

House Bill 412 (AS PASSED HOUSE AND SENATE)

By: Representatives Dempsey of the 13th, Powell of the 32nd, Bennett of the 94th, Cooper of the 43rd, and Stephens of the 164th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to provide for the licensure of individuals in the practice of applied behavior
3 analysis; to provide legislative findings; to provide for definitions; to create the Georgia
4 Behavior Analyst Licensing Board; to provide for its membership and duties; to provide for
5 licensing requirements; to provide for penalties; to provide for statutory construction; to
6 provide for temporary licenses; to provide for reciprocity; to provide for a website link to
7 certifying entities; to provide for related matters; to provide for an effective date; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
12 is amended by adding a new chapter to read as follows:

13 "CHAPTER 7A14 43-7A-1.

15 The General Assembly finds that the practice of applied behavior analysis in Georgia is
16 hereby declared to affect the public health, safety, and welfare of citizens of Georgia and
17 should be subject to regulation to protect the public from: (i) the practice of applied
18 behavior analysis by unqualified persons; and (ii) unprofessional, unethical, and harmful
19 conduct by behavior analysis practitioners.

20 43-7A-2.

21 As used in this chapter, the term:

22 (1) 'Applied behavior analysis' means the design, implementation, and evaluation of
23 systematic instructional and environmental modifications by a behavior analyst, to
24 produce socially significant improvements in behavior.

25 (2) 'Behavior technician' means a paraprofessional who practices under the extended
26 authority, close and ongoing supervision, and responsibility of a licensed behavior analyst
27 or licensed assistant behavior analyst and delivers services as assigned by such licensee
28 but does not design assessment or intervention plans or procedures.

29 (3) 'Board' means the Georgia Behavior Analyst Licensing Board created pursuant to this
30 chapter.

31 (4) 'Board certified' means a certification issued by a certifying entity to a practitioner
32 of applied behavior analysis demonstrating that such practitioner meets specific
33 requirements.

34 (5) 'Certifying entity' means the Behavior Analyst Certification Board, Inc., or its
35 successor, or another entity that conducts programs to certify professional practitioners
36 of behavior analysis that are accredited by the National Commission on Certifying
37 Agencies or the American National Standards Institute as identified by the board.

38 (6) 'Licensed assistant behavior analyst' means an individual who is licensed pursuant
39 to this chapter to practice as an assistant behavior analyst.

40 (7) 'Licensed behavior analyst' means an individual who is licensed pursuant to this
41 chapter to practice as a behavior analyst.

42 (8) 'Practice of applied behavior analysis' means the design, implementation, and
43 evaluation of instructional and environmental modifications to produce socially
44 significant improvements in human behavior. Such term includes the empirical
45 identification of functional relations between behavior and environmental factors, known
46 as functional assessment and analysis; interventions based on scientific research and
47 direct and indirect observation and measurement of behavior and the environment; and
48 the utilization of contextual factors, motivating operations, antecedent stimuli, positive
49 reinforcement, and other consequences to help people develop new behaviors, increase
50 or decrease existing behaviors, and emit behaviors under specific environmental
51 conditions. Such term expressly excludes psychological testing, diagnosis of a mental
52 or physical disorder, psychotherapy, cognitive therapy, psychoanalysis, and counseling.

53 43-7A-3.

54 (a) The Georgia Behavior Analyst Licensing Board is hereby established. The board shall
55 be composed of five members appointed by the Governor.

56 (b)(1) The initial board members shall include:

57 (A) Three members each of whom are either a board certified behavior analyst or a
58 board certified behavior analyst-doctoral and who are eligible for licensure under this
59 chapter. Such members shall apply for licensure as soon as feasible after appointment;

60 (B) One member who is a board certified assistant behavior analyst who is eligible for
61 licensure under this chapter. Such member shall apply for licensure as soon as feasible
62 after appointment; and

63 (C) One public member who:

- 64 (i) Is not a licensed behavior analyst or a licensed assistant behavior analyst or the
65 spouse of such person;
- 66 (ii) Has never been in the practice of applied behavior analysis or the spouse of such
67 person; and
- 68 (iii) Does not have and has never had a material interest in the practice of applied
69 behavior analysis.
- 70 (2) Subsequent board members shall include:
- 71 (A) Three licensed behavior analysts;
- 72 (B) One licensed assistant behavior analyst; and
- 73 (C) One public member who:
- 74 (i) Is not a licensed behavior analyst or a licensed assistant behavior analyst or the
75 spouse of such person;
- 76 (ii) Has never been in the practice of applied behavior analysis or the spouse of such
77 person; and
- 78 (iii) Does not have and has never had a material interest in the practice of applied
79 behavior analysis.
- 80 (c) Members shall serve three-year terms and until their successors are duly appointed and
81 qualified; provided, however, that initial terms shall be staggered so that one member
82 serves an initial term of one year, two members serve initial terms of two years, and two
83 members serve initial terms of three years, as designated by the Governor. No member
84 shall be appointed to more than two consecutive three-year terms.
- 85 (d) A vacancy on the board for any reason other than expiration of the term shall be filled
86 for the remainder of the unexpired term by appointment of the Governor.
- 87 (e) Members of the board shall receive the expense allowance as provided by
88 subsection (b) of Code Section 45-7-21 and the same mileage allowance for the use of a
89 personal car as that received by other state officials and employees or a travel allowance

90 of actual transportation cost if traveling by public carrier within this state for attendance
91 at board meetings.

