

SENATE BILL NO. 193

INTRODUCED BY D. ANKNEY, M. CAFERRO

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING BEHAVIOR ANALYST LAWS; CREATING
5 LICENSURE AND REGULATIONS FOR CERTAIN BEHAVIOR ANALYSTS; ~~EXPANDING~~ MODIFYING THE
6 BOARD OF PSYCHOLOGISTS TO INCLUDE ~~BEHAVIOR ANALYSTS~~ A BEHAVIOR ANALYST; PROVIDING
7 DEFINITIONS AND EXCEPTIONS TO LICENSURE; ESTABLISHING AUTONOMY FOR BEHAVIOR ANALYSTS
8 AND SUPERVISION OF ASSISTANT BEHAVIOR ANALYSTS; PROVIDING RULEMAKING AUTHORITY; AND
9 AMENDING SECTION 2-15-1741, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **Section 1.** Section 2-15-1741, MCA, is amended to read:
14 **"2-15-1741. Board of psychologists.** (1) There is a board of psychologists.
15 (2) The board consists of ~~six~~ eight ~~six~~ members appointed by the governor with the consent of the
16 senate. Two members must be licensed psychologists in private practice, one member must be a licensed
17 psychologist in public health, one member must be a licensed psychologist engaged in the teaching of
18 psychology, ~~two members must be behavior analysts~~ ONE MEMBER MUST BE A BEHAVIORAL ANALYST licensed under
19 [sections 2 through 7], and two members ONE MEMBER must be from the general public. A member may not serve
20 more than two consecutive 5-year terms.

21 (3) Members shall serve staggered 5-year terms.
22 (4) The board is allocated to the department for administrative purposes only, as prescribed in 2-15-121."

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24 **NEW SECTION. Section 2. Purpose.** The legislature finds and declares that the practice of applied
25 behavior analysis in Montana affects public health, safety, and welfare, particularly of some of the state's most
26 vulnerable citizens, including individuals with disabilities. Therefore, licensure and regulation of applied behavior
27 analysts is in the public interest to protect the public from unauthorized, unethical, unprofessional, or harmful
28 conduct by individuals, other than those otherwise licensed or those exempt under [section 5].

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30 **NEW SECTION. Section 3. Definitions.** For the purposes of [sections 2 through 7], the following

1 definitions apply:

2 (1) "Assistant behavior analyst" means an individual licensed under [section 4] who has a qualifying
3 bachelor's degree and has passed the board-certified assistant behavior analyst examination of the behavior
4 analyst certification board.

5 (2) "Behavior analyst" means an applied behavior analyst who is licensed under [section 4] and has
6 passed the board-certified behavior analyst examination of the behavior analyst certification board.

7 (3) "Behavior analyst certification board" means the nonprofit corporation whose credentialing programs
8 for behavior analysts are accredited by the national commission for certifying agencies.

9 (4) "Board" means the board of psychologists provided for in 2-15-1741.

10 (5) (a) "Practice of applied behavior analysis" means the design, implementation, and evaluation of
11 instructional and environmental modifications to produce socially significant improvements in human behavior.
12 The practice of applied behavior analysis includes the empirical identification of functional relations between
13 behavior and environmental factors, known as functional assessment and analysis. Applied behavior analysis
14 links the scientific study of behavior with the direct observation and measurement of behavior and the
15 environment plus the application of skills to help people develop new behaviors, increase or decrease existing
16 behaviors, or adjust behaviors under specific environmental conditions.

17 (b) The term does not include psychological evaluation, diagnosis of a mental or physical disorder,
18 neuropsychology, long-term counseling as a treatment modality, or psychotherapy, including cognitive therapy,
19 sex therapy, psychoanalysis, or hypnotherapy.

20
21 **NEW SECTION. Section 4. License required -- qualifications.** (1) An individual may not represent
22 to the public that the individual is an assistant behavior analyst or a behavior analyst without a license issued
23 under this section.

