

CHAPTER 65G-4
SERVICE DELIVERY PRACTICE AND PROCEDURE

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(Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.023, 65B-4.0)

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65G-4.001 Definitions for Behavioral Services: Practice and Procedure.

(1) Area Behavior Analyst means a behavior analyst employed by, or under contract with an area office of the Agency who holds a doctorate from an accredited university program with behavior analysis as a primary focus, is a board certified behavior analyst, has completed a dissertation that had behavior analysis as its central focus and has at least one year of experience in the provision of behavior analysis services for persons with developmental disabilities. However, if no one with these qualifications is available, then the individual must be a certified behavior analyst with at least the education and experience requirements for taking the board's behavior analyst examination.

(2) Behavior analysis refers to the use of scientific methods to produce socially significant improvements in behavior. This process entails gathering information to analyze or describe the link between behavior and environment. It includes assessment of the environment and consequences that are maintaining the behavior targeted for change. It also encompasses changing the situations in the environment that trigger problem behavior and arranging situations that will provide the opportunity for desirable behaviors to occur. Behavior Analysis interventions teach or increase occurrence of skills to replace the behavior targeted for change and arrange delivery of consequences for desirable and undesirable behavior. A behavior analytic intervention also includes strategies and approaches to maintain the gains of the intervention over time and in varied settings. Behavior change interventions are based on the principles and laws of behavior. Behavior analytic interventions require monitoring and evaluation for effectiveness through direct observation and quantification of the behavior targeted for change. Caregivers and family members are actively involved in the behavior analysis process and are taught how to implement specific techniques or changes in the environment. Behavior analysis does not rely on cognitive therapies and expressly excludes psychological testing, neuropsychology, psychotherapy, sex therapy, psychoanalysis, hypnotherapy and long term counseling as treatment modalities.

(3) Behavior analysis services – The use of behavior analysis to assist a person or persons to learn new behavior, to increase existing behavior, to reduce existing behavior, and to emit behavior under precise environmental conditions. The term “behavior analysis services” includes the terms “behavior analysis service plan,” “behavioral programming,” “behavioral supports,” “behavior modification programs,” “behavior intervention plans,” “behavior plans” and “behavioral programs” as well as those interventions designed to ameliorate dangerous behavior as described in subsection 65G-4.010(3), F.A.C., below. These services are supported in documentation showing that they are applied, behavioral, analytic, technological, conceptually systematic, and effective relative to the definitions of these terms found in “Some Current Dimensions of Applied Behavior Analysis” by D. M. Baer, M. M. Wolf, and T. R. Risley and available in the *Journal of Applied Behavior Analysis*, Volume 1, 1968. This article is incorporated by reference and may be found online at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1310980/pdf/jaba00083-0089.pdf>.

(4) Certification Body – A nonprofit corporation whose standards for certification of behavior analysts and assistant behavior analysts adheres to the national standards of boards that determine professional credentials to meet the needs of behavior analysts, state governments and consumers of behavior analysis services. The certification procedure of the nonprofit corporation must undergo regular psychometric review and validation pursuant to a job analysis survey of the profession and standards established by content experts in the field.

(5) Certified Behavior Analyst – A behavior analyst certified by a certification body, including a Board Certified Behavior Analyst – Doctoral level, a Board Certified Behavior Analyst, a Board Certified Assistant Behavior Analyst and a Florida Certified Behavior Analyst.

(6) Consultation – Monthly contacts between a Board Certified Assistant Behavior Analyst (BCaBA) and a consulting Board Certified Behavior Analyst (BCBA), during which the behavior analysis services provided by the BCaBA are evaluated. At the time consultation is provided, the consulting BCBA shall not be the BCaBA’s subordinate, employee, spouse or family member. The consulting BCBA shall not be considered an employee of the BCaBA if the only compensation received by the consulting BCBA consists of payment for consultation. Monthly contacts may include the BCaBA’s presentation of behavior analysis services designed by the BCaBA, with a focus on graphic displays of data, at local review committee meetings, established in Rule 65G-4.008, F.A.C.

(7) Contingent exercise – Bodily exertion or effort that is not topographically related to the misbehavior, involving a repeated series of physical movements required as a consequence for inappropriate behavior.

