

INTERIM STUDY PROPOSAL 2021-145

State of Arkansas
93rd General Assembly
Third Extraordinary Session, 2022

A Bill

JMB/JMB
HOUSE BILL

By: Representative Clowney

Filed with: Senate Committee on Public Health, Welfare, and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS BEHAVIOR ANALYST
LICENSURE ACT; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE ARKANSAS BEHAVIOR ANALYST
LICENSURE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 17, is amended to add an additional
chapter to read as follows:

Chapter 108 – Behavioral Analysts

17-108-101. Title.

This chapter shall be known and may be cited as the "Arkansas Behavior
Analyst Licensure Act".

17-108-102. Definitions.

As used in this chapter:

(1) "Behavior technician" means a paraprofessional who:

(A) Practices under close, ongoing supervision of a
licensed behavior analyst or a licensed assistant behavior analyst;

(B) Does not design assessment or intervention plans or
procedures; and

1 (C) Delivers services as assigned by his or her
2 supervisor;

3 (2) "Certifying entity" means the Behavior Analyst Certification
4 Board, Inc., or another entity whose programs to credential practitioners of
5 applied behavior analysis are accredited by the National Commission for
6 Certifying Agencies or the American National Standards Institute;

7 (3) "Licensed behavior analyst" means an individual who is
8 certified by the Department of Health under this chapter;

9 (4) "Licensed assistant behavior analyst" means an individual
10 who is certified by the department under this chapter; and

11 (5)(A) "Practice of applied behavior analysis" means the design,
12 implementation, and evaluation of instructional and environmental
13 modifications to produce socially significant improvements in human behavior,
14 including:

15 (i) The empirical identification of functional
16 relations between behavior and environmental factors, known as functional
17 assessment and analysis; and

18 (ii) Applied behavior analysis interventions based
19 on scientific research and direct and indirect observation and measurement of
20 behavior and environment which utilize contextual factors, motivating
21 operations, antecedent stimuli, positive reinforcement, and other procedures
22 to help individuals develop new behaviors, increase or decrease existing
23 behaviors, and emit behaviors under specific environmental conditions.

24 (B) "Practice of applied behavior analysis" does not
25 include diagnosis of disorders, psychological testing, psychotherapy,
26 cognitive therapy, psychoanalysis, or counseling.

27
28 17-108-103. Unlawful practice of applied behavior analysis.

29 (a) Unless licensed under this chapter, a person shall not:

30 (1) Hold himself or herself out to be a licensed behavior
31 analyst or a licensed assistant behavior analyst;

32 (2) Use any combination or abbreviation of the term "behavior
33 analyst", "licensed behavior analyst", "licensed assistant behavior analyst",
34 or "assistant behavior analyst" to indicate or imply that he or she is a
35 licensed behavior analyst or a licensed assistant behavior analyst; or

1 (3) Perform the practice of applied behavior analysis unless he
2 or she is exempt under § 17-108-104.

3 (b)(1) A person found to be in violation of this chapter is subject to
4 a fine of no less than five hundred dollars (\$500).

5 (2) A person licensed under this chapter who violates this
6 chapter is subject to administrative sanctions and penalties, including
7 without limitation revocation of his or her license.

8
9 17-108-104. Exemptions.

10 This chapter does not prohibit or restrict the practice of any of the
11 following:

12 (1) An individual licensed to practice psychology in this state
13 and an individual who delivers psychological services under his or her
14 supervision if the:

15 (A) Applied behavior analysis services provided are within
16 the boundaries of the licensed psychologist's education, training,
17 competence, and scope of practice; and

18 (B) Licensed psychologist does not represent that he or
19 she is a licensed behavior analyst unless he or she is also licensed under
20 this chapter;

21 (2) An individual licensed to practice other professions in this
22 state and an individual who delivers services under his or her supervision,
23 if the:

24 (A) Applied behavior analysis services provided are within
25 the boundaries of the licensed professional's education, training,
26 competence, and scope of practice; and

27 (B) Licensed professional does not represent that he or
28 she is a licensed behavior analyst unless he or she is also licensed under
29 this chapter;

30 (3)(A) A behavior technician who delivers applied behavior
31 analysis services under the extended authority and direction of a licensed
32 behavior analyst or a licensed assistant behavior analyst.

33 (B) A behavior technician shall not represent themselves
34 as a professional behavior analyst and shall use titles that indicate their
35 nonprofessional status, such as "ABA technician", "behavior technician", or
36 "tutor";

1 (4)(A) A caregiver of a recipient of applied behavior analysis
2 services who delivers those services to the recipient under the extended
3 authority and direction of a licensed behavior analyst or a licensed
4 assistant behavior analyst.

5 (B) An individual under subdivision (4)(A) of this section
6 shall not represent himself or herself as a "professional behavior analyst";

7 (5)(A) A behavior analyst who practices with nonhumans,
8 including applied animal behaviorists and animal trainers.

9 (B) An individual described under subdivision (5)(A) of
10 this section may use the title "behavior analyst" but shall not represent
11 himself or herself as a licensed behavior analyst or a licensed assistant
12 behavior analyst unless licensed under this chapter;

13 (6)(A) A professional who provides general applied behavior
14 analysis services to organizations if those services are for the benefit of
15 the organizations and do not involve direct services to individuals.

