registration, certification, or license requirement, please complete the following:                                     |   |
|--|---|
| <b>Renewal fee</b> <i>(If different from initial fee, please explain why.)</i>   | \$150   |
| <b>Does the Board recognize uniform licensure requirements or allow for reciprocity?</b>   | The Psychology Board law allows for reciprocity if the applicant holds a similar behavior analysis license issued by another state.   |
| <b>Are there any similar national registrations, certifications, or licenses? Could they be used as a substitute for the state regulation?</b> | The BCBA issued by the Behavior Analyst Certification Board is the gold standard in the profession of Applied Behavior Analysis. The COBA law overtly requires the applicant to hold a BCBA, to be followed by Psychology Board examination prior to the issuance of the license. In 2013 ORC 4783 became effective explicitly for the purpose of developing a state license for the purpose of reimbursement by governmental and other third-party payers.   |
| <b>Are there any circumstances in which an individual may practice elements of the occupation without being regulated by the board?</b>        | <p>Yes. The chapter of exemptions is found here:</p> <p>4783.02 Certificate required; applicability of chapter.</p> <p>(B) This chapter does not apply to any of the following:</p> <p>(1) An individual licensed under Chapter 4732. of the Revised Code to practice psychology, if the practice of applied behavior analysis engaged in by the licensed psychologist is within the licensed psychologist’s education, training, and experience;</p> <p>(2) An individual licensed under Chapter 4757. of the Revised Code to practice counseling, social work, or marriage and family therapy, if the practice of applied behavior analysis engaged in by the licensed professional counselor, licensed professional clinical counselor, licensed social worker, or licensed marriage and family therapist is within the licensee’s education, training, and experience;</p> <p>(3) An individual acting under the authority and direction of an individual described in division (B)(1) or (2) of this section;</p> <p>(4) An individual practicing applied behavior analysis who is supervised by a certified Ohio behavior analyst and acting under the authority and direction of that certified Ohio behavior analyst;</p> |

**If the regulation is a registration, certification, or license requirement, please complete the following:**

|  |   |
|--|---|
|  | <p>(5) The delivery of interventions by a direct care provider or family member to implement components of an applied behavior analysis treatment plan.</p> <p>(6) A behavior analyst who practices with nonhuman or nonpatient clients or consumers, including applied animal behaviorists and practitioners of organizational behavior management;</p> <p>(7) A licensed professional authorized to practice in this state who, in the offering or rendering of services, does not represent oneself in any printed materials or verbally by incorporating the term “applied behavior analyst,” if the services of the licensed professional are within the scope of practice of the licensing law governing the licensed professional and the services performed are commensurate with the licensed professional’s education, training, and experience;</p> <p>(8) A matriculated graduate student or postdoctoral trainee whose activities are part of a defined program of study or professional training;</p> <p>(9) An individual employed by the department of developmental disabilities, a county board of developmental disabilities, or a council of government consisting of county boards of developmental disabilities, when the individual is acting in the scope of that employment;</p> <p>(10) A professional employed in a school or other setting that falls under the regulation of the state board of education when the professional is acting within the scope of that employment.</p> |
| <p><b>Is the Board permitted to exercise discretion in determining whether to register, certify, or license an individual?</b></p> | <p>If the statutory requirements are satisfied, there is no discretion, unless there is an investigation that could impact the decision to grant the initial license.</p>   |
| <p><b>Other information</b> <i>(Significant attributes or prerequisites to licensure not addressed in this chart.)</i></p>         | <p>N/A</p>  |

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**4783.03 Enforcement.**

(A) The state board of psychology shall administer and enforce this chapter. The board shall adopt rules under Chapter 119. of the Revised Code establishing all of the following:

- (1) Procedures and requirements for applying for a certificate issued under section 4783.04 of the Revised Code;
- (2) Fees for issuance of a certificate;
- (3) Reductions of the hours of continuing education required by section 4783.05 of the Revised Code for persons in their first certificate period.

(B) The board may adopt additional rules in accordance with Chapter 119. of the Revised Code as the board determines are necessary to implement and enforce this chapter.

**4783-7-01 General rules of professional conduct pursuant to section 4783.09 of the Revised Code.**

(A) General considerations:

- (1) Purpose. The rules of professional conduct constitute the standards against which the required professional conduct of a certified Ohio behavior analyst is measured.
- (2) Scope. The rules of professional conduct shall apply to the conduct of all certified Ohio behavior analysts, including the applicant's conduct during the period of any education, training or employment that is required for certification. The term "certified Ohio behavior analyst" as used within these rules of professional conduct, shall be interpreted accordingly, whenever applied behavior analysis is being provided in any context.
- (3) Violations. A violation of the rules of professional conduct constitutes unprofessional conduct and is sufficient reason for a reprimand, suspension or revocation of a certificate, or denial of either original certification or request for reinstatement of certification.
- (4) Aids to interpretation. Ethics codes and standards for providers promulgated by the "Behavior Analyst Certification Board" the "American Psychological Association," and other relevant professional groups shall be used as aids in resolving ambiguities that may arise in the interpretation of the rules of professional conduct, except that these rules of professional conduct shall prevail whenever any conflict exists between these rules and any professional association or certification board standard.
- (5) A certified Ohio behavior analyst, or an applicant for certification, shall provide a written response within a reasonable period of time not to exceed sixty days to any written inquiry, regarding compliance with law or rule, received from the board.

(B) Negligence:

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- (1) A certified Ohio behavior analyst shall be considered negligent if his/her behaviors toward his/her clients, supervisees, service recipients, employees, students, or any person with who there is a signed attestation required in paragraph (5) of rule 4783-6-02, in the judgment of the board, clearly fall below the standards for acceptable practice of applied behavior analysis.
- (2) Misrepresentation of qualifications. The certified Ohio behavior analyst shall not misrepresent directly or by implication his/her professional qualifications.
- (3) Misrepresentation of affiliations. The certified Ohio behavior analyst shall not misrepresent directly or by implication his/her affiliations or the purposes or characteristics of institutions and organizations with which the certified Ohio behavior analyst is associated.
- (4) A certified Ohio behavior analyst shall not request or authorize any client to solicit business on behalf of the certified Ohio behavior analyst.
- (5) A certified Ohio behavior analyst associated with the development, promotion, or sale of psychological devices, books, or other products shall ensure that such devices, books, or products are not misrepresented as to qualities, performance or results to be obtained from their use.
- (6) Maintenance and retention of records.
  - (a) A certified Ohio behavior analyst providing applied behavior analysis services to a client, or services billed to a third-party payer, shall maintain a professional record that includes:
    - (i) The presenting problem, including any relevant diagnosis and any recommendation for applied behavior analysis services rendered by a licensed professional.
    - (ii) The date(s) and purpose of each service contact.
    - (iii) The fee arrangement.
    - (iv) The treatment plan and the functional assessment on which the behavior plan is based.
    - (v) The data collected to ascertain the efficacy of the applied behavior analysis and any subsequent modifications of the plan.
    - (vi) Notation and results of formal contacts with other providers, and
    - (vii) Authorizations, if any, by the client for release of records or information.
  - (b) To meet the requirements of these rules, but not necessarily for other legal purposes, the certified Ohio behavior analyst shall ensure that each dated entry in the professional record is maintained for a period of not less than five years after the last date of service rendered, or not

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less than the length of time required by other regulations if that is longer. The general record or a summary thereof shall be kept for period of not less than twelve years after the last date of service rendered.

