



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4769

Introduced 1/27/2022, by Rep. Deb Conroy

SYNOPSIS AS INTRODUCED:

New Act
305 ILCS 5/5-30.11

Creates the Behavior Analyst Licensing Act. Provides for licensure of behavior analysts, assistant behavior analysts, and behavior technicians by the Department of Financial and Professional Regulation. Contains provisions concerning licensure requirements, qualifications, the Board of Behavior Analysts, provisional licenses, and rules. Amends the Public Aid Code to provide that treatment of autism spectrum disorder through applied behavior analysis shall be covered under the medical assistance program for children with a diagnosis of autism spectrum disorder when ordered by a behavior analyst licensed by the Department of Financial and Professional Regulation to practice applied behavior analysis in the State of Illinois. Effective immediately.

LRB102 23872 AMC 33065 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Behavior Analyst Licensing Act.

6 Section 5. Public policy. The practice of applied behavior
7 analysis is declared to affect the public health, safety, and
8 welfare and to be subject to regulation in the public
9 interest. The purpose of this Act is to protect and benefit the
10 public by setting standards of qualifications, education,
11 training, and experience for those who seek to obtain a
12 license and hold the title of "behavior analyst" or "assistant
13 behavior analyst", to promote high standards of professional
14 performance for those licensed to practice applied behavior
15 analysis in the State of Illinois, and to protect the public
16 from unprofessional conduct by persons licensed to practice
17 applied behavior analysis.

18 Section 10. Definitions. As used in this Act:

19 "Applied behavior analysis" means the design,
20 implementation, and evaluation of environmental modifications
21 using behavioral stimuli and consequences to produce socially
22 significant improvement in human behavior, including the use

1 of direct observation, measurement, and functional analysis of
2 the relations between environment and behavior. "Applied
3 behavior analysis" does not include:

4 (1) the practice of medicine, the practice of
5 osteopathic medicine and surgery, or medical diagnosis or
6 treatment;

7 (2) the practice of speech-language pathology;

8 (3) the practice of physical therapy;

9 (4) the practice of occupational therapy;

10 (5) psychological testing, including standardized
11 testing for intelligence or personality;

12 (6) diagnosis of a mental or physical disorder; or

13 (7) the practice of neuropsychology, psychotherapy,
14 cognitive therapy, sex therapy, psychoanalysis,
15 hypnotherapy, or counseling as treatment modalities.

16 "Assistant behavior analyst" means an individual licensed
17 under this Act to engage in practice as an assistant behavior
18 analyst.

19 "Behavior analyst" means an individual licensed under this
20 Act to engage in the practice of applied behavior analysis.

21 "Behavior technician" means a noncredentialed individual
22 who delivers applied behavior analysis services under the
23 delegation and supervision of a behavior analyst.

24 "Behavioral health treatment" means evidence-based
25 counseling and treatment programs, including applied behavior
26 analysis, that are: (i) necessary to develop, maintain, or

1 restore, to the maximum extent practicable, the functioning of
2 an individual; and (ii) provided or supervised by a
3 board-certified behavior analyst or a licensed psychologist so
4 long as the services performed are commensurate with the
5 psychologist's formal university training and supervised
6 experience.

7 "Department" means the Department of Financial and
8 Professional Regulation.

9 "Practice as an assistant behavior analyst" means the
10 practice of applied behavior analysis under the supervision of
11 a behavior analyst.

12 "Secretary" means the Secretary of Financial and
13 Professional Regulation.

14 "Sex offense" means an offense that would require an
15 individual to be subject to registration under the Sex
16 Offender Registration Act.

17 Section 15. License required.

18 (a) Beginning one year after the effective date of rules
19 adopted by the Department to implement this Act, an individual
20 shall not engage in the practice of applied behavior analysis
21 or practice as an assistant behavior analyst unless licensed
22 under this Act.

23 (b) Beginning one year after the effective date of rules
24 adopted by the Department to implement this Act, an individual
25 shall not use the titles "behavior analyst", "B.A.", "licensed

1 behavior analyst", "L.B.A.", "assistant behavior analyst",
2 "A.B.A.", "licensed assistant behavior analyst", "L.A.B.A.",
3 or similar words or letters that indicate that he or she is
4 licensed as a behavior analyst or assistant behavior analyst
5 unless the individual is licensed under this Act.

6 (c) This Act does not prohibit any of the following:

7 (1) Self-care by a patient or uncompensated care by a
8 friend or family member who does not represent or hold
9 himself or herself out to be a behavior analyst or
10 assistant behavior analyst.

11 (2) A behavior technician or a family member from
12 implementing a plan under the extended authority,
13 direction, and, if applicable, supervision of a behavior
14 analyst.

15 (3) An individual licensed under any other law of this
16 State from performing activities that are considered to be
17 the practice of applied behavior analysis under this Act
18 if the activities are within the licensee's scope of
19 practice and are commensurate with his or her education,
20 training, and experience, so long as the individual does
21 not use the titles provided in subsection (b) of this
22 Section.