16 (B) An individual described under subdivision (6)(A) of
17 this section may use the title "behavior analyst" but shall not represent
18 himself or herself as a licensed behavior analyst or licensed assistant
19 behavior analyst unless licensed under this chapter;

20 (7)(A) A matriculated college or university student or
21 postdoctoral fellow whom applied behavior analysis activities are part of a
22 defined program of study, course, practicum, internship, or fellowship and
23 are directly supervised by a licensed behavior analyst in this state or a
24 qualified faculty member.

25 (B) An individual described under subdivision (7)(A) of
26 this section shall not represent themselves as professional behavior analysts
27 and shall use titles that clearly indicate their trainee status, such as
28 "student", "intern", or "trainee";

29 (8) An unlicensed individual pursuing experience in applied
30 behavior analysis consistent with the experience requirements of the
31 Department of Health if experience is supervised in accordance with the
32 requirements of this chapter;

33 (9)(A) An individual who teaches behavior analysis or conduct
34 behavior-analytic research if the activities do not involve the direct
35 delivery of applied behavior analysis services beyond the typical parameters
36 of applied research.

1 (B) An individual described under subdivision (9)(A) of
2 this section may use the title “behavior analyst” but shall not represent
3 himself or herself as a licensed behavior analyst or a licensed assistant
4 behavior analyst unless licensed under this chapter;

5 (10) A behavior analyst licensed in another jurisdiction or
6 certified by the department to practice independently and who practice in
7 this state for no more than twelve (12) weeks within a calendar year; or

8 (11)(A) An individual employed by a school district performing
9 the duties of his or her positions.

10 (B) An individual described under subdivision (11)(A) of
11 this section shall not:

12 (i) Represent himself or herself as a licensed
13 behavior analyst or a licensed assistant behavior analyst unless licensed
14 under this chapter; or

15 (ii) Offer applied behavior analysis services to any
16 persons or entities other than his or her school employer or accept
17 remuneration for providing applied behavior analysis services other than the
18 remuneration he or she receives from his or her school employer.

19
20 17-108-105. Licensure.

21 (a) Each applicant for licensure as a licensed behavior analyst shall
22 submit to the Department of Health:

23 (1) An application;

24 (2) Appropriate application fees as determined by the
25 department;

26 (3) Evidence that the applicant has successfully completed a
27 criminal background check; and

28 (4) Evidence of his or her current certification as a board
29 certified behavior analyst or a board certified behavior analyst-doctoral
30 verified by the department with the certifying entity.

31 (b) Each applicant for licensure as a licensed assistant behavior
32 analyst shall submit to the department:

33 (1) An application;

34 (2) Appropriate application fees as determined by the
35 department;

1 (3) Evidence that the applicant has successfully completed a
2 criminal background check;

3 (4) Evidence that he or she is or will be supervised by a
4 licensed behavior analyst who is approved as a supervisor by the Behavior
5 Analyst Certification Board, Inc., or another entity whose programs to
6 credential practitioners of applied behavior analysis are accredited by the
7 certifying entity, in accordance with the current supervision standards as
8 existing on January 1, 2023; and

9 (5) Evidence of his or her current certification as a board
10 certified assistant behavior analyst verified by the department with the
11 certifying entity.

12
13 17-108-106. Expiration and renewal.

14 (a) A license under this subchapter shall be granted for a period of
15 two (2) years.

16 (b) Before expiration of a license, the license may be renewed upon
17 submission of:

18 (1) A renewal application;

19 (2) Appropriate renewal fees determined by the Department of
20 Health; and

21 (3) Evidence of verification of current certification by the
22 certifying entity.

23
24 17-108-107. Temporary license.

25 (a) A behavior analyst licensed in another jurisdiction or certified
26 by the certifying entity to practice independently who provides applied
27 behavior analysis services in this state on a short-term basis may apply for
28 a temporary license.

29 (b) An applicant for temporary licenses shall submit an application
30 and fee established by the Department of Health and evidence that their
31 practice in the jurisdiction will be temporary as defined by the department
32 in rules.

33 (c) A temporary license shall be granted only if the department
34 verifies the applicant's licensure or certification status with the relevant
35 entity.

36

1 17-108-108. Reciprocity.

2 (a) The Department of Health may issue a license to a person who is
3 currently licensed as a behavior analyst or assistant behavior analyst in
4 good standing in another jurisdiction that imposes licensure requirements
5 comparable to those specified in this chapter.

6 (b) An applicant for reciprocal licensure under this section shall
7 have current licensure verified by the department and comply with other
8 requirements under § 17-108-105.

9
10 17-108-109. Regulation by Department of Health.

11 (a) The Department of Health shall administer the provisions of this
12 chapter under such procedures as it considers advisable and may adopt rules
13 that are reasonable and necessary to implement the provisions of this
14 chapter.

15 (b) The department may adopt the Professional and Ethical Compliance
16 Code for Behavior Analysts issued by the Behavior Analyst Certification
17 Board, Inc., as existing on January 1, 2023.

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20 Referred by Senator K. Hammer

21 Prepared by: JMB/JMB

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