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HOUSE BILL 2831

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State of Washington

66th Legislature

2020 Regular Session

By Representatives Stonier, Harris, and Davis

Read first time 01/24/20. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to the field of behavior analysis; amending RCW  
2 18.380.010, 18.380.020, 18.380.030, 18.380.050, 18.380.060,  
3 18.380.070, 18.380.100, and 18.380.110; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that certification  
6 of behavior technicians has created a shortage of qualified staff to  
7 perform and be compensated for behavior technician related duties  
8 under the direction of a licensed behavior analyst or licensed  
9 assistant behavior analyst. The legislature finds that removal of the  
10 certification requirements will increase access to behavior analyst  
11 services and is in the interests of the state. Therefore, the  
12 legislature intends to remove the certification requirements adopted  
13 under chapter 18.380 RCW.

14 **Sec. 2.** RCW 18.380.010 and 2015 c 118 s 1 are each amended to  
15 read as follows:

16 The definitions in this section apply throughout this chapter  
17 unless the context clearly requires otherwise.

18 (1) (~~"Certified behavior technician" means a paraprofessional~~  
19 ~~who implements a behavior analysis treatment plan under the close,~~  
20 ~~ongoing supervision of a licensed behavior analyst or a licensed~~

1 ~~assistant behavior analyst, but who does not design or supervise the~~  
2 ~~implementation of a behavior analysis treatment plan.~~

3 ~~(2))~~ "Committee" means the Washington state applied behavior  
4 analysis advisory committee.

5 ~~((3))~~ (2) "Department" means the department of health.

6 ~~((4))~~ (3) "Licensed assistant behavior analyst" means an  
7 individual who is licensed under this chapter to engage in the  
8 practice of applied behavior analysis under the supervision of a  
9 licensed behavior analyst.

10 ~~((5))~~ (4) "Licensed behavior analyst" means an individual who  
11 is licensed under this chapter to engage in the practice of applied  
12 behavior analysis.

13 ~~((6))~~ (5)(a) "Practice of applied behavior analysis" means:

14 (i) The design, implementation, and evaluation of instructional  
15 and environmental modifications based on scientific research and the  
16 direct observation and measurement of behavior and the environment to  
17 produce socially significant improvements in human behavior;

18 (ii) Empirical identification of functional relations between  
19 behavior and environmental factors, known as functional assessment  
20 and analysis; and

21 (iii) Utilization of contextual factors, motivating operations,  
22 antecedent stimuli, positive reinforcement, and other consequences to  
23 assist individuals in developing new behaviors, increasing or  
24 decreasing existing behaviors, and emitting behaviors under specific  
25 environmental conditions.

26 (b) "Practice of applied behavior analysis" does not include  
27 psychological testing, diagnosis of a mental or physical disorder,  
28 neuropsychology, psychotherapy, cognitive therapy, sex therapy,  
29 psychoanalysis, hypnotherapy, or counseling as treatment modalities.  
30 It also does not include the use of behavioral techniques described  
31 in (a)(iii) of this subsection alone as treatment modalities.

32 ~~((7))~~ (6) "Secretary" means the secretary of the department of  
33 health.

34 **Sec. 3.** RCW 18.380.020 and 2015 c 118 s 2 are each amended to  
35 read as follows:

36 (1)(a) Except as provided in RCW 18.380.030, no person may engage  
37 in the practice of applied behavior analysis unless he or she holds a  
38 license or a temporary license under this chapter. The use of

1 behavioral techniques described in RCW 18.380.010(6)(a)(iii) alone  
2 does not constitute the practice of applied behavior analysis.

3 (b) A person not licensed under this chapter may not represent  
4 himself or herself as a "licensed behavior analyst" or a "licensed  
5 assistant behavior analyst."