(8) Desensitization – A method for teaching an individual to exhibit calm or incompatible behavior during the gradual and systematic presentation of increasing levels of an aversive or feared stimulus resulting in the ability to tolerate the formerly feared stimulus.

(9) Dietary manipulations – Procedures involving the alteration of dietary variables including the quantity or type of food eaten and liquids consumed, the caloric density of the diet, the oral stimulation involved in eating, and the temporal distribution of the daily diet.

(10) Extinction – A procedure in which reinforcement of a previously reinforced behavior is discontinued.

(11) Facility – Can be a publicly or privately established residential operation serving individuals with behavioral service needs.

(12) Functional Communication Training (FCT) – a procedure in which a functional form of communication is taught and reinforcement is provided contingent upon communication, while withholding reinforcement for other behavior.

(13) Positive practice overcorrection – Activities that involve repeated performance of a desirable alternative behavior related to a targeted inappropriate behavior.

(14) Provider – An enrolled professional authorized to provide behavior analysis services. Only individuals who are board certified behavior analysts – doctoral level, board certified behavior analysts (BCBA), board certified assistant behavior analysts (BCaBA), Florida certified behavior analysts or persons licensed in accordance with Chapter 490 or 491, F.S., on active status, and demonstrating supervision as required, may be providers of behavior analysis services. Only those providers holding a certificate on active status from a recognized certification organization for behavior analysis shall use the title, “certified behavior analyst.” Individuals performing behavior analysis services shall limit their practice to areas of documented expertise and in accordance with their education, training, and certification or licensure, unless otherwise demonstrating evidence of supervision by an individual meeting the requisite education, training, and certification.

(15) Regular psychometric review and validation – A certification process which complies with recognized national standards in the testing and certification industry to ensure the certification examinations are fair, valid and reliable and in conformance with recognized standards such as those of the International Organization for Standardization (ISO) or the National Commission for Certifying Agencies (NCCA).

(16) Response blocking – The use of physical intervention upon occurrence of an undesirable behavior in such a way as to interrupt the normal form of responding.

(17) Response cost – A procedure in which a specified amount of available reinforcers are removed from the individual’s reserve upon occurrence of a specified behavior.

(18) Restitutive overcorrection – Activities that involve correcting the effects of a specified behavior to a better condition than present prior to the occurrence of the specified behavior.

(19) Time-out – These procedures include the withdrawal of the opportunity to earn positive reinforcement or the loss of access to positive reinforcers for a specified period of time.

(20) Token Economy – A behavior change system in which identified behaviors are reinforced by a symbolic medium of exchange, or token, which is later used by a participant in the “purchase” of backup reinforcers, including objects or activities.

Rulemaking Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.023, 65B-4.023, Amended 4-4-12.

65G-4.0011 Recognized Certification Organizations for Certified Behavior Analysts.

All providers of behavior analysis services must either be licensed to practice in accordance with Chapter 490 or 491, F.S., or certified under a nonprofit corporation meeting the qualifications under Section 393.17(2), F.S. All providers of behavior analysis services

must submit to the Agency for Persons with Disabilities proof of their active licensure or certification in order to provide behavior analysis services. Pursuant to Rule 65G-4.001, F.A.C., and as required by Section 393.17(2), F.S., the Agency recognizes the certification for behavior analysts awarded by the following organizations: Behavior Analyst Certification Board, Inc., 1929 Buford Boulevard, Tallahassee, FL 32308.

Rulemaking Authority 393.17(2) FS. Law Implemented 393.17(2) FS. History–New 4-4-12.

65G-4.002 Service Delivery.

(1) The Agency shall provide all clients with appropriate supports and services in accordance with their support plan. Implementation of this policy, however, is subject to availability of funds.

(2) Clients of the Agency shall be integrated within local communities to the greatest extent possible. To this end, generic and specialized community services rather than Agency services shall be used whenever this will serve the best interest of the client. For referral purposes, each area office shall have a current descriptive directory of community resources.

(3) Programs and services provided by or for the Agency shall adhere to the policies, standards and procedures specified and made reference to in this chapter. The Agency shall make every effort to ensure that services provided are of good quality and at least comparable to those provided to persons in the community without disabilities.

