

## CHAPTER 337

AN ACT providing for the licensure of applied behavior analysts and supplementing Title 45 of the Revised Statutes.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

C.45:8B-91 Short title.

1. This act shall be known and may be cited as the “Applied Behavior Analyst Licensing Act.”

C.45:8B-92 Practice of applied behavior analysis.

2. The practice of applied behavior analysis in the State of New Jersey is determined to affect the public safety and welfare, and to be subject to regulation and control in the public interest in order to protect the public by setting standards of qualification, education, training, and experience for those persons seeking to practice and be licensed as applied behavior analysts and assistant applied behavior analysts.

C.45:8B-93 Definitions relative to the practice of applied behavior analysis.

3. As used in this act:

“Board” means the State Board of Applied Behavior Analyst Examiners.

“Applied behavior analysis” means the practice of designing, implementing, and evaluating instructional and environmental modifications to produce socially significant improvements in human behavior, including the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis. Applied behavior analysis interventions are based on scientific research and direct and indirect observation and measurement of behavior and environment. Applied behavior analysts utilize contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other procedures to help individuals develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions. The practice of behavior analysis does not include psychological testing, diagnosis of mental, physical, or speech language, hearing, and other communication and swallowing disorders, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and counseling as treatment modalities.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Licensed assistant applied behavior analyst” means a person who holds a current, valid license to practice applied behavior analysis under the ongoing supervision of a licensed applied behavior analyst pursuant to this act.

“Licensed applied behavior analyst” means a person who holds a current, valid license to practice applied behavior analysis pursuant to this act.

C.45:8B-94 State Board of Applied Behavior Analyst Examiners.

4. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the State Board of Applied Behavior Analyst Examiners. The board shall consist of seven members who are residents of this State and who shall be appointed by the Governor, as follows: two shall be public members to represent the interests of the public, pursuant to the provisions of subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2); one member shall be from a department in the Executive Branch of State Government, pursuant to the provisions of subsection c. of section 2 of P.L.1971, c.60 (C.45:1-2.2); three members

shall be licensed applied behavior analysts, except for the members first appointed, who shall be Board Certified Behavior Analysts or Board Certified Behavior Analysts-Doctoral; and one member shall be a licensed assistant applied behavior analyst, except for the member first appointed, who shall be a Board Certified Assistant Behavior Analyst. The Governor shall appoint each member, other than the State executive department member, for terms of four years, except that of the members first appointed, two shall serve for a term of four years, two shall serve for a term of three years, and two shall serve for a term of two years. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. No member of the board may serve more than two successive terms in addition to any unexpired term to which the member has been appointed.

C.45:8B-95 Organization of board, meetings, officers, quorum.

5. The board shall organize within 30 days after the appointment of its members and shall annually elect from among its members a chairperson and vice-chairperson, and shall appoint a secretary who need not be a member of the board. The board shall meet twice a year and may hold additional meetings as necessary to discharge its duties. A majority of the board membership shall constitute a quorum.

C.45:8B-96 Duties, responsibilities of board.

6. The board shall:

- a. adopt a seal to authenticate its records and proceedings;
- b. prescribe rules pertaining to the requirements of qualification for licensure, including education, professional experience, and the types and methods of examination of applicants for licensure;
- c. examine and pass on the qualifications of applicants for licensure under this act, and issue a license to each qualified and successful applicant, attesting to the applicant's professional qualification to practice as a licensed applied behavior analyst or licensed assistant applied behavior analyst;
- d. keep records of its proceedings and a register of all persons to whom licenses have been issued, and a record of all license renewals, suspensions and revocations;
- e. maintain records of expenses incurred by members of the board in the performance of their duties;
- f. take disciplinary action, in accordance with P.L.1978, c.73 (C.45:1-14 et seq.), against any licensed applied behavior analyst or licensed assistant applied behavior analyst who violates the provisions of this act or any regulation promulgated hereunder;
- g. adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as it deems necessary to administer the provisions of this act; and
- h. pursuant to P.L.1974, c.46 (C.45:1-3.1 et seq.), prescribe or change the charges for licensure, renewal and other services performed.

C.45:8B-97 Executive director, compensation.

7. There shall be an Executive Director of the board appointed by the director who shall serve at the director's pleasure. The salary of the Executive Director shall be determined by the director within the limits of available funds. The director may, within the limits of available funds, hire any assistants as are necessary to administer this act.

C.45:8B-98 Licensure required to practice applied behavior analysis.

8 a. No person shall practice, attempt to practice, or make any representation as being able to practice applied behavior analysis unless the person is licensed in accordance with the provisions of this act.

b. No person shall use the title “licensed behavior analyst,” “licensed assistant behavior analyst,” “licensed applied behavior analyst,” “licensed assistant applied behavior analyst,” or the abbreviation “LBA” or “LABA” or any other title, designation, words, letters, abbreviations or insignia, except for those persons exempted pursuant to section 13 of this act, indicating the practice of applied behavior analysis unless licensed pursuant to the provisions of this act.

C.45:8B-99 Eligibility for licensure as applied behavior analyst.

9. To be eligible to be licensed as a licensed applied behavior analyst, an applicant shall fulfill the following requirements:

- a. be at least 21 years of age;
- b. be of good moral character;
- c. have a current certification from a nonprofit organization accredited by the National Commission for Certifying Agencies, the American National Standards Institute, or a substantial equivalent to credential professional practitioners of applied behavior analysis related to the principles and practice of the profession of applied behavior analysis that is approved by the board; and
- d. submit proof that the applicant holds a graduate degree from an accredited university or other institution of higher learning.

