



AN ACT GENERALLY REVISING BEHAVIOR ANALYST LAWS; CREATING LICENSURE AND REGULATIONS FOR CERTAIN BEHAVIOR ANALYSTS; MODIFYING THE BOARD OF PSYCHOLOGISTS TO INCLUDE A BEHAVIOR ANALYST; PROVIDING DEFINITIONS AND EXCEPTIONS TO LICENSURE; ESTABLISHING AUTONOMY FOR BEHAVIOR ANALYSTS AND SUPERVISION OF ASSISTANT BEHAVIOR ANALYSTS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 2-15-1741, MCA.

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

Section 1. Section 2-15-1741, MCA, is amended to read:

"2-15-1741. Board of psychologists. (1) There is a board of psychologists.

(2) The board consists of ~~six~~ six members appointed by the governor with the consent of the senate. Two members must be licensed psychologists in private practice, one member must be a licensed psychologist in public health, one member must be a licensed psychologist engaged in the teaching of psychology, one member must be a behavioral analyst licensed under [sections 2 through 7], and two members one member must be from the general public. A member may not serve more than two consecutive 5-year terms.

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

(4) The board is allocated to the department for administrative purposes only, as prescribed in 2-15-121."

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

Section 3. Definitions. For the purposes of [sections 2 through 7], the following definitions apply:

(1) "Assistant behavior analyst" means an individual licensed under [section 4] who has a qualifying

bachelor's degree and has passed the board-certified assistant behavior analyst examination of the behavior analyst certification board.

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

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

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

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

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

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

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

- (a) has submitted an application as determined by the board by rule;
- (b) has paid required applicant fees and subsequent renewal fees;
- (c) has passed a state-approved criminal background check;
- (d) has provided evidence of current certification at the appropriate level from the behavior analyst certification board;
- (e) is of good moral character; and
- (f) attests to abiding by professional and ethical requirements indicated in the Professional and Ethical Compliance Code for Behavior Analysts recognized by the behavior analyst certification board.

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

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

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

(c) have met the educational course work and requirements set by the board by rule.

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

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

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

(c) have met the educational course work and requirements set by the board by rule.

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

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

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

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

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

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

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

- (a) a behavior analyst licensed under [sections 2 through 7]; or
- (b) a licensed psychologist certified by the American board of professional psychology in behavioral and cognitive psychology.

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

(2) The board shall adopt license fees for behavior analysts and assistant behavior analysts that adequately fund the costs of implementing [sections 2 through 7].

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

- END -

I hereby certify that the within bill,
SB 0193, originated in the Senate.

President of the Senate

Signed this _____ day
of _____, 2017.

Secretary of the Senate

Speaker of the House

Signed this _____ day
of _____, 2017.

SENATE BILL NO. 193

INTRODUCED BY D. ANKNEY, M. CAFERRO

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