(c) A certified Ohio behavior analyst shall store and dispose of written, electronic, and other records of clients in such a manner as to ensure their confidentiality.

(d) In the event a complaint has been filed, a certified Ohio behavior analyst shall provide the original or a full copy of the client file or other client-identifiable documents to the board upon request, provided that the request is accompanied by a copy of a release signed by the client.

(C) Welfare of the client:

(1) Identification of the client: The term client is broadly applicable to whomever the certified Ohio behavior analyst provides services whether an individual person (service recipient), parent or guardian of a service recipient, an institutional representative or a public or private agency, firm or corporation.

(a) When the service recipient is not the primary client, the certified Ohio behavior analyst retains responsibility for the welfare of the service recipient.

(b) When there is a conflict of interest between the service recipient, the client, the institution, agency firm or corporation, the certified Ohio behavior analyst shall clarify the nature and direction of his/her loyalties and responsibilities and keep all parties concerned informed of his/her commitments.

(2) Sufficient professional information. Certified Ohio behavior analysts rely on scientifically and professionally derived knowledge when engaging in the practice of applied behavior analysis.

(a) The certified Ohio behavior analyst conducts a functional assessment, as defined below, to provide the necessary data to develop an effective behavior change program for a client or service recipient.

(b) Functional assessment includes a variety of systematic information-gathering activities regarding factors influencing the occurrence of a behavior (e.g. antecedents, consequences, setting events, motivating operations) including interview, direct observation and experimental analysis.

(3) Informed client. When certified Ohio behavior analysts provide assessment, evaluation, treatment, supervision, teaching, consultation, research, or other behavior analytic services to an individual, group, or an organization, they use language that is fully understandable to the recipient of those services and/or to those responsible for the care of the individual service recipient.

(a) Certified Ohio behavior analysts provide appropriate information prior to service delivery about the nature of such services and appropriate information about results and conclusions.

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(b) The client must be provided on request an accurate, current set of the certified Ohio behavior analyst's credentials.

(c) Clients must be informed of their rights and about procedures to complain about professional practices of the certified Ohio behavior analyst.

(4) Informed choice: A certified Ohio behavior analyst shall afford each client informed choice and reasonable protection from physical or mental harm or danger.

(a) Clients have a right to effective treatment (i.e., based on the research literature and adapted to the individual client).

(b) Clients have the right to have the treatment plan explained clearly in terms appropriate to their understanding and to be informed about alternative treatments.

(c) The certified Ohio behavior analyst explains treatment plan modifications and the reasons for the modifications to the client and obtains and documents consent to implement the modifications.

(d) The certified Ohio behavior analyst informs each client of the environmental conditions that are necessary for the treatment plan to be effective.

(i) If environmental conditions preclude implementation of a treatment plan, the behavior analyst recommends that other professional assistance (i.e., assessment, consultation or therapeutic intervention by other professionals) be sought.

(ii) If environmental conditions hamper implementation of the treatment plan, the behavior analyst seeks to eliminate the environmental constraints, or identifies in writing the obstacles to doing so.

(e) The certified Ohio behavior analyst reviews and appraises the restrictiveness of alternative interventions and always recommends the least restrictive procedures likely to be effective in dealing with a behavior problem.

(f) The certified Ohio behavior analyst establishes understandable, objective, and measurable criteria for the termination of the treatment plan and describes them to the client or service recipient.

(g) The certified Ohio behavior analyst must obtain the client's approval of the treatment plan procedures in writing before implementing them.

(5) Stereotypes. A certified Ohio behavior analyst shall not impose on a client any stereotypes of behavior, values, or roles related to age, gender, religion, race, disability, nationality, or sexual orientation that would interfere with the objective provision of services to the client.

(6) Termination. A certified Ohio behavior analyst shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from the relationship and shall make referrals to other services when appropriate.

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(7) Referral. A certified Ohio behavior analyst shall make an appropriate referral of a client to another professional when requested to do so by the client.

(8) Practicing while impaired. A certified Ohio behavior analyst shall not undertake or continue a professional role when the judgment, competence and/or objectivity of the certified Ohio behavior analyst is impaired due to mental, emotional, physiological, pharmacological or substance abuse conditions. If impaired judgment, competence and/or objectivity develops after a professional role has been initiated, the certified Ohio behavior analyst shall terminate the professional role in an appropriate manner, shall notify the client or other relevant parties of the termination in writing and shall assist the client, supervisee, or service recipient in obtaining appropriate services from another professional.

(9) Continuity of care.

(a) A certified Ohio behavior analyst shall make arrangements for another appropriate professional to deal with the emergency needs of his/her clients during periods of foreseeable absence from professional availability.

(b) A certified Ohio behavior analyst makes reasonable efforts to plan for continuity of care in the event that services are interrupted by factors such as the certificate holder's illness, unavailability, relocation, or death or the client's relocation or financial limitations.

(c) A certified Ohio behavior analyst entering into employment or contractual relationships shall make reasonable efforts to provide for orderly and appropriate resolution of responsibility for client care in the event that the employment or contractual relationship ends, with paramount consideration being given to the welfare of the client.

(D) Remuneration:

(1) Financial arrangements:

(a) All financial arrangements shall be provided in writing to each client in advance of billing, preferably within the initial session but no later than the end of the second contact.

(b) A certified Ohio behavior analyst shall not mislead or withhold from any client, prospective client or third-party payer, information about the cost of his/her professional services.

(c) A certified Ohio behavior analyst shall not exploit a client or responsible payer by charging a fee that is excessive for the services performed or by entering into an exploitative bartering arrangement in lieu of a fee.

(d) The primary obligation of a certified Ohio behavior analyst employed by an institution, agency, or school is to persons entitled to his/her services through the institution, agency or school. A certified Ohio behavior analyst shall not accept a private fee or any other form of remuneration from such persons unless the policies of a particular institution agency or school make explicit provision for private work with

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its clients by members of its staff. In such instances the client shall be fully apprised of available services and all policies affecting him/her, prior to entering into a private professional relationship with a certified Ohio behavior analyst.

#### (2) Improper financial arrangements:

(a) A certified Ohio behavior analyst shall neither derive nor solicit any form of monetary profit or personal gain as a result of his/her professional relationship with clients or immediate ex-clients, beyond the payment of fees for psychological services rendered. However, unsolicited token gifts from a client are permissible.

(b) A certified Ohio behavior analyst shall not use his/her professional relationship with clients or immediate ex-clients to derive personal gain, other than through fees for professional services, for himself/herself, or for any other person, or for any organization from the sale or promotion of a non-applied behavior analysis related product or service.

(c) A certified Ohio behavior analyst shall neither give nor receive any commission, rebate or other form of remuneration for referral of a client for professional services, without full disclosure in advance to the client of the terms of such an agreement.

(d) A certified Ohio behavior analyst shall not bill for services that are not rendered. However, he/she may bill for missed appointments that the client did not cancel in advance, if the client has previously received notice of this responsibility.