92 (f) The board shall meet at least twice annually and may meet at such other times as
93 necessary, at the call of the chair or by a majority of the members, as necessary to transact
94 its business. Such meetings may be conducted in-person, by telephone, by virtual means,
95 or any combination thereof.

96 (g) Three members of the board shall constitute a quorum.

97 (h) The board shall annually elect a chairperson from among its membership and such
98 other officers as deemed necessary.

99 43-7A-4.

100 The board shall be authorized to:

101 (1) Adopt, amend, and repeal such rules and regulations as shall be reasonably necessary
102 for the administration, enforcement, and implementation of the provisions and purposes
103 of this chapter;

104 (2) Issue, renew, and reinstate the licenses of duly qualified applicants for licensure;

105 (3) Deny, suspend, revoke, or otherwise sanction licensees;

106 (4) Initiate investigations for the purpose of discovering violations of this chapter;

107 (5) Conduct hearings upon charges calling for the discipline of a licensee or on violations
108 of this chapter;

109 (6) Conduct national background checks by the submission of fingerprints to the Federal
110 Bureau of Investigation through the Georgia Crime Information Center;

111 (7) Adopt a seal;

112 (8) Establish rules and regulations relating to ethical conduct of persons licensed and
113 regulated pursuant to this chapter; and

114 (9) Do all other things necessary to administer and enforce this chapter and all rules and
115 regulations adopted by the board pursuant to this chapter.

116 43-7A-5.

117 (a) Each person desiring to obtain a license pursuant to this chapter shall submit an
118 application and applicable fees to the board. An application shall furnish satisfactory
119 evidence demonstrating that the applicant:

120 (1) Is of good moral character;

121 (2) Conducts his or her professional activities in accordance with accepted professional
122 and ethical standards and guidelines for responsible conduct for behavior analysts
123 established by a certifying entity; and

124 (3) Has received satisfactory results from a fingerprint record check report conducted by
125 the Georgia Crime Information Center and the Federal Bureau of Investigation, as
126 determined by the board. Application for the issuance of a license under this chapter
127 shall constitute express consent and authorization for the board or its representative to
128 perform a criminal background check. Each applicant who submits an application to the
129 board for licensure agrees to provide the board with any and all information necessary to
130 run a criminal background check, including, but not limited to, classifiable sets of
131 fingerprints. Such applicant shall be responsible for all fees associated with the
132 performance of such background check.

133 (b) An applicant to be a licensed behavior analyst shall furnish satisfactory evidence
134 demonstrating that the applicant:

135 (1) Has successfully passed a behavior analyst examination conducted by a certifying
136 entity;

137 (2) Holds a master's degree based on applied behavior analysis coursework in an
138 approved sequence; and

139 (3) Maintains active status as a board certified behavior analyst.

140 (c) An applicant to be a licensed assistant behavior analyst shall furnish satisfactory
141 evidence demonstrating that the applicant:

- 142 (1) Has successfully passed an assistant behavior analyst examination conducted by a
143 certifying entity;
144 (2) Holds a bachelor's degree based on applied behavior analysis coursework in an
145 approved sequence;
146 (3) Maintains active status as a board certified assistant behavior analyst; and
147 (4) Will have ongoing supervision by a licensed behavior analyst in a manner consistent
148 with the certifying entity's requirements for supervision of board certified assistant
149 behavior analysts.
150 (d) The board shall issue and renew licenses to qualified applicants no later than 90 days
151 after receipt of a complete application or renewal application.

152 43-7A-6.

- 153 (a) The unlicensed practice of applied behavior analysis is prohibited in this state, except
154 as otherwise provided in Code Section 43-7A-7.
155 (b) No person shall hold himself or herself out to be a licensed behavior analyst or licensed
156 assistant behavior analyst unless he or she is licensed pursuant to this chapter.
157 (c) Any person in violation of subsection (a) or (b) of this Code section shall be subject to
158 a fine of \$1,000.00 for each violation.

159 43-7A-7.

