

SENATE BILL No. 612

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-0.5; IC 25-23.6-12; IC 25-41; IC 35-52-25-66.

Synopsis: Licensure of behavior analysts. Provides for licensure of behavior analysts and assistant behavior analysts. (Current law provides for certification of behavior analysts and assistant behavior analysts.) Sets forth exemptions. Makes conforming changes.

Effective: July 1, 2019.

Charbonneau

January 15, 2019, read first time and referred to Committee on Health and Provider Services.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 612

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-0.5-1-2.7 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: **Sec. 2.7. IC 25-1-1.1-4 applies to an**
4 **individual licensed under IC 25-23.6-12 (behavior analysts and**
5 **assistant behavior analysts).**

6 SECTION 2. IC 25-0.5-2-36 IS ADDED TO THE INDIANA CODE
7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2019]: **Sec. 36. IC 25-1-2-2.1 applies to licenses held by behavior**
9 **analysts and assistant behavior analysts.**

10 SECTION 3. IC 25-23.6-12 IS ADDED TO THE INDIANA CODE
11 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2019]:

13 **Chapter 12. Behavior Analyst and Assistant Behavior Analyst**
14 **Licensure**

15 **Sec. 1. The practice of applied behavior analysis in Indiana is**
16 **hereby declared to affect the health, safety, and welfare of the**
17 **citizens of Indiana and to be subject to regulation to protect the**



1 public from the practice of applied behavior analysis by
 2 unqualified persons and unprofessional, unethical, or harmful
 3 conduct by behavior analysis practitioners.

4 Sec. 2. As used in this chapter, "assistant behavior analyst"
 5 means an individual who is certified by the certifying entity as a
 6 board certified assistant behavior analyst (BCaBA) and who meets
 7 the other requirements specified in section 13 of this chapter.

8 Sec. 3. As used in this chapter, "behavior analyst" means an
 9 individual who is certified by the certifying entity as a board
 10 certified behavior analyst (BCBA) and who meets the other
 11 requirements specified in section 12 of this chapter.

12 Sec. 4. As used in this chapter, "behavior technician" means a
 13 paraprofessional who practices under the close, ongoing
 14 supervision of a behavior analyst or assistant behavior analyst. The
 15 behavior technician does not design assessment or intervention
 16 plans or procedures but delivers services as assigned by the
 17 supervisor responsible for the behavior technician's work. The
 18 term includes an individual who is credentialed as a registered
 19 behavior technician by the certifying entity.

20 Sec. 5. As used in this chapter, "board" refers to the Indiana
 21 behavior analyst licensing board established by section 8 of this
 22 chapter.

23 Sec. 6. As used in this chapter, "certifying entity" refers to the
 24 Behavior Analyst Certification Board, Inc. (BACB) that is a
 25 national certifying entity.

26 Sec. 7. (a) As used in this chapter, "practice of applied behavior
 27 analysis" means the design, implementation, and evaluation of
 28 instructional and environmental modifications to produce socially
 29 significant improvements in human behavior. The term includes
 30 the following:

31 (1) Empirical identification of functional relations between
 32 behavior and environmental factors, known as functional
 33 assessment and analysis.

34 (2) Applied behavior analysis interventions based on scientific
 35 research and direct and indirect observation and
 36 measurement of behavior and environment.

37 (3) Use of contextual factors, motivating operations,
 38 antecedent stimuli, positive reinforcement, and other
 39 procedures to help individuals develop new behaviors,
 40 increase or decrease existing behaviors, and emit behaviors
 41 under specific environmental conditions.

42 (b) The term does not include the following:



- 1 (1) Psychological testing.
- 2 (2) Diagnosis of mental or physical disorders.
- 3 (3) Psychotherapy.
- 4 (4) Cognitive therapy.
- 5 (5) Psychoanalysis.
- 6 (6) Counseling.