6 ~~(2) ((Except as provided in RCW 18.380.030, no person may  
7 practice as a certified behavior technician in this state without  
8 having a certification issued by the secretary. A person not  
9 certified under this chapter may not represent himself or herself as  
10 a "certified behavior technician."))~~ This section does not preclude  
11 employment of a paraprofessional who implements a behavior analysis  
12 treatment plan under the supervision of a licensed behavior analyst  
13 or a licensed assistant behavior analyst but who does not design or  
14 supervise the implementation of a behavior analysis treatment plan.

15 **Sec. 4.** RCW 18.380.030 and 2015 c 118 s 3 are each amended to  
16 read as follows:

17 Nothing in this chapter may be construed to prohibit or restrict:

18 (1) An individual who holds a credential issued by this state,  
19 other than as a licensed behavior analyst(~~(7)~~) or a licensed  
20 assistant behavior analyst(~~(7 or a certified behavior technician)~~),  
21 to engage in the practice of that occupation or profession without  
22 obtaining an additional credential from the state, so long as the  
23 practice is within that profession's or occupation's scope of  
24 practice;

25 (2) A person employed as a behavior analyst, assistant behavior  
26 analyst, or behavior technician by the government of the United  
27 States if the person provides behavior analysis services solely under  
28 the direction or control of the agency by which the person is  
29 employed;

30 (3) An employee of a school district, charter school, or private  
31 school approved under chapter 28A.195 RCW in the performance of his  
32 or her regular duties of employment, so long as the employee does not  
33 offer behavior analytic services to any person or entity other than  
34 the school employer and does not accept remuneration for providing  
35 behavior analytic services other than the remuneration he or she  
36 receives from the school employer;

37 (4) The practice of applied behavior analysis by a matriculated  
38 college or university student if he or she: (a) Participates in a  
39 defined course, internship, practicum, or program of study; (b) is

1 supervised by college or university faculty or a licensed behavior  
2 analyst; and (c) uses a title that clearly indicates trainee status,  
3 such as "behavior analysis student," "behavior analysis intern," or  
4 "behavior analysis trainee";

5 (5) The practice of applied behavior analysis by an individual  
6 pursuing supervised experiential training to meet eligibility  
7 requirements for licensure under this chapter or national  
8 certification in behavior analysis, so long as the training is  
9 supervised by a licensed behavior analyst who meets any additional  
10 requirements established by the secretary or by a professional who  
11 meets supervisor requirements determined by a national certifying  
12 entity;

13 (6) Implementation of a behavior analysis treatment plan by a  
14 family member or legal guardian of a recipient of behavior analysis  
15 services, as defined in rule, so long as the family member or legal  
16 guardian is under the supervision of a licensed behavior analyst or a  
17 licensed assistant behavior analyst;

18 (7) The activities of a behavior analyst who practices with  
19 nonhumans including, but not limited to, animal trainers and applied  
20 animal behaviorists; or

21 (8) The activities of a behavior analyst who provides general  
22 behavior analysis services to organizations so long as those services  
23 are for the benefit of the organization and do not involve direct  
24 services to individuals.

25 **Sec. 5.** RCW 18.380.050 and 2015 c 118 s 5 are each amended to  
26 read as follows:

27 (1) The secretary shall issue a license to an applicant who  
28 submits a completed application, pays the appropriate fees, and meets  
29 the following requirements:

30 (a) For a licensed behavior analyst:

31 (i) Graduation from a master's or doctorate degree program in  
32 behavior analysis or other natural science, education, human  
33 services, engineering, medicine, or field related to behavior  
34 analysis approved by the secretary;

35 (ii) Completion of a minimum of two hundred twenty-five classroom  
36 hours at graduate level instruction in specific behavior analysis  
37 topics, as determined in rule;

1 (iii) Successful completion of a supervised experience  
2 requirement, consisting of a minimum of one thousand five hundred  
3 hours, or an alternative approved by the secretary by rule; and

4 (iv) Successful completion of an examination approved by the  
5 secretary;

6 (b) For a licensed assistant behavior analyst:

7 (i) Graduation from a bachelor's degree program approved by the  
8 secretary;

9 (ii) Completion of one hundred thirty-five classroom hours of  
10 instruction in specific behavior analysis topics, as determined by  
11 the secretary in rule; ~~((and))~~

