

SENATE BILL NO. 193

INTRODUCED BY D. ANKNEY

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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 THE BOARD OF
6 PSYCHOLOGISTS TO INCLUDE BEHAVIOR ANALYSTS; PROVIDING DEFINITIONS AND EXCEPTIONS TO
7 LICENSURE; ESTABLISHING AUTONOMY FOR BEHAVIOR ANALYSTS AND SUPERVISION OF ASSISTANT
8 BEHAVIOR ANALYSTS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 2-15-1741,
9 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 members appointed by the governor with the consent of the senate.
16 Two members must be licensed psychologists in private practice, one member must be a licensed psychologist
17 in public health, one member must be a licensed psychologist engaged in the teaching of psychology, two
18 members must be behavior analysts licensed under [sections 2 through 7], and two members must be from the
19 general public. A member may not serve more than two consecutive 5-year terms.

20 (3) Members shall serve staggered 5-year terms.

21 (4) The board is allocated to the department for administrative purposes only, as prescribed in 2-15-121."
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23 NEW SECTION. **Section 2. Purpose.** The legislature finds and declares that the practice of applied
24 behavior analysis in Montana affects public health, safety, and welfare, particularly of some of the state's most
25 vulnerable citizens, including individuals with disabilities. Therefore, licensure and regulation of applied behavior
26 analysts is in the public interest to protect the public from unauthorized, unethical, unprofessional, or harmful
27 conduct by individuals, other than those otherwise licensed or those exempt under [section 5].
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29 NEW SECTION. **Section 3. Definitions.** For the purposes of [sections 2 through 7], the following
30 definitions apply:

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

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

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

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

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

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

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

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

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

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

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

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

29 (e) is of good moral character; and

30 (f) attests to abiding by professional and ethical requirements indicated in the Professional and Ethical

1 Compliance Code for Behavior Analysts recognized by the behavior analyst certification board.

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

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

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

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

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

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

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

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

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

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

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

29 (4) A behavior technician who is supervised by a behavior analyst licensed under [sections 2 through
30 7] is exempted from having a license under [sections 2 through 7].

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

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

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

8 (a) a behavior analyst licensed under [sections 2 through 7]; or

9 (b) a licensed psychologist certified by the American board of professional psychology in behavioral and
10 cognitive psychology and tested in applied behavior analysis.

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

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

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