



February 9, 2021

HOUSE BILL No. 1516

DIGEST OF HB 1516 (Updated February 9, 2021 10:28 am - DI 141)

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

Synopsis: Licensure of behavior analysts. Establishes the behavior analyst board (board) that consists of three behavior analyst members, one consumer member, and one physician member. Requires the board to adopt rules concerning the practice of behavior analysis and continuing education requirements for behavior analysts and assistant behavior analysts. Requires the board to establish fees. 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.
February 2, 2021, reassigned to Committee on Employment, Labor and Pensions.
February 9, 2021, amended, reported — Do Pass.

HB 1516—LS 7321/DI 55



February 9, 2021

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 25-0.5-4-34 IS ADDED TO THE INDIANA CODE
13 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2021]: **Sec. 34. The behavior analyst board (IC 25-23.6-3.5) is a**
15 **board under IC 25-1-4.**

16 SECTION 4. IC 25-0.5-5-22 IS ADDED TO THE INDIANA CODE
17 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY

HB 1516—LS 7321/DI 55



1, 2021]: **Sec. 22. The Indiana professional licensing agency shall perform administrative functions, duties, and responsibilities for the behavior analyst board (IC 25-23.6-3.5) under IC 25-1-5-3(a).**

SECTION 5. IC 25-0.5-6-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 21. An individual licensed, certified, registered, or permitted by the behavior analyst board (IC 25-23.6-3.5) is a provider under IC 25-1-5-10.**

SECTION 6. IC 25-0.5-8-38 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 38. An occupation for which a person is licensed, certified, or registered by the behavior analyst board (IC 25-23.6-3.5) is a regulated occupation under IC 25-1-7.**

SECTION 7. IC 25-0.5-10-35 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 35. The behavior analyst board (IC 25-23.6-3.5) is a board under IC 25-1-8-6.**

SECTION 8. IC 25-0.5-11-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 20. The behavior analyst board (IC 25-23.6-3.5) is a board under IC 25-1-9.**

SECTION 9. IC 25-23.6-1-2, AS AMENDED BY P.L.122-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 2. (a) "Board", except as provided in subsection (b), refers to the behavioral health and human services licensing board.**

(b) "Board", for purposes of IC 25-23.6-3.5, refers to the behavior analyst board.

SECTION 10. IC 25-23.6-1-6.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 6.2. (a) "Practice of behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. The term includes the following:**

(1) Empirical identification of functional relations between behavior and environmental factors through functional assessment and analysis.

(2) Applied behavior analysis interventions based on scientific research and the direct observation and measurement of behavior and the environment.

(3) Use of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other



1 consequences to assist people in developing new behaviors,
 2 increase or decrease existing behaviors, and emit behaviors
 3 under specific environmental conditions.

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

- 5 (1) Psychological testing.
 6 (2) Diagnosis of mental or physical disorders.
 7 (3) Neuropsychology.
 8 (4) Psychotherapy.
 9 (5) Cognitive therapy.
 10 (6) Sex therapy.
 11 (7) Psychoanalysis.
 12 (8) Hypnotherapy.
 13 (9) Counseling.

14 SECTION 11. IC 25-23.6-3.5 IS ADDED TO THE INDIANA
 15 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2021]:

17 **Chapter 3.5. Behavior Analyst and Assistant Behavior Analyst**
 18 **Licensure**

19 **Sec. 1. (a) The behavior analyst board is established.**

20 (b) The board consists of the following members appointed by
 21 the governor:

- 22 (1) Three (3) behavior analyst members.
 23 (2) One (1) consumer member.
 24 (3) One (1) physician member.

25 (c) A member appointed to the board serves a term under
 26 IC 25-1-6.5.

27 **Sec. 2.** Each member of the board who is not a state employee
 28 is entitled to the minimum salary per diem provided by
 29 IC 4-10-11-2.1(b). Each member of the board is entitled to
 30 reimbursement for travel expenses and other expenses actually
 31 incurred in connection with the member's duties, as provided in the
 32 state travel policies and procedures established by the department
 33 of administration and approved by the budget agency.

34 **Sec. 3.** A member of the board who is appointed by the governor
 35 may be removed under IC 25-1-6.5-4.