(4) Medicaid providers should be reminded that all contracts for programs and services provided to the Agency shall include any terms and requirements established in the Developmental Disabilities Waiver Services Coverage and Limitations Handbook as required by Rule 59G-13.083, F.A.C. and Rules 65G-4.008, 65G-4.009, 65G-4.010, F.A.C.

Rulemaking Authority 393.501(1) FS. Law Implemented 393.17 FS. History–New 1-1-77, Formerly 10F-4.08, 10F-4.008, 65B-4.008, Amended 4-4-12.

65G-4.003 Certification as a Behavior Analyst.

Rulemaking Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.024, 65B-4.024, Repealed 4-4-12.

65G-4.004 Certification as an Associate Behavior Analyst.

Rulemaking Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.025, 65B-4.025, Repealed 4-4-12.

65G-4.005 Renewal of Behavior Analysis Certification.

Rulemaking Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.026, 65B-4.026, Repealed 4-4-12.

65G-4.006 Approved Continuing Education.

Rulemaking Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.027, 65B-4.028, Repealed 4-4-12.

65G-4.007 Behavior Analysis Certification Fees.

Rulemaking Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.17 FS. History–New 9-23-96, Formerly 10F-4.028, 65B-4.027, Repealed 4-4-12.

65G-4.008 Behavior Analysis Services Oversight System Organization.

(1) The Agency will establish and maintain a behavioral services program including a senior clinician, the Agency Senior Behavior Analyst (ASBA), to assume direction for standards of behavioral practice as provided in this Chapter, develop and manage systems of quality, utilization and cost containment for statewide behavioral practice. The ASBA holds a doctorate from an accredited university program with behavior analysis as a primary focus, is a board certified behavior analyst, has completed a dissertation that had behavior analysis as its central focus and has at least one year of experience in the provision of behavior analysis services for persons with developmental disabilities. However, if no one with these qualifications is available, then the ASBA must be a certified

behavior analyst with at least the education and experience established by the designated certification board. The behavioral services program will also include the support of at least one master's level board certified behavior analyst. The ASBA will direct:

(a) Area Behavior Analysts, who will be recruited, appointed, given clinical supervision and annually evaluated in conjunction with their functional supervisor in the area to which they are assigned.

(b) Committees.

1. The Local Review Committees (LRC) working in conjunction with the ASBA shall adopt the model LRC bylaws to establish guidelines for committee function, including the establishment of time frames for scheduling, reviewing, and approving, as well as tracking for efficient program review and approval, charter content, committee membership, meeting participants, confidentiality requirements and development of a process to resolve provider and LRC disputes.

2. The Peer Review Committee (PRC) working in conjunction with the ASBA shall adopt the model PRC bylaws to establish membership, as well as annual projects including, at minimum, review of behavioral practices in at least one Developmental Disability Center, at least one state operated forensic facility, at least one area community residential behavioral provider, at least one Local Review Committee, and other services as identified by the Agency.

3. Behavior Analysis Practices Committee (BAPC) shall be established to meet at least annually with membership from Area and Developmental Disabilities Centers Behavior Analysts, the PRC, providers of behavior analysis and behavior assistant solo service providers and agency providers, as well as behavioral residential services providers to assure that common operational requirements established in Rules 65G-4.008, 65G-4.009, and 65G-4.10, F.A.C., are implemented consistently statewide, including the qualifications and processes for establishing individuals and agencies as behavior analysis providers, behavior analysis agencies and residential behavioral providers, establishing consensus standards for LRC operation, standards for behavioral assessment content and behavior analysis support plan program content, standards for graphic display of data, documentation, billing, as well as behavioral services practice and service sanctions to ensure service quality to meet the changing needs of service recipients and provider requirements.

(2) A statewide peer review committee (PRC) and local review committees (LRCs) shall be appointed by the Agency to provide oversight of behavior analysis services.

(a) The Agency will establish the composition, function and procedures to be followed by the committees in the form of Model bylaws incorporated by reference in subsection (5) of this rule

(b) Each committee shall be chaired by a person who holds a doctorate from an accredited university program with behavior analysis as a primary focus, is a board certified behavior analyst, has completed a dissertation that had behavior analysis as its central focus and has at least one year of experience in the provision of behavior analysis services for persons with developmental disabilities. However, if no one with these qualifications is available, then the chairperson must be a certified behavior analyst with at least the education and experience requirements for taking the board's behavior analyst examination.

