

BEHAVIOR ANALYST STATE CERTIFICATION ACT

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: _____

LONG TITLE

General Description:

This bill establishes state certification and regulatory requirements for behavior analysts.

Highlighted Provisions:

This bill:

- ▶ establishes requirements for state certification, and renewal of state certification, by the Division of Occupational and Professional Licensing (DOPL) regarding the practice of applied behavior analysis;
- ▶ establishes that, as part of the requirements for state certification, an individual must be certified as a board certified behavior analyst or board certified assistant behavior analyst by the Behavior Analyst Certification Board;
- ▶ provides that if an individual loses certification as a board certified behavior analyst or board certified assistant behavior analyst by the Behavior Analyst Certification Board, the individual must notify DOPL, and DOPL must revoke the individual's state certification;
- ▶ establishes exemptions from state certification to practice applied behavior analysis; and
- ▶ establishes that it is unlawful for an individual to use the title of state certified behavior analyst or state certified assistant behavior analyst if the individual is not certified by the Behavior Analyst Certification Board.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 ENACTS:

34 **58-84-101**, Utah Code Annotated 1953

35 **58-84-102**, Utah Code Annotated 1953

36 **58-84-201**, Utah Code Annotated 1953

37 **58-84-202**, Utah Code Annotated 1953

38 **58-84-203**, Utah Code Annotated 1953

39 **58-84-301**, Utah Code Annotated 1953

40 **58-84-302**, Utah Code Annotated 1953



42 *Be it enacted by the Legislature of the state of Utah:*

43 Section 1. Section **58-84-101** is enacted to read:

44 **CHAPTER 84. BEHAVIOR ANALYST STATE CERTIFICATION ACT**

45 **Part 1. General Provisions**

46 **58-84-101. Title.**

47 This chapter is known as the "Behavior Analyst State Certification Act."

48 Section 2. Section **58-84-102** is enacted to read:

49 **58-84-102. Definitions.**

50 In addition to the definitions in Section 58-1-102, as used in this chapter:

51 (1) (a) "Practice of applied behavior analysis" means the design, implementation, and
52 evaluation of instructional and environmental modifications by a behavior analyst to produce
53 socially significant improvements in human behavior.

54 (b) "Practice of applied behavior analysis" does not include:

55 (i) psychological testing;

56 (ii) neuropsychology;

57 (iii) psychotherapy;

58 (iv) psychological counseling;

- 59 (v) cognitive therapy;
- 60 (vi) sex therapy;
- 61 (vii) psychoanalysis;
- 62 (viii) hypnotherapy; or
- 63 (ix) diagnosing mental illness.

64 (2) "State certified assistant behavior analyst" means an individual who:

65 (a) is certified by the Behavior Analyst Certification Board as a Board Certified
66 Assistant Behavior Analyst;

67 (b) is state certified under this chapter to engage in the practice of applied behavior
68 analysis; and

69 (c) works under the supervision of a state certified behavior analyst.

70 (3) "State certified behavior analyst" means an individual who:

71 (a) is certified by the Behavior Analyst Certification Board as a Board Certified
72 Behavior Analyst; and

73 (b) is state certified under this chapter to engage in the practice of applied behavior
74 analysis.

75 (4) "State certification" means the process and requirements set forth by the division
76 that permit an individual to practice an occupation or profession described in this chapter.

77 (5) "State certified" means a title that may be used by an individual who has met state
78 certification requirements described in Section 58-84-201.

79 (6) "Unlawful conduct" is as defined in Section 58-84-301.

80 Section 3. Section **58-84-201** is enacted to read:

81 **Part 2. State Certification**

82 **58-84-201. Qualifications for state certification -- Certification classifications.**

83 (1) The division shall grant state certification to an individual who qualifies under this
84 chapter to engage in the practice of applied behavior analysis as a:

85 (a) state certified behavior analyst; or

86 (b) state certified assistant behavior analyst.

87 (2) An applicant for state certification as a behavior analyst shall:

88 (a) submit an application in a form prescribed by the division;

89 (b) pay a fee determined by the department under Section 63J-1-504;

- 90 (c) provide documentation that the applicant has passed the examination and is
- 91 certified as a board certified behavior analyst by the Behavior Analyst Certification Board;
- 92 (d) maintain active status and fulfill all requirements for renewal and recertification
- 93 with the Behavior Analyst Certification Board as a board certified behavior analyst;
- 94 (e) conduct the individual's professional activities in accordance with accepted
- 95 standards, including the guidelines for responsible conduct for behavior analysts and
- 96 professional disciplinary and ethical standards of the Behavior Analyst Certification Board; and
- 97 (f) certify that the applicant has not been subject to disciplinary suspension or
- 98 revocation by the Behavior Analyst Certification Board for violation of the professional
- 99 disciplinary and ethical standards.