(E) Multiple relationships. A multiple relationship exists when a certified Ohio behavior analyst is in a professional role and is in another relationship with the same person or entity or with an individual closely associated with the person or entity. Depending on the timing and nature of one's interactions before or after then establishment of a professional role, multiple relationships can result in exploitation of others, impaired judgment by clients, supervises and service recipients and/or impaired judgment competence and objectivity of the certified Ohio behavior analyst. Certified Ohio behavior analysts actively identify and manage interpersonal boundaries to ensure that there is not exploitation of others and that professional judgment, competence and objectivity with one's professional role is not compromised.

(1) In some communities and situations, unavoidable interpersonal contacts can occur due to cultural, linguistic, or geographical considerations. For purposes of this rule, incidental contacts in the personal life of a certified Ohio behavior analyst are not relationships.

(2) Prohibited multiple relationships. The board prescribes that certain multiple relationships are expressly prohibited due to inherent risks of exploitation, impaired judgment by clients and persons closely associated with clients, and supervisees, and/or impaired judgment, competence or objectivity of the certified Ohio behavior analyst.

(a) A certified Ohio behavior analyst shall not:

(i) Undertake a professional relationship with persons with whom he/she has engaged in sexual intercourse or other sexual intimacies; or

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(ii) Undertake a professional relationship with persons with whom he/she has had a familial, personal, social, supervisory, employment, or other relationship, and there is resulting: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one's functions as a certified Ohio behavior analyst.

(b) A certified Ohio behavior analyst shall not:

(i) Engage in sexual intercourse or other sexual intimacies; or, verbal or nonverbal conduct that is sexual in nature with any current client, any person closely associated with a current client, or supervisee; or

(ii) Establish any personal, financial, employment, or other relationship with any current client, any person closely associated with a current client, or supervisee and there is resulting: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one's functions as a certified Ohio behavior analyst.

(c) A certified Ohio behavior analyst shall not:

(i) Engage in sexual intercourse or other sexual intimacies; or, verbal or nonverbal conduct that is sexual in nature with any person with whom there has been a professional relationship at any time within the previous twenty-four months; or

(ii) Enter into any personal, financial, employment or other relationship (other than reestablishing a professional relationship) with any person with whom there has been a professional relationship at any time within the previous twenty-four months and there is resulting: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one's functions as a certified Ohio behavior analyst.

(d) A certified Ohio behavior analyst shall not terminate or interrupt a professional role with any person for the purpose, expressed or implied, of entering into a sexual, personal, or financial relationship with that person or any individual closely associated with that person.

(e) The prohibitions established in paragraphs (E)(2)(b) and (E)(2)(c) of this rule extend indefinitely beyond twenty-four months after termination of the professional relationship if the person, secondary to emotional, mental, or cognitive impairment, remains vulnerable to exploitative influence.

(F) Assessment:

(1) Certified Ohio behavior analysts' assessments, recommendations, reports, and evaluative statements are based on information and techniques sufficient to provide appropriate substantiation for their findings.

(2) Certified Ohio behavior analysts refrain from misuse of assessment techniques, interventions, results, and interpretations and take reasonable steps to prevent others from misusing the information these techniques provide.

(3) Certified Ohio behavior analysts recognize limits to the certainty with which judgments or predictions can be made about individuals.

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(4) Certified Ohio behavior analysts do not promote the use of behavioral assessment techniques by unqualified persons, i.e., those who are unsupervised by experienced professionals and have not demonstrated valid and reliable assessment skills.

(5) Certified Ohio behavior analyst must obtain the client's approval in writing of the behavior assessment procedures before implementing them.

(6) Certified Ohio behavior analysts conduct a functional assessment, as defined in paragraph (O) of Chapter 4783-3-01 of the Administrative Code, to provide the necessary data to develop an effective treatment plan.

(7) Unless the nature of the relationship is clearly explained to the person being assessed in advance and precludes provision of an explanation of results (such as in some organizational consultation, some screenings, and forensic evaluations), certified Ohio behavior analysts ensure that an explanation of the results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the client. Regardless of whether the interpretation is done by the certified Ohio behavior analyst, or by supervisees, behavior analysts take reasonable steps to ensure that appropriate explanations of results are given.

(G) Confidentiality:

(1) Confidential information is information revealed by an individual or individuals or otherwise obtained by a certified Ohio behavior analyst, when there is reasonable expectation that it was revealed or obtained as a result of the professional relationship between the individual(s) and the certified Ohio behavior analyst. Such information is not to be disclosed by certified Ohio behavior analyst without the informed consent of the individual(s).

(a) When rendering behavior analysis services as part of a team or when interacting with other appropriate professionals concerning the welfare of a client, a certified Ohio behavior analyst may share confidential information about the client provided that reasonable steps are taken to ensure that all persons receiving the information are informed about the confidential nature of the information being shared and agree to abide by the rules of confidentiality.

(b) When any case report or other confidential information is used as the basis of teaching, research, or other published reports, a certified Ohio behavior analyst shall exercise reasonable care to ensure that the reported material is appropriately disguised to prevent client or subject identification.

(c) A certified Ohio behavior analyst shall ensure that no interview or therapeutic interventions with a client are observed or electronically recorded without first informing the client or the client's guardian and, where the sensitivity of the material requires it, obtaining written consent from same.

(d) A certified Ohio behavior analyst shall limit access to client records and shall ensure that all persons working under his/her authority comply with the requirements for confidentiality of client material.

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(e) A certified Ohio behavior analyst shall continue to treat all information regarding a client as confidential after the professional relationship between the certified Ohio behavior analyst and the client has ceased.

(f) In a situation in which more than one party has an appropriate interest in the professional services rendered by a certified Ohio behavior analyst to a client, the certified Ohio behavior analyst shall, to the extent possible, clarify to all parties the dimensions of confidentiality and professional responsibility that shall pertain in the rendering of services.

(i) Such clarification is specifically indicated, among other circumstances, when the client is an organization or when the client has been referred by a third party.

(ii) In accord with paragraphs (C)(3) and (F)(7) of this rule, a certified Ohio behavior analyst shall clarify with the individual receiving services because of a third-party referral whether, and under what conditions-including costs, information or feedback will be provided to the individual, or the individual(s) responsible for the care of the individual receiving those services.

(2) Protecting confidentiality of clients. In accordance with division (B) of section 4783.03 of the Revised Code, the confidential relations and communications between a certified Ohio behavior analyst and clients are placed under the same umbrella of a privilege as those between physician and patient under division (B) of section 2317.02 of the Revised Code. The privilege is intended to protect the interest of the client by encouraging free disclosure to the certified Ohio behavior analyst and by preventing such free disclosure to others. Thus, the client rather than the certified Ohio behavior analyst holds and may assert the privilege.

(a) A certified Ohio behavior analyst shall not testify concerning a communication made to him/her by a client. The certified Ohio behavior analyst may testify by express consent of the client or legal guardian or, if the client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of such deceased client. If the client voluntarily testifies, certified Ohio behavior analysts may be compelled to testify on the same subject; or if the client, the executor or administrator files a claim against the certified Ohio behavior analyst, such filing shall constitute a waiver of this privilege with regard to the care and treatment of which complaint is made.