C.45:8B-100 Eligibility for licensure as an assistant applied behavior analyst.

10. To be eligible to be licensed as a licensed assistant applied behavior analyst, an applicant shall fulfill the following requirements:

- a. be at least 21 years of age;
- b. be of good moral character;
- c. have a current certification from a nonprofit organization accredited by the National Commission for Certifying Agencies, the American National Standards Institute, or a substantial equivalent to credential professional practitioners of applied behavior analysis related to the principles and practice of the profession of applied behavior analysis that is approved by the board;
- d. submit proof that the applicant holds an undergraduate degree from an accredited university or other institution of higher learning; and
- e. submit proof satisfactory to the board of ongoing supervision by a licensed applied behavior analyst in accordance with the board’s requirements.

C.45:8B-101 Issuance, renewal of license; fee.

11. a. All licenses shall be issued for a two-year period and shall be renewed upon filing a renewal application. A license shall not be renewed until the license holder submits satisfactory evidence to the board that the license holder continues to fulfill the requirements for licensure.

b. All applicants shall pay a fee for licensure and renewal for licensure under this act. Fees shall be determined by the board and established by regulation. The revenue generated from these fees shall not exceed the operating costs incurred by the board in administering this act.

C.45:8B-102 Licensure of out-of-State practitioner.

12. Upon payment to the board of a fee and the submission of a written application provided by the board, the board shall issue a license to any person who holds a valid license issued by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this State, as determined by the board.

C.45:8B-103 Construction of act.

13. Nothing in this act shall be construed to apply to:

a. the practice, activities, and services of qualified members of other professions, including physicians, psychologists, psychoanalysts, marriage and family therapists, social workers, professional or rehabilitation counselors, speech-language pathologists or audiologists, or any other profession licensed by the State, provided that:

(1) qualified members of other professions do not hold themselves out to the public as possessing a license issued pursuant to this act or represent themselves by any professional title regulated by this act; and

(2) the services provided by qualified members of other professions are within the boundaries of the licensed professional's education, training, and competence; and

b. provided they do not represent themselves as possessing a license issued pursuant to this act or represent themselves by any professional title regulated by this act:

(1) family members of recipients of applied behavior analysis services who implement applied behavior analysis treatment plans with the recipients under the extended authority and direction of a licensed applied behavior analyst or a licensed assistant applied behavior analyst;

(2) paraprofessional technicians who deliver applied behavior analysis services under the extended authority and direction of a licensed applied behavior analyst, licensed assistant applied behavior analyst, provided that such paraprofessional technicians use titles that indicate their nonprofessional status;

(3) applied behavior analysts who practice with nonhumans, and who may use the title "applied behavior analyst," including applied animal behaviorists and animal trainers;

(4) professionals who provide general applied behavior analysis services to organizations, and who may use the title "applied behavior analyst," if those services are for the benefit of the organizations and do not involve direct services to individuals;

(5) matriculated college or university students whose applied behavior analysis activities are part of a defined program of study, course, practicum, internship, or postdoctoral fellowship, if the applied behavior analysis activities under this exemption are directly supervised by a licensed applied behavior analyst, psychologist or exempt professional in this State, an instructor in a course sequence approved by the board, or another qualified faculty member, provided that such students use titles that indicate their nonprofessional status;

(6) unlicensed persons pursuing experience in applied behavior analysis consistent with the experience requirements of the board, if the experience is supervised in accordance with the requirements of the board;

(7) persons who teach applied behavior analysis or conduct behavior analytic research, and who may use the title "applied behavior analyst," if the teaching or research does not involve the direct delivery of applied behavior analysis services to individuals;

(8) applied behavior analysts or applied assistant behavior analysts who work in this State not more than 10 consecutive business days, or not more than 15 intermittent business days, in any 90-day period, if the analyst resides outside, and the analyst's major practice is outside of, the State of New Jersey, and the analyst gives the board a summary of qualifications and a

minimum of 10 days written notice of the analyst's intention to practice in the State under this section, provided the analyst: (a) is certified or licensed in another state under substantially equivalent requirements as an applied behavior analyst under this act; (b) is a Board Certified Behavior Analyst, Board Certified Behavior Analyst-Doctoral, or Board Certified Assistant Behavior Analyst; or (c) resides in a state which does not certify or license applied behavior analysts and the board considers the analyst's professional qualifications to be substantially equivalent to the requirements for licensing under this act; and is not adjudged and notified by the board to be ineligible for licensing under this act;

(9) employees of a school district, charter school, education services commission, or private school in the performance of regular employment duties, if the provision of applied behavior analysis services is only on behalf of the school employer and remuneration for the provision of those services is provided solely by the school employer;

(10) persons who are working under the authority of or under contract with the Division of Developmental Disabilities, in the Department of Human Services, if the provision of applied behavior analysis services is only on behalf of or under contract with the Division of Developmental Disabilities and remuneration for the provision of those services is provided solely by the Division of Developmental Disabilities or one of its contracted providers. This paragraph shall be in effect only during the first three years after the effective date of this act; and

(11) persons who are working under the authority of and under contract with the New Jersey Early Intervention Program, in the Department of Health, if the provision of applied behavior analysis services is only on behalf of or under contract with the New Jersey Early Intervention Program or one of its contracted providers. This paragraph shall be in effect only during the first five years after the effective date of this act.

14. This act shall take effect on the 180th day next following enactment.

Approved January 13, 2020.