36 **Sec. 4.** The board shall elect a chairman from among the
 37 members of the board for a one (1) year term. An individual may
 38 not be elected as chairman for more than two (2) consecutive one
 39 (1) year terms.

40 **Sec. 5.** The board shall meet at times and places determined by
 41 the board.

42 **Sec. 6. (a)** The board shall adopt rules under IC 4-22-2



1 establishing standards for the following:

2 (1) The competent practice of behavior analysis.

3 (2) The renewal of licenses issued under this chapter.

4 (3) Continuing education requirements for an individual
5 seeking renewal of licensure as a behavior analyst or assistant
6 behavior analyst.

7 (4) The approval of continuing education providers,
8 programs, courses, fees, and proof of course completion.

9 (b) The board shall establish fees under IC 25-1-8-2.

10 (c) The board shall do the following:

11 (1) Consider the qualifications of individuals who apply for a
12 license under this chapter.

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

14 (3) Conduct proceedings under IC 25-1-9.

15 **Sec. 7. To be issued a license as a behavior analyst, an individual
16 must do the following:**

17 (1) Furnish satisfactory evidence to the board that the
18 individual is certified by the Behavior Analyst Certification
19 Board, Inc., as a certified behavior analyst.

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

25 (3) Furnish satisfactory evidence to the board that the
26 individual has not been the subject of a disciplinary action by
27 a licensing or certification agency of another state or
28 jurisdiction on the grounds that the individual was not able to
29 practice behavior analysis without endangering the public.

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

32 (5) Pay the fee established by the board that is sufficient to
33 cover the operations of the board.

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

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

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



- 1 competently.
- 2 (3) Furnish satisfactory evidence to the board that the
- 3 individual has not been the subject of a disciplinary action by
- 4 a licensing or certification agency of another state or
- 5 jurisdiction on the grounds that the individual was not able to
- 6 practice behavior analysis without endangering the public.
- 7 (4) Apply for the license in the manner prescribed by the
- 8 board.
- 9 (5) Pay the fee established by the board that is sufficient to
- 10 cover the operations of the board.
- 11 (b) An individual who is licensed as an assistant behavior
- 12 analyst under this section:
- 13 (1) must be directly supervised by a behavior analyst licensed
- 14 under this chapter; and
- 15 (2) must submit to the board a written record of the
- 16 supervision provided to the individual by a behavior analyst
- 17 licensed under this chapter.
- 18 Sec. 9. If the board determines that:
- 19 (1) an individual possesses a valid license from another
- 20 jurisdiction authorizing the individual to perform acts for
- 21 which a license is required under this chapter; and
- 22 (2) the jurisdiction issuing the license imposes requirements
- 23 on license applicants that are substantially equal to the
- 24 requirements imposed on applicants for an Indiana license;
- 25 the board may issue to the individual, upon payment of the
- 26 licensure fee, a license to perform in Indiana the acts referred to in
- 27 subdivision (1).
- 28 Sec. 10. An individual who is licensed under this chapter shall
- 29 comply with the requirements of the Professional and Ethical
- 30 Compliance Code for Behavior Analysts published by the Behavior
- 31 Analyst Certification Board, Inc.
- 32 Sec. 11. The board may summarily suspend a behavior analyst
- 33 or assistant behavior analyst license under IC 25-1-9-10.
- 34 Sec. 12. (a) An individual may not:
- 35 (1) profess to be a licensed behavior analyst or licensed
- 36 assistant behavior analyst; or
- 37 (2) use the initials "LBA" or "LABA" or any other words,
- 38 letters, abbreviations, or insignia indicating or implying that
- 39 the individual is a licensed behavior analyst or licensed
- 40 assistant behavior analyst;
- 41 unless the individual holds a license under this chapter.
- 42 (b) This chapter does not limit the use of applied behavior



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- analysis techniques by an individual who:
- (1) does not use a title specified in subsection (a); and
 - (2) is one (1) of the following:
 - (A) A licensed or certified health care professional acting within the scope of the individual's license or certificate and within the individual's training.
 - (B) A student, an intern, or a trainee pursuing a course of study to gain licensure under this article in an accredited eligible postsecondary educational institution or training institution.
 - (C) An individual who is not a resident of Indiana, if the individual:
 - (i) performs the services in Indiana for not more than five (5) days in any one (1) month and not more than fifteen (15) days within any one (1) calendar year; and
 - (ii) is authorized to perform the services under the laws of the state or country in which the individual resides.
 - (D) Either:
 - (i) an applied behavior analysis direct contact technician; or
 - (ii) a family member implementing a plan within the family home;
 who acts under the extended authority and direction of a behavior analyst or assistant behavior analyst licensed under this chapter.