(b) Court decisions construing the scope of the physician-patient privilege, pursuant to section 2317.02 of the Revised Code, are applicable to this privilege between certified Ohio behavior analyst and the client.

(c) A certified Ohio behavior analyst may disclose confidential information without the informed written consent of a client when the certified Ohio behavior analyst judges that disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on himself/herself or on another person. In such case, the certified Ohio behavior analyst may disclose the confidential information only to appropriate public authorities, the potential victim, professional workers, and/or the family of the client.

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(d) A certified Ohio behavior analyst shall safeguard the confidential information obtained in the course of practice, teaching, research, or other professional duties. With the exceptions as required or permitted by statute, a certified Ohio behavior analyst shall disclose confidential information to others only with the informed written consent of the client.

(e) At the beginning of a professional relationship a certified Ohio behavior analyst shall inform his/her client of the legal limits of confidentiality. To the extent that the client can understand, the certified Ohio behavior analyst shall inform a client who is below the age of majority or who has a legal guardian of the limit the law imposes on the right of confidentiality. When services are provided to more than one patient or client during a joint session (for example to a family or couple, or parent and child, or group), a certified Ohio behavior analyst shall, at the beginning of the professional relationship, clarify to all parties the limits of confidentiality.

(f) A certified Ohio behavior analyst may release confidential information upon court order or to conform to state or federal laws, rules, or regulations.

(g) A certified Ohio behavior analyst shall comply with any relevant law concerning the reporting of abuse of children or vulnerable adults.

(H) Competence:

(1) Limits on practice: A certified Ohio behavior analyst provides services only within the boundaries of his/her competence, based on education, training and supervised experience. The practice of applied behavior analysis does not include psychological testing, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities.

(2) Maintaining competence: A certified Ohio behavior analyst shall maintain current competency in the areas in which he/she practices, through continuing education, consultation and/or other training, in conformance with current standards of scientific and professional knowledge.

(3) Referrals. A certified Ohio behavior analyst shall make or recommend referral to other professional resources when such referral is in the best interests of the client.

(4) Interprofessional relations:

(a) A certified Ohio behavior analyst shall neither establish nor offer to establish a continuing professional relationship with a client receiving behavior analysis services from another professional, except with the knowledge of the other professional.

(b) A certified Ohio behavior analyst shall cooperate with other professionals in order to serve his/her clients.

(I) Violations of law:

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(1) Violation of applicable statutes. A certified Ohio behavior analyst shall not violate any applicable statute or administrative rule regulating the practice of applied behavior analysis.

(2) Use of fraud, misrepresentation, or deception. A certified Ohio behavior analyst shall not use fraud, misrepresentation, or deception in obtaining a certified Ohio behavior analyst certificate, in engaging in any examination process required for certification, in assisting another to obtain a certified Ohio behavior analyst certificate, in billing clients or third-party payers, in providing applied behavior analysis services, in reporting the results of those services, or in conducting any other activity related to the practice of applied behavior analysis.

(J) Aiding illegal practice:

(1) Aiding unauthorized practice. A certified Ohio behavior analyst shall not aid or abet another person in misrepresenting his/her professional credentials or in illegally engaging in the practice of applied behavior analysis.

(2) Delegating professional responsibility. A certified Ohio behavior analyst shall not delegate professional responsibilities to a person not qualified and/or not appropriately credentialed to provide such services.

(3) Providing supervision. A certified Ohio behavior analyst shall exercise appropriate supervision over supervisees, as set forth in the rules of the board.

(4) Reporting of violations to board. A certified Ohio behavior analyst who has substantial reason to believe that another certified Ohio behavior analyst or supervisee has committed an apparent violation of the statutes or rules of the board that has substantially harmed or is likely to substantially harm a person or organization shall so inform the board in writing; however, when the information regarding such violation is obtained in a professional relationship with a client, the certified Ohio behavior analyst shall report it only with the written permission of the client. Under such circumstances certified Ohio behavior analyst shall advise the client of the name, address, and telephone number of the state board of psychology and of the client's right to file a complaint. The certified Ohio behavior analyst shall make reasonable efforts to guide and/or facilitate the client in the complaint process as needed or requested by the client. Nothing in this rule shall relieve a certified Ohio behavior analyst from the duty to file any report required by applicable statutes.

(K) Supervision rules. Rules 4783-6-01 and 4783-6-02 of the Administrative Code, pertaining to supervision of persons working directly under the authority and direction of the certified Ohio behavior analyst, shall be considered as a part of these rules of professional conduct.

**How much revenue is derived from fees charged by the Board to individuals engaged in the occupation (such as license and renewal fees)? How is that revenue used?**

Biannually, COBA applicants and license holders submit approximately \$125,000. The Psychology board deposits revenue pursuant to the following:

4732.08 Depositing receipts.

All receipts of the state board of psychology from any source, including moneys collected under Chapter 4783. of the Revised Code, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund.”

All revenue is therefore deposited in the 4K90 fund for the use of and distribution by OBM, the owner of the fund.

**Describe any federal regulations that apply to the occupation. Does federal law require the state to regulate the occupation?**

There are no known federal regulations requiring the state of Ohio to regulate Applied Behavior Analysis.

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

“Harm” comes in the form of violations of client rights—in this case, the client typically includes the child target of ABA services and the parents/guardian. Ohio families and individuals seeking ABA services have a right to competent services, confidentiality, trust, and to a clear account of the problem/condition of the client, the proposed solutions, and the reasoning. Ohioans have a right to freedom from untrained and incompetent providers. Specifically, the Psychology Board’s rules of professional conduct governing COBA’s are found in OAC 4783-7:

4783-7-01 General rules of professional conduct pursuant to section 4783.09 of the Revised Code.

(A) General considerations:

(1) Purpose. The rules of professional conduct constitute the standards against which the required professional conduct of a certified Ohio behavior analyst is measured.

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

(2) Scope. The rules of professional conduct shall apply to the conduct of all certified Ohio behavior analysts, including the applicant’s conduct during the period of any education, training or employment that is required for certification. The term “certified Ohio behavior analyst” as used within these rules of professional conduct, shall be interpreted accordingly, whenever applied behavior analysis is being provided in any context.

(3) Violations. A violation of the rules of professional conduct constitutes unprofessional conduct and is sufficient reason for a reprimand, suspension or revocation of a certificate, or denial of either original certification or request for reinstatement of certification.

(4) Aids to interpretation. Ethics codes and standards for providers promulgated by the “Behavior Analyst Certification Board” the “American Psychological Association,” and other relevant professional groups shall be used as aids in resolving ambiguities that may arise in the interpretation of the rules of professional conduct, except that these rules of professional conduct shall prevail whenever any conflict exists between these rules and any professional association or certification board standard.

(5) A certified Ohio behavior analyst, or an applicant for certification, shall provide a written response within a reasonable period of time not to exceed sixty days to any written inquiry, regarding compliance with law or rule, received from the board.

**(B) Negligence:**

(1) A certified Ohio behavior analyst shall be considered negligent if his/her behaviors toward his/her clients, supervisees, service recipients, employees, students, or any person with who there is a signed attestation required in paragraph (5) of rule 4783-6-02, in the judgment of the board, clearly fall below the standards for acceptable practice of applied behavior analysis.

