

ENROLLED SENATE
BILL NO. 135

By: Justice of the Senate

and

Steele, Sullivan and
Collins of the House

An Act relating to autism; defining terms; providing for the licensing of certain persons; stating qualifications; providing for renewal; stating duties of licensee; prohibiting certain act; providing penalties; stating duties of the Developmental Disabilities Services Division of the Department of Human Services; exempting certain persons; providing for the promulgation of rules; directing funds to be used for certain purpose; authorizing the State Department of Health to contract with third parties for certain services; directing funds for certain evaluation training; providing for a behavior analysis treatment pilot project; stating requirements; requiring commencement of project by certain date; limiting duration of project; providing for certain report to the Legislature and Governor; directing the University Hospitals Authority to establish certain program; stating certain condition for location; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1928 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. As used in this act:

1. a. "Applied behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior through skill, acquisition, and the reduction of problematic behavior. An applied behavior analysis program shall:
 - (1) be based on empirical research including the direct observation and measurement of behavior as well as a functional behavior assessment, and
 - (2) utilize antecedent stimuli, positive reinforcement, and other consequences to produce behavior change.
- b. Applied behavior analysis does not include cognitive therapies or psychological testing, neuropsychology, psychotherapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities;

2. "Board" means the nationally accredited Behavior Analyst Certification Board;

3. "Human services professional" means an individual licensed or certified by the state as one of the following:

- a. a licensed physical therapist or physical therapist assistant pursuant to Sections 887.1 through 887.18 of Title 59 of the Oklahoma Statutes,
- b. an occupational therapist, occupational therapy assistant, or occupational therapy aide pursuant to Sections 888.1 through 888.15 of Title 59 of the Oklahoma Statutes,
- c. a licensed clinical social worker, licensed masters social worker, or social work associate pursuant to Sections 1250 through 1273 of Title 59 of the Oklahoma Statutes,

- d. a psychologist or health service psychologist pursuant to Sections 1351 through 1376 of Title 59 of the Oklahoma Statutes,
- e. a licensed speech pathologist, licensed audiologist, speech-language pathologist or audiologist pursuant to Sections 1601 through 1622 of Title 59 of the Oklahoma Statutes,
- f. a licensed professional counselor or licensed professional counselor candidate pursuant to Sections 1901 through 1920 of Title 59 of the Oklahoma Statutes,
- g. a licensed marital and family therapist or licensed marital and family therapist candidate pursuant to Sections 1925.1 through 1925.18 of Title 59 of the Oklahoma Statutes, or
- h. a licensed behavioral practitioner or licensed behavioral practitioner candidate pursuant to Sections 1930 through 1949.1 of Title 59 of the Oklahoma Statutes;

4. "Certified assistant behavior analyst" means an individual who is certified by the nationally accredited Behavior Analyst Certification Board as a Board-Certified Assistant Behavior Analyst and certified by the Developmental Disabilities Services Division of the Department of Human Services;

5. "Licensed behavior analyst" means an individual who is certified by the nationally accredited Behavior Analyst Certification Board as a Board-Certified Behavior Analyst and licensed by the Developmental Disabilities Services Division of the Department; and

6. "Supervisee" means a person who acts under the extended authority of a licensed behavior analyst to provide applied behavior analysis services or a person who is in training to provide such services.

B. Each person wishing to practice as a licensed behavior analyst or a certified assistant behavior analyst shall apply to the Developmental Disabilities Services Division of the Department of Human Services using a form and in a manner prescribed by the Division and shall furnish evidence satisfactory to the Division that such person:

1. Is of good moral character;

2. Is at least twenty-one (21) years of age;

3. Has passed the Board examination and is certified by the Board as a Board-Certified Behavior Analyst or a Board-Certified Assistant Behavior Analyst, as applicable;

4. Has not had a professional license or certification refused, revoked, suspended, or restricted and does not have a complaint, allegation, or investigation pending in any regulatory jurisdiction in the United States or in another country for reasons that relate to unprofessional conduct unless the Division finds, to its satisfaction, that the conduct has been corrected or that mitigating circumstances exist that prevent its resolution; and

5. Has at least the minimum graduate or undergraduate degree, appropriate for the level of certification, from an accredited institution of higher learning in a qualifying field of study, as determined by the Board.