24 (2) The board shall license as a behavior analyst or an assistant behavior analyst an individual who:

25 (a) has submitted an application as determined by the board by rule;

26 (b) has paid required applicant fees and subsequent renewal fees;

27 (c) has passed a state-approved criminal background check;

28 (d) has provided evidence of current certification at the appropriate level from the behavior analyst
29 certification board;

30 (e) is of good moral character; and

1 (f) attests to abiding by professional and ethical requirements indicated in the Professional and Ethical
2 Compliance Code for Behavior Analysts recognized by the behavior analyst certification board.

3 (3) To obtain a license as a behavior analyst an individual must meet the requirements in subsection (2)
4 and:

5 (a) must have passed the board-certified behavior analyst examination by the behavior analyst
6 certification board;

7 (b) be currently certified as a behavior analyst by the behavior analyst certification board; and

8 (c) have met the educational course work and requirements set by the board by rule, ~~equal to~~
9 ~~requirements set by the behavior analyst certification board.~~

10 (4) To obtain a license as an assistant behavior analyst an individual must meet the requirements in
11 subsection (2) and:

12 (a) must have passed the board-certified assistant behavior analyst examination by the behavior analyst
13 certification board;

14 (b) be currently certified as an assistant behavior analyst by the behavior analyst certification board; and

15 (c) have met the educational course work and requirements set by the board by rule, ~~equal to~~
16 ~~requirements set by the behavior analyst certification board.~~

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18 **NEW SECTION. Section 5. Exemptions.** (1) A license under [sections 2 through 7] is not required for
19 school district personnel, including those who provide special education as defined in 20-7-401, family support
20 specialists with autism endorsement, licensed psychologists and those acting under the psychologists' authority,
21 licensed clinical professional counselors, licensed social workers, family members, or persons in direct contact
22 with individuals otherwise served by behavior analysts or assistant behavior analysts licensed under [sections
23 2 through 7].

24 (2) Organizational behavior management consultants and behavior analysts who work with animals do
25 not require a license under [sections 2 through 7] for the practice of applied behavior analysis for working with
26 organizations or animals.

27 (3) A student in an approved post-secondary program for behavior analysis may be exempted from
28 having a license if the student, including a student intern, is working under the supervision of appropriate
29 university faculty in the conduct of behavior analytic activities.

30 (4) A behavior technician who is supervised by a behavior analyst licensed under [sections 2 through

1 7] is exempted from having a license under [sections 2 through 7].

2 (5) An individual described in subsection (1), (2), (3), or (4) may choose to apply for licensure by meeting
3 the requirements in [section 4].

4
5 **NEW SECTION. Section 6. Autonomy -- supervision authority.** (1) A behavior analyst licensed under
6 [sections 2 through 7] has treatment authority for the practice of applied behavior analysis.

7 (2) An assistant behavior analyst or a behavior technician when engaged in the practice of applied
8 behavior analysis must be supervised by:

- 9 ~~_____ (a) a behavior analyst licensed under [sections 2 through 7]; or~~
- 10 ~~_____ (b) a licensed psychologist certified by the American board of professional psychology in behavioral and~~
11 ~~cognitive psychology and tested in applied behavior analysis.~~

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13 **NEW SECTION. Section 7. Rulemaking.** (1) The board may adopt rules to implement [sections 2
14 through 7] plus the requirements in Title 37, chapters 1 through 3, as they apply to disciplinary action,
15 unprofessional conduct, continuing education, implementation and costs of criminal background checks, or
16 recognizing commensurate military experience as a qualification in licensure.

17 **(2) THE BOARD SHALL ADOPT LICENSE FEES FOR BEHAVIOR ANALYSTS AND ASSISTANT BEHAVIOR ANALYSTS THAT**
18 **ADEQUATELY FUND THE COSTS OF IMPLEMENTING [SECTIONS 2 THROUGH 7].**

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20 **NEW SECTION. Section 8. Codification instruction.** [Sections 2 through 7] are intended to be codified
21 as an integral part of Title 37, and the provisions of Title 37 apply to [sections 2 through 7].

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