7 Sec. 8. The Indiana behavior analyst licensing board is
8 established.

9 Sec. 9. The board shall do the following:

- 10 (1) Issue licenses to individuals who meet the requirements
11 specified in this chapter.
- 12 (2) Adopt rules.
- 13 (3) Establish fees necessary to implement this chapter.
- 14 (4) Investigate all complaints relating to the practice of
15 applied behavior analysis by any behavior analyst, assistant
16 behavior analyst, or any other person alleged to be violating
17 any of the provisions of this chapter.

18 Sec. 10. (a) The board consists of five (5) voting members
19 appointed by the governor as follows:

- 20 (1) Three (3) board certified behavior analysts who are
21 licensed under this chapter.
- 22 (2) One (1) board certified assistant behavior analyst who is
23 licensed under this chapter.
- 24 (3) One (1) public member who is not a professional behavior
25 analyst.

26 The initial appointments shall include three (3) board certified
27 behavior analysts who are eligible for a license under this chapter,
28 one (1) board certified assistant behavior analyst who is eligible for
29 a license under this chapter, and one (1) public member who is not
30 a professional behavior analyst. The board certified behavior
31 analyst and board certified assistant behavior analyst members
32 must apply for a license as soon as feasible. Subsequently, the
33 board shall consist of three (3) licensed behavior analysts, one (1)
34 licensed assistant behavior analyst, and one (1) public member.

35 (b) The membership of the board shall be inclusive and reflect
36 the racial, gender, geographic, urban, rural, and economic
37 diversity of Indiana. Each member shall serve a three (3) year
38 term, with initial terms being staggered so that one (1) member
39 serves an initial term of one (1) year, two (2) members serve initial
40 terms of two (2) years, and two (2) members serve initial terms of
41 three (3) years, as provided by the appointing authority. The public
42 member shall be a person who is not and never has been a member



1 of the profession licensed or regulated under this chapter or the
 2 spouse of such a person, and who does not have and never has had
 3 a material financial interest in the practice of applied behavior
 4 analysis.

5 (c) Members of the board shall be appointed by the governor
 6 upon recommendations submitted by the Hoosier Association for
 7 Behavior Analysis and any other group deemed appropriate by the
 8 governor. Terms and vacancies shall be filled as follows:

9 (1) Any vacancy occurring other than by expiration of a term
 10 shall be filled for the remainder of the unexpired term by
 11 appointment by the governor upon recommendation of the
 12 board.

13 (2) A member may not serve more than two (2) successive
 14 three (3) year terms.

15 (3) A member shall serve until a successor is appointed and
 16 assumes office.

17 (4) Members of the board shall not be remunerated, but shall
 18 be paid out of the funds of the board the minimum salary per
 19 diem provided by IC 4-10-11-2.1(b) for each day of
 20 attendance at board meetings.

21 Sec. 11. (a) The board shall meet at least twice annually and
 22 may meet at such other times as necessary, at the call of the chair
 23 or by a majority of the members, to complete the business
 24 required.

25 (b) Three (3) members of the board shall constitute a quorum.

26 (c) The board shall elect a chair from among its membership on
 27 an annual basis.

28 Sec. 12. An individual who applies for a license as a behavior
 29 analyst must meet the following requirements:

30 (1) Furnish satisfactory evidence to the board that the
 31 individual is certified by the certifying entity as a certified
 32 behavior analyst.

33 (2) Submit to a national criminal history background check
 34 under IC 25-1-1.1-4 and furnish satisfactory evidence to the
 35 board that the individual does not have a conviction for a
 36 crime that has a direct bearing on the individual's ability to
 37 practice competently.

38 (3) Furnish satisfactory evidence to the board that the
 39 individual has not been the subject of a disciplinary action by
 40 a licensing or certification agency of another state or
 41 jurisdiction on the grounds that the individual was not able to
 42 practice behavior analysis without endangering the public.