160 The provisions of this chapter shall not be construed to prohibit or restrict the practice of
161 any of the following:

- 162 (1) An individual licensed to practice psychology in this state, so long as the applied
163 behavior analysis services provided by the licensed psychologist are within his or her
164 education, training, and experience or an individual acting under the extended authority
165 and direction of a licensed psychologist;

166 (2) A behavior technician who delivers applied behavior analysis services under the
167 extended authority, close and ongoing supervision, and responsibility of a licensed
168 behavior analyst or a licensed assistant behavior analyst. Such individuals shall not
169 represent themselves as professional behavior analysts and shall use titles that indicate
170 their nonprofessional status, such as 'ABA technician,' 'behavior technician,' or 'tutor';

171 (3) A caregiver of a recipient of applied behavior analysis services who delivers such
172 services to the recipient under the extended authority and direction of a licensed behavior
173 analyst or a licensed assistant behavior analyst. Such individuals shall not represent
174 themselves as professional behavior analysts;

175 (4) A behavior analyst who practices with nonhuman or nonpatient clients or consumers,
176 including, but not limited to, applied animal behaviorists and practitioners of
177 organizational behavior management. Such individuals may use the title 'behavior
178 analyst' but shall not represent themselves as licensed behavior analysts or licensed
179 assistant behavior analysts unless they are licensed pursuant to this chapter;

180 (5) A licensed professional authorized to practice in this state who is not a behavior
181 analyst, so long as the licensed professional does not represent that he or she is a licensed
182 behavior analyst or licensed assistant behavior analyst and so long as any applied
183 behavior analysis services performed are within the scope of practice of his or her
184 profession and are commensurate with the licensed professional's education, training, and
185 experience;

186 (6) A matriculated graduate student or postdoctoral fellow whose activities are part of
187 a defined behavior analysis program of study, practicum, or intensive practicum, provided
188 that such program of study, practicum, or intensive practicum is directly supervised by
189 a licensed behavior analyst or an instructor in a course sequence approved by a certifying
190 entity. Such individuals shall not represent themselves as licensed behavior analysts or
191 licensed assistant behavior analysts unless they are licensed pursuant to this chapter and

192 shall only use titles that clearly indicate their trainee status, such as 'student,' 'intern,' or
193 'trainee';

194 (7) Unlicensed individuals pursuing experience in applied behavior analysis consistent
195 with the experience requirements of a certifying entity, provided that such experience is
196 supervised in accordance with the requirements of a certifying entity and that such
197 experience is supervised by a licensed behavior analyst;

198 (8) Professionals who provide general applied behavior analysis services to
199 organizations, so long as those services are for the benefit of the organizations and do not
200 involve direct services to individuals. Such individuals may use the title 'behavior
201 analyst' but shall not represent themselves as licensed behavior analysts or licensed
202 assistant behavior analysts unless they are licensed pursuant to this chapter;

203 (9) Individuals who teach behavior analysis or conduct behavior analysis research,
204 provided that such teaching or research does not involve the direct delivery of applied
205 behavior analysis services. Such individuals may use the title 'behavior analyst' but shall
206 not represent themselves as licensed behavior analysts or licensed assistant behavior
207 analysts unless they are licensed pursuant to this chapter;

208 (10) Behavior analysts licensed in another jurisdiction or certified by the certifying entity
209 to practice independently and who work in Georgia no more than a total of 30 days within
210 a calendar year and have received a temporary behavior analyst license pursuant to this
211 chapter;

212 (11) An individual employed by a local board of education performing the duties of their
213 positions; provided, however, that such individuals shall not represent themselves as
214 licensed behavior analysts or licensed assistant behavior analysts or offer or provide
215 applied behavior analysis services to any persons or entities other than their employing
216 local board of education or accept remuneration for providing applied behavior analysis
217 services other than the remuneration they receive from their employing local board of
218 education unless he or she is licensed pursuant to this chapter;

219 (12) Individuals providing behavior support services covered under the Medicaid
220 Comprehensive Supports Waiver Program (COMP) or New Options Waiver (NOW)
221 program; or

222 (13) A licensed physician who is practicing medicine.

223 43-7A-8.

224 A board certified behavior analyst or a board certified assistant behavior analyst residing
225 and practicing in another state who temporarily provides applied behavior analysis services
226 in this state to a resident of this state may apply for a temporary license to practice behavior
227 analysis in this state. A temporary behavior analysis license may be issued only if the
228 behavior analysis services are to be delivered during a limited and defined period of not
229 more than a total of 30 days within a calendar year or shorter term otherwise approved by
230 the board.

231 43-7A-9.

232 The board shall issue a license to a person who is actively licensed as a behavior analyst
233 in good standing in another state if such state imposes comparable licensure requirements
234 as those imposed pursuant to this chapter and such state offers reciprocity to individuals
235 licensed in this state. Applicants for reciprocity shall submit proof of current licensure,
236 current certification by a certifying entity, compliance with ethical standards, and
237 satisfactory results on a criminal background check.

238 43-7A-10.

239 A license shall be granted for a period of two years. Prior to expiration of a license, the
240 license may be renewed upon submission of an application for renewal, including proof of
241 continued certification by a certifying entity and payment of the renewal fee imposed by
242 the board.

243 43-7A-11.

244 The board shall post a link on its main webpage to the website of the certifying entity or
245 entities."

246 **SECTION 2.**

247 This Act shall become effective on July 1, 2023.

248 **SECTION 3.**

249 All laws and parts of laws in conflict with this Act are repealed.