

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1189

5 By: Representative Clowney
6 By: Senator K. Hammer
7

For An Act To Be Entitled

8
9 AN ACT TO CREATE THE ARKANSAS BEHAVIOR ANALYST
10 LICENSURE ACT; AND FOR OTHER PURPOSES.
11

Subtitle

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14 TO CREATE THE ARKANSAS BEHAVIOR ANALYST
15 LICENSURE ACT.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code Title 17, Subchapter 97, is amended to add an
21 additional subchapter to read as follows:

22 Subchapter 6 – Behavioral Analysts
23

24 17-97-601. Title.

25 This subchapter shall be known and may be cited as the "Arkansas
26 Behavior Analyst Licensure Act".
27

28 17-97-602. Definitions.

29 As used in this subchapter:

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

31 (A) Practices under close, ongoing supervision of a
32 licensed behavior analyst;

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

35 (C) Delivers services as assigned by his or her
36 supervisor;



1 (2) "Licensed behavior analyst" means an individual who is
2 certified by the Arkansas Psychology Board under this subchapter; and

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

7 (i) The empirical identification of functional
8 relations between behavior and environmental factors, known as functional
9 assessment and analysis; and

10 (ii) Applied behavior analysis interventions based
11 on scientific research and direct and indirect observation and measurement of
12 behavior and environment which utilize contextual factors, motivating
13 operations, antecedent stimuli, positive reinforcement, and other procedures
14 to help individuals develop new behaviors, increase or decrease existing
15 behaviors, and emit behaviors under specific environmental conditions.

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

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20 17-97-603. Unlawful practice of applied behavior analysis.

21 (a) Unless licensed under this subchapter, a person shall not:

22 (1) Hold himself or herself out to be a licensed behavior
23 analyst;

24 (2) Use any combination or abbreviation of the term "behavior
25 analyst" or "licensed behavior analyst" to indicate or imply that he or she
26 is a licensed behavior analyst; or

27 (3) Perform the practice of applied behavior analysis unless he
28 or she is exempt under § 17-97-604.

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

31 (2) A person licensed under this subchapter who violates this
32 subchapter is subject to administrative sanctions and penalties, including
33 without limitation revocation of his or her license.

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35 17-97-604. Exemptions.

36 This subchapter does not prohibit or restrict the practice of any of

1 the following:

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

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

8 (B) Licensed psychologist does not represent that he or
9 she is a licensed behavior analyst unless he or she is also licensed under
10 this subchapter;

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

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

17 (B) Licensed professional does not represent that he or
18 she is a licensed behavior analyst unless he or she is also licensed under
19 this subchapter;

20 (3)(A) A behavior technician who delivers applied behavior
21 analysis services under the extended authority and direction of a licensed
22 behavior analyst.

23 (B) A behavior technician shall not represent themselves
24 as a professional behavior analyst and shall use titles that indicate their
25 nonprofessional status, such as "ABA technician", "behavior technician", or
26 "tutor";

27 (4)(A) A caregiver of a recipient of applied behavior analysis
28 services who delivers those services to the recipient under the extended
29 authority and direction of a licensed behavior analyst.

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

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

34 (B) An individual described under subdivision (5)(A) of
35 this section may use the title "behavior analyst" but shall not represent
36 himself or herself as a licensed behavior analyst unless licensed under this

1 subchapter;

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

5 (B) An individual described under subdivision (6)(A) of
6 this section may use the title "behavior analyst" but shall not represent
7 himself or herself as a licensed behavior analyst unless licensed under this
8 subchapter;

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

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

18 (8) An unlicensed individual pursuing experience in applied
19 behavior analysis consistent with the experience requirements of the Arkansas
20 Psychology Board if experience is supervised in accordance with the
21 requirements of this subchapter;

22 (9)(A) An individual who teaches behavior analysis or conduct
23 behavior-analytic research if the activities do not involve the direct
24 delivery of applied behavior analysis services beyond the typical parameters
25 of applied research.

26 (B) An individual described under subdivision (9)(A) of
27 this section may use the title "behavior analyst" but shall not represent
28 himself or herself as a licensed behavior analyst unless licensed under this
29 subchapter;

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

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

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

1 (i) Represent himself or herself as a licensed
 2 behavior analyst unless licensed under this subchapter; or

3 (ii) Offer applied behavior analysis services to any
 4 persons or entities other than his or her school employer or accept
 5 remuneration for providing applied behavior analysis services other than the
 6 remuneration he or she receives from his or her school employer.

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 8 17-97-605. Licensure.

9 Each applicant for licensure as a licensed behavior analyst shall
 10 submit to the Arkansas Psychology Board:

11 (1) An application;

12 (2) Appropriate application fees as determined by the board;

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

15 (4) Evidence of his or her current certification as a board
 16 certified behavior analyst or a board certified behavior analyst-doctoral
 17 verified by the board.

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 19 17-97-606. Expiration and renewal.

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

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

24 (1) A renewal application;

25 (2) Appropriate renewal fees determined by the Arkansas
 26 Psychology Board; and

27 (3) Evidence of verification of current certification.

28
 29 17-97-607. Temporary license.

30 (a) A behavior analyst licensed in another jurisdiction or certified
 31 by another entity to practice independently who provides applied behavior
 32 analysis services in this state on a short-term basis may apply for a
 33 temporary license.

34 (b) An applicant for temporary licenses shall submit an application
 35 and fee established by the Arkansas Psychology Board and evidence that their
 36 practice in the jurisdiction will be temporary as defined by the board in

1 rules.

2 (c) A temporary license shall be granted only if the board verifies
3 the applicant's licensure or certification status with the relevant entity.

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5 17-97-608. Reciprocity.

6 (a) The Arkansas Psychology Board may issue a license to a person who
7 is currently licensed as a behavior analyst in good standing in another
8 jurisdiction that imposes licensure requirements comparable to those
9 specified in this subchapter.

10 (b) An applicant for reciprocal licensure under this section shall
11 have current licensure verified by the board and comply with other
12 requirements under § 17-97-605.

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14 17-97-609. Regulation by Arkansas Psychology Board.

15 (a) The Arkansas Psychology Board shall administer the provisions of
16 this subchapter under such procedures as it considers advisable and may adopt
17 rules that are reasonable and necessary to implement the provisions of this
18 subchapter.

19 (b) The Arkansas Psychology Board may adopt the Professional and
20 Ethical Compliance Code for Behavior Analysts issued by the Behavior Analyst
21 Certification Board, Inc., as existing on January 1, 2023.

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