(2) Misrepresentation of qualifications. The certified Ohio behavior analyst shall not misrepresent directly or by implication his/her professional qualifications.

(3) Misrepresentation of affiliations. The certified Ohio behavior analyst shall not misrepresent directly or by implication his/her affiliations or the purposes or characteristics of institutions and organizations with which the certified Ohio behavior analyst is associated.

(4) A certified Ohio behavior analyst shall not request or authorize any client to solicit business on behalf of the certified Ohio behavior analyst.

(5) A certified Ohio behavior analyst associated with the development, promotion, or sale of psychological devices, books, or other products shall ensure that such devices, books, or products are not misrepresented as to qualities, performance or results to be obtained from their use.

(6) Maintenance and retention of records.

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

(a) A certified Ohio behavior analyst providing applied behavior analysis services to a client, or services billed to a third-party payer, shall maintain a professional record that includes:

(i) The presenting problem, including any relevant diagnosis and any recommendation for applied behavior analysis services rendered by a licensed professional.

(ii) The date(s) and purpose of each service contact.

(iii) The fee arrangement.

(iv) The treatment plan and the functional assessment on which the behavior plan is based.

(v) The data collected to ascertain the efficacy of the applied behavior analysis and any subsequent modifications of the plan.

(vi) Notation and results of formal contacts with other providers, and

(vii) Authorizations, if any, by the client for release of records or information.

(b) To meet the requirements of these rules, but not necessarily for other legal purposes, the certified Ohio behavior analyst shall ensure that each dated entry in the professional record is maintained for a period of not less than five years after the last date of service rendered, or not less than the length of time required by other regulations if that is longer. The general record or a summary thereof shall be kept for period of not less than twelve years after the last date of service rendered.

(c) A certified Ohio behavior analyst shall store and dispose of written, electronic, and other records of clients in such a manner as to ensure their confidentiality.

(d) In the event a complaint has been filed, a certified Ohio behavior analyst shall provide the original or a full copy of the client file or other client-identifiable documents to the board upon request, provided that the request is accompanied by a copy of a release signed by the client.

(C) Welfare of the client:

(1) Identification of the client: The term client is broadly applicable to whomever the certified Ohio behavior analyst provides services whether an individual person (service recipient), parent or guardian of a service recipient, an institutional representative or a public or private agency, firm or corporation.

(a) When the service recipient is not the primary client, the certified Ohio behavior analyst retains responsibility for the welfare of the service recipient.

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

(b) When there is a conflict of interest between the service recipient, the client, the institution, agency firm or corporation, the certified Ohio behavior analyst shall clarify the nature and direction of his/her loyalties and responsibilities and keep all parties concerned informed of his/her commitments.

(2) Sufficient professional information. Certified Ohio behavior analysts rely on scientifically and professionally derived knowledge when engaging in the practice of applied behavior analysis.

(a) The certified Ohio behavior analyst conducts a functional assessment, as defined below, to provide the necessary data to develop an effective behavior change program for a client or service recipient.

(b) Functional assessment includes a variety of systematic information-gathering activities regarding factors influencing the occurrence of a behavior (e.g. antecedents, consequences, setting events, motivating operations) including interview, direct observation and experimental analysis.

(3) Informed client. When certified Ohio behavior analysts provide assessment, evaluation, treatment, supervision, teaching, consultation, research, or other behavior analytic services to an individual, group, or an organization, they use language that is fully understandable to the recipient of those services and/or to those responsible for the care of the individual service recipient.

(a) Certified Ohio behavior analysts provide appropriate information prior to service delivery about the nature of such services and appropriate information about results and conclusions.

(b) The client must be provided on request an accurate, current set of the certified Ohio behavior analyst’s credentials.

(c) Clients must be informed of their rights and about procedures to complain about professional practices of the certified Ohio behavior analyst.

(4) Informed choice: A certified Ohio behavior analyst shall afford each client informed choice and reasonable protection from physical or mental harm or danger.

(a) Clients have a right to effective treatment (i.e., based on the research literature and adapted to the individual client).

(b) Clients have the right to have the treatment plan explained clearly in terms appropriate to their understanding and to be informed about alternative treatments.

(c) The certified Ohio behavior analyst explains treatment plan modifications and the reasons for the modifications to the client and obtains and documents consent to implement the modifications.

(d) The certified Ohio behavior analyst informs each client of the environmental conditions that are necessary for the treatment plan to be effective.

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

- (i) If environmental conditions preclude implementation of a treatment plan, the behavior analyst recommends that other professional assistance (i.e., assessment, consultation or therapeutic intervention by other professionals) be sought.
- (ii) If environmental conditions hamper implementation of the treatment plan, the behavior analyst seeks to eliminate the environmental constraints, or identifies in writing the obstacles to doing so.
- (e) The certified Ohio behavior analyst reviews and appraises the restrictiveness of alternative interventions and always recommends the least restrictive procedures likely to be effective in dealing with a behavior problem.
- (f) The certified Ohio behavior analyst establishes understandable, objective, and measurable criteria for the termination of the treatment plan and describes them to the client or service recipient.
- (g) The certified Ohio behavior analyst must obtain the client’s approval of the treatment plan procedures in writing before implementing them.
- (5) Stereotypes. A certified Ohio behavior analyst shall not impose on a client any stereotypes of behavior, values, or roles related to age, gender, religion, race, disability, nationality, or sexual orientation that would interfere with the objective provision of services to the client.
- (6) Termination. A certified Ohio behavior analyst shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from the relationship and shall make referrals to other services when appropriate.
- (7) Referral. A certified Ohio behavior analyst shall make an appropriate referral of a client to another professional when requested to do so by the client.
- (8) Practicing while impaired. A certified Ohio behavior analyst shall not undertake or continue a professional role when the judgment, competence and/or objectivity of the certified Ohio behavior analyst is impaired due to mental, emotional, physiological, pharmacological or substance abuse conditions. If impaired judgment, competence and/or objectivity develops after a professional role has been initiated, the certified Ohio behavior analyst shall terminate the professional role in an appropriate manner, shall notify the client or other relevant parties of the termination in writing and shall assist the client, supervisee, or service recipient in obtaining appropriate services from another professional.
- (9) Continuity of care.
  - (a) A certified Ohio behavior analyst shall make arrangements for another appropriate professional to deal with the emergency needs of his/her clients during periods of foreseeable absence from professional availability.
  - (b) A certified Ohio behavior analyst makes reasonable efforts to plan for continuity of care in the event that services are interrupted by factors such as the certificate holder’s illness, unavailability, relocation, or death or the client’s relocation or financial limitations.

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

(c) A certified Ohio behavior analyst entering into employment or contractual relationships shall make reasonable efforts to provide for orderly and appropriate resolution of responsibility for client care in the event that the employment or contractual relationship ends, with paramount consideration being given to the welfare of the client.

(D) Remuneration:

(1) Financial arrangements:

(a) All financial arrangements shall be provided in writing to each client in advance of billing, preferably within the initial session but no later than the end of the second contact.

