

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

As Engrossed: H2/22/23

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

12
13
14 TO CREATE THE ARKANSAS BEHAVIOR ANALYST
15 LICENSURE ACT.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code Title 17, Subchapter 97, is amended to add an
21 additional subchapter to read as follows:

22 Subchapter 6 – Behavior 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 the 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) "Certifying entity" means a nonprofit entity whose programs
2 to credential practitioners of behavior analysis are accredited by the
3 National Commission on Certifying Agencies of the Institute for Credentialing
4 Excellence;

5 (3) "Licensed behavior analyst" means an individual who is
6 licensed to practice behavior analysis independently by the Arkansas
7 Psychology Board under this subchapter; and

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

12 (i) The empirical identification of functional
13 relations between behavior and environmental factors, known as functional
14 assessment and analysis; and

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

21 (B) "Practice of applied behavior analysis" does not
22 include diagnosis of disorders, psychotherapy, cognitive therapy,
23 psychoanalysis, or counseling.

24
25 17-97-603. Unlawful practice of applied behavior analysis.

26 (a) Unless licensed under this subchapter or exempt under § 17-97-604,
27 a person shall not:

28 (1) Hold himself or herself out to be a licensed behavior
29 analyst;

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

33 (3) Perform the practice of applied behavior analysis.

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

36 (2) A person licensed under this subchapter who violates this

1 subchapter is subject to administrative sanctions and penalties, including
2 without limitation revocation of his or her license.

3
4 17-97-604. Exemptions.

5 This subchapter does not prohibit or restrict the practice of any of
6 the following:

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

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

13 (B) Licensed psychologist does not represent that he or
14 she is a licensed behavior analyst unless he or she is also licensed under
15 this subchapter;

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

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

22 (B) Licensed professional does not represent that he or
23 she is a licensed behavior analyst unless he or she is also licensed under
24 this subchapter;

25 (3)(A) A behavior technician who delivers applied behavior
26 analysis services under the extended authority and direction of a licensed
27 behavior analyst.

28 (B) A behavior technician shall not represent themselves
29 as a professional behavior analyst and shall use titles that indicate their
30 nonprofessional status, such as "ABA technician", "behavior technician", or
31 "tutor";

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

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

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

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

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

10 (B) An individual described under subdivision (6)(A) of
11 this section may use the title “behavior analyst” but shall not represent
12 himself or herself as a licensed behavior analyst unless licensed under this
13 subchapter;

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

19 (B) An individual described under subdivision (7)(A) of
20 this section shall not represent themselves as professional behavior analysts
21 and shall use titles that clearly indicate their trainee status, such as
22 “student”, “intern”, or “trainee”;

23 (8) An unlicensed individual pursuing experience in applied
24 behavior analysis consistent with the experience requirements of the
25 certifying entity if experience is supervised in accordance with the
26 requirements of the certifying entity;

27 (9)(A) An individual who teaches behavior analysis or conduct
28 behavior-analytic research if the activities do not involve the direct
29 delivery of applied behavior analysis services beyond the typical parameters
30 of applied research.

31 (B) An individual described under subdivision (9)(A) of
32 this section may use the title “behavior analyst” but shall not represent
33 himself or herself as a licensed behavior analyst unless licensed under this
34 subchapter;

35 (10) A behavior analyst licensed in another jurisdiction to
36 practice independently and who practice in this state for no more than twelve

1 (12) weeks within a calendar year;

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

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

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

8 (ii) Offer applied behavior analysis services to any
9 persons or entities other than his or her school employer or accept
10 remuneration for providing applied behavior analysis services other than the
11 remuneration he or she receives from his or her school employer; or

12 (12) An individual who is currently certified by the certifying
13 entity as a board-certified assistant behavior analyst and works under the
14 supervision of a licensed behavior analyst in this state who is approved by
15 the certifying entity to supervise board-certified assistant analysts.

16
17 17-97-605. Licensure.

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

20 (1) An application;

21 (2) Appropriate application fees as determined by the Arkansas
22 Psychology Board;

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

25 (4) Verification of his or her current certification as a board-
26 certified behavior analyst or equivalent or a board-certified behavior
27 analyst-doctoral or equivalent from the Behavior Analyst Certification Board,
28 Inc., or its equivalent and meets the educational requirements of the
29 certifying entity for the board-certified behavior analyst, the board-
30 certified behavior analyst-doctoral, or an equivalent standard approved by
31 the Arkansas Psychology Board.

32
33 17-97-606. Expiration and renewal.

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

36 (b) Before expiration of a license, the license may be renewed upon

1 submission of:

2 (1) A renewal application;

3 (2) Appropriate renewal fees determined by the Arkansas
4 Psychology Board; and

5 (3) Evidence of verification of current certification.

6
7 17-97-607. Temporary license.

8 (a) A behavior analyst licensed in another jurisdiction or who holds
9 current certification as a board-certified behavior analyst, board-certified
10 behavior analyst-doctoral, board-certified assistant behavior analyst, or
11 equivalent, issued by the Behavior Analyst Certification Board, Inc., or its
12 equivalent approved by the Arkansas Psychology Board to practice
13 independently who provides applied behavior analysis services in this state
14 on a short-term basis may apply for a temporary license.

15 (b) An applicant for a temporary license shall submit an application
16 and fee established by the Arkansas Psychology Board and evidence that their
17 practice in the jurisdiction will be temporary as defined by the Arkansas
18 Psychology Board in rules.

19 (c) A temporary license shall be granted only if the Arkansas
20 Psychology Board verifies the applicant's licensure or certification status
21 with the relevant entity.

22
23 17-97-608. Reciprocity.

24 (a) The Arkansas Psychology Board may issue a license to a person who
25 is currently licensed as a behavior analyst in good standing in another
26 jurisdiction that imposes licensure requirements comparable to those
27 specified in this subchapter, including holding current certification as a
28 board-certified behavior analyst or a board-certified behavior analyst-
29 doctoral or equivalent, issued by the Behavior Analyst Certification Board or
30 its equivalent.

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

34
35 17-97-609. Regulation by Arkansas Psychology Board.

36 (a) The Arkansas Psychology Board shall administer the provisions of

1 this subchapter under such procedures as it considers advisable and may adopt
2 rules that are reasonable and necessary to implement the provisions of this
3 subchapter.

4 (b) The Arkansas Psychology Board may adopt the Ethics Code for
5 Behavior Analysts issued by the Behavior Analyst Certification Board, Inc.,
6 as existing on January 1, 2023.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

/s/Clowney