



January 25, 2008

HOUSE BILL No. 1288

DIGEST OF HB 1288 (Updated January 23, 2008 2:35 pm - DI 107)

Citations Affected: IC 25-1; IC 25-41; noncode.

Synopsis: Certification for behavior analysts. Requires behavior analysts to be certified. Establishes the state board of behavior analysts. Establishes criteria for certification of behavior analysts.

Effective: July 1, 2008.

Summers, Hinkle

January 15, 2008, read first time and referred to Committee on Family, Children and Human Affairs.
January 24, 2008, reported — Do Pass.

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HB 1288—LS 6859/DI 109+



January 25, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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HOUSE BILL No. 1288

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-1-8-6, AS AMENDED BY P.L.185-2007,
2 SECTION 6, AND AS AMENDED BY P.L.197-2007, SECTION 20,
3 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) As used in this section,
5 "board" means any of the following:
6 (1) Indiana board of accountancy (IC 25-2.1-2-1).
7 (2) Board of registration for architects **and** landscape architects
8 **and registered interior designers** (IC 25-4-1-2).
9 (3) Indiana athletic trainers board (IC 25-5.1-2-1).
10 (4) Indiana auctioneer commission (IC 25-6.1-2-1).
11 (5) State board of barber examiners (IC 25-7-5-1).
12 (6) State boxing commission (IC 25-9-1).
13 (7) Board of chiropractic examiners (IC 25-10-1).
14 (8) State board of cosmetology examiners (IC 25-8-3-1).
15 (9) State board of dentistry (IC 25-14-1).
16 (10) Indiana dietitians certification board (IC 25-14.5-2-1).
17 (11) State board of registration for professional engineers

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- 1 (IC 25-31-1-3).
- 2 (12) Board of environmental health specialists (IC 25-32-1).
- 3 (13) State board of funeral and cemetery service (IC 25-15-9).
- 4 (14) Indiana state board of health facility administrators
- 5 (IC 25-19-1).
- 6 (15) Committee ~~on~~ of hearing aid dealer examiners
- 7 (IC 25-20-1-1.5).
- 8 (16) Home inspectors licensing board (IC 25-20.2-3-1).
- 9 (17) Indiana hypnotist committee (IC 25-20.5-1-7).
- 10 (18) State board of registration for land surveyors
- 11 (IC 25-21.5-2-1).
- 12 (19) Manufactured home installer licensing board (IC 25-23.7).
- 13 (20) Medical licensing board of Indiana (IC 25-22.5-2).
- 14 (21) Indiana state board of nursing (IC 25-23-1).
- 15 (22) Occupational therapy committee (IC 25-23.5).
- 16 (23) Indiana optometry board (IC 25-24).
- 17 (24) Indiana board of pharmacy (IC 25-26).
- 18 (25) Indiana physical therapy committee (IC 25-27).
- 19 (26) Physician assistant committee (IC 25-27.5).
- 20 (27) Indiana plumbing commission (IC 25-28.5-1-3).
- 21 (28) Board of podiatric medicine (IC 25-29-2-1).
- 22 (29) Private ~~detectives~~ investigator and security guard licensing
- 23 board (~~IC 25-30-1-5.1~~) (IC 25-30-1-5.2).
- 24 (30) State psychology board (IC 25-33).
- 25 (31) Indiana real estate commission (IC 25-34.1-2).
- 26 (32) Real estate appraiser licensure and certification board
- 27 (IC 25-34.1-8).
- 28 (33) Respiratory care committee (IC 25-34.5).
- 29 (34) Social worker, marriage and family therapist, and mental
- 30 health counselor board (IC 25-23.6).
- 31 (35) Speech-language pathology and audiology board
- 32 (IC 25-35.6-2).
- 33 (36) Indiana board of veterinary medical examiners (~~IC 25-5-1-1~~);
- 34 **(IC 25-38.1).**
- 35 **(37) State board of behavior analysts (IC 25-41-2-1).**
- 36 (b) This section does not apply to a license, certificate, or
- 37 registration that has been revoked or suspended.
- 38 (c) Notwithstanding any other law regarding the reinstatement of a
- 39 delinquent or lapsed license, certificate, or registration *and except as*
- 40 *provided in section 8 of this chapter*, the holder of a license, certificate,
- 41 or registration that was issued by the board that is three (3) years or less
- 42 delinquent must be reinstated upon meeting the following

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requirements:

- (1) Submission of the holder's completed renewal application.
- (2) Payment of the current renewal fee established by the board under section 2 of this chapter.
- (3) Payment of a reinstatement fee established by the Indiana professional licensing agency.
- (4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; *for the current renewal period: or*

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration *and except as provided in section 8 of this chapter*, unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

- (1) Submission of the holder's completed renewal application.
- (2) Payment of the current renewal fee established by the board under section 2 of this chapter.
- (3) Payment of a reinstatement fee equal to the current initial application fee.
- (4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; *for the current renewal period: or*

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

- (5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.
- (6) Any other requirement that is provided for in statute or rule that is not related to fees.

