

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 ENROLLED ACT No. 1516

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

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

SECTION 1. IC 25-0.5-1-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2021]: **Sec. 2.7. IC 25-1-1.1-4 applies to an individual licensed or certified under IC 25-8.5 (behavior analysts).**

SECTION 2. IC 25-0.5-2-36 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2021]: **Sec. 36. IC 25-1-2-2.1 applies to licenses held by behavior analysts and assistant behavior analysts.**

SECTION 3. IC 25-0.5-3-35.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2021]: **Sec. 35.5. IC 25-1-2-6(b) applies to the behavior analyst committee.**

SECTION 4. IC 25-0.5-4-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2021]: **Sec. 23.5. The behavior analyst committee (IC 25-8.5-2) is a board under IC 25-1-4.**

SECTION 5. 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 committee (IC 25-8.5-2) under IC 25-1-5-3(a).**

HEA 1516 — Concur



SECTION 6. 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 committee (IC 25-8.5-2) is a provider under IC 25-1-5-10.**

SECTION 7. 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 committee (IC 25-8.5-2) is a regulated occupation under IC 25-1-7.**

SECTION 8. IC 25-0.5-9-29.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 29.5. The behavior analyst committee is a board under IC 25-1-8.**

SECTION 9. 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 committee (IC 25-8.5-2) is a board under IC 25-1-8-6.**

SECTION 10. 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 committee (IC 25-8.5-2) is a board under IC 25-1-9.**

SECTION 11. IC 25-8.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

## **ARTICLE 8.5. BEHAVIOR ANALYSTS**

### **Chapter 1. Definitions**

**Sec. 1. The definitions in this chapter apply to this article.**

**Sec. 2. "Board" refers to the medical licensing board of Indiana created by IC 25-22.5-2-1.**

**Sec. 3. "Committee" refers to the behavior analyst committee established by IC 25-8.5-2-1.**

**Sec. 4. (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 consequences to assist people in developing new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.

(b) The term does not include the following:

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

**Chapter. 2. Behavior Analyst Committee**

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

(b) The committee 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 committee serves a term under IC 25-1-6.5.

**Sec. 2. Each member of the committee 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 committee 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 committee who is appointed by the governor may be removed under IC 25-1-6.5-4.**

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

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

**Sec. 6. (a) The committee shall recommend proposed rules to the board 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.

The board, after considering the committee's recommendations under this subsection, shall adopt rules under IC 4-22-2 concerning the standards described in this subsection.

(b) The committee shall recommend, and the board, after considering the committee's recommendations, shall establish fees under IC 25-1-8-2.

(c) The committee 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.

### Chapter 3. Licensure

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

- (1) Furnish satisfactory evidence to the committee that the individual is certified as a board certified behavior analyst by:
  - (A) the Behavior Analyst Certification Board, Inc., or its successor; or
  - (B) another entity approved by the committee.
- (2) Submit to a national criminal history background check under IC 25-1-1.1-4 and furnish satisfactory evidence to the committee that the individual has not been convicted of a crime that has a direct bearing on the individual's ability to practice competently.
- (3) Furnish satisfactory evidence to the committee that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice behavior analysis without endangering the public.
- (4) Apply for the license in the manner prescribed by the committee.
- (5) Pay the fee established by the board that is sufficient to cover the operations of the committee.

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

- (1) Furnish satisfactory evidence to the committee that the



individual is certified as a board certified assistant behavior analyst by:

(A) the Behavior Analyst Certification Board, Inc., or its successor; or

(B) another entity approved by the committee.

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

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

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

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

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

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

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

Sec. 3. If the committee determines that:

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

(2) the jurisdiction issuing the license imposes requirements on license applicants that are substantially equal to the requirements imposed on applicants for an Indiana license;

the committee may issue to the individual, upon payment of the licensure fee, a license to perform in Indiana the acts referred to in subdivision (1).

Sec. 4. An individual who is licensed under this chapter shall comply with the requirements of:

(1) the Professional and Ethical Compliance Code for Behavior Analysts published by the Behavior Analyst Certification Board, Inc., or its successor; or

(2) another professional and ethical set of rules for behavior



analysts published by an entity approved by the committee.

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

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

- (1) profess to be a licensed behavior analyst or licensed assistant behavior analyst;
- (2) use the initials "LBA" or "LABA" or any other words, letters, abbreviations, or insignia indicating or implying that the individual is a licensed behavior analyst or licensed assistant behavior analyst; or
- (3) practice applied behavior analysis;

unless the individual holds a license issued under this chapter.