(c) Local review committees may establish subcommittees within varied locations outside the area office or within large facilities, upon mutual agreement between an area office and a provider, or between a primary facility campus and remote locations, and operate under the rules governing local review committees. Subcommittees shall ensure that at least two participating members are certified behavior analysts who are not employed or contracted by the facility, and who have no interest in the behavior programs produced by it. Members whose programs are reviewed in the course of the LRC meeting must abstain from decisions regarding their programs. The LRC shall remain responsible for the decisions of the subcommittees.

1. A sufficient number of LRCs shall be established to allow for the timely and thorough review of behavior analysis services.

2. Programs developed, implemented and submitted by a BCBA to the LRC chairperson following implementation may proceed forward until a decision is rendered by the LRC chairperson.

3. A provider submitting a behavior analysis services plan will be notified by the LRC chairperson within 21 days that the plan has been received with preliminary review completed.

4. Within 30 days of receipt of a behavior analysis services plan the LRC chairperson will notify the provider of the date the plan will be reviewed by the committee, if needed.

5. Behavior analysis services plans must be reviewed and a decision rendered within 90 days of receipt by the LRC chairperson.

6. At the time of review by the LRC, a decision will be rendered,

a. To "approve", and a review date established.

b. To "approve with modifications", and a review date established. Behavior analysis services plans developed, implemented and submitted by a BCBA may proceed forward and modifications submitted by the provider to the LRC chairperson within 30 days without further LRC review, until the next established review date.

c. To “not approve”. Behavior analysis services plans that are not approved must be revised by the provider, and resubmitted within 14 working days. Based upon the modifications the LRC chairperson must render a decision orally and in writing within seven working days of receipt, in the language of the provider, and in English.

7. Each LRC will be chaired by an individual meeting the qualifications set forth in paragraph (2)(b) above who is either an employee of the Agency or under contract to provide this service. Under no circumstances may the chair participate in the LRC review of his or her own services, services provided by or to a family member, or related services.

(3) The PRC shall conduct on-site reviews of behavior analysis services including the operations of local review committees; provide training and technical assistance related to client and systemic behavior analysis services issues; and provide recommendations regarding laws and regulations that affect behavior analysis services.

(4) Each area office, and each developmental disabilities center, hereafter referred to as “facility,” shall have a local review committee that shall oversee behavior analysis services provided to clients in their area or facility as specified in paragraphs (a)-(c), below:

(a) The committee shall review behavior analysis services programs as required in Rule 65G-4.010, F.A.C., to ensure that behavioral programs are implemented as required and with the intended improvement in target behaviors.

1. The person who designed the services or a certified or licensed designee, who has sufficient knowledge of the plan and its implementation, shall be present during the initial committee review. A person with primary responsibility for the ongoing implementation and monitoring of the services shall be present at all future meetings at which the services are reviewed by the committee.

2. Any person can request that a behavior analysis services plan be brought before the committee for its review to ensure compliance with Chapter 393, Florida Statutes, and Chapter 65G-4 or 65G-8, F.A.C. Providers should also be aware of the requirements in the Developmental Disabilities Waiver Services Coverage and Limitations Handbook (in Rule 59G-13.083, F.A.C.)

(b) The committee shall monitor behavior analysis services in accordance with a monitoring schedule approved by the committee. Approval of services includes the determination by the LRC chairperson that the individual designing and implementing the behavior analysis services is in compliance with subsection 65G-4.001(14), F.A.C., above, or is appropriately supervised.

(c) If reactive strategies (as that term is defined in Rule 65G-8.001(15), F.A.C., continue without the implementation of required behavioral programs or behavior analysis services requiring review are not presented to the LRC or are not found to be in accordance with Florida law, the committee chairperson shall request that the Agency notify the behavior analyst, and when appropriate, the residential provider and behavior analyst’s supervisor, of the services, orally at the time of review and in writing within ten days of review in the language of the provider or supervisor, and in English, of each area of non-compliance.

