

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 1518 & 1522

96TH GENERAL ASSEMBLY

5450L.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 337.300, 337.310, 337.315, 337.325, and 337.345, RSMo, and to enact in lieu thereof five new sections relating to licensure of behavior analysts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 337.300, 337.310, 337.315, 337.325, and 337.345, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 337.300, 337.310,
3 337.315, 337.325, and 1, to read as follows:

337.300. As used in sections 337.300 to 337.345, the following terms shall mean:

- 2 (1) "Applied behavior analysis", the design, implementation, and evaluation of
3 environmental modifications, using behavioral stimuli and consequences, to produce socially
4 significant improvement in human behavior, including the use of direct observation,
5 measurement, and functional analysis of the relationships between environment and behavior;
- 6 (2) "Board", the behavior analyst advisory board within the state committee of
7 psychologists;
- 8 (3) "Certifying entity", the nationally accredited Behavior Analyst Certification Board,
9 or other equivalent nationally accredited nongovernmental agency approved by the committee
10 which certifies individuals who have completed academic, examination, training, and
11 supervision requirements in applied behavior analysis;
- 12 (4) "Committee", the state committee of psychologists;
- 13 (5) "Division", the division of professional registration within the department of
14 insurance, financial institutions and professional registration;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (6) "Licensed assistant behavior analyst" or "LaBA", an individual who is certified by
16 the certifying entity as a certified assistant behavior analyst and meets the criteria in section
17 337.315 and as established by committee rule;

18 (7) "Licensed behavior analyst" or "LBA", an individual who is certified by the certifying
19 entity as a certified behavior analyst and meets the criteria in section 337.315 and as established
20 by committee rule;

21 (8) "Practice of applied behavior analysis", the application of the principles, methods,
22 and procedures of the experimental analysis of behavior and applied behavior analysis (including
23 principles of operant and respondent learning) to assess and improve socially important human
24 behaviors. It includes, but is not limited to, applications of those principles, methods, and
25 procedures to:

26 (a) The design, implementation, evaluation, and modification of treatment programs to
27 change behavior of individuals;

28 (b) The design, implementation, evaluation, and modification of treatment programs to
29 change behavior of groups; and

30 (c) Consultation to individuals and organizations.

31

32 Applied behavior analysis does not include cognitive therapies or psychological testing,
33 personality assessment, intellectual assessment, neuropsychological assessment, psychotherapy,
34 cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, family therapy, and long-term
35 counseling as treatment modalities;

36 **(9) "Provisionally licensed assistant behavior analyst" or "PLABA", an individual**
37 **who meets the criteria in subsection 5 of section 337.315 and as established by the**
38 **committee by rule;**

39 **(10) "Provisionally licensed behavior analyst" or "PLBA", an individual who**
40 **meets the criteria in subsection 5 of section 337.315 and as established by the committee by**
41 **rule;**

42 **(11) "Temporary licensed assistant behavior analyst", an individual who meets the**
43 **criteria of subsection 4 of section 337.315 and as established by the committee by rule;**

44 **(12) "Temporary licensed behavior analyst", an individual who meets the criteria**
45 **in subsection 4 of section 337.315 and as established by the committee by rule.**

337.310. 1. The behavior analyst advisory board is authorized to:

2 (1) Review all applications for licensure, and **provisional and** temporary licensure for
3 behavior analysts and assistant behavior analysts, and any supporting documentation submitted
4 with the application to the committee and make recommendations to the committee regarding
5 the resolution of the application;

6 (2) Review all complaints made relating to the practice of behavior analysis and make
7 recommendations to the committee regarding investigation of the complaint, referral for
8 discipline or other resolution of the complaint; and

9 (3) Review any entities responsible for certifying behavior analysts and make
10 recommendations to the committee as to approval or disapproval of the certifying entity based
11 on qualifications established by the committee.