23 (4) An individual from performing activities that are
24 considered to be the practice of applied behavior analysis
25 under this Act if the activities are with nonhuman or
26 nonpatient clients or consumers, including, but not

1 limited to, applied animal behaviorists and practitioners
2 of organizational behavior management.

3 (5) An individual who is a matriculated student at a
4 nationally accredited university approved in rules or who
5 is a postdoctoral fellow from performing activities that
6 are considered to be the practice of applied behavior
7 analysis under this Act if the activities are part of a
8 defined behavior analysis program of study or practicum
9 approved by Department rule and if the student or fellow
10 is directly supervised by an individual who is: (A)
11 licensed as a behavior analyst under this Act; or (B)
12 appointed as the instructor of a course sequence approved
13 by the Behavior Analyst Certification Board or other
14 certification board.

15 (6) An individual who is not licensed under this Act
16 from pursuing experience requirements for applied behavior
17 analysis credentials if the experience is supervised by an
18 individual who is licensed as a behavioral analyst.

19 (d) This Act does not apply to an individual who, on the
20 effective date of this Act, is engaging in the practice of
21 applied behavior analysis under the medical assistance program
22 under the Illinois Public Aid Code while that individual is
23 seeking the education, training, and experience necessary to
24 obtain a license under this Act and only while the individual
25 is providing applied behavior analysis to children in the
26 provision of home and community-based services.

1 (e) The Department may issue a provisional license to an
2 applicant for a behavior analyst license or assistant behavior
3 analyst license upon receipt of a complete application,
4 submission of the required fee, and a showing of valid
5 licensure as a behavior analyst or assistant behavior analyst
6 in another state, only if the applicant has submitted
7 fingerprints and has no disqualifying criminal history.

8 (1) The Department shall, in accordance with rules
9 adopted, issue a provisional behavior analyst license or a
10 provisional assistant behavior analyst license upon
11 receipt by the Department of a complete application,
12 appropriate fee as set by the Department by rule, and
13 proof of satisfaction of requirements under paragraphs (2)
14 and (3) of this subsection, respectively, and other
15 requirements established by the Department by rule, except
16 that applicants for a provisional license as either a
17 behavior analyst or assistant behavior analyst need not
18 have passed an examination and been certified as a
19 board-certified behavior analyst or a board-certified
20 assistant behavior analyst to obtain a provisional
21 behavior analyst or provisional assistant behavior analyst
22 license.

23 (2) A provisional license issued under this subsection
24 shall only authorize and permit the licensee to render
25 behavior analysis under the supervision and the full
26 professional responsibility and control of such licensee's

1 licensed supervisor.

2 (3) A provisional license shall automatically
3 terminate upon issuance of a permanent license, upon a
4 finding of cause to discipline after notice, upon
5 termination of supervision by a licensed supervisor, or
6 upon the expiration of one year from the date of issuance
7 of the provisional license, whichever first occurs. The
8 provisional license may be renewed after one year, with a
9 maximum issuance of 2 years. Upon a showing of good cause,
10 the Department, by rule, shall provide procedures for
11 exceptions and variances from the requirement of a maximum
12 issuance of 2 years.

13 Section 20. Qualifications for licensure as a behavior
14 analyst. The Department shall issue a license as a behavior
15 analyst to an individual who, on or before the effective date
16 of this Act, had the credentials as a certified behavior
17 analyst conferred for applied behavior analysis by the
18 Behavior Analyst Certification Board and who applies for
19 licensure as a behavior analyst within one year after the
20 effective date of the rules adopted by the Department to
21 implement this Act. Each applicant for licensure as a behavior
22 analyst shall have his or her fingerprints submitted to the
23 Illinois State Police in the form and manner prescribed by the
24 Illinois State Police. These fingerprints shall be
25 electronically transmitted through a live scan fingerprint

1 vendor licensed by the Department. These fingerprints shall be
2 checked against the Illinois State Police and the Federal
3 Bureau of Investigation criminal history record information
4 database now and hereafter filed. The Illinois State Police
5 shall charge a fee for conducting the criminal history records
6 check, which shall be deposited into the State Police Services
7 Fund and shall not exceed the actual cost of the Illinois and
8 national criminal history record check. The Illinois State
9 Police shall furnish, pursuant to positive identification,
10 records of all Illinois convictions to the Department.

11 Section 25. Qualifications for licensure as an assistant
12 behavior analyst. The Department shall issue a license as an
13 assistant behavior analyst to an individual who, on or before
14 the effective date of this Act, had the credentials as a
15 certified assistant behavior analyst conferred for applied
16 behavior analysis by the Behavior Analyst Certification Board
17 and who applies for licensure as an assistant behavior analyst
18 within one year after the effective date of the rules adopted
19 by the Department to implement this Act. Each applicant for
20 licensure as an assistant behavior analyst shall have his or
21 her fingerprints submitted to the Illinois State Police in the
22 form and manner prescribed by the Illinois State Police. These
23 fingerprints shall be electronically transmitted through a
24 live scan fingerprint vendor licensed by the Department. These
25 fingerprints shall be checked against the Illinois State

1 Police and the Federal Bureau of Investigation criminal
2 history record information database now and hereafter filed.
3 The Illinois State Police shall charge a fee for conducting
4 the criminal history records check, which shall be deposited
5 into the State Police Services Fund and shall not exceed the
6 actual cost of the Illinois and national criminal history
7 record check. The Illinois State Police shall furnish,
8 pursuant to positive identification, records of all Illinois
9 convictions to the Department.