1. Absent emergency circumstances that threaten public health, safety or welfare, the provider shall have twenty (20) days within which to demonstrate compliance or present to the committee chairperson in writing evidence showing that the services being provided are in compliance with Florida Statutes and the Agency rules. The provider may present whatever evidence appropriate to demonstrate that the provider is in compliance with Chapter 393, F.S., Chapter 65G-4 or 65G-8, F.A.C. Providers should also be aware of the requirements of the Developmental Disabilities Waiver Services Coverage and Limitations Handbook in Rule 59G-13.083, F.A.C.

2. If emergency circumstances exist for the recipient of behavioral services the committee chairperson may give instruction to the provider on how to proceed with services or to cease and desist from continued behavior analysis services, with other recommendations for necessary safeguards and supports.

3. If, however, the committee determines that the behavior analyst, and when appropriate, the residential provider, is not in compliance with Chapter 393, F.S., or Chapter 65G-4 or Chapter 65G-8, F.A.C. the committee chairperson shall report all facts and circumstances to the Agency in writing within five (5) days of the provider’s response and request a final decision be made by the Agency. Providers should also be aware of the requirements of the Developmental Disabilities Waiver Services and Limitations Handbook in Rule 59G-13.083, F.A.C.

4. Within twenty (20) days of such report, the Agency shall notify the committee, in writing, and the provider, in writing and orally in the language of the provider and in English, of its decision. In the event the Agency finds the provider is not in compliance with Florida Statutes or the Agency rules, the Agency shall allow the provider an additional ten (10) days to modify services to meet requirements. If modifications are not made within the time allotted, the Agency shall consider whether a recoupment action should be initiated, provider status should be revoked, supervision be required, complaint be submitted to the designated certification or licensing board, or the requirement that the services being provided be discontinued.

5. If modifications are not made within the time allotted in subparagraph 4. and the agency must take one of the actions in subparagraph 4., the agency shall consider whether any of the following occurred:

a. Falsification of Documentation.

- b. Absence of documentation, such as graphs, behavioral assessments, behavior plans and required summaries,
- c. Lack of program monitoring as approved by the LRC.
- d. Failing to maintain a current behavior plan for an individual served.
- e. Failure to present behavior plan/s requiring LRC review.
- f. Failure to revise behavior plans based upon LRC recommendations or upon analysis of data and consistent with Chapter 65G-4, F.A.C.
- g. Failure to address behaviors related to health and safety.
- h. Failure to provide adequate supervision to behavior analysts and behavior assistants working under such service delivery arrangement.
- i. Failure to resubmit behavior plan revisions within time constraints established by the LRC.
- j. Repeated deficiencies that display lack of competence.
- k. Repeated use of restricted measures for problem behavior as itemized in subsection 65G-8.006(9), F.A.C., or use of reactive strategies without an LRC approved behavior analysis services plan as set forth in Rule 65G-8.006, F.A.C.
- l. Consistent pattern of failure to return phone calls or email, reply to any correspondence or show up for scheduled service visits and cannot be located.
- m. Failure to report abuse of a minor, or adult with disabilities as mandated by Florida Law.
- n. Failure to report immediately to law enforcement of potentially life threatening situations such as possession of explosives, fire arms, weapons, toxic material or illegal substances by individuals with impaired judgment and behavioral issues.
- o. Felony or misdemeanor related to the practice of behavior analysis or the health and safety of an individual.
- p. Failure to abide by ethical guidelines of their professional certification or licensing body.
- q. Assessment Report past due 30 day limit.
- r. Behavior plan past due 90 day limit.
- s. Documentation not submitted to the waiver support coordinator.
- t. Non-Compliance with standards of Behavior Focused and Intensive Behavior homes, including a current behavior plan developed or revised within the year and reporting of reactive strategies.
- u. Falsifying billing or billing at a higher rate than the analyst's qualifications warrant.
- v. Billing for services in school settings.
- w. Failure to comply with Rules 65G-4.008, 4.009, 4.010, F.A.C., or Chapter 393, F.S.
- x. Providers should also be aware of the requirements of the Developmental Disabilities Waiver Services and Limitations Handbook in Rule 59G-13.083, F.A.C.

