

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 135

By: (Justice) of the Senate

and

(Steele) of the Senate

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9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to autism; defining terms; providing
11 for the licensing of certain persons; stating
12 qualifications; providing for renewal; stating duties
13 of licensee; prohibiting certain act; providing
14 penalties; stating duties of the Developmental
15 Disabilities Services Division of the Department of
16 Human Services; exempting certain persons; providing
17 for the promulgation of rules; directing funds to be
18 used for certain purpose; authorizing the State
19 Department of Health to contract with third parties
20 for certain services; directing funds for certain
21 evaluation training; providing for a behavior
22 analysis treatment pilot project; stating
23 requirements; requiring commencement of project by
24 certain date; limiting duration of project; providing
for certain report to the Legislature and Governor;
directing the University Hospitals Authority to
establish certain program; stating certain condition
for location; providing for codification; and
providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1928 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 A. As used in this act:

5 1. a. "Applied behavior analysis" means the design,
6 implementation, and evaluation of instructional and
7 environmental modifications to produce socially
8 significant improvements in human behavior through
9 skill, acquisition, and the reduction of problematic
10 behavior. An applied behavior analysis program shall:

- 11 (1) be based on empirical research including the
12 direct observation and measurement of behavior as
13 well as a functional behavior assessment, and
14 (2) utilize antecedent stimuli, positive
15 reinforcement, and other consequences to produce
16 behavior change.

17 b. Applied behavior analysis does not include cognitive
18 therapies or psychological testing, neuropsychology,
19 psychotherapy, sex therapy, psychoanalysis,
20 hypnotherapy, and long-term counseling as treatment
21 modalities;

22 2. "Board" means the nationally accredited Behavior Analyst
23 Certification Board;

1 3. "Human services professional" means an individual licensed
2 or certified by the state as one of the following:

3 a. a licensed physical therapist or physical therapist
4 assistant pursuant to Sections 887.1 through 887.18 of
5 Title 59 of the Oklahoma Statutes,

6 b. an occupational therapist, occupational therapy
7 assistant, or occupational therapy aide pursuant to
8 Sections 888.1 through 888.15 of Title 59 of the
9 Oklahoma Statutes,

10 c. a licensed clinical social worker, licensed masters
11 social worker, or social work associate pursuant to
12 Sections 1250 through 1273 of Title 59 of the Oklahoma
13 Statutes,

14 d. a psychologist or health service psychologist pursuant
15 to Sections 1351 through 1376 of Title 59 of the
16 Oklahoma Statutes,

17 e. a licensed speech pathologist, licensed audiologist,
18 speech-language pathologist or audiologist pursuant to
19 Sections 1601 through 1622 of Title 59 of the Oklahoma
20 Statutes,

21 f. a licensed professional counselor or licensed
22 professional counselor candidate pursuant to Sections
23 1901 through 1920 of Title 59 of the Oklahoma
24 Statutes,

1 g. a licensed marital and family therapist or licensed
2 marital and family therapist candidate pursuant to
3 Sections 1925.1 through 1925.18 of Title 59 of the
4 Oklahoma Statutes, or

5 h. a licensed behavioral practitioner or licensed
6 behavioral practitioner candidate pursuant to Sections
7 1930 through 1949.1 of Title 59 of the Oklahoma
8 Statutes;

9 4. "Certified assistant behavior analyst" means an individual
10 who is certified by the nationally accredited Behavior Analyst
11 Certification Board as a Board-Certified Assistant Behavior Analyst
12 and certified by the Developmental Disabilities Services Division of
13 the Department of Human Services;

14 5. "Licensed behavior analyst" means an individual who is
15 certified by the nationally accredited Behavior Analyst
16 Certification Board as a Board-Certified Behavior Analyst and
17 licensed by the Developmental Disabilities Services Division of the
18 Department; and

19 6. "Supervisee" means a person who acts under the extended
20 authority of a licensed behavior analyst to provide applied behavior
21 analysis services or a person who is in training to provide such
22 services.

23 B. Each person wishing to practice as a licensed behavior
24 analyst or a certified assistant behavior analyst shall apply to the

1 Developmental Disabilities Services Division of the Department of
2 Human Services using a form and in a manner prescribed by the
3 Division and shall furnish evidence satisfactory to the Division
4 that such person:

5 1. Is of good moral character;

6 2. Is at least twenty-one (21) years of age;

7 3. Has passed the Board examination and is certified by the
8 Board as a Board-Certified Behavior Analyst or a Board-Certified
9 Assistant Behavior Analyst, as applicable;

10 4. Has not had a professional license or certification refused,
11 revoked, suspended, or restricted and does not have a complaint,
12 allegation, or investigation pending in any regulatory jurisdiction
13 in the United States or in another country for reasons that relate
14 to unprofessional conduct unless the Division finds, to its
15 satisfaction, that the conduct has been corrected or that mitigating
16 circumstances exist that prevent its resolution; and

17 5. Has at least the minimum graduate or undergraduate degree,
18 appropriate for the level of certification, from an accredited
19 institution of higher learning in a qualifying field of study, as
20 determined by the Board.

