

House Bill 1241

By: Representatives Dempsey of the 13<sup>th</sup>, Stephens of the 164<sup>th</sup>, Dickerson of the 113<sup>th</sup>,  
Cooper of the 43<sup>rd</sup>, and Hutchinson of the 107<sup>th</sup>

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 related matters; to  
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

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

12 "CHAPTER 7A

13 43-7A-1.

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

19 43-7A-2.

20 As used in this chapter, the term:

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

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

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

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

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

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

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

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

52 43-7A-3.

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

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

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

- 59 (B) One member who is a board certified assistant behavior analyst who is eligible for  
 60 licensure under this chapter. Such member shall apply for licensure as soon as feasible  
 61 after appointment; and
- 62 (C) One public member who:
- 63 (i) Is not a licensed behavior analyst or a licensed assistant behavior analyst or the  
 64 spouse of such person;
- 65 (ii) Has never been in the practice of applied behavior analysis or the spouse of such  
 66 person; and
- 67 (iii) Does not have and has never had a material interest in the practice of applied  
 68 behavior analysis.
- 69 (2) Subsequent board members shall include:
- 70 (A) Three licensed behavior analysts;
- 71 (B) One licensed assistant behavior analyst; and
- 72 (C) One public member who:
- 73 (i) Is not a licensed behavior analyst or a licensed assistant behavior analyst or the  
 74 spouse of such person;
- 75 (ii) Has never been in the practice of applied behavior analysis or the spouse of such  
 76 person; and
- 77 (iii) Does not have and has never had a material interest in the practice of applied  
 78 behavior analysis.
- 79 (c) The membership of the board shall reflect the racial, gender, geographic, urban/rural,  
 80 and economic diversity of the state.
- 81 (d) Members shall serve three-year terms and until their successors are duly appointed and  
 82 qualified; provided, however, that initial terms shall be staggered so that one member  
 83 serves an initial term of one year, two members serve initial terms of two years, and two  
 84 members serve initial terms of three years, as designated by the Governor. No member  
 85 shall be appointed to more than two consecutive three-year terms.
- 86 (e) A vacancy on the board for any reason other than expiration of the term shall be filled  
 87 for the remainder of the unexpired term by appointment of the Governor.
- 88 (f) Members of the board shall receive the expense allowance as provided by  
 89 subsection (b) of Code Section 45-7-21 and the same mileage allowance for the use of a  
 90 personal car as that received by other state officials and employees or a travel allowance  
 91 of actual transportation cost if traveling by public carrier within this state for attendance  
 92 at board meetings.
- 93 (g) The board shall meet at least twice annually and may meet at such other times as  
 94 necessary, at the call of the chair or by a majority of the members, as necessary to transact  
 95 its business.

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

97 (i) The board shall annually elect a chairperson from among its membership and such other  
98 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; and

112 (8) Do all other things necessary to administer and enforce this chapter and all rules and  
113 regulations adopted by the board pursuant to this chapter.

114 43-7A-5.

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

118 (1) Is of good moral character;

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

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

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

133 (1) Has successfully passed a behavior analyst examination conducted by a certifying  
 134 entity; and

135 (2) Maintains active status as a board certified behavior analyst.

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

138 (1) Has successfully passed an assistant behavior analyst examination conducted by a  
 139 certifying entity;

140 (2) Maintains active status as a board certified assistant behavior analyst; and

141 (3) Will have ongoing supervision by a licensed behavior analyst in a manner consistent  
 142 with the certifying entity's requirements for supervision of board certified assistant  
 143 behavior analysts.

144 43-7A-6.

145 (a) The unlicensed practice of applied behavior analysis is prohibited in this state, except  
 146 as otherwise provided in Code Section 43-7A-7.

147 (b) No person shall hold himself or herself out to be a licensed behavior analyst or licensed  
 148 assistant behavior analyst unless he or she is licensed pursuant to this chapter.

149 (c) Any person in violation of subsection (a) or (b) of this Code section shall be subject to  
 150 a fine of \$1,000.00 for each violation.

151 43-7A-7.

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

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

158 (2) A behavior technician or a family member implementing a plan within the home,  
 159 who acts under the extended authority and direction of a licensed behavior analyst or a  
 160 licensed assistant behavior analyst; provided, however, that he or she shall not represent  
 161 themselves as a licensed behavior analyst or a licensed assistant behavior analyst and he  
 162 or she shall use titles that indicate their nonprofessional status, such as 'Registered  
 163 Behavior Technician,' if applicable, 'ABA technician,' 'behavior technician,' 'tutor,' or  
 164 'therapist';

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

170 (4) A licensed professional authorized to practice in this state who is not a behavior  
171 analyst, so long as the licensed professional does not represent that he or she is a licensed  
172 behavior analyst or licensed assistant behavior analyst and so long as any applied  
173 behavior analysis services performed are within the scope of practice of his or her  
174 profession and are commensurate with the licensed professional's education, training, and  
175 experience;

176 (5) A matriculated graduate student or postdoctoral fellow whose activities are part of  
177 a defined behavior analysis program of study, practicum, or intensive practicum, provided  
178 that such program of study, practicum, or intensive practicum is directly supervised by  
179 a licensed behavior analyst or an instructor in a course sequence approved by a certifying  
180 entity. Such individuals shall not represent themselves as licensed behavior analysts or  
181 licensed assistant behavior analysts unless they are licensed pursuant to this chapter and  
182 shall only use titles that clearly indicate their trainee status, such as 'student,' 'intern,' or  
183 'trainee';

184 (6) Unlicensed individuals pursuing experience in applied behavior analysis consistent  
185 with the experience requirements of a certifying entity, provided that such experience is  
186 supervised in accordance with the requirements of a certifying entity and that such  
187 experience is supervised by a licensed behavior analyst;

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

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

198 (9) Behavior analysts licensed in another jurisdiction or certified by the certifying entity  
199 to practice independently and who work in Georgia no more than 14 days within a  
200 calendar year and have received a temporary behavior analyst license pursuant to this  
201 chapter; and

202 (10) A licensed physician who is practicing medicine.

203 43-7A-8.

204 A Board Certified Behavior Analyst or Board Certified Assistant Behavior Analyst residing  
205 and practicing in another state who temporarily provides applied behavior analysis services  
206 in this state to a resident of this state may apply for a temporary license to practice behavior  
207 analysis in this state. A temporary behavior analysis license may be issued only if the  
208 behavior analysis services are to be delivered during a limited and defined period of not  
209 more than 14 days within a calendar year or shorter term otherwise approved by the board.

210 43-7A-9.

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

217 43-7A-10.

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

222 **SECTION 2.**

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