6. Following a committee report set forth above, the Agency, after consideration of the factors set forth in subparagraph 5. above, may require additional supervision of the provider's services. The requirement for additional supervision may be a prerequisite for allowing the provider to continue to serve as an authorized behavior analysis services provider. Such required supervision shall include the following conditions:

- a. Supervision must be provided by a Board Certified Behavior Analyst – Doctoral level, or a Board Certified Behavior Analyst, or a person licensed under Chapter 490 or 491, F.S., (Psychologist, School Psychologist, Clinical Social Worker, Marriage and Family Therapist or Mental Health Counselor), with evidence (e.g. work samples) of at least three years of experience in the application of Applied Behavior Analysis procedures approved by a local review committee, to persons with exceptional needs post certification or licensure;
- b. Face-to-face meetings for up to two hours every two weeks or two hours per 40 hours of the provider's contact with clients. These meetings shall be between the provider and a board certified behavior analyst or a person licensed under Chapter 490 or 491, F.S., during which the supervisor directs and evaluates the behavior analysis services;
- c. The supervisor shall not be, at the time supervision is provided, the provider's subordinate or employee, spouse or family member. The supervisor shall not be considered an employee of the provider if the only compensation received by the supervising behavior analyst consists of payment for supervision; and
- d. The provider's presentation of behavior analysis services designed and implemented by the provider, with a focus on graphic displays of data, at local review committee meetings, established in Rule 65G-4.008, F.A.C., may be substituted for up to 25 percent of the total supervision time required.

(5) Forms incorporated by Reference.

- (a) Model LRC Bylaws are hereby incorporated by reference as Form APD-CBA – 1 (10/10).
- (b) Model PRC Bylaws are hereby incorporated by reference as Form APD-CBA – 2 (10/10).

Anyone may acquire a copy of the model bylaws by contacting the ASBA at the APD Central Office, 4030 Esplanade Way, Tallahassee, Florida 32399. Email: apd_info@apd.state.fl.us. Phone: (850) 488-4257.

Rulemaking Authority 393.125, 393.13(4)(g)3., 393.17 FS. Law Implemented 393.066, 393.13(4)(g)3. FS. History—New 9-23-96, Formerly 10F-4.029, 65B-4.029, Amended 4-4-12.

65G-4.009 Design, Implementation and Monitoring of Behavior Analysis Services.

(1) Providers of behavior analysis services shall provide services only as certified and as provided by law.

(2) All aspects of behavior analysis services shall be integrated with other relevant services and supports being provided to the client by the provider within the scope of authorized behavioral services.

(3) The selection of behavior analysis procedures and decisions by the provider to make environmental changes that obviate the need for the use of behavior change procedures shall be based upon information obtained through direct and indirect functional assessment or functional analysis designed to identify patterns of behavior and the functional relationships between the behavior or behaviors targeted for change and the environment. The assessment shall contain at minimum:

(a) Operational definitions of all behaviors targeted for change;

(b) Description of conditions under which the behavior is most likely and least likely to occur;

(c) Measures of current level of behavior targeted for change;

(d) Other relevant personal, social, medical, pharmacological or historical information that may impact on behavior targeted for change, if any;

(e) Putative functional relationships between targeted behavior and environment; and

(f) Recommendations for procedures to decrease maladaptive behavior and increase relevant appropriate alternative behavior.

(4) Behavior analysis services designed by the provider to decrease behavior shall include procedures for increasing functional replacement behavior, or acquisition of adaptive skills to serve as a functional alternative to the behaviors targeted for change.

(5) Behavior analysis procedures that are the least intrusive to the client and the most likely to be effective shall be used by the provider.

(6) Medical treatment to address purely medical etiologies or physical or occupational therapies to address behaviors that are related to physical limitations shall be provided concurrent with, or prior to, the implementation of behavior analysis services by the provider.

(7) Behavior analysis services shall not be provided continuously without appropriate considerations for maintenance and generalization of behavior change in relevant settings or a designation of criteria for termination of the interventions or services.

(8) The provider shall ensure that persons responsible for implementing, monitoring and providing behavior analysis services receive performance-based training that prepares them to properly implement the behavior analysis procedures involved, within the circumstances under which the services will be provided.