12 2. The board shall recommend to the committee rules to be promulgated pertaining to:

13 (1) The form and content of license applications required and the procedures for filing
14 an application for an initial, provisional temporary or renewal license in this state;

15 (2) The establishment of fees;

16 (3) The educational and training requirements for licensed behavior analysts and licensed
17 assistant behavior analysts;

18 (4) The roles, responsibilities, and duties of licensed behavior analysts [and] , licensed
19 assistant behavior analysts, **provisionally licensed behavior analysts, provisionally licensed**
20 **assistant behavior analysts, temporary licensed behavior analysts and temporary licensed**
21 **assistant behavior analysts;**

22 (5) The characteristics of supervision and supervised clinical practicum experience for
23 the licensed behavior analyst [and] , the licensed assistant behavior analyst, **provisionally**
24 **licensed behavior analyst, provisionally licensed assistant behavior analyst, temporary**
25 **licensed behavior analyst and temporary licensed assistant behavior analyst;**

26 (6) The supervision of licensed assistant behavior analysts, **provisionally licensed**
27 **behavior analysts, provisionally licensed assistant behavior analysts, and temporary**
28 **licensed assistant behavior analysts;**

29 (7) The requirements for continuing education for licensed behavior analysts and
30 licensed assistant behavior analysts;

31 (8) A code of conduct; and

32 (9) Any other policies or procedures necessary to the fulfillment of the requirements of
33 sections 337.300 to 337.345.

34 3. Only after the board's recommendation and approval by majority vote may the
35 committee make any final decisions related to licensing, rules and regulations, complaint
36 resolution, approval of certifying entities or any actions bearing upon the practice of applied
37 behavior analysis unless otherwise authorized by sections 337.300 to 337.345.

38 4. Notwithstanding the provisions of subsection 3 of this section, until such time as the
39 governor appoints the board and the board has a quorum, the committee shall review and resolve
40 all applications for licensure as a licensed behavior analyst or licensed assistant behavior analyst.

41 5. Any rule or portion of a rule, as that term is defined in section 536.010, that is created

42 under the authority delegated in this section shall become effective only if it complies with and
43 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
44 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
45 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule
46 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
47 proposed or adopted after August 28, 2010, shall be invalid and void.

337.315. 1. An applied behavior analysis intervention shall produce socially significant
2 improvements in human behavior through skill acquisition, increase or decrease in behaviors
3 under specific environmental conditions and the reduction of problematic behavior. An applied
4 behavior analysis intervention shall:

5 (1) Be based on empirical research and the identification of functional relations between
6 behavior and environment, contextual factors, antecedent stimuli and reinforcement operations
7 through the direct observation and measurement of behavior, arrangement of events and
8 observation of effects on behavior, as well as other information gathering methods such as record
9 review and interviews; and

10 (2) Utilize changes and arrangements of contextual factors, antecedent stimuli, positive
11 reinforcement, and other consequences to produce behavior change.

12 2. Each person wishing to practice as a licensed behavior analyst shall:

13 (1) Submit a complete application on a form approved by the committee;

14 (2) Pay all necessary fees as set by the committee;

15 (3) Submit a two-inch or three-inch photograph or passport photograph taken no more
16 than six months prior to the application date;

17 (4) Provide two classified sets of fingerprints for processing by the Missouri state
18 highway patrol under section 43.543. One set of fingerprints shall be used by the highway patrol
19 to search the criminal history repository and the second set shall be forwarded to the Federal
20 Bureau of Investigation for searching the federal criminal history files;

21 (5) Have passed an examination and been certified as a board-certified behavior analyst
22 by a certifying entity, as defined in section 337.300;

23 (6) Provide evidence of active status as a board-certified behavior analyst; and

24 (7) If the applicant holds a license as a behavior analyst in another state, a statement from
25 all issuing states verifying licensure and identifying any disciplinary action taken against the
26 license holder by that state.

