

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
2000 Division of Developmental Disabilities Services

2102 Autism Service Providers

1.0 Purpose

Title 18, Sections 3361(f) and 3570A of the **Delaware Code** require that the Department of Health and Social Services promulgate regulations establishing standards for certifying qualified autism services providers. Once the regulations are promulgated, payment for the treatment of autism spectrum disorders covered under Sections 3361(f) and 3570A shall only be required to be made to autism services providers who meet the standards.

2.0 Definitions

“Applied behavior analysis” or **“ABA”** means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

“Autism services provider” means any person, entity, or group authorized by this regulation that designs, supervises, and/or provides treatment of autism spectrum disorders. This includes licensed physicians, psychologists or their assistants, psychiatrists, speech therapists or their aides, occupational therapists or their aides, physical therapists or their assistants, practitioners with the national certification of board-certified behavior analyst (Board Certified Behavior Analyst-Doctoral® (BCBA-D®), Board Certified Behavior Analyst® (BCBA®), Board Certified Assistant Behavior Analyst® (BCaBA®) working under supervision), and behavioral technicians working under the supervision of a board-certified behavior analyst (BCBA® or BCBA-D®), licensed professional counselors of mental health, licensed clinical social workers, and advanced practice nurses.

“Autism spectrum disorders” means any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM), including Autistic Disorder, Asperger’s Disorder and Pervasive Developmental Disorder Not Otherwise Specified, as such may be amended hereafter from time to time.

“Behavioral health treatment” means professional counseling, guidance services or treatment programs, including applied behavior analysis, that are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual. This definition also applies to treatment or counseling to improve social skills and function.

“Behavioral Technician” means a person meeting the requirements set forth in Section 3 of this regulation who implements components of an applied behavior analysis treatment plan designed and supervised by a Board Certified Behavior Analyst® (BCBA) or a Board Certified Behavior Analyst-Doctoral® (BCBA-D).

“Medically necessary” means reasonably expected to do the following:

- prevent the onset of an illness, condition, injury, or disability;
- reduce or ameliorate the physical, mental, or developmental effects of an illness, condition, injury, or disability; or
- assist to achieve or maintain maximum functional capacity in performing daily activities, taking into account both the functional capacity of the individual and the functional capacities that are appropriate for individuals of the same age.

“Pharmacy care” means medications prescribed by a licensed practitioner and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

“Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

“Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices or by a psychological assistant acting under the supervision of a psychologist.

“Screening and diagnosis of autism spectrum disorders” means medically necessary assessments, evaluations, or tests to diagnose whether an individual has or is at risk for one of the autism spectrum disorders.

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“Therapeutic care” means services provided by speech, occupational, or physical therapists or an aide or assistant acting under their supervision.

“Treatment for autism spectrum disorders” shall include the following care prescribed or ordered for an individual diagnosed with one of the autism spectrum disorders by a licensed physician or licensed psychologist who determines the care to be medically necessary:

- behavioral health treatment;
- pharmacy care;
- psychiatric care;
- psychological care;
- therapeutic care;
- items and equipment necessary to provide, receive, or advance in the above listed services, including those necessary for applied behavioral analysis.

3.0 Qualified Autism Service Providers

- 3.1 If an autism services provider is currently certified as a BCBA or BCBA-D, such autism services provider shall be deemed to have met the standards established under this section to provide applied behavior analysis services. The Behavior Analyst Certification Board sets forth a task list of acceptable activities of an individual it certifies and maintains disciplinary and ethical standards. Certified individuals must act within the scope of these documents and their certification, as currently set forth and as subsequently amended by the Behavior Analyst Certification Board (BACB).
- 3.2 Professionals and their aides and assistants listed in 2.0 may provide treatment for autism spectrum disorders, provided that such services are medically necessary and within the professional’s scope of practice and scope of competence and training. Aides and assistants must work under the direction and supervision of the professional. Only people certified as a BCBA or BCBA-D or behavioral technicians who work under the supervision of a BCBA or BCBA-D are considered qualified, under these regulations, to provide applied behavior analysis.
- 3.3 Behavioral Technicians who work under the supervision of a BCBA or BCBA-D and who meet the criteria listed below may implement components of applied behavior analysis treatment plans. The supervising BCBA or BCBA-D must verify that the criteria set forth have been met.
- 3.3.1 Supervision by a BCBA or BCBA-D includes clinical management and case supervision and may include direct treatment. The ratio of such supervision hours provided by the BCBA or BCBA-D to those direct treatment hours provided by a behavioral technician should reflect the needs of the client but shall not be less than 1.5:10 per week. In the case that less than 10 hours per week of ABA is prescribed and delivered, a minimum of 1 hour of supervision per week is required.
- 3.3.2 Other requirements for behavioral technicians:
- 3.3.2.1 High School Diploma or GED;
- 3.3.2.2 Proof of passing a federal and state criminal background and child and adult abuse registry check;
- 3.3.2.3 Annual CPR certification;
- 3.3.2.4 Annual signed statement that they have read and understand an explanation of Delaware’s mandatory child abuse reporting law (including hotline);
- 3.3.2.5 Signed statement that they have read and understand an explanation of HIPAA;
- 3.3.2.6 Proof of successful completion of an online or in-person course on Autism Spectrum Disorders that is offered by a provider on the list of continuing education providers authorized by the BACB, provided by any accredited two or four year college (online or in-person), or provided by an ABA or behavioral health agency training its own staff.
- 3.3.2.7 Proof of completion of competency-based training in implementing applied behavior analysis procedures delivered and verified by the supervising BCBA, or BCBA-D. A person holding a current certification of board certified assistant behavior analyst (BCaBA) is deemed to have met this requirement.
- 3.3.2.8 Proof of successful completion of an online or in-person course on Applied Behavior Analysis principles that is offered by a provider on the list of continuing education providers authorized by the BACB, provided by any accredited two or four year college (online or in-person), or provided by an ABA or behavioral health agency training its own staff so long as such training is done by a BCBA or BCBA-D.

3.3.2.9 After completion of the above, a minimum of 10 hours of competency-based training and direct service, observed by the BCBA or BCBA-D, before providing one-on-one service.

4.0 Disqualification of Autism Service Providers

- 4.1 A person who meets a definition of an Autism Service Provider under section 3.0 becomes disqualified if
 - 4.1.1 The BCBA or BCBA-D no longer has a credential issued by the Behavior Analyst Certification Board.
 - 4.1.2 The professional license under which a person practices is suspended or revoked;
 - 4.1.3 The person is under investigation and review for or is substantiated for or convicted of abuse, mistreatment, neglect, or exploitation; or
 - 4.1.4 An aide, assistant, or behavioral technician ceases employment or the agreement under which the person is supervised by the Autism Service Provider is terminated.

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