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February 24, 2020

SENATE BILL NO. 1873

By: Stanley of the Senate

and

Townley of the House

An Act relating to behavior analysts; amending 59 O.S. 2011, Section 1928, which relates to licensing; modifying and adding definitions; deleting requirement for certain finding; removing certain application criteria; updating certain standards; removing certain exemption; providing for limited practice of supervisees; prohibiting provision of services under certain condition; updating terms; updating statutory reference; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 1928, is amended to read as follows:

Section 1928. A. As used in this ~~act~~ section and Sections 1-
280.1 through 1-280.3 of Title 63 of the Oklahoma Statutes:

1. a. "Applied behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior through

1 skill, acquisition, and the reduction of problematic
2 behavior. An applied behavior analysis program shall:

- 3 (1) be based on empirical research including the
4 direct observation and measurement of behavior as
5 well as a functional behavior assessment, and
6 (2) utilize antecedent stimuli, positive
7 reinforcement, and other consequences to produce
8 behavior change.

9 b. Applied behavior analysis does not include cognitive
10 therapies or psychological testing, neuropsychology,
11 psychotherapy, sex therapy, psychoanalysis,
12 hypnotherapy, and long-term counseling as treatment
13 modalities;

14 2. "Board" means the nationally accredited Behavior Analyst
15 Certification Board;

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

- 18 a. a licensed physical therapist or physical therapist
19 assistant pursuant to Sections 887.1 through 887.18 of
20 ~~Title 59 of the Oklahoma Statutes~~ this title,
21 b. an occupational therapist, occupational therapy
22 assistant, or occupational therapy aide pursuant to
23 Sections 888.1 through 888.15 of ~~Title 59 of the~~
24 ~~Oklahoma Statutes~~ this title,

- 1 c. a licensed clinical social worker, licensed masters
2 social worker, or social work associate pursuant to
3 Sections 1250 through 1273 of ~~Title 59 of the Oklahoma~~
4 ~~Statutes~~ this title,
- 5 d. a psychologist or health service psychologist pursuant
6 to Sections 1351 through 1376 of ~~Title 59 of the~~
7 ~~Oklahoma Statutes~~ this title,
- 8 e. a licensed speech pathologist, licensed audiologist,
9 speech-language pathologist or audiologist pursuant to
10 Sections 1601 through 1622 of ~~Title 59 of the Oklahoma~~
11 ~~Statutes~~ this title,
- 12 f. a licensed professional counselor or licensed
13 professional counselor candidate pursuant to Sections
14 1901 through 1920 of ~~Title 59 of the Oklahoma Statutes~~
15 this title,
- 16 g. a licensed marital and family therapist or licensed
17 marital and family therapist candidate pursuant to
18 Sections 1925.1 through 1925.18 of ~~Title 59 of the~~
19 ~~Oklahoma Statutes~~ this title, or
- 20 h. a licensed behavioral practitioner or licensed
21 behavioral practitioner candidate pursuant to Sections
22 1930 through 1949.1 of ~~Title 59 of the Oklahoma~~
23 ~~Statutes~~ this title;
- 24

1 4. ~~"Certified assistant behavior analyst"~~ "Board Certified
2 Assistant Behavior Analyst" or "BCaBA" means an individual who is
3 certified by the ~~nationally accredited Behavior Analyst~~
4 ~~Certification Board as a Board-Certified Assistant Behavior Analyst~~
5 ~~and certified~~ Board and certified by the Developmental Disabilities
6 Services ~~Division~~ of the Department of Human Services;

7 5. ~~"Licensed behavior analyst"~~ "Board Certified Behavior
8 Analyst" or "BCBA" means an individual who is certified by the
9 ~~nationally accredited Behavior Analyst Certification Board as a~~
10 ~~Board-Certified Behavior Analyst~~ Board and licensed by the
11 Developmental Disabilities Services ~~Division~~ of the Department; ~~and~~

12 6. "Registered Behavior Technician" or "RBT" means a
13 paraprofessional who is certified by the Board and practices under
14 the close, ongoing supervision of a Board Certified Behavior
15 Analyst. The Registered Behavior Technician is primarily
16 responsible for the direct implementation of behavior-analytic
17 services designed and prescribed by a Board Certified Behavior
18 Analyst; and

19 7. "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~~ Board Certified Assistant Behavior Analyst or Registered
23 Behavior Technician who acts under the authority and supervision of
24 a Board Certified Behavior Analyst to provide applied behavior

1 analysis services, or a Board Certified Assistant Behavior Analyst
2 or Registered Behavior Technician applicant to provide such services
3 as defined by the Board.