100 (2) An applicant for state certification as an assistant behavior analyst shall:

- 101 (a) submit an application in a form prescribed by the division;
- 102 (b) pay a fee determined by the department under Section 63J-1-504;
- 103 (c) provide documentation that the applicant has passed the examination and is
- 104 certified as a board certified assistant behavior analyst by the Behavior Analyst Certification
- 105 Board;
- 106 (d) maintain active status and fulfill all requirements for renewal and recertification
- 107 with the Behavior Analyst Certification Board as a board certified assistant behavior analyst;
- 108 (e) conduct the applicant's professional activities in accordance with accepted
- 109 standards, including the guidelines for responsible conduct for behavior analysts and
- 110 professional disciplinary and ethical standards of the Behavior Analyst Certification Board; and
- 111 (f) certify that the applicant has not been subject to disciplinary suspension or
- 112 revocation by the Behavior Analyst Certification Board for violation of the professional
- 113 disciplinary and ethical standards.

114 Section 4. Section **58-84-202** is enacted to read:

115 **58-84-202. Terms of state certification.**

- 116 (1) (a) The division shall ensure that each state certification granted under this chapter
- 117 is issued in accordance with a two-year renewal cycle established by rule.
- 118 (b) The division may extend or shorten a renewal period by as much as one year to
- 119 maintain established renewal cycles or to change an established renewal cycle to match renewal
- 120 cycles maintained by the Behavior Analyst Certification Board.

121 (2) To qualify for renewal of state certification, an applicant for renewal shall provide
122 documentation of current and active certification by the Behavior Analysis Certification Board.

123 (3) If an individual's certification with the Behavior Analyst Certification Board
124 expires for any reason, the Behavior Analyst Certification Board revokes or suspends an
125 individual's certification, or the Behavior Analyst Certification Board places the individual on
126 probation, the individual shall:

127 (a) inform the division within two weeks of the change in certification status; and

128 (b) suspend using, in connection with the individual's name or employment, the title of
129 either:

130 (i) state certified behavior analyst; or

131 (ii) state certified assistant behavior analyst.

132 (4) (a) The division shall, upon learning that an individual's certification by the
133 Behavior Analyst Certification Board has expired or has been suspended or revoked, or the
134 individual has been placed on probation, revoke the individual's state certification.

135 (b) The division may not reinstate an individual's state certification unless the
136 individual meets the qualifications and complies with the requirements of Section 58-84-202.

137 Section 5. Section **58-84-203** is enacted to read:

138 **58-84-203. Exemptions from state certification.**

139 (1) (a) A mental health therapist, when practicing within the scope of the therapist's
140 license, may engage in acts included in the definition of practice as a behavior analyst without
141 being state certified under this chapter.

142 (b) A school employee, within settings authorized by the State Board of Education,
143 may engage in acts included in the definition of practice as a behavior analyst without being
144 state certified under this chapter.

145 (2) This chapter does not prohibit or restrict the practice of:

146 (a) an applied behavior analysis direct contact therapist acting only under the extended
147 authority and direction of a state certified behavior analyst or a state certified assistant behavior
148 analyst to provide applied behavior analysis services; or

149 (b) a licensed professional who is not a state certified behavior analyst or a state
150 certified assistant behavior analyst, if:

151 (i) the licensed professional does not represent that the licensed professional is a state

152 certified behavior analyst, a state certified assistant behavior analyst, or is qualified to provide
153 applied behavior analysis; and

154 (ii) the services of the licensed professional are specified within the scope of practice
155 of the licensing law governing the licensed professional and the services performed are
156 commensurate with the licensed professional's formal university training and supervised
157 experience.

158 (3) Nothing in this chapter prohibits an individual from providing advice or counsel,
159 without compensation, to family members or friends.

160 Section 6. Section **58-84-301** is enacted to read:

161 **Part 3. Unlawful Conduct - Penalties**

162 **58-84-301. Unlawful conduct.**

163 (1) It is unlawful for an individual who is not state certified under this chapter to use,
164 or represent that the individual has, the title of:

165 (a) behavior analyst; or

166 (b) assistant behavior analyst.

167 (2) It is unlawful for an individual whose certification by the Behavior Analyst
168 Certification Board has expired or has been suspended or revoked, or who has been placed on
169 probation, to use, in connection with the individual's name or employment, the title of:

170 (a) behavior analyst; or

171 (b) assistant behavior analyst.

172 Section 7. Section **58-84-302** is enacted to read:

173 **58-84-302. Penalty for unlawful conduct.**

174 A person who engages in unlawful conduct under this section is guilty of a class B
175 misdemeanor.

Legislative Review Note
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Office of Legislative Research and General Counsel