12 (iii) Successful completion of a supervised experience  
13 requirement, consisting of a minimum of one thousand hours, or an  
14 alternative approved by the secretary by rule; and

15 (iv) Successful completion of an examination approved by the  
16 secretary;

17 ~~((For a certified behavior technician:~~

18 ~~(i) Successful completion of a training program of at least forty  
19 hours that is approved by the secretary; and~~

20 ~~(ii) Any other requirements determined by the secretary in rule;~~

21 ~~(d)) Demonstrates good moral character;~~

22 ~~((e))~~ (d) Has not engaged in unprofessional conduct as defined  
23 in RCW 18.130.180;

24 ~~((f))~~ (e) Is not currently subject to any disciplinary  
25 proceedings; and

26 ~~((g))~~ (f) Is not unable to practice with reasonable skill and  
27 safety as defined in RCW 18.130.170.

28 (2) In addition, an applicant for an assistant behavior analyst  
29 license ~~((or a behavior technician certification))~~ must provide proof  
30 of ongoing supervision by a licensed behavior analyst.

31 (3) The secretary may accept certification by a national  
32 accredited professional credentialing entity in lieu of the specific  
33 requirements identified in subsection (1)(a) ~~((through (e)))~~ or (b)  
34 of this section.

35 (4) A license ~~((or certification))~~ issued under this section is  
36 valid for a period of two years.

37 **Sec. 6.** RCW 18.380.060 and 2015 c 118 s 6 are each amended to  
38 read as follows:

1 Applications for licensing (~~(or certification)~~) must be submitted  
2 on forms provided by the secretary. The secretary may require any  
3 information and documentation that reasonably relates to the need to  
4 determine whether the applicant meets the criteria for licensing (~~(or~~  
5 ~~certification)~~) provided for in this chapter and chapter 18.130 RCW.  
6 Each applicant shall pay a fee determined by the secretary under RCW  
7 43.70.250. The fee must accompany the application.

8 **Sec. 7.** RCW 18.380.070 and 2015 c 118 s 7 are each amended to  
9 read as follows:

10 (1) The secretary shall establish by rule the requirements for  
11 renewal of a license (~~(or certification)~~), but may not increase the  
12 licensure (~~(or certification)~~) requirements provided in this chapter.  
13 The secretary shall establish administrative procedures,  
14 administrative requirements, and fees for license (~~(and~~  
15 ~~certification)~~) periods and renewals as provided in RCW 43.70.250 and  
16 43.70.280.

17 (2) Failure to renew the license (~~(or certification)~~) invalidates  
18 the license (~~(or certification)~~) and all privileges granted by the  
19 license (~~(or certification)~~). If a license (~~(or certification)~~) has  
20 lapsed for a period longer than three years, the person shall  
21 demonstrate competence to the satisfaction of the secretary by  
22 completing continuing competency requirements or meeting other  
23 standards determined by the secretary.

24 **Sec. 8.** RCW 18.380.100 and 2015 c 118 s 10 are each amended to  
25 read as follows:

26 The uniform disciplinary act, chapter 18.130 RCW, governs  
27 unlicensed practice, the issuance and denial of a license (~~(or~~  
28 ~~certification)~~), and the discipline of persons licensed (~~(or~~  
29 ~~certified)~~) under this chapter.

30 **Sec. 9.** RCW 18.380.110 and 2015 c 118 s 11 are each amended to  
31 read as follows:

32 The secretary, in consultation with the committee, may adopt  
33 rules under chapter 34.05 RCW as necessary to implement this chapter,  
34 including rules:

35 (1) Establishing continuing competency as a condition of license  
36 (~~(or certification)~~) renewal; and

1           (2) Establishing standards for delegation and supervision of  
2 licensed assistant behavior analysts ~~((and certified behavior~~  
3 ~~technicians; and~~  
4           ~~(3) Defining the tasks that a certified behavior technician may~~  
5 ~~perform))~~ .

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