**(b)** This chapter does not limit the use of applied behavior 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.

(E) A professional who provides general applied behavior analysis services to an organization as long as the services are provided for the benefit of the organization and do not involve direct services to an individual.



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

SECTION 12. IC 25-22.5-2-7, AS AMENDED BY P.L.249-2019, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 7. (a) The board shall do the following:

- (1) Adopt rules and forms necessary to implement this article that concern, but are not limited to, the following areas:
  - (A) Qualification by education, residence, citizenship, training, and character for admission to an examination for licensure or by endorsement for licensure.
  - (B) The examination for licensure.
  - (C) The license or permit.
  - (D) Fees for examination, permit, licensure, and registration.
  - (E) Reinstatement of licenses and permits.
  - (F) Payment of costs in disciplinary proceedings conducted by the board.
- (2) Administer oaths in matters relating to the discharge of the board's official duties.
- (3) Enforce this article and assign to the personnel of the agency duties as may be necessary in the discharge of the board's duty.
- (4) Maintain, through the agency, full and complete records of all applicants for licensure or permit and of all licenses and permits issued.
- (5) Make available, upon request, the complete schedule of minimum requirements for licensure or permit.
- (6) Issue, at the board's discretion, a temporary permit to an applicant for the interim from the date of application until the next regular meeting of the board.
- (7) Issue an unlimited license, a limited license, or a temporary medical permit, depending upon the qualifications of the applicant, to any applicant who successfully fulfills all of the requirements of this article.
- (8) Adopt rules establishing standards for the competent practice of medicine, osteopathic medicine, or any other form of practice regulated by a limited license or permit issued under this article.
- (9) Adopt rules regarding the appropriate prescribing of Schedule III or Schedule IV controlled substances for the purpose of weight reduction or to control obesity.
- (10) Adopt rules establishing standards for office based procedures that require moderate sedation, deep sedation, or general anesthesia.
- (11) Adopt rules or protocol establishing the following:

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(A) An education program to be used to educate women with high breast density.

(B) Standards for providing an annual screening or diagnostic test for a woman who is at least forty (40) years of age and who has been determined to have high breast density.

As used in this subdivision, "high breast density" means a condition in which there is a greater amount of breast and connective tissue in comparison to fat in the breast.

(12) Adopt rules establishing standards and protocols for the prescribing of controlled substances.

(13) Adopt rules as set forth in IC 25-23.4 concerning the certification of certified direct entry midwives.

(14) In consultation with the state department of health and the office of the secretary of family and social services, adopt rules under IC 4-22-2 or protocols concerning the following for providers that are providing office based opioid treatment:

(A) Requirements of a treatment agreement (as described in IC 12-23-20-2) concerning the proper referral and treatment of mental health and substance use.

(B) Parameters around the frequency and types of visits required for the periodic scheduled visits required by IC 12-23-20-2.

(C) Conditions on when the following should be ordered or performed:

(i) A urine toxicology screening.

(ii) HIV, hepatitis B, and hepatitis C testing.

(D) Required documentation in a patient's medical record when buprenorphine is prescribed over a specified dosage.

(15) Adopt rules as set forth in IC 25-14.5 concerning the certification of certified dietitians.

**(16) Adopt rules and establish fees as set forth in IC 25-8.5-2-6 concerning the licensure of behavior analysts.**

(b) The board may adopt rules that establish:

(1) certification requirements for child death pathologists;

(2) an annual training program for child death pathologists under IC 16-35-7-3(b)(2); and

(3) a process to certify a qualified child death pathologist.

(c) The board may adopt rules under IC 4-22-2 establishing guidelines for the practice of telemedicine in Indiana. Adoption of rules under this subsection may not delay the implementation and provision of telemedicine services by a provider under IC 25-1-9.5.

SECTION 13. IC 25-41 IS REPEALED [EFFECTIVE JULY 1,





2021]. (BEHAVIOR ANALYSTS).

SECTION 14. IC 35-52-25-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 7.5. IC 25-8.5-3-7 defines a crime concerning behavior analysts and assistant behavior analysts.**

SECTION 15. IC 35-52-25-66 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 66. IC 25-41-1-2 defines a crime concerning behavior analysts.~~



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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