(9) The provider shall take reasonable steps to ensure data collection for behaviors targeted for increase and decrease during the entire period services are in effect. Graphic displays of weekly data for behaviors targeted for change shall be maintained and up-dated by the provider.

(10) The LRC shall approve the provider's behavior analysis services plan and specify the requirements for reporting of findings and data to the committee for behavior analysis services approved by the committee.

(a) Behavior analysis services plans are to be written as succinctly as is possible to effectively serve as a guide to those who will be implementing the plan.

(b) The behavior analysis services plan shall include, either in text or by reference to appropriate documents:

1. Identifying information for the individual affected by the plan.

2. The name, signature and certification or licensure information of the individual who developed, supervises or approves the implementation of the procedures described in the plan.

3. Objective statements of goals relative to behavior reduction and behavior acquisition resulting in program termination.

4. Rationale for intervention being warranted, and selection of proposed interventions, consistent with assessment results.

5. Medical, social and historical information including previous treatment programs relevant to the current problems being addressed.

6. How and where behavioral services will be integrated with daily routines and other relevant services.

7. Identification of behaviors targeted for reduction.

8. Identification of behaviors targeted for acquisition or as replacement.

9. Data collection methods for behaviors targeted for reduction and acquisition.

10. Intervention procedures for behaviors targeted for reduction and acquisition.
11. Description of performance-based training for persons implementing procedures.
12. Techniques for maintaining and generalizing behavioral improvements, as well as criteria for the reduction and fading of behavioral services.

13. When employed, rationale for use of ancillary support staff, such as behavior assistants; a description of training, their routine or duties, performance monitoring and fading of services.

14. Methods of monitoring for programmatic fidelity and effectiveness, including but not limited to:

a. Data analysis and interpretation.

b. Direct observation in the setting(s) where the plan is implemented, including the observation of the implementation of procedures or simulated implementation.

c. Discussions with supervisors, and observations of individuals who implement the behavior analysis procedures involved.

d. Schedule or frequency of monitoring, and who, by function or assignment, will conduct monitoring.

e. Determination that the services are in accordance with Florida Statutes and the Agency rules.

15. Signatures of informed participants as may be required by law and individuals authorized to approve the procedures.

(c) Modifications to the behavior analysis service plan which include procedures listed in Rule 65G-4.010, F.A.C., approved by the LRC shall be documented and submitted by the provider to the committee chairperson within one week after the changes are made, for determination of need for committee review. A summary of the effects of and modifications to behavior analysis services plan shall be written by the provider at least annually. This summary will include a graphical display of data collected over the year with appropriate annotation of program modifications.

Rulemaking Authority 393.13(4) FS. Law Implemented 393.13(4)(g)3. FS. History—New 9-23-96, Formerly 10F-4.030, 65B-4.030, Amended 4-4-12.

65G-4.010 Behavior Analysis Services Approval.

(1) All written plans describing behavior analysis services consistent with subsection 65G-4.009(10), F.A.C., shall be submitted to the local review committee chairperson within five working days following implementation.

(2) All behavior analysis services designed to include restricted procedures or those services designed to address those actions of the individual which, without behavioral, physical, or chemical intervention can be expected to result in outcomes identified in subsection 65G-4.010(3), F.A.C., below and will be provided or supervised by a Certified Behavior Analyst as defined in subsection 65G-4.001(5), F.A.C., or a person licensed pursuant to Chapter 490 or 491, F.S.: In those cases where it is unclear whether behavior analysis services meet either criteria, the provider must contact the LRC chairperson to determine the need for LRC review.

(3) Written plans describing behavior analysis services must be submitted to the LRC chairperson, when:

(a) Behavior analysis services include restricted procedures such as:

1. The contingent delivery or removal of events to reduce the probability of occurrence of a problem behavior, including but not limited to: extinction or withholding of reinforcement for those behaviors referenced in paragraph 65G-4.010(3)(b), F.A.C., response blocking for more than 15 seconds, contingent exercise, restitutional overcorrection, positive practice overcorrection, time-out and response cost.

