

Senate File 192 - Enrolled

Senate File 192

AN ACT

RELATING TO LICENSES TO PRACTICE APPLIED BEHAVIOR ANALYSIS AND
INCLUDING EFFECTIVE DATE AND IMPLEMENTATION PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 135.24, subsection 7, paragraph d, Code 2018, is amended to read as follows:

d. "Health care provider" means a physician licensed under chapter 148, a chiropractor licensed under [chapter 151](#), a physical therapist licensed pursuant to [chapter 148A](#), an occupational therapist licensed pursuant to [chapter 148B](#), a podiatrist licensed pursuant to [chapter 149](#), a physician assistant licensed and practicing under a supervising physician pursuant to [chapter 148C](#), a licensed practical nurse, a registered nurse, or an advanced registered nurse practitioner licensed pursuant to [chapter 152](#) or [152E](#), a respiratory therapist licensed pursuant to [chapter 152B](#), a dentist, dental hygienist, or dental assistant registered or licensed to practice under [chapter 153](#), an optometrist licensed pursuant to chapter 154, a psychologist licensed pursuant to [chapter 154B](#), a social worker licensed pursuant to [chapter 154C](#), a mental health counselor, or a marital and family therapist, behavior analyst, or assistant behavior analyst licensed pursuant to chapter 154D, a speech pathologist or audiologist licensed pursuant to [chapter 154F](#), a pharmacist licensed pursuant to chapter 155A, or an emergency medical care provider certified pursuant to [chapter 147A](#).

Sec. 2. Section 147.1, subsections 3 and 6, Code 2018, are amended to read as follows:

3. *"Licensed"* or *"certified"*, when applied to a physician and surgeon, podiatric physician, osteopathic physician and surgeon, physician assistant, psychologist, chiropractor, nurse, dentist, dental hygienist, dental assistant, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, physical therapist assistant, occupational therapist, occupational therapy assistant, orthotist, prosthetist, pedorthist, respiratory care practitioner, practitioner of cosmetology arts and sciences, practitioner of barbering, funeral director, dietitian, behavior analyst, assistant behavior analyst, marital and family therapist, mental health counselor, respiratory care and polysomnography practitioner, polysomnographic technologist, social worker, massage therapist, athletic trainer, acupuncturist, nursing home administrator, hearing aid specialist, or sign language interpreter or transliterator means a person licensed under this subtitle.

6. *"Profession"* means medicine and surgery, podiatry, osteopathic medicine and surgery, practice as a physician assistant, psychology, chiropractic, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology, pharmacy, physical therapy, physical therapist assisting, occupational therapy, occupational therapy assisting, respiratory care, cosmetology arts and sciences, barbering, mortuary science, applied behavior analysis, marital and family therapy, mental health counseling, polysomnography, social work, dietetics, massage therapy, athletic training, acupuncture, nursing home administration, practice as a hearing aid specialist, sign language interpreting or transliterating, orthotics, prosthetics, or pedorthics.

Sec. 3. Section 147.2, subsection 1, Code 2018, is amended to read as follows:

1. A person shall not engage in the practice of medicine and surgery, podiatry, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, physical therapist assisting, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology,

occupational therapy, occupational therapy assisting, orthotics, prosthetics, pedorthics, respiratory care, pharmacy, cosmetology arts and sciences, barbering, social work, dietetics, applied behavior analysis, marital and family therapy or mental health counseling, massage therapy, mortuary science, polysomnography, athletic training, acupuncture, nursing home administration, or sign language interpreting or transliterating, or shall not practice as a physician assistant or a hearing aid specialist, unless the person has obtained a license for that purpose from the board for the profession.

Sec. 4. Section 147.13, subsection 16, Code 2018, is amended to read as follows:

16. For applied behavior analysis, marital and family therapy, and mental health counseling, the board of behavioral science.

Sec. 5. Section 147.14, subsection 1, paragraph m, Code 2018, is amended to read as follows:

m. For behavioral science, three members licensed to practice marital and family therapy, all of whom shall be practicing marital and family therapists; three members licensed to practice mental health counseling, one of whom shall be employed in graduate teaching, training, or research in mental health counseling and two of whom shall be practicing mental health counselors; two licensed behavior analysts; one licensed assistant behavior analyst; and three members who are not licensed to practice marital and family therapy, applied behavior analysis, or mental health counseling and who shall represent the general public.

Sec. 6. Section 147.74, Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 14A. *a.* A behavior analyst licensed under chapter 154D may use the letters "LBA" after the person's name.

b. An assistant behavior analyst licensed under chapter 154D may use the letters "LABA" after the person's name.

Sec. 7. Section 154D.1, Code 2018, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "*Certifying entity*" means the behavior analyst certification board or another entity whose programs to certify professional practitioners of applied behavior analysis

are accredited by the national commission for certifying agencies or the American national standards institute.

NEW SUBSECTION. 1B. *"Licensed assistant behavior analyst"* means a person licensed to practice applied behavior analysis under the supervision of a licensed behavior analyst under chapter 147 and this chapter.

NEW SUBSECTION. 1C. *"Licensed behavior analyst"* means a person licensed to practice applied behavior analysis under chapter 147 and this chapter.

NEW SUBSECTION. 6A. *"Practice of applied behavior analysis"* means the design, implementation, and evaluation of instructional and environmental modification to produce socially significant improvements in human behavior. *"Practice of applied behavior analysis"* includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis. *"Practice of applied behavior analysis"* excludes psychological testing, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and counseling as treatment modalities.

