

HOUSE BILL No. 1516

DIGEST OF INTRODUCED BILL

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

Synopsis: Licensure of behavior analysts. Expands the behavioral health and human services licensing board (board) from 10 to 12 members and provides for the appointment to the board of two licensed and experienced behavior analysts. Requires the board to adopt rules concerning the practice of behavior analysis and continuing education requirements for behavior analysts and assistant behavior analysts. Establishes a behavior analyst section of the board consisting of the two behavior analysts who are members of the board, two consumers who are members of the board, and one physician who is a member of the board. Authorizes the behavior analyst section to approve behavior analysis continuing education courses and propose rules to the board concerning the practice of behavior analysis. Provides for the licensing of behavior analysts and assistant behavior analysts. Requires a licensed behavior analyst or licensed assistant behavior analyst to comply with a professional code published by the Behavior Analyst Certification Board, Inc. Makes it a Class A misdemeanor for an unlicensed individual to profess to be a licensed behavior analyst or licensed assistant behavior analyst, but provides that certain types of individuals may use applied behavior analysis techniques without being licensed.

Effective: July 1, 2021.

Judy, VanNatter, Morris, Lindauer

January 14, 2021, read first time and referred to Committee on Public Health.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1516

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 25-0.5-1-14, AS ADDED BY P.L.3-2014,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 14. IC 25-1-1.1-4 applies to an individual licensed
4 or certified under IC 25-23.6 (**behavior analysts and assistant**
5 **behavior analysts**, social workers, marriage and family therapists, and
6 counselors).

7 SECTION 2. IC 25-0.5-2-22, AS ADDED BY P.L.3-2014,
8 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2021]: Sec. 22. IC 25-1-2-2.1 applies to licenses held by
10 **behavior analysts and assistant behavior analysts**, social workers,
11 marriage and family therapists, and mental health counselors.

12 SECTION 3. IC 25-23.6-1-6.2 IS ADDED TO THE INDIANA
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2021]: **Sec. 6.2. (a) "Practice of behavior**
15 **analysis" means the design, implementation, and evaluation of**
16 **instructional and environmental modifications to produce socially**
17 **significant improvements in human behavior. The term includes**



- 1 **the following:**
- 2 **(1) Empirical identification of functional relations between**
- 3 **behavior and environmental factors through functional**
- 4 **assessment and analysis.**
- 5 **(2) Applied behavior analysis interventions based on scientific**
- 6 **research and the direct observation and measurement of**
- 7 **behavior and the environment.**
- 8 **(3) Use of contextual factors, motivating operations,**
- 9 **antecedent stimuli, positive reinforcement, and other**
- 10 **consequences to assist people in developing new behaviors,**
- 11 **increase or decrease existing behaviors, and emit behaviors**
- 12 **under specific environmental conditions.**
- 13 **(b) The term does not include the following:**
- 14 **(1) Psychological testing.**
- 15 **(2) Diagnosis of mental or physical disorders.**
- 16 **(3) Neuropsychology.**
- 17 **(4) Psychotherapy.**
- 18 **(5) Cognitive therapy.**
- 19 **(6) Sex therapy.**
- 20 **(7) Psychoanalysis.**
- 21 **(8) Hypnotherapy.**
- 22 **(9) Counseling.**
- 23 SECTION 4. IC 25-23.6-2-2, AS AMENDED BY P.L.249-2019,
- 24 SECTION 106, IS AMENDED TO READ AS FOLLOWS
- 25 [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) The board consists of ~~ten (10)~~
- 26 **twelve (12)** members appointed by the governor. Subject to
- 27 IC 25-1-6.5-3, the board must include the following:
- 28 (1) Two (2) marriage and family therapists who:
- 29 (A) have at least a master's degree in marriage and family
- 30 therapy or a related field from an eligible postsecondary
- 31 educational institution;
- 32 (B) are licensed under this chapter; and
- 33 (C) have five (5) years of experience in marriage and family
- 34 therapy.
- 35 (2) One (1) social worker who:
- 36 (A) has at least a master's degree in social work from an
- 37 eligible postsecondary educational institution accredited by the
- 38 Council on Social Work Education;
- 39 (B) is licensed under this article; and
- 40 (C) has at least five (5) years of experience as a social worker.
- 41 (3) One (1) social services director of a hospital with a social
- 42 work degree who has at least three (3) years of experience in a