C. A person holding a state license or state certification shall apply for renewal of the state license or state certification on or before April 30 of each odd-numbered year. The application shall be accompanied by a renewal fee to be set by the Division in accordance with paragraph 3 of subsection F of this section.

D. A person licensed or certified by the Developmental Disabilities Services Division of the Department under this section shall:

1. Maintain active status and fulfill all requirements for renewal of national certification or recertification with the Board; and

2. Conduct professional activities in accordance with accepted standards such as the Guidelines for Responsible Conduct and Professional Disciplinary Standards of the Board.

E. 1. No person shall claim the title of licensed behavior analyst or certified assistant behavior analyst unless that person meets the applicable requirements in this section. No person shall practice applied behavior analysis without obtaining a license or certification in accordance with this section. Supervisees may only provide applied behavior analysis under the supervision of a licensed behavior analyst. This section shall not restrict the practice of applied behavior analysis by human services professionals, provided such individuals are working within the scope of their professions and the practice of applied behavior analysis is commensurate with their level of training and experience.

2. A violation of this subsection shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00), the suspension or revocation of a license or certification issued pursuant to this section, or both such fine and loss of licensure or certification.

F. The Division shall:

1. Investigate all complaints relating to:

- a. the practice or supervision of applied behavior analysis by any person licensed by the Developmental Disabilities Services Division of the Department as a behavior analyst or certified by the Division as an assistant behavior analyst, or
- b. any person alleged to be practicing or providing supervision without a state license or state certification;

2. Refer any substantiated complaints to the Board; and

3. Charge reasonable fees for a license or for certification, not to exceed One Hundred Dollars (\$100.00).

G. 1. A person having a qualifying degree, as provided for in paragraph 5 of subsection B of this section, and participating in the applied behavior analysis treatment pilot project established in Section 3 of this act shall be exempt from the requirements of this section while such person is actively participating in the project.

2. Persons employed by a school district in this state who provide services solely to the school district under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C., Section 1400 et seq., shall be exempt from the requirements of this section.

H. The Department shall promulgate rules to implement the provisions of this section.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-280.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Funds shall be used by the State Department of Education for specialized training for direct service providers in the Sooner Start program to acquire skills necessary to treat children with autism spectrum disorders.

B. The State Department of Health is authorized to contract with independent third-party providers for services offered by the Sooner Start program.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-280.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Funds shall be used by the University Hospitals Authority for primary care provider evaluation training for providers in the Sooner SUCCESS program to acquire skills necessary to evaluate children with autism spectrum disorders.

B. 1. The Developmental Disabilities Services Division of the Department of Human Services shall establish an applied behavior analysis treatment pilot project. The Division shall secure federal matching dollars to implement and maintain the project.

2. The project shall:

- a. provide three Board-Certified Behavior Analysts to measure functional outcomes of children with autism, who are approved by the Division to participate in the project, and study the effects of applied behavior analysis in a consultative model that includes a parental training component, and
- b. require the participating analysts to provide the necessary supervision to assist supervisees in this state to learn and provide applied behavior analysis and achieve certification by the nationally accredited Behavior Analyst Certification Board.

3. The project shall commence no later than January 1, 2011, and end no later than three (3) years from the date of commencement.

4. The Division shall submit a report to the Legislature and the Governor no later than January 1, 2014, concerning:

- a. the effectiveness of the project,
- b. the results found when using applied behavior analysis in a consultative model that includes a parental training component to measure functional outcomes of children with autism,
- c. the most effective approach and systems to provide applied behavior analysis, and
- d. any other findings and recommendations resulting from the project.

5. The Department shall promulgate rules to implement the provisions of this subsection.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-280.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

The University Hospitals Authority shall establish a program modeled after Early Foundations, an outreach program that provides

early intensive behavioral intervention for children with autism. The program shall be established in a county selected by the University Hospitals Authority where an Early Foundations program does not exist.

SECTION 5. This act shall become effective November 1, 2009.

Passed the Senate the 21st day of April, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of April, 2009.

Presiding Officer of the House
of Representatives