

# Client Alert

Business Information for  
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Shumaker, Loop & Kendrick, LLP

July 10, 2019



## Florida Medicaid Behavior Analysis Services Providers must obtain a Health Care Clinic License or Exemption Certificate

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The Florida Agency for Healthcare Administration (“AHCA”) has added a condition of Medicaid enrollment for behavior analysis services. Behavior analysis providers use applied behavior analysis to assist children with autism spectrum disorder. It is a type of therapy that focuses on improving specific behaviors, such as social skills, communication, reading, and academics, as well as adaptive learning skills, such as fine motor dexterity, hygiene, grooming, domestic capabilities, punctuality, and job competence.

As of July 1, 2020, these providers must show their Florida Health Care Clinic License or Exemption certificate to AHCA in order to receive Medicaid payments from AHCA. A Health Care Clinic License is generally required if you are providing health care services and are tendering charges for reimbursement for them. AHCA has made it clear that behavior analysis services are “health care services” within the meaning of the Health Care Clinic Act. (See Agency for Health Care Administration, Behavior Analysis Services Information, Behavior Analysis FAQs located [here](#). Nonetheless, numerous exemptions to licensure are available. Such exemptions include one for businesses wholly owned by certain licensed professionals (ie. physicians or psychologists). Spouses and certain family members can also be owners under this exemption with certain licensees in their family. Behavior analysis providers should have their legal counsel check their ownership structure and other facts to determine whether they can obtain an exemption. Even if the provider is legally exempt it must apply for and receive a certificate of exemption from AHCA in order to receive Medicaid payments.

If the behavior analysis provider is not exempt from Health Care Clinic licensure then the provider should start planning immediately to apply for the license. It could take several months to prepare the application and to meet the requirements and several more months for AHCA to process and inspect the facility or mobile provider. In order to obtain a Health Care Clinic License, providers must meet certain financial stability and projection requirements prepared by a Certified Public Accountant. They also must obtain background checks for individuals associated with their services, prepare special policies and procedures, have a medical clinical director under contract with specific obligations, and be inspected. Each physical location of the providers must be separately licensed. However, if the provider has no set facility location(s) it may qualify for licensure as a mobile clinic.

Behavior analysis providers in Florida need to start now assessing and preparing for their health care clinic licensure application or exemption to not jeopardize their Florida Medicaid payments. Also, the failure to obtain a license or exemption when required could be a basis for Medicaid payment denials or claims against the provider of an overpayment by Medicaid.

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