10 Section 30. Board of Behavior Analysts. The Board of
11 Behavior Analysts is created within the Department of
12 Financial and Professional Regulation. The Board shall consist
13 of the following members appointed by the Secretary:

14 (1) 4 behavior analysts, 3 of whom provide clinical
15 services;

16 (2) one individual who is affiliated with a public
17 university in this State as an instructor or researcher in
18 applied behavior analysis;

19 (3) one assistant behavior analyst;

20 (4) one physician licensed to practice medicine in all
21 its branches who works with patients with autism spectrum
22 disorders or brain injuries; and

23 (5) 2 public members.

24 The initial members of the Board who are behavior analysts
25 must be certified as behavior analysts by the Behavior Analyst

1 Certification Board and the initial member of the Board who is
2 an assistant behavior analyst must be certified as an
3 assistant behavior analyst by the Behavior Analyst
4 Certification Board. Board members shall serve for a term of 4
5 years, except that, of the initial appointments, 3 members
6 shall serve for a term of 2 years, 3 members shall serve for a
7 term of 3 years, and 3 members shall serve for a term of 4
8 years.

9 Section 35. Rules; minimum standards for licensure;
10 renewal. Within one year after the effective date of this Act,
11 the Department, in consultation with the Board of Behavior
12 Analysts, shall adopt rules that establish the minimum
13 standards for licensure as a behavior analyst and an assistant
14 behavior analyst. For purposes of this Section, the Department
15 may adopt in its rules the professional standards, in whole or
16 in part, adopted by the Behavior Analyst Certification Board
17 as its standards. Until rules are adopted under this Section,
18 the Department shall use the standards adopted by the Behavior
19 Analyst Certification Board that are in effect on the
20 effective date of this Act. The Department shall include in
21 its rules adopted under this Act that an application for a
22 license under this Act will be denied if the applicant's
23 criminal history records check reveals that he or she was
24 convicted of a sex offense and that a licensee's license will
25 be permanently revoked if he or she is convicted of a sex

1 offense while licensed under this Act. The Department may
2 include in its rules adopted under this Act a requirement that
3 a licensee seeking to renew his or her license must furnish
4 evidence that he or she is current on his or her certification
5 by the Behavior Analyst Certification Board. In addition, the
6 Department may require by rule that an assistant behavior
7 analyst furnish evidence that he or she is practicing under
8 the supervision of a licensed behavior analyst.

9 Section 40. Behavior technicians. An individual shall not
10 act as a behavior technician in this State unless he or she has
11 had a criminal history records check conducted by the
12 Department and the criminal history records check does not
13 reveal any criminal history record information for that
14 individual. Each applicant for licensure as a behavior
15 technician shall have his or her fingerprints submitted to the
16 Illinois State Police in the form and manner prescribed by the
17 Illinois State Police. These fingerprints shall be
18 electronically transmitted through a live scan fingerprint
19 vendor licensed by the Department. These fingerprints shall be
20 checked against the Illinois State Police and the Federal
21 Bureau of Investigation criminal history record information
22 database now and hereafter filed. The Illinois State Police
23 shall charge a fee for conducting the criminal history records
24 check, which shall be deposited into the State Police Services
25 Fund and shall not exceed the actual cost of the Illinois and

1 national criminal history record check. The Illinois State
2 Police shall furnish, pursuant to positive identification,
3 records of all Illinois convictions to the Department. A
4 behavior technician shall not use the words, titles, or
5 letters indicating that he or she is a behavior analyst or an
6 assistant behavior analyst or that he or she is engaging in the
7 practice of applied behavior analysis. A behavior technician
8 shall use a title that indicates his or her noncredentialed
9 status, including "Behavior Technician", "ABA Technician", or
10 "Tutor".

11 Section 90. The Illinois Public Aid Code is amended by
12 changing Section 5-30.11 as follows:

13 (305 ILCS 5/5-30.11)

14 Sec. 5-30.11. Treatment of autism spectrum disorder.
15 Treatment of autism spectrum disorder through applied behavior
16 analysis shall be covered under the medical assistance program
17 under this Article for children with a diagnosis of autism
18 spectrum disorder when ordered by: (1) a physician licensed to
19 practice medicine in all its branches and rendered by a
20 licensed or certified health care professional with expertise
21 in applied behavior analysis; or (2) a behavior analyst
22 licensed by the Department of Financial and Professional
23 Regulation to practice applied behavior analysis in the State
24 of Illinois. Such coverage may be limited to age ranges based

1 on evidence-based best practices. Appropriate State plan
2 amendments as well as rules regarding provision of services
3 and providers will be submitted by September 1, 2019.

4 (Source: P.A. 101-10, eff. 6-5-19; 102-558, eff. 8-20-21.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.