27 3. Each person wishing to practice as a licensed assistant behavior analyst shall:

28 (1) Submit a complete application on a form approved by the committee;

29 (2) Pay all necessary fees as set by the committee;

30 (3) Submit a two-inch or three-inch photograph or passport photograph taken no more
31 than six months prior to the application date;

32 (4) Provide two classified sets of fingerprints for processing by the Missouri state
33 highway patrol under section 43.543. One set of fingerprints shall be used by the highway patrol
34 to search the criminal history repository and the second set shall be forwarded to the Federal
35 Bureau of Investigation for searching the federal criminal history files;

36 (5) Have passed an examination and been certified as a board-certified assistant behavior
37 analyst by a certifying entity, as defined in section 337.300;

38 (6) Provide evidence of active status as a board-certified assistant behavior analyst;

39 (7) If the applicant holds a license as an assistant behavior analyst in another state, a
40 statement from all issuing states verifying licensure and identifying any disciplinary action taken
41 against the license holder by that state; and

42 (8) Submit documentation satisfactory to the committee that the applicant will be directly
43 supervised by a licensed behavior analyst in a manner consistent with the certifying entity.

44 4. The committee shall be authorized to issue a temporary license to an applicant for a
45 behavior analyst license or assistant behavior analyst license upon receipt of a complete
46 application **and submission of a fee as set by the committee by rule** for behavior analyst or
47 assistant behavior analyst or a showing of valid licensure as a behavior analyst in another state,
48 only if the applicant has submitted fingerprints and no disqualifying criminal history appears on
49 the family care safety registry. The temporary license shall expire upon issuance of a license or
50 denial of the application but no later than ninety days from issuance of the temporary license.
51 Upon written request to the committee, the holder of a temporary license shall be entitled to one
52 extension of ninety days of the temporary license.

53 5. **(1) The committee may, in accordance with rules promulgated by the committee
54 and upon submission of a fee as set by the committee by rule, issue a provisional behavior
55 analyst license or a provisional assistant behavior analyst license to any applicant who
56 holds a bachelor or graduate degree, has completed all coursework for licensure as a
57 behavior analyst or assistant behavior analyst, and has completed all supervised field
58 experience under a licensed behavior analyst and who otherwise meets the requirements
59 to become a licensed behavior analyst or a licensed assistant behavior analyst, except for
60 passage of the national certification examination.**

61 **(2) A provisional license issued under this subsection shall only authorize and
62 permit the licensee to render behavior analytic services which are under the supervision
63 and the full professional responsibility and control of such licensee's licensed supervisor.**

64 **(3) A provisional license shall automatically terminate upon issuance of a
65 permanent license, upon a finding of cause to discipline after notice and hearing under**

66 **section 337.330, upon termination of supervision by the licensed supervisor, or upon the**
67 **expiration of one year from the date of issuance of the provisional license, whichever first**
68 **occurs. The provisional license may be renewed after one year, with a maximum issuance**
69 **of two years total per provisional license. Upon a showing of good cause, the committee by**
70 **rule shall provide procedures for exceptions and variances from the requirement of a**
71 **maximum issuance of two years.**

72 **6.** No person shall hold himself or herself out to be licensed behavior analysts or LBA,
73 licensed assistant behavior analysts or LaBA, **provisionally licensed behavior analysts or**
74 **PLBA, provisionally licensed assistant behavior analysts or PLABA, temporary licensed**
75 **behavior analysts, or temporary licensed assistant behavior analysts** in the state of Missouri
76 unless they meet the applicable requirements.

77 [6.] **7.** No persons shall practice applied behavior analysis unless they are:

78 (1) Licensed behavior analysts;

79 (2) Licensed assistant behavior analysts working under the supervision of a licensed
80 behavior analyst;

81 (3) An individual who has a bachelor's or graduate degree and completed course work
82 for licensure as a behavior analyst and is obtaining supervised field experience under a licensed
83 behavior analyst pursuant to required supervised work experience for licensure at the behavior
84 analyst or assistant behavior analyst level; [or]

85 (4) Licensed psychologists practicing within the rules and standards of practice for
86 psychologists in the state of Missouri and whose practice is commensurate with their level of
87 training and experience;

88 **(5) Provisionally licensed behavior analysts;**

89 **(6) Provisionally licensed assistant behavior analysts;**

90 **(7) Temporary licensed behavior analysts; or**

91 **(8) Temporary licensed assistant behavior analysts.**

92 [7.] **8.** Notwithstanding the provisions in subsection 6 of this section, any licensed or
93 certified professional may practice components of applied behavior analysis, as defined in
94 section 337.300 if he or she is acting within his or her applicable scope of practice and ethical
95 guidelines.