Sec. 13. An individual who violates this chapter commits a Class A misdemeanor.

SECTION 12. IC 25-41 IS REPEALED [EFFECTIVE JULY 1, 2021]. (BEHAVIOR ANALYSTS).

SECTION 13. IC 35-52-25-29.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 29.5. IC 25-23.6-3.5-13 defines a crime concerning behavior analysts and assistant behavior analysts.**

SECTION 14. IC 35-52-25-66 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 66. IC 25-41-1-2 defines a crime concerning behavior analysts.~~



COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1516, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 3. IC 25-0.5-4-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 34. The behavior analyst board (IC 25-23.6-3.5) is a board under IC 25-1-4.**

SECTION 4. IC 25-0.5-5-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 22. The Indiana professional licensing agency shall perform administrative functions, duties, and responsibilities for the behavior analyst board (IC 25-23.6-3.5) under IC 25-1-5-3(a).**

SECTION 5. IC 25-0.5-6-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 21. An individual licensed, certified, registered, or permitted by the behavior analyst board (IC 25-23.6-3.5) is a provider under IC 25-1-5-10.**

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SECTION 7. IC 25-0.5-10-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 35. The behavior analyst board (IC 25-23.6-3.5) is a board under IC 25-1-8-6.**

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SECTION 9. IC 25-23.6-1-2, AS AMENDED BY P.L.122-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) "Board", **except as provided in subsection (b)**, refers to the behavioral health and human services licensing board.

(b) "Board", **for purposes of IC 25-23.6-3.5, refers to the behavior analyst board."**

Page 2, delete lines 23 through 42.

Delete page 3.



Page 4, delete lines 1 through 25.

Page 4, between lines 30 and 31, begin a new paragraph and insert:

"Sec. 1. (a) The behavior analyst board is established.

(b) The board consists of the following members appointed by the governor:

(1) Three (3) behavior analyst members.

(2) One (1) consumer member.

(3) One (1) physician member.

(c) A member appointed to the board serves a term under IC 25-1-6.5.

Sec. 2. Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Each member of the board is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

Sec. 3. A member of the board who is appointed by the governor may be removed under IC 25-1-6.5-4.

Sec. 4. The board shall elect a chairman from among the members of the board for a one (1) year term. An individual may not be elected as chairman for more than two (2) consecutive one (1) year terms.

Sec. 5. The board shall meet at times and places determined by the board.

Sec. 6. (a) The board shall adopt rules under IC 4-22-2 establishing standards for the following:

(1) The competent practice of behavior analysis.

(2) The renewal of licenses issued under this chapter.

(3) Continuing education requirements for an individual seeking renewal of licensure as a behavior analyst or assistant behavior analyst.

(4) The approval of continuing education providers, programs, courses, fees, and proof of course completion.

(b) The board shall establish fees under IC 25-1-8-2.

(c) The board shall do the following:

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

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

(3) Conduct proceedings under IC 25-1-9."

Page 4, line 31, delete "1." and insert "7."

Page 5, line 6, delete "board." and insert **"board that is sufficient**



to cover the operations of the board."

Page 5, line 7, delete "2." and insert "8."

Page 5, line 24, delete "board." and insert "**board that is sufficient to cover the operations of the board."**

Page 5, line 32, delete "3." and insert "9."

Page 5, line 42, delete "4." and insert "10."

Page 6, line 4, delete "5." and insert "11."

Page 6, line 6, delete "6." and insert "12."

Page 6, line 40, delete "7." and insert "13."

Page 7, line 4, delete "25-23.6-3.5-7" and insert "**25-23.6-3.5-13**".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1516 as introduced.)

VANNATTER

Committee Vote: yeas 12, nays 0.