4 B. Each person wishing to practice as a ~~licensed behavior~~
5 ~~analyst or a certified assistant behavior analyst~~ Board Certified
6 Behavior Analyst or a Board Certified Assistant Behavior Analyst
7 shall apply to the Developmental Disabilities Services ~~Division~~ of
8 the Department of Human Services using a form and in a manner
9 prescribed by the ~~Division~~ Developmental Disabilities Services and
10 shall furnish evidence satisfactory to the ~~Division~~ Developmental
11 Disabilities Services that such person:

12 1. ~~Is of good moral character;~~

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

14 3. Has passed the Board examination and is certified by the
15 Board as a ~~Board-Certified~~ Board Certified Behavior Analyst or a
16 ~~Board-Certified~~ Board Certified Assistant Behavior Analyst, as
17 applicable; and

18 4. 2. Has not had a professional license or certification
19 refused, revoked, suspended, or restricted and does not have a
20 complaint, allegation, or investigation pending in any regulatory
21 jurisdiction in the United States or in another country for reasons
22 that relate to unprofessional conduct unless the ~~Division finds, to~~
23 ~~its satisfaction, that the~~ conduct has been corrected or that
24 mitigating circumstances exist that prevent its resolution; ~~and~~

1 5. ~~Has at least the minimum graduate or undergraduate degree,~~
2 ~~appropriate for the level of certification, from an accredited~~
3 ~~institution of higher learning in a qualifying field of study, as~~
4 ~~determined by the Board.~~

5 C. A person holding a state license or state certification
6 shall apply for renewal of the state license or state certification
7 on or before April 30 of each odd-numbered year. The application
8 shall be accompanied by a renewal fee to be set by the ~~Division~~
9 Developmental Disabilities Services in accordance with paragraph 3
10 of subsection F of this section.

11 D. A person licensed or certified by the Developmental
12 Disabilities Services ~~Division~~ of the Department under this section
13 shall:

14 1. Maintain active status and fulfill all requirements for
15 renewal of national certification or recertification with the Board;
16 and

17 2. Conduct professional activities in accordance with accepted
18 standards such as the ~~Guidelines for Responsible Conduct and~~
19 ~~Professional Disciplinary Standards of the Board~~ Board's
20 Professional and Ethical Compliance Code for Behavior Analysts.

21 E. 1. No person shall claim the title of ~~licensed behavior~~
22 ~~analyst or certified assistant behavior analyst~~ Board Certified
23 Behavior Analyst or Board Certified Assistant Behavior Analyst
24 unless that person meets the applicable requirements in this

1 section. No person shall practice applied behavior analysis without
2 obtaining a license or certification in accordance with this
3 section. Supervisees may only provide applied behavior analysis
4 under the supervision of a ~~licensed behavior analyst~~ Board Certified
5 Behavior Analyst. This section shall not restrict the practice of
6 applied behavior analysis by human services professionals, provided
7 such individuals are working within the scope of their professions
8 and the practice of applied behavior analysis is commensurate with
9 their level of training and experience.

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

14 F. The ~~Division~~ state licensure board operated by the
15 Developmental Disabilities Services shall:

16 1. Investigate all complaints relating to:

17 a. the practice or supervision of applied behavior
18 analysis by any person licensed by the Developmental
19 Disabilities Services ~~Division~~ of the Department as a
20 ~~behavior analyst or certified by the Division as an~~
21 ~~assistant behavior analyst~~ Board Certified Behavior
22 Analyst, Board Certified Assistant Behavior Analyst or
23 Registered Behavior Technician, or
24

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

2. Refer any substantiated complaints to the Board; and

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

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

~~2.~~ Persons employed by a school district in this state who provide services solely to the school district under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C., Section 1400 et seq., shall be exempt from the requirements of this section.

H. The supervisee shall not design intervention or assessment plans. It shall be the responsibility of the supervising Board Certified Behavior Analyst to determine which other tasks the supervisee may perform as a function of the supervisee's training, experience and competence. The Board Certified Behavior Analyst shall be responsible for the work performed by the supervisee on the cases overseen by the Board Certified Behavior Analyst.

I. A Board Certified Behavior Analyst, Board Certified Assistant Behavior Analyst or Registered Behavior Technician who is

1 a guardian or parent shall not provide services to his or her own
2 child or ward.

3 J. The ~~Department~~ Director of Human Services shall promulgate
4 rules to implement the provisions of this section.

5 SECTION 2. This act shall become effective November 1, 2020.

6 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
7 February 24, 2020 - DO PASS
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