

Interpretive Statement

Revised – 10/18/11

Title:	Use of Certain Treatment Modalities by individuals working for a client that receives applied behavior analysis services.	Number: ABA 22-01
References:	RCW 18.380.010(6) ; RCW 18.380.020	
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The Department of Health (department) interprets RCW 18.380.020 and RCW 18.380.010 to allow a licensed applied behavior analysis (ABA) practitioner to instruct certain individuals in the behavioral techniques described in RCW 18.380.010(6)(a)(iii) and to allow certain individuals who are not licensed ABA practitioners to use these behavioral techniques.

The department takes the position that non-licensed individuals may use the behavioral techniques listed in RCW 18.380.010(6)(a)(iii) without engaging in the unlicensed practice of applied behavior analysis. Likewise, a person licensed under chapter 18.380 RCW may instruct or assist a non-licensed individual on those specific behavioral techniques described in RCW 18.380.010 (6)(a)(iii), provided that the individual receiving assistance does not have the primary role to provide ABA services to a client.

[Chapter 18.380 RCW](#) established the Applied Behavior Analysis Program in 2015. As of July 1, 2017, a license is required to provide ABA services unless certain exceptions apply. It has come to the department's attention that some ABA licensed practitioners believe they would be acting outside the scope of their practice if they were to assist an unlicensed person to perform specific behavioral techniques. ABA practitioners provided this type of assistance before the requirement to be licensed went into effect, but since July of 2017 the practitioners have ceased to do so. This has meant that some clients, particularly adult clients, do not receive the services needed from the people who provide other support services.

Examples of a non-licensed individual performing behavior techniques could include:

- A caregiver at a client's residential home, an adult family home, or assisted living facility;
- A caregiver at a client's child or adult daycare;
- The client's employer or supported employment such as through the Department of Vocational Rehabilitation;

- An employee treating a client at a health care setting such as a medical clinic, hospital, or dental office; or
- A client’s foster care or extended family.

However, ABA practitioners should exercise professional judgement in cases where the licensed individual is not working with the client and providing ABA services prior to advising a non-licensed individual with advice or training related to behavioral techniques to assure they do not go beyond the behavior techniques listed in RCW 18.380.010(6)(a)(iii). Likewise, if a non-licensed individual received some form of advice or training on the techniques in RCW 18.380.010(6), and that person represented themselves as an ABA professional, this would still constitute the unlicensed practice of ABA.

As a general rule, no person is permitted to engage in the practice of ABA unless the person holds a license or a temporary license under chapter 18.380 RCW, or if statutory exceptions apply under RCW 18.380.020(1)(a). However, the statute requiring licensure goes on to emphasize that “[t]he use of behavioral techniques described in RCW 18.380.010(6)(a)(iii) alone does not constitute the practice of applied behavior analysis.” When the statutory definition of ABA and language in the statute governing licensure and certification requirements is read in conjunction, this language indicates that when used alone, the methods, processes, and techniques listed in RCW 18.380.010(6)(a)(iii) do not constitute the practice of applied behavior analysis. Instead, they are classified as “behavioral techniques.”

Therefore, it is the department’s position that:

- 1) Under the plain language of RCW 18.380.020, a non-licensed individual may use or perform these behavioral techniques by themselves without practicing ABA, provided that they follow any other applicable rules or statutes. A license under chapter 18.380 RCW is not required.
- 2) Licensed ABA practitioners may, in certain limited circumstances, provide non-licensed individuals with assistance in administering the behavior techniques listed in RCW 18.380.010(6)(a)(iii) without implicating the Uniform Disciplinary Act’s prohibition on “aiding or abetting an unlicensed person to practice when a license is required.” RCW 18.130.180(10). These behavioral techniques, when performed alone, are not ABA; therefore, instructing or assisting a non-licensed person on how to use or administer these techniques does not constitute aiding or abetting a practice which requires a license.