21 C. A person holding a state license or state certification
22 shall apply for renewal of the state license or state certification
23 on or before April 30 of each odd-numbered year. The application
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1 shall be accompanied by a renewal fee to be set by the Division in
2 accordance with paragraph 3 of subsection F of this section.

3 D. A person licensed or certified by the Developmental
4 Disabilities Services Division of the Department under this section
5 shall:

6 1. Maintain active status and fulfill all requirements for
7 renewal of national certification or recertification with the Board;
8 and

9 2. Conduct professional activities in accordance with accepted
10 standards such as the Guidelines for Responsible Conduct and
11 Professional Disciplinary Standards of the Board.

12 E. 1. No person shall claim the title of licensed behavior
13 analyst or certified assistant behavior analyst unless that person
14 meets the applicable requirements in this section. No person shall
15 practice applied behavior analysis without obtaining a license or
16 certification in accordance with this section. Supervisees may only
17 provide applied behavior analysis under the supervision of a
18 licensed behavior analyst. This section shall not restrict the
19 practice of applied behavior analysis by human services
20 professionals, provided such individuals are working within the
21 scope of their professions and the practice of applied behavior
22 analysis is commensurate with their level of training and
23 experience.

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1 2. A violation of this subsection shall be punishable by a fine
2 of not more than Five Hundred Dollars (\$500.00), the suspension or
3 revocation of a license or certification issued pursuant to this
4 section, or both such fine and loss of licensure or certification.

5 F. The Division shall:

6 1. Investigate all complaints relating to:

7 a. the practice or supervision of applied behavior
8 analysis by any person licensed by the Developmental
9 Disabilities Services Division of the Department as a
10 behavior analyst or certified by the Division as an
11 assistant behavior analyst, or

12 b. any person alleged to be practicing or providing
13 supervision without a state license or state
14 certification;

15 2. Refer any substantiated complaints to the Board; and

16 3. Charge reasonable fees for a license or for certification,
17 not to exceed One Hundred Dollars (\$100.00).

18 G. 1. A person having a qualifying degree, as provided for in
19 paragraph 5 of subsection B of this section, and participating in
20 the applied behavior analysis treatment pilot project established in
21 Section 3 of this act shall be exempt from the requirements of this
22 section while such person is actively participating in the project.

23 2. Persons employed by a school district in this state who
24 provide services solely to the school district under the Individuals

1 with Disabilities Education Act (IDEA), 20 U.S.C., Section 1400 et
2 seq., shall be exempt from the requirements of this section.

3 H. The Department shall promulgate rules to implement the
4 provisions of this section.

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1-280.1 of Title 63, unless
7 there is created a duplication in numbering, reads as follows:

8 A. Funds shall be used by the State Department of Education for
9 specialized training for direct service providers in the Sooner
10 Start program to acquire skills necessary to treat children with
11 autism spectrum disorders.

12 B. The State Department of Health is authorized to contract
13 with independent third-party providers for services offered by the
14 Sooner Start program.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1-280.2 of Title 63, unless
17 there is created a duplication in numbering, reads as follows:

18 A. Funds shall be used by the University Hospitals Authority
19 for primary care provider evaluation training for providers in the
20 Sooner SUCCESS program to acquire skills necessary to evaluate
21 children with autism spectrum disorders.

22 B. 1. The Developmental Disabilities Services Division of the
23 Department of Human Services shall establish an applied behavior
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1 analysis treatment pilot project. The Division shall secure federal
2 matching dollars to implement and maintain the project.

3 2. The project shall:

4 a. provide three Board-Certified Behavior Analysts to
5 measure functional outcomes of children with autism,
6 who are approved by the Division to participate in the
7 project, and study the effects of applied behavior
8 analysis in a consultative model that includes a
9 parental training component, and

10 b. require the participating analysts to provide the
11 necessary supervision to assist supervisees in this
12 state to learn and provide applied behavior analysis
13 and achieve certification by the nationally accredited
14 Behavior Analyst Certification Board.

15 3. The project shall commence no later than January 1, 2011,
16 and end no later than three (3) years from the date of commencement.

17 4. The Division shall submit a report to the Legislature and
18 the Governor no later than January 1, 2014, concerning:

19 a. the effectiveness of the project,

20 b. the results found when using applied behavior analysis
21 in a consultative model that includes a parental
22 training component to measure functional outcomes of
23 children with autism,

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1 c. the most effective approach and systems to provide
2 applied behavior analysis, and

3 d. any other findings and recommendations resulting from
4 the project.

5 5. The Department shall promulgate rules to implement the
6 provisions of this subsection.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1-280.3 of Title 63, unless
9 there is created a duplication in numbering, reads as follows:

10 The University Hospitals Authority shall establish a program
11 modeled after Early Foundations, an outreach program that provides
12 early intensive behavioral intervention for children with autism.
13 The program shall be established in a county selected by the
14 University Hospitals Authority where an Early Foundations program
15 does not exist.

16 SECTION 5. This act shall become effective November 1, 2009.

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