(b) A certified Ohio behavior analyst shall not mislead or withhold from any client, prospective client or third-party payer, information about the cost of his/her professional services.

(c) A certified Ohio behavior analyst shall not exploit a client or responsible payer by charging a fee that is excessive for the services performed or by entering into an exploitative bartering arrangement in lieu of a fee.

(d) The primary obligation of a certified Ohio behavior analyst employed by an institution, agency, or school is to persons entitled to his/her services through the institution, agency or school. A certified Ohio behavior analyst shall not accept a private fee or any other form of remuneration from such persons unless the policies of a particular institution agency or school make explicit provision for private work with its clients by members of its staff. In such instances the client shall be fully apprised of available services and all policies affecting him/her, prior to entering into a private professional relationship with a certified Ohio behavior analyst.

(2) Improper financial arrangements:

(a) A certified Ohio behavior analyst shall neither derive nor solicit any form of monetary profit or personal gain as a result of his/her professional relationship with clients or immediate ex-clients, beyond the payment of fees for psychological services rendered. However, unsolicited token gifts from a client are permissible.

(b) A certified Ohio behavior analyst shall not use his/her professional relationship with clients or immediate ex-clients to derive personal gain, other than through fees for professional services, for himself/herself, or for any other person, or for any organization from the sale or promotion of a non-applied behavior analysis related product or service.

(c) A certified Ohio behavior analyst shall neither give nor receive any commission, rebate or other form of remuneration for referral of a client for professional services, without full disclosure in advance to the client of the terms of such an agreement.

(d) A certified Ohio behavior analyst shall not bill for services that are not rendered. However, he/she may bill for missed appointments that the client did not cancel in advance, if the client has previously received notice of this responsibility.

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

(E) Multiple relationships. A multiple relationship exists when a certified Ohio behavior analyst is in a professional role and is in another relationship with the same person or entity or with an individual closely associated with the person or entity. Depending on the timing and nature of one’s interactions before or after then establishment of a professional role, multiple relationships can result in exploitation of others, impaired judgment by clients, supervises and service recipients and/or impaired judgment competence and objectivity of the certified Ohio behavior analyst. Certified Ohio behavior analysts actively identify and manage interpersonal boundaries to ensure that there is not exploitation of others and that professional judgment, competence and objectivity with one’s professional role is not compromised.

(1) In some communities and situations, unavoidable interpersonal contacts can occur due to cultural, linguistic, or geographical considerations. For purposes of this rule, incidental contacts in the personal life of a certified Ohio behavior analyst are not relationships.

(2) Prohibited multiple relationships. The board prescribes that certain multiple relationships are expressly prohibited due to inherent risks of exploitation, impaired judgment by clients and persons closely associated with clients, and supervisees, and/or impaired judgment, competence or objectivity of the certified Ohio behavior analyst.

(a) A certified Ohio behavior analyst shall not:

(i) Undertake a professional relationship with persons with whom he/she has engaged in sexual intercourse or other sexual intimacies; or

(ii) Undertake a professional relationship with persons with whom he/she has had a familial, personal, social, supervisory, employment, or other relationship, and there is resulting: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one’s functions as a certified Ohio behavior analyst.

(b) A certified Ohio behavior analyst shall not:

(i) Engage in sexual intercourse or other sexual intimacies; or, verbal or nonverbal conduct that is sexual in nature with any current client, any person closely associated with a current client, or supervisee; or

(ii) Establish any personal, financial, employment, or other relationship with any current client, any person closely associated with a current client, or supervisee and there is resulting: exploitation of the person; or, impaired judgment, competence, and/or objectivity in the performance of one’s functions as a certified Ohio behavior analyst.

(c) A certified Ohio behavior analyst shall not:

(i) Engage in sexual intercourse or other sexual intimacies; or, verbal or nonverbal conduct that is sexual in nature with any person with whom there has been a professional relationship at any time within the previous twenty-four months; or

(ii) Enter into any personal, financial, employment or other relationship (other than reestablishing a professional relationship) with any person with whom there has been a professional relationship at any time within the previous twenty-four months and there is resulting: exploitation

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

of the person; or, impaired judgment, competence, and/or objectivity in the performance of one’s functions as a certified Ohio behavior analyst.

(d) A certified Ohio behavior analyst shall not terminate or interrupt a professional role with any person for the purpose, expressed or implied, of entering into a sexual, personal, or financial relationship with that person or any individual closely associated with that person.

(e) The prohibitions established in paragraphs (E)(2)(b) and (E)(2)(c) of this rule extend indefinitely beyond twenty-four months after termination of the professional relationship if the person, secondary to emotional, mental, or cognitive impairment, remains vulnerable to exploitative influence.

(F) Assessment:

(1) Certified Ohio behavior analysts’ assessments, recommendations, reports, and evaluative statements are based on information and techniques sufficient to provide appropriate substantiation for their findings.

(2) Certified Ohio behavior analysts refrain from misuse of assessment techniques, interventions, results, and interpretations and take reasonable steps to prevent others from misusing the information these techniques provide.

(3) Certified Ohio behavior analysts recognize limits to the certainty with which judgments or predictions can be made about individuals.

(4) Certified Ohio behavior analysts do not promote the use of behavioral assessment techniques by unqualified persons, i.e., those who are unsupervised by experienced professionals and have not demonstrated valid and reliable assessment skills.

(5) Certified Ohio behavior analyst must obtain the client’s approval in writing of the behavior assessment procedures before implementing them.

(6) Certified Ohio behavior analysts conduct a functional assessment, as defined in paragraph (O) of Chapter 4783-3-01 of the Administrative Code, to provide the necessary data to develop an effective treatment plan.

(7) Unless the nature of the relationship is clearly explained to the person being assessed in advance and precludes provision of an explanation of results (such as in some organizational consultation, some screenings, and forensic evaluations), certified Ohio behavior analysts ensure that an explanation of the results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the client. Regardless of whether the interpretation is done by the certified Ohio behavior analyst, or by supervisees, behavior analysts take reasonable steps to ensure that appropriate explanations of results are given.

(G) Confidentiality:

(1) Confidential information is information revealed by an individual or individuals or otherwise obtained by a certified Ohio behavior analyst, when there is reasonable expectation that it was revealed or obtained as a result of the professional relationship between the individual(s)

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

and the certified Ohio behavior analyst. Such information is not to be disclosed by certified Ohio behavior analyst without the informed consent of the individual(s).

(a) When rendering behavior analysis services as part of a team or when interacting with other appropriate professionals concerning the welfare of a client, a certified Ohio behavior analyst may share confidential information about the client provided that reasonable steps are taken to ensure that all persons receiving the information are informed about the confidential nature of the information being shared and agree to abide by the rules of confidentiality.

(b) When any case report or other confidential information is used as the basis of teaching, research, or other published reports, a certified Ohio behavior analyst shall exercise reasonable care to ensure that the reported material is appropriately disguised to prevent client or subject identification.

(c) A certified Ohio behavior analyst shall ensure that no interview or therapeutic interventions with a client are observed or electronically recorded without first informing the client or the client’s guardian and, where the sensitivity of the material requires it, obtaining written consent from same.

(d) A certified Ohio behavior analyst shall limit access to client records and shall ensure that all persons working under his/her authority comply with the requirements for confidentiality of client material.