- 1 hospital setting.
- 2 (4) Two (2) mental health counselors who:
- 3 (A) have at least a master's degree in mental health counseling;
- 4 (B) are licensed under this article; and
- 5 (C) have at least five (5) years experience as a mental health
- 6 counselor.
- 7 (5) One (1) consumer who has never been credentialed under this
- 8 article.
- 9 (6) One (1) physician licensed under IC 25-22.5 who has training
- 10 in psychiatric medicine.
- 11 (7) Two (2) licensed clinical addiction counselors who:
- 12 (A) are licensed under IC 25-23.6-10.5; and
- 13 (B) have at least five (5) years experience in clinical addiction
- 14 counseling.
- 15 **(8) Two (2) licensed behavior analysts who:**
- 16 **(A) are licensed under IC 25-23.6-3.5; and**
- 17 **(B) have at least five (5) years of experience in behavior**
- 18 **analysis.**
- 19 (b) Not more than six (6) members of the board may be from the
- 20 same political party.
- 21 (c) A member appointed:
- 22 (1) before July 1, 2019, serves a three (3) year term; and
- 23 (2) after June 30, 2019, serves a term under IC 25-1-6.5.
- 24 SECTION 5. IC 25-23.6-2-8, AS AMENDED BY P.L.192-2017,
- 25 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 26 JULY 1, 2021]: Sec. 8. (a) The board shall adopt rules under IC 4-22-2
- 27 establishing standards for the following:
- 28 (1) The competent practice of marriage and family therapy,
- 29 **behavior analysis**, bachelor's degree social work, social work,
- 30 clinical social work, mental health counseling, addiction
- 31 counseling, and clinical addiction counseling.
- 32 (2) The renewal of licenses issued under this article.
- 33 (3) Standards for the administration of this article.
- 34 (4) Continuing education requirements for an individual seeking
- 35 renewal of licensure as a bachelor's degree social worker, social
- 36 worker, clinical social worker, **behavior analyst, assistant**
- 37 **behavior analyst**, or marriage and family therapist.
- 38 (5) The retention of patient records and reports by a counselor.
- 39 (6) The approval of continuing education providers, programs,
- 40 courses, fees, and proof of course completion.
- 41 (b) The board shall establish fees under IC 25-1-8-2.
- 42 (c) The board shall do the following:



1 (1) Consider the qualifications of individuals who apply for a
2 license under this article.

3 (2) Provide for examinations required under this article.

4 (3) Subject to IC 25-1-8-6, renew licenses under this article.

5 (4) Conduct proceedings under IC 25-1-9.

6 SECTION 6. IC 25-23.6-2-8.5 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2021]: **Sec. 8.5. (a) The behavior analyst**
9 **section of the board is established. The section consists of the**
10 **following:**

11 (1) **Two (2) behavior analyst members of the board.**

12 (2) **Two (2) consumer members of the board.**

13 (3) **One (1) physician member of the board.**

14 (b) **Three (3) members of the behavior analyst section, two (2)**
15 **of whom must be behavior analysts, constitute a quorum.**

16 SECTION 7. IC 25-23.6-2-11, AS AMENDED BY P.L.122-2009,
17 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2021]: Sec. 11. The **behavior analyst**, social worker,
19 marriage and family therapist, mental health counselor, and addiction
20 counselor sections of the board shall do the following:

21 (1) Approve continuing education courses authorized under this
22 article.

23 (2) Propose rules to the board concerning the practice of the
24 profession regulated by each section.

25 (3) Other duties as directed by the board.

26 SECTION 8. IC 25-23.6-3.5 IS ADDED TO THE INDIANA CODE
27 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2021]:

29 **Chapter 3.5. Behavior Analyst and Assistant Behavior Analyst**
30 **Licensure**

31 **Sec. 1. To be issued a license as a behavior analyst, an individual**
32 **must do the following:**

33 (1) **Furnish satisfactory evidence to the board that the**
34 **individual is certified by the Behavior Analyst Certification**
35 **Board, Inc., as a certified behavior analyst.**

36 (2) **Submit to a national criminal history background check**
37 **under IC 25-1-1.1-4 and furnish satisfactory evidence to the**
38 **board that the individual has not been convicted of a crime**
39 **that has a direct bearing on the individual's ability to practice**
40 **competently.**

41 (3) **Furnish satisfactory evidence to the board that the**
42 **individual has not been the subject of a disciplinary action by**



1 a licensing or certification agency of another state or
 2 jurisdiction on the grounds that the individual was not able to
 3 practice behavior analysis without endangering the public.