2. The removal of an aversive event contingent upon the display of a behavior targeted for increase, including but not limited to, Functional Communication Training using removal of demands or noise as a reinforcer, and desensitization programs.

3. Access to abundant amounts of an event or stimulus so that it loses potency as a reinforcer, and severely restricted access to an event or stimulus to increase its potency as a reinforcer,

4. Behavioral protective devices, as defined in subsection 65G-8.001(4), F.A.C., and electronic devices for monitoring and signaling.

5. Dietary manipulations.

(b) Behavior analysis services address behaviors that:

1. Have resulted in self-inflicted, detectable damage, or resulted in external or internal damage requiring medical attention or are expected to increase in frequency, duration, or intensity resulting in self-inflicted, external or internal damage requiring medical attention.

2. Have occurred or are expected to occur with sufficient frequency, duration or magnitude that a life-threatening situation might result, including excessive eating or drinking, vomiting, ruminating, eating non-nutritive substances, refusing to eat, holding one's breath, or swallowing excessive amounts of air.

3. Have resulted in detectable damage, or external or internal damage to other persons that requires medical attention or are expected to increase in frequency, duration or intensity resulting in external or internal damage to other persons that requires medical attention.

4. Have resulted or are expected to result in major property damage or destruction.

5. Have resulted or are expected to result in arrest and confinement by law enforcement personnel.

6. Have resulted in the need or meet the characteristics for behavioral services in a Behavior Focused or Intensive Behavior Residential Habilitation program.

7. Have resulted in the need for additional staffing or Behavior Assistant Services in one or more settings.

8. Have resulted in the repeated use of reactive strategies without a formal approved behavior plan.

(c) Behavioral programs or manuals implemented as group contingencies or behavior change systems, including behavioral program manuals, level systems and token economies, are implemented.

Rulemaking Authority 393.13(4)(g)3. FS. Law Implemented 393.13(4)(g)3. FS. History—New 9-23-96, Formerly 10F-4.031, 65B-4.030, Amended 4-4-12.

65G-4.011 Determination of Mental Retardation in Capital Felony Cases: Intelligence; Tests to be Administered.

(1) When a defendant convicted of a capital felony is suspected of having or determined to have mental retardation, intelligence tests to determine intellectual functioning as specified below shall be administered by a qualified professional who is authorized in accordance with Florida Statutes to perform evaluations in Florida. The test shall consist of an individually administered evaluation, which is valid and reliable for the purpose of determining intelligence. The tests specified below shall be used.

(a) The Stanford-Binet Intelligence Scale.

(b) Wechsler Intelligence Scale.

(2) Notwithstanding this rule, the court, pursuant to Section 921.137, F.S., is authorized to consider the findings of the court appointed experts or any other expert utilizing individually administered evaluation procedures which provide for the use of valid tests and evaluation materials, administered and interpreted by trained personnel, in conformance with instructions provided by the producer of the tests or evaluation materials. The results of the evaluations submitted to the court shall be accompanied by the published validity and reliability data for the examination.

Rulemaking Authority 921.137(1) FS. Law Implemented 921.137(1) FS. History—New 1-13-04, Formerly 65B-4.032.

65G-4.012 Determination of Mental Retardation: Intelligence Tests to Be Administered.

(1) For the purposes of Chapters 393 and 916, F.S., the Stanford-Binet Intelligence Scale or the Wechsler Adult & Infant Intelligence Scale, administered by or under the direct supervision of a psychologist or school psychologist licensed under Chapter 490, F.S., shall be used to determine mental retardation and the level of intellectual functioning.

(2) Notwithstanding subsection (1), if, given the condition of the individual to be tested, the Stanford-Binet Intelligence Scale or the Wechsler Adult & Infant Intelligence Scale are not valid and reliable as determined by the person authorized to administer such tests as specified in subsection (1), an alternative test or evaluation procedure, administered and interpreted in conformance with instructions provided by the producer of the tests or evaluation materials, may be used. The results of the testing or evaluation must include reference to published validity and reliability data for the specified test or evaluation procedure.

Rulemaking Authority 393.063(38), 916.106, 393.501(1) FS. Law Implemented 393.063(38), 916.106 FS. History—New 6-13-06, Formerly 65B-4.033.