(e) A certified Ohio behavior analyst shall continue to treat all information regarding a client as confidential after the professional relationship between the certified Ohio behavior analyst and the client has ceased.

(f) In a situation in which more than one party has an appropriate interest in the professional services rendered by a certified Ohio behavior analyst to a client, the certified Ohio behavior analyst shall, to the extent possible, clarify to all parties the dimensions of confidentiality and professional responsibility that shall pertain in the rendering of services.

(i) Such clarification is specifically indicated, among other circumstances, when the client is an organization or when the client has been referred by a third party.

(ii) In accord with paragraphs (C)(3) and (F)(7) of this rule, a certified Ohio behavior analyst shall clarify with the individual receiving services because of a third-party referral whether, and under what conditions-including costs, information or feedback will be provided to the individual, or the individual(s) responsible for the care of the individual receiving those services.

(2) Protecting confidentiality of clients. In accordance with division (B) of section 4783.03 of the Revised Code, the confidential relations and communications between a certified Ohio behavior analyst and clients are placed under the same umbrella of a privilege as those between physician and patient under division (B) of section 2317.02 of the Revised Code. The privilege is intended to protect the interest of the client

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

by encouraging free disclosure to the certified Ohio behavior analyst and by preventing such free disclosure to others. Thus, the client rather than the certified Ohio behavior analyst holds and may assert the privilege.

(a) A certified Ohio behavior analyst shall not testify concerning a communication made to him/her by a client. The certified Ohio behavior analyst may testify by express consent of the client or legal guardian or, if the client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of such deceased client. If the client voluntarily testifies, certified Ohio behavior analysts may be compelled to testify on the same subject; or if the client, the executor or administrator files a claim against the certified Ohio behavior analyst, such filing shall constitute a waiver of this privilege with regard to the care and treatment of which complaint is made.

(b) Court decisions construing the scope of the physician-patient privilege, pursuant to section 2317.02 of the Revised Code, are applicable to this privilege between certified Ohio behavior analyst and the client.

(c) A certified Ohio behavior analyst may disclose confidential information without the informed written consent of a client when the certified Ohio behavior analyst judges that disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on himself/herself or on another person. In such case, the certified Ohio behavior analyst may disclose the confidential information only to appropriate public authorities, the potential victim, professional workers, and/or the family of the client.

(d) A certified Ohio behavior analyst shall safeguard the confidential information obtained in the course of practice, teaching, research, or other professional duties. With the exceptions as required or permitted by statute, a certified Ohio behavior analyst shall disclose confidential information to others only with the informed written consent of the client.

(e) At the beginning of a professional relationship a certified Ohio behavior analyst shall inform his/her client of the legal limits of confidentiality. To the extent that the client can understand, the certified Ohio behavior analyst shall inform a client who is below the age of majority or who has a legal guardian of the limit the law imposes on the right of confidentiality. When services are provided to more than one patient or client during a joint session (for example to a family or couple, or parent and child, or group), a certified Ohio behavior analyst shall, at the beginning of the professional relationship, clarify to all parties the limits of confidentiality.

(f) A certified Ohio behavior analyst may release confidential information upon court order or to conform to state or federal laws, rules, or regulations.

(g) A certified Ohio behavior analyst shall comply with any relevant law concerning the reporting of abuse of children or vulnerable adults.

(H) Competence:

(1) Limits on practice: A certified Ohio behavior analyst provides services only within the boundaries of his/her competence, based on education, training and supervised experience. The practice of applied behavior analysis does not include psychological testing, diagnosis of a

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities.

(2) Maintaining competence: A certified Ohio behavior analyst shall maintain current competency in the areas in which he/she practices, through continuing education, consultation and/or other training, in conformance with current standards of scientific and professional knowledge.

(3) Referrals. A certified Ohio behavior analyst shall make or recommend referral to other professional resources when such referral is in the best interests of the client.

(4) Interprofessional relations:

(a) A certified Ohio behavior analyst shall neither establish nor offer to establish a continuing professional relationship with a client receiving behavior analysis services from another professional, except with the knowledge of the other professional.

(b) A certified Ohio behavior analyst shall cooperate with other professionals in order to serve his/her clients.

(I) Violations of law:

(1) Violation of applicable statutes. A certified Ohio behavior analyst shall not violate any applicable statute or administrative rule regulating the practice of applied behavior analysis.

(2) Use of fraud, misrepresentation, or deception. A certified Ohio behavior analyst shall not use fraud, misrepresentation, or deception in obtaining a certified Ohio behavior analyst certificate, in engaging in any examination process required for certification, in assisting another to obtain a certified Ohio behavior analyst certificate, in billing clients or third-party payers, in providing applied behavior analysis services, in reporting the results of those services, or in conducting any other activity related to the practice of applied behavior analysis.

(J) Aiding illegal practice:

(1) Aiding unauthorized practice. A certified Ohio behavior analyst shall not aid or abet another person in misrepresenting his/her professional credentials or in illegally engaging in the practice of applied behavior analysis.

(2) Delegating professional responsibility. A certified Ohio behavior analyst shall not delegate professional responsibilities to a person not qualified and/or not appropriately credentialed to provide such services.

(3) Providing supervision. A certified Ohio behavior analyst shall exercise appropriate supervision over supervisees, as set forth in the rules of the board.

(4) Reporting of violations to board. A certified Ohio behavior analyst who has substantial reason to believe that another certified Ohio behavior analyst or supervisee has committed an apparent violation of the statutes or rules of the board that has substantially harmed or is

**What is the “harm” that the regulation seeks to prevent? (See, R.C. 4798.02(B).)**

likely to substantially harm a person or organization shall so inform the board in writing; however, when the information regarding such violation is obtained in a professional relationship with a client, the certified Ohio behavior analyst shall report it only with the written permission of the client. Under such circumstances certified Ohio behavior analyst shall advise the client of the name, address, and telephone number of the state board of psychology and of the client’s right to file a complaint. The certified Ohio behavior analyst shall make reasonable efforts to guide and/or facilitate the client in the complaint process as needed or requested by the client. Nothing in this rule shall relieve a certified Ohio behavior analyst from the duty to file any report required by applicable statutes.

(K) Supervision rules. Rules 4783-6-01 and 4783-6-02 of the Administrative Code, pertaining to supervision of persons working directly under the authority and direction of the certified Ohio behavior analyst, shall be considered as a part of these rules of professional conduct.

**Is the regulation effective at preventing the harm described above? Are there other, less restrictive ways to prevent the harm?**

The Psychology Board has the responsibility for regulating behavior that typically occurs when patients are highly vulnerable in terms of their emotional condition, self-concept, and relationships. Ohio’s consumers of psychological services expect from their psychologist compassion, competence, trust, confidentiality, and a clearly defined role. No set of regulatory laws and rules can prevent all harm among those in the regulated community. Therefore, there need to be clear statutory do’s and don’ts and rules of professional conduct rooted in patient rights and prevailing standards of care. The Board’s educational, training, and examination requirements Certified Ohio Behavior Analysts are highly effective and clear. The Board’s laws and rules governing complaint filing and investigations provide an efficient process rooted in due process for the license holder and compassion and support for the complainant.