96 [8.] **9.** All licensed behavior analysts and licensed assistant behavior analysts shall be
97 bound by the code of conduct adopted by the committee by rule.

98 [9.] **10.** Licensed assistant behavior analysts shall work under the direct supervision of
99 a licensed behavior analyst as established by committee rule.

100 [10.] **11.** Persons who provide services under the Individuals with Disabilities Education
101 Act (IDEA), 20 U.S.C. Section 1400, et seq., or Section 504 of the federal Rehabilitation Act of

102 1973, 29 U.S.C. Section 794, or are enrolled in a course of study at a recognized educational
103 institution through which the person provides applied behavior analysis as part of supervised
104 clinical experience shall be exempt from the requirements of this section.

105 [11.] **12.** A violation of this section shall be punishable by probation, suspension, or loss
106 of any license held by the violator.

337.325. A licensed behavior analyst [and] , licensed assistant behavior analyst,
2 **provisionally licensed behavior analyst, provisionally licensed assistant behavior analyst,**
3 **temporary licensed behavior analyst and temporary licensed assistant behavior analyst**
4 shall limit his or her practice to demonstrated areas of competence as documented by relevant
5 professional education, training, or experience. A licensed behavior analyst [and] , licensed
6 assistant behavior analyst, **provisionally licensed behavior analyst, provisionally licensed**
7 **assistant behavior analyst, temporary licensed behavior analyst and temporary licensed**
8 **assistant behavior analyst** trained in one area shall not practice in another area without
9 obtaining additional relevant professional education, training, and experience.

Section 1. For purposes of section 376.1224, a provisionally licensed assistant
2 **behavior analyst, a provisionally licensed behavior analyst, or a temporary licensed**
3 **assistant behavior analyst shall be considered an assistant behavior analyst for billing and**
4 **reimbursement purposes.**

[337.345. 1. Prior to August 28, 2012, each person desiring to obtain a
2 provisional license shall make application to the committee upon such forms and
3 in such manner as may be prescribed by the committee and shall pay the required
4 application fee. The application fee shall not be refundable. Each application
5 shall contain a statement that it is made under oath or affirmation and that its
6 representations are true and correct to the best knowledge and belief of the person
7 signing the application, subject to the penalties of making a false affidavit or
8 declaration.

9 2. For a provisional behavior analyst license, the applicant shall:

10 (1) Submit a two-inch or three-inch photograph or passport photograph
11 taken no more than six months prior to the application date, and only if the
12 applicant has submitted fingerprints and no disqualifying criminal history appears
13 on the family care safety registry;

14 (2) Have passed an examination and been certified as a board-certified
15 behavior analyst by the Behavior Analyst Certification Board or a certifying
16 entity listed in subdivision (3) of section 337.300; and

17 (3) Provide evidence of active status as a board-certified behavior
18 analyst.

19 3. For a provisional assistant behavior analyst license, the applicant shall:

20 (1) Submit a two-inch or three-inch photograph or passport photograph
21 taken no more than six months prior to the application date, and only if the

22 applicant has submitted fingerprints and no disqualifying criminal history appears
23 on the family care safety registry;

24 (2) Have passed an examination and been certified as a board-certified
25 assistant behavior analyst by a certifying entity listed in subdivision (3) of section
26 337.300;

27 (3) Provide evidence of active status as a board-certified assistant
28 behavior analyst; and

29 (4) Submit documentation satisfactory to the board that the applicant will
30 be directly supervised by a licensed behavior analyst in a manner consistent with
31 the certifying entity.

32 4. Each applicant for provisional licensure shall meet the applicable
33 requirements of section 337.315 within three months of the date of issuance of
34 the provisional license.

35 5. The provisional license shall be effective only until the later to occur
36 of:

37 (1) Grant or rejection of a license pursuant to section 337.315; or

38 (2) August 28, 2012. The holder of a provisional license which has not
39 expired, been suspended, or revoked shall be deemed to be the holder of a license
40 issued under section 337.315 until such provisional license expires, is suspended,
41 or revoked.]

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