Sec. 8. NEW SECTION. 154D.2A **Licensure — behavior analysts — assistant behavior analysts.**

1. An applicant for a license to practice as a behavior analyst shall be granted a license by the board upon submitting to the board proof of the applicant's current certification as a behavior analyst or behavior analyst-doctoral by a certifying entity.

2. An applicant for a license to practice as an assistant behavior analyst shall be granted a license by the board upon submitting to the board proof of the applicant's current certification as an assistant behavior analyst by a certifying entity. The applicant must also provide proof of ongoing supervision by a licensed behavior analyst in accordance with the requirements of the certifying entity.

Sec. 9. Section 154D.4, Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 3. This chapter and chapter 147 do not prevent or restrict the practice of applied behavior analysis by any of the following:

a. Persons licensed to practice other professions under this subtitle, provided that the person does not represent that the person is a licensed behavior analyst or licensed assistant behavior analyst unless also licensed as one, applied behavior analysis is within the scope of practice of the person's profession, and the services provided are within the boundaries of the person's education, training, and competence.

b. Family members of recipients of applied behavior analysis services implementing applied behavior analysis treatment plans with the recipients under the extended authority and direction of a licensed behavior analyst or a licensed assistant behavior analyst. Such persons shall not represent themselves as behavior analysts or assistant behavior analysts.

c. Paraprofessional technicians who deliver applied behavior analysis services under the extended authority and direction of a licensed behavior analyst or licensed assistant behavior analyst. Such persons shall not represent themselves as behavior analysts or assistant behavior analysts and shall use titles that indicate their nonprofessional status, including but not limited to "assistant behavior analyst technician", "behavior technician", "tutor", or "line therapist".

d. Behavior analysts who practice with nonhumans, including but not limited to applied animal behaviorists and animal trainers. Such individuals may use the title "behavior analyst" but shall not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless they are licensed as such.

e. Professionals who provide general applied behavior analysis services to organizations, so long as those services are for the benefit of the organizations and do not involve direct services to individuals. Such professionals may use the title "behavior analyst" but shall not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless they are licensed as such.

f. Students whose applied behavior analysis activities are conducted within a defined program of study, course, practicum, internship, or postdoctoral fellowship, provided that the applied behavior analysis activities are directly supervised by a behavior analyst licensed in this state, an instructor in

a course sequence approved by a certifying entity, or another qualified faculty member of the student's program. Such students shall not present themselves as behavior analysts or assistant behavior analysts and shall use titles that clearly indicate their status, such as "student", "intern", or "trainee".

g. Unlicensed persons pursuing supervised experience in applied behavior analysis consistent with the experience requirements of a certifying entity, provided such experience is supervised in accordance with the requirements of the certifying entity.

h. Individuals who teach applied behavior analysis or conduct behavior-analytic research, provided that such teaching or research does not involve the direct delivery of applied behavior analysis services. Such individuals may use the title "behavior analyst" but shall not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless they are licensed as such.

i. Behavior analysts licensed in another jurisdiction or certified by a certifying entity to practice independently and who work in this state no more than two thousand eighty hours within a calendar year.

j. Persons employed by a school, school district, or area education agency performing the duties of their positions. Such persons shall not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless they are licensed as such, and shall not offer applied behavior analysis services to any persons or entities other than their school employer or accept remuneration for providing applied behavior analysis services other than the remuneration they receive from their school employer.

Sec. 10. Section 154D.5, Code 2018, is amended to read as follows:

154D.5 Sexual conduct with client.

The license of a behavior analyst, an assistant behavior analyst, a marital and family therapist, or a mental health counselor shall be revoked if the board finds that the licensee engaged in sexual activity with a client as determined by board rule. The revocation shall be in addition to any other

penalties provided by law.

Sec. 11. Section 154D.7, Code 2018, is amended to read as follows:

154D.7 Temporary license — marital and family therapy — mental health counseling — fees.

Any person who has fulfilled all of the requirements for licensure under ~~this chapter~~ section 154D.2, except for having completed the postgraduate supervised clinical experience requirement as determined by the board by rule, may apply to the board for a temporary license. The license shall be designated "temporary license in marital and family therapy" or "temporary license in mental health counseling" and shall authorize the licensee to practice marital and family therapy or mental health counseling under the supervision of a qualified supervisor as determined by the board by rule. The license shall be valid for three years and may be renewed at the discretion of the board. The fee for a temporary license shall be set by the board to cover the administrative costs of issuing the license, and if renewed, a renewal fee as set by the board shall be required.

Sec. 12. Section 249A.15A, Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department shall adopt rules pursuant to chapter 17A entitling behavior analysts and assistant behavior analysts who are licensed pursuant to chapter 154D to payment for behavioral health services provided to recipients of medical assistance, subject to limitations and exclusions the department finds necessary on the basis of federal laws and regulations.

Sec. 13. Section 514C.31, subsection 2, paragraph c, subparagraph (3), Code 2018, is amended to read as follows:

(3) ~~A person who holds a master's degree or a doctoral degree and is certified by a national behavior analyst certification board as a behavior analyst~~ licensed pursuant to chapter 154D.

Sec. 14. EFFECTIVE DATE AND IMPLEMENTATION. This Act shall take effect January 1, 2019, except that the board of behavioral science may begin implementation prior to that date, to the extent necessary to fully implement the provisions

providing for the licensure of behavior analysts and assistant behavior analysts by January 1, 2019.

CHARLES SCHNEIDER
President of the Senate

LINDA UPMEYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 192, Eighty-seventh General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2018

KIM REYNOLDS
Governor