**Are there any changes the Board would like to see implemented?**

The public would benefit from the inclusion of a Certified Ohio Behavior Analyst (COBA) on the Board. The Board’s board member appointment requirements were not amended when taking on the regulation of COBA’s in 2013. The requirement to have six (6) psychologists/school psychologists and three (3) consumer advocates could be enhanced by a statutory change to 4732.02 requiring that there be a COBA on the Board or a psychologist who is also a COBA. This would help by ensuring that there is a board member who is trained and expert in Applied Behavior Analysis to assist with investigations specific to the practice of ABA (most of the complaints are in the context of services being rendered to children on the Autism Spectrum).

**Comparison to other states** (How many other states regulate the occupation? How do Ohio's regulations compare to those others states? Is Ohio more restrictive? Less restrictive? Or somewhere in between?)

Ohio's regulations are less restrictive than most states that regulate the practice of Applied Behavior Analysis. The Ohio application process is efficient and clear, and there is no requirement to send test scores or an academic transcript. Numerous other states that issue behavior analyst licenses require primary source verification of education and training. The primary statutory requirement for this license is active certification as a Board Certified Behavior Analyst (BCBA) by the Behavior Analyst Certification Board (BACB). The BACB conducts the education and training reviews, on which the Psychology Board relies. Board staff verifies the applicant's BCBA online and then the applicant is scheduled for the pre-licensure workshop and examination.

**Surrounding state comparison (LSC)**

| Certified Behavior Analyst |   |  |   |  |   |               |
|----------------------------|---|--|---|--|---|---------------|
|                            | Ohio  | Indiana  | Kentucky  | Michigan   | Pennsylvania  | West Virginia |
| License required?          | Yes ( <i>R.C. 4783.02</i> )   | Yes ( <i>Ind. Code Ann. 25-41-1-1</i> )                    | Yes ( <i>Ky. Rev. Stat. Ann. 319C.020(1)</i> )                    | Yes ( <i>Mich. Comp. Laws 333.1823</i> )   | Yes ( <i>63 Pa. Cons. Stat. 422.25; 49 Pa. Code Part I, Subpt. A, Ch. 18, Subch. I</i> )  | No            |
| Education or training      | Demonstrates both of the following:<br><br>1. Current certification as a Board Certified Behavior Analyst (BCBA) by the | Certified as a BCBA ( <i>Ind. Code Ann. 25-41-1-1(2)</i> ) | Certified as a BCBA ( <i>Ky. Rev. Stat. Ann. 319C.080(1)(a)</i> ) | Certified as a BCBA and not have been convicted of certain crimes ( <i>Mich. Admin. Code R. 338.1823(1)(c) and (d)</i> ) | Meets all of the following:<br><br>1. Holds a master's or higher degree from an accredited college or university in a field related | N/A           |

**Certified Behavior Analyst**

|            | <b>Ohio</b>   | <b>Indiana</b> | <b>Kentucky</b>   | <b>Michigan</b>  | <b>Pennsylvania</b>  | <b>West Virginia</b> |
|------------|---|----------------|---|--|--|----------------------|
|            | Behavior Analyst Certification Board (BACB) or completion of equivalent requirements and passage of a psychometrically valid exam administered by a nationally accredited credentialing organization;<br><br>2. An understanding of the law regarding behavioral health practice<br><br><i>(R.C. 4783.04(A)(3) and (4))</i> |                |   |  | to mental health, psychology, or social work;<br><br>2. 90 hours of coursework in evidence-based practices from an accredited college or university or Board-approved training<br><br><i>(49 Pa. Code 18.524(a) and (d))</i> |                      |
| Experience | 1,500 hours of relevant supervised experience in  | N/A            | Five hours of training in adult abuse and neglect prevention; child | Complete training in identifying victims of human trafficking that | Both of the following:   | N/A                  |

| Certified Behavior Analyst |  |         |  |  |   |               |
|----------------------------|--|---------|--|--|---|---------------|
|                            | Ohio   | Indiana | Kentucky   | Michigan   | Pennsylvania  | West Virginia |
|                            | applied behavior analysis satisfactory to the Board if applicant does not possess a BCBA certificate (O.A.C. 4783-4-01(B)(1)(a) (iii)) |         | abuse, neglect, and dependency prevention; or a combination of the two (201 Ky. Admin. Regs. 43:010, Section 2(3)) | meets certain standards (Mich. Admin. Code R. 338.1821(1)) | <ol style="list-style-type: none"> <li>1. One year of experience involving functional behavior assessments of individuals under 21 years old;</li> <li>2. 1,000 hours of clinical experience dealing with behavioral challenges or in a related field with individuals with autism spectrum disorders</li> </ol><br>(49 Pa. Code 18.524(b) and (c)) |               |
| Exam                       | Yes, a passing score on a jurisprudence workshop examination   | N/A     | Yes, must have passed the BCBA examination (Ky. Rev. Stat. Ann. 319C.080(1)(a))                                    | N/A  | N/A   | N/A           |

| Certified Behavior Analyst |  |         |  |   |   |               |
|----------------------------|--|---------|--|---|---|---------------|
|                            | Ohio                                     | Indiana | Kentucky   | Michigan  | Pennsylvania                            | West Virginia |
|                            | <i>(O.A.C. 4783-4-01(B)(3))</i>          |         |  |   |   |               |
| Continuing education       | 23 hours <i>(O.A.C. 4783-2-01(B)(1))</i> | N/A     | N/A  | N/A   | N/A                                     | N/A           |
| Initial licensure fee      | \$125 <i>(O.A.C. 4783-1-02(A))</i>       | N/A     | \$400 <i>(201 Ky. Admin. Regs. 43:030, Section 1(a) and (b))</i> | \$443.70 <i>(Michigan Licensing and Regulatory Affairs, Bureau of Professional Licensing, Behavioral Analyst Licensing Guide)</i>   | \$75 <i>(49 Pa. Code 16.13(i))</i>      | N/A           |
| License duration           | Two years <i>(O.A.C. 4783-1-03(A))</i>   | N/A     | Two years <i>(201 Ky. Admin. Regs. 43:030, Section 1(b)(2))</i>  | Four years <i>(Michigan Licensing and Regulatory Affairs, Bureau of Professional Licensing, Behavioral Analyst Licensing Guide)</i> | Two years <i>(49 Pa. Code 16.13(i))</i> | N/A           |
| Renewal fee                | \$150 <i>(O.A.C. 4783-1-02(B))</i>       | N/A     | \$300 <i>(201 Ky. Admin. Regs.)</i>                              | \$367.20 <i>(Michigan Licensing and Regulatory)</i>   | \$75 <i>(49 Pa. Code 16.13(i))</i>      | N/A           |

| Certified Behavior Analyst |      |         |                                 |   |              |               |
|----------------------------|------|---------|---------------------------------|---|--------------|---------------|
|                            | Ohio | Indiana | Kentucky                        | Michigan  | Pennsylvania | West Virginia |
|                            |      |         | <i>43:030, Section 1(b)(2))</i> | <i>Affairs, Bureau of Professional Licensing, Behavioral Analyst Licensing Guide)</i> |              |               |