

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H2/22/23 S4/4/23
A Bill

HOUSE BILL 1189

By: Representative Clowney
By: Senators K. Hammer, *Irvin*

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, Subchapter 97, is amended to add an additional subchapter to read as follows:

Subchapter 6 – Behavior Analysts

17-97-601. Title.

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

17-97-602. Definitions.

As used in this subchapter:

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

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

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

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



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

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

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

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

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

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

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

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

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

(3) Perform the practice of applied behavior analysis.

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

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

17-97-604. Exemptions.

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

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

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

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

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

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

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

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

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

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

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

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

(B) An individual described under subdivision (5)(A) of this section may use the title "behavior analyst" but shall not represent

himself or herself as a licensed behavior analyst unless licensed under this subchapter;

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

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

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

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

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

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

(9) A behavior analyst licensed in another jurisdiction to practice independently and who practice in this state for no more than twelve (12) weeks within a calendar year upon approval of a temporary license; or

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

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

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

(ii) Offer applied behavior analysis services to any

persons or entities other than his or her school employer or accept remuneration for providing applied behavior analysis services other than the remuneration he or she receives from his or her school employer.

17-97-605. Licensure.

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

- (1) An application;
- (2) Appropriate application fees as determined by the Arkansas Psychology Board;
- (3) Evidence that the applicant has successfully completed a criminal background check; and
- (4) Evidence of his or her current certification as a board-certified behavior analyst or a board-certified behavior analyst-doctoral verified by the board.

17-97-606. Expiration and renewal.

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

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

- (1) A renewal application;
- (2) Appropriate renewal fees determined by the Arkansas Psychology Board; and
- (3) Evidence of verification of current certification.

17-97-607. Temporary license.

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

(b) An applicant for a temporary license shall submit an application and fee established by the Arkansas Psychology Board and evidence that their

practice in the jurisdiction will be temporary as defined by the Arkansas Psychology Board in rules.

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

17-97-608. Reciprocity.

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

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

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

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

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

SECTION 2. Arkansas Code § 17-97-201(a)(3), concerning the creation and members of the Arkansas Psychology Board, is amended to add an additional subdivision to read as follows:

(D) At least two (2) of the members appointed under subdivision (a)(2) of this section shall be licensed psychologists who are board-certified behavior analysts.

/s/Clowney