4 (4) Apply for the license in the manner prescribed by the
 5 board.

6 (5) Pay the fee established by the board.

7 **Sec. 2. (a) To be issued a license as an assistant behavior analyst,
 8 an individual must do the following:**

9 (1) Furnish satisfactory evidence to the board that the
 10 individual is certified by the Behavior Analyst Certification
 11 Board, Inc., as a certified assistant behavior analyst.

12 (2) Submit to a national criminal history background check
 13 under IC 25-1-1.1-4 and furnish satisfactory evidence to the
 14 board that the individual has not been convicted of a crime
 15 that has a direct bearing on the individual's ability to practice
 16 competently.

17 (3) Furnish satisfactory evidence to the board that the
 18 individual has not been the subject of a disciplinary action by
 19 a licensing or certification agency of another state or
 20 jurisdiction on the grounds that the individual was not able to
 21 practice behavior analysis without endangering the public.

22 (4) Apply for the license in the manner prescribed by the
 23 board.

24 (5) Pay the fee established by the board.

25 **(b) An individual who is licensed as an assistant behavior
 26 analyst under this section:**

27 (1) must be directly supervised by a behavior analyst licensed
 28 under this chapter; and

29 (2) must submit to the board a written record of the
 30 supervision provided to the individual by a behavior analyst
 31 licensed under this chapter.

32 **Sec. 3. If the board determines that:**

33 (1) an individual possesses a valid license from another
 34 jurisdiction authorizing the individual to perform acts for
 35 which a license is required under this chapter; and

36 (2) the jurisdiction issuing the license imposes requirements
 37 on license applicants that are substantially equal to the
 38 requirements imposed on applicants for an Indiana license;
 39 the board may issue to the individual, upon payment of the
 40 licensure fee, a license to perform in Indiana the acts referred to in
 41 subdivision (1).

42 **Sec. 4. An individual who is licensed under this chapter shall**



1 comply with the requirements of the Professional and Ethical
 2 Compliance Code for Behavior Analysts published by the Behavior
 3 Analyst Certification Board, Inc.

4 **Sec. 5.** The board may summarily suspend a behavior analyst or
 5 assistant behavior analyst license under IC 25-1-9-10.

6 **Sec. 6. (a)** An individual may not:

7 (1) profess to be a licensed behavior analyst or licensed
 8 assistant behavior analyst; or

9 (2) use the initials "LBA" or "LABA" or any other words,
 10 letters, abbreviations, or insignia indicating or implying that
 11 the individual is a licensed behavior analyst or licensed
 12 assistant behavior analyst;

13 unless the individual holds a license under this chapter.

14 (b) This chapter does not limit the use of applied behavior
 15 analysis techniques by an individual who:

16 (1) does not use a title specified in subsection (a); and

17 (2) is one (1) of the following:

18 (A) A licensed or certified health care professional acting
 19 within the scope of the individual's license or certificate
 20 and within the individual's training.

21 (B) A student, an intern, or a trainee pursuing a course of
 22 study to gain licensure under this article in an accredited
 23 eligible postsecondary educational institution or training
 24 institution.

25 (C) An individual who is not a resident of Indiana, if the
 26 individual:

27 (i) performs the services in Indiana for not more than
 28 five (5) days in any one (1) month and not more than

29 fifteen (15) days within any one (1) calendar year; and

30 (ii) is authorized to perform the services under the laws
 31 of the state or country in which the individual resides.

32 (D) Either:

33 (i) an applied behavior analysis direct contact
 34 technician; or

35 (ii) a family member implementing a plan within the
 36 family home;

37 who acts under the extended authority and direction of a
 38 behavior analyst or assistant behavior analyst licensed
 39 under this chapter.

40 **Sec. 7.** An individual who violates this chapter commits a Class
 41 A misdemeanor.

42 SECTION 9. IC 25-41 IS REPEALED [EFFECTIVE JULY 1,



1 2021]. (BEHAVIOR ANALYSTS).

2 SECTION 10. IC 35-52-25-29.5 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2021]: **Sec. 29.5. IC 25-23.6-3.5-7 defines a**
5 **crime concerning behavior analysts and assistant behavior**
6 **analysts.**

7 SECTION 11. IC 35-52-25-66 IS REPEALED [EFFECTIVE JULY
8 1, 2021]. ~~Sec. 66. IC 25-41-1-2 defines a crime concerning behavior~~
9 ~~analysts.~~

