



HOUSE BILL 91: Reduce Reg. To Help Children with Autism.

2021-2022 General Assembly

Committee:	House Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	March 11, 2021
Introduced by:	Reps. Bell, Lambeth, K. Baker, Saine	Prepared by:	Trina Griffin
Analysis of:	PCS to Second Edition H91-CSSVf-2		Staff Attorney

OVERVIEW: *House Bill 91 would establish a licensure process for behavior analysts. The PCS modifies the definition of the "practice of behavior analysis," changes the term limits for certain Board members, requires that applicants for licensure provide an official verification letter from the certifying entity, and makes other technical changes.*

BILL ANALYSIS: The bill would create Article 43, Behavior Analyst Licensure, in Chapter 90, which sets out the following:

- **Definitions** (90-726.2). Definitions would be created for "behavior technician," "Board," "certifying entity," "institution of higher education," "licensed assistant behavior analyst," "licensed behavior analyst," and "practice of behavior analysis."
- **Board** (90-726.3). The North Carolina Behavior Analysis Board (Board) would be established with five members serving staggered terms.
 - The General Assembly, on the recommendation of the Speaker of the House, would appoint one member who is certified as a Board Certified Behavior Analyst.
 - The General Assembly, on the recommendation of the President Pro Tempore of the Senate, would appoint one member who is certified as a Board Certified Behavior Analyst.
 - The Governor would appoint three members, one of whom would be certified as a Board Certified Behavior Analyst, one of whom would be certified as a Board Certified Assistant Behavior Analyst, and one of whom would be a member of the public.

This section would also establish the qualifications for Board members, set out the process for filling vacant seats on the Board, establish rules for removing members of the Board, and provide for per diem and travel expense reimbursement for Board members.

- **Board Powers** (90-726.4). The Board would have the power to administer the Article, adopt rules, evaluate applicants for licensure, issue licenses, establish fees, discipline licensees, adopt a seal, and conduct investigations.
- **Annual Report** (90-726.5). The Board would be required to submit a report to the Governor on June 30 of each year.
- **License Application** (90-726.6). Individuals seeking licensure would be required to meet the following criteria: (i) be of good moral character, (ii) not engage in conduct that would be grounds for license revocation, (iii) submit a criminal history record, and (iv) qualify for licensure under the Article.

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- **Behavior Analyst License Requirements** (90-726.7). Individuals seeking licensure as a behavior analyst would have to meet the qualifications established by the Board and provides an official verification letter by the certifying entity.
- **Assistant Behavior Analyst License Requirements** (90-726.8). Individuals seeking licensure as an assistant behavior analyst would have to provide an official verification letter by the certifying entity and have a supervisory arrangement with a licensed behavior analyst.
- **License Renewal** (90-726.9). Licenses would be valid for two years. They could be renewed after payment of a renewal fee, providing evidence of active certification with an official verification letter by the certifying entity, and for assistant behavior analysts, providing evidence of the ongoing arrangement for supervision.
- **Temporary Licenses** (90-276.10). Behavior analysts licensed in other states would be able to receive licenses to temporarily practice in North Carolina. The temporary license would only be valid for a defined and limited time period.
- **Reciprocity** (90-276.11). Licensure by reciprocity would be permitted when the other state has comparable licensure requirements and upon the applicant's submission of specified documents.
- **Denial, Suspension, and Revocation of Licenses** (90-726.12). The Board would be allowed to take disciplinary action against licensees and applicants who violate a provision of the Code of Conduct. Costs of the disciplinary process may be assessed against the licensee or applicant. Confidential client information may be withheld from the public record.
- **Fees** (90-726.13). Fees collected by the Board would be established pursuant to rules but must not exceed the following: Application: \$250; Renewal: \$200; Late Renewal: \$50; Reciprocal application: \$250; Temporary License: \$100.
- **Criminal History Record Checks** (90-726.14). All applicants for licensure would be required to consent to a criminal record background check and pay for the costs of the background check. Convictions would not automatically bar an applicant from licensure.
- **Exemptions from Licensure** (90-726.15). Psychologists, social workers, family members of patients, individuals who provide behavior analysis services to nonhuman subjects, and matriculated college or university students or postdoctoral fellows who activities are part of a defined course of study, course practicum, or internship and are directly supervised by a licensed behavior analyst would be exempt from the licensing requirements of the Article.
- **Prohibited Acts** (90-726.16). Unlicensed individuals would be prohibited from practicing behavior analysis. Violation would be a Class 2 misdemeanor.
- **Injunction** (90-726.17). The Board would be able to seek injunctions to prevent violations of the Article.

Section 3 would add a new section to Chapter 8 clarifying that behavior analysts are not required to disclose information about their patients in court unless compelled to do so by a judge.

EFFECTIVE DATE: Section 2, which creates the new criminal penalty, would be effective January 1, 2022, and apply to acts committed on or after that date. The remainder of the bill would be effective when it becomes law and apply to licenses granted on or after that date.

BACKGROUND: The Behavior Analyst Certification Board <http://www.bacb.com/> provides credentialing for the Board Certified Behavior Analyst (BCBA) and the Board Certified Assistant Behavior Analyst (BCaBA). [Section 22.3 of S.L. 2017-57](#), the Appropriations Act of 2017, requires

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insurers to provide coverage for adaptive behavior treatment supervised or provided by a board-certified behavior analyst.

Jason Moran-Bates, Staff Attorney, substantially contributed to this summary.