- 1 **(4) Apply for the license in the manner prescribed by the**
 2 **board.**
- 3 **(5) Pay the fee established by the board.**
- 4 **Sec. 13. (a) An individual who applies for a license as an**
 5 **assistant behavior analyst must meet the following requirements:**
- 6 **(1) Furnish satisfactory evidence to the board that the**
 7 **individual is certified by the certifying entity as a certified**
 8 **assistant behavior analyst.**
- 9 **(2) Submit to a national criminal history background check**
 10 **under IC 25-1-1.1-4 and furnish satisfactory evidence to the**
 11 **board that the individual does not have a conviction for a**
 12 **crime that has a direct bearing on the individual's ability to**
 13 **practice competently.**
- 14 **(3) Furnish satisfactory evidence to the board that the**
 15 **individual has not been the subject of a disciplinary action by**
 16 **a licensing or certification agency of another state or**
 17 **jurisdiction on the grounds that the individual was not able to**
 18 **practice behavior analysis without endangering the public.**
- 19 **(4) Apply for the license in the manner prescribed by the**
 20 **board.**
- 21 **(5) Pay the fee established by the board.**
- 22 **(b) The individual who is licensed as an assistant behavior**
 23 **analyst under this section must be directly supervised by a**
 24 **behavior analyst licensed under this chapter.**
- 25 **(c) An assistant behavior analyst must submit to the board on**
 26 **an annual basis a written record of the supervision provided to the**
 27 **assistant behavior analyst by a behavior analyst licensed under this**
 28 **chapter.**
- 29 **Sec. 14. An individual who is licensed under this chapter shall**
 30 **comply with the requirements of the Professional and Ethical**
 31 **Compliance Code for Behavior Analysts published by the**
 32 **certifying entity.**
- 33 **Sec. 15. A license shall be granted for a period of two (2) years.**
 34 **Prior to expiration of a license, the license may be renewed upon**
 35 **submission of an application for renewal, board verification of**
 36 **current certification by the certifying entity, and payment of any**
 37 **renewal fee established by the board.**
- 38 **Sec. 16. This chapter may not be construed to limit the use of**
 39 **applied behavior analysis techniques by a person who does not use**
 40 **a title specified in section 18 of this chapter and is one (1) of the**
 41 **following:**



1 (1) A licensed or certified health care professional acting
 2 within the scope of the person's license or certificate and
 3 within the person's training.

4 (2) A student, an intern, or a trainee pursuing a course of
 5 study to gain licensure under this chapter in an accredited
 6 eligible postsecondary educational institution or training
 7 institution.

8 (3) A person who is not a resident of Indiana if the person
 9 performs the services in Indiana for not more than five (5)
 10 days in any one (1) month or fifteen (15) days within any one
 11 (1) calendar year and the person is authorized to perform
 12 such services under the laws of the state or country in which
 13 the person resides.

14 (4) A behavior technician, or a family member implementing
 15 a plan within the home, who acts under the extended
 16 authority and direction of a behavior analyst or assistant
 17 behavior analyst licensed under this chapter.

18 **Sec. 17. If the board determines that:**

19 (1) a person possesses a valid license from another jurisdiction
 20 to perform acts that require a license under this chapter; and

21 (2) the jurisdiction issuing the license imposes substantially
 22 equal requirements on applicants for the license as are
 23 imposed on applicants for an Indiana license;

24 the board may issue a license to perform those acts in Indiana to
 25 that person upon payment of the licensure fee.

26 **Sec. 18. (a)** The practice of applied behavior analysis by
 27 unlicensed individuals is prohibited unless they are exempted in
 28 section 16 of this chapter.

29 **(b)** An individual may not:

30 (1) profess to be a licensed behavior analyst or licensed
 31 assistant behavior analyst; or

32 (2) use the initials "LBA" or "LABA" or any other words,
 33 letters, abbreviations, or insignia indicating or implying that
 34 the individual is a licensed behavior analyst or licensed
 35 assistant behavior analyst;

36 unless the individual holds a license under this chapter.

37 **Sec. 19.** An individual who violates this chapter commits a Class
 38 **C** infraction.

39 SECTION 4. IC 25-41 IS REPEALED [EFFECTIVE JULY 1,
 40 2019]. (BEHAVIOR ANALYSTS).



1 SECTION 5. IC 35-52-25-66 IS REPEALED [EFFECTIVE JULY
2 1, 2019]. ~~Sec. 66. IC 25-41-1-2 defines a crime concerning behavior~~
3 analysts.