SECTION 2. IC 25-41 IS ADDED TO THE INDIANA CODE AS

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1 A NEW ARTICLE TO READ AS FOLLOW [EFFECTIVE JULY 1,
2 2008]:

3 **ARTICLE 41. BEHAVIOR ANALYSTS**

4 **Chapter 1. Definitions**

5 **Sec. 1. The definitions in this chapter apply throughout this**
6 **article.**

7 **Sec. 2. "Behavior analysis" means the design, implementation,**
8 **and evaluation of instructional and environmental modifications**
9 **to produce socially significant improvements in human behavior**
10 **through skill acquisition and the reduction of problematic**
11 **behavior.**

12 **Sec. 3. "Behavior analyst" means an individual who by training**
13 **and experience meets:**

- 14 (1) the requirements for certification under this article; or
- 15 (2) the requirements of the national Behavior Analyst
- 16 Certification Board and has passed the examination and
- 17 received certification as a board certified behavior analyst.

18 **Sec. 4. "Board" means the state board of behavior analysts**
19 **established by IC 25-41-2-1.**

20 **Chapter 2. State Board of Behavior Analysts**

21 **Sec. 1. The state board of behavior analysts is established.**

22 **Sec. 2. (a) The board consists of five (5) members appointed by**
23 **the governor as follows:**

- 24 (1) Two (2) behavior analysts, each of whom:
- 25 (A) is certified under this article; and
- 26 (B) has been actively practicing behavior analysis for at
- 27 least three (3) of the five (5) years immediately preceding
- 28 the individual's appointment.
- 29 (2) Two (2) consumer members of the general public.
- 30 (3) One (1) physician licensed under IC 25-22.5 who is
- 31 certified by the medical licensing board of Indiana in
- 32 psychiatry, neurology, or developmental pediatrics and has
- 33 experience in the treatment of developmental disabilities.

34 (b) Not more than three (3) members of the board may be
35 members of the same political party.

36 **Sec. 3. Each member of the board shall serve a term of three (3)**
37 **years and until the member's successor is appointed and qualified.**

38 **Sec. 4. (a) A vacancy in the membership of the board shall be**
39 **filled by an individual appointed by the governor for the unexpired**
40 **term.**

41 (b) A member may not serve more than two (2) consecutive
42 terms, in addition to any unexpired term to which the individual

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1 was appointed. A member may serve until a successor has been
2 appointed and qualified under this chapter.

3 (c) A member of the board may be removed for cause by the
4 governor.

5 Sec. 5. (a) Each year the board shall elect from its members the
6 following officers:

7 (1) A chairperson.

8 (2) A vice chairperson.

9 (b) A member serving as chairperson or vice chairperson shall
10 serve until the member's successor as chairperson or vice
11 chairperson is elected.

12 Sec. 6. The board shall meet at least one (1) time each calendar
13 year upon the call of the chairperson or the written request of a
14 majority of the members of the board and with the advice and
15 consent of the executive director of the professional licensing
16 agency.

17 Sec. 7. (a) Three (3) members of the board constitute a quorum.

18 (b) An affirmative vote of three (3) members of the board is
19 necessary for the board to take official action.

20 Sec. 8. A member of the board is not entitled to a per diem
21 allowance or any other compensation for the performance of the
22 member's duties.

23 Sec. 9. The board shall adopt rules under IC 4-22-2 regarding
24 standards for the competent practice of behavior analysis.

25 Chapter 3. Powers and Duties of the Board

26 Sec. 1. (a) The board shall do the following:

27 (1) Administer and enforce this article.

28 (2) Adopt rules under IC 4-22-2 for the administration and
29 enforcement of this article that include establishing a
30 certification process for behavior analysts in order to ensure
31 that only qualified employees and service providers provide
32 behavioral analysis services to clients.

33 (3) Adopt rules and procedures under IC 4-22-2 that establish
34 the following:

35 (A) Scope of practice.

36 (B) Qualifications for certification, including training and
37 testing requirements if applicable.

38 (C) Continuing education requirements for ongoing
39 certification.

40 (D) Standards of performance.

41 (4) Issue, deny, or renew certifications under this article.

42 (5) Subject to IC 4-21.5, IC 25-1-7, and IC 25-1-11, discipline,

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1 for violations of this article, individuals who are certified
2 under this article.

3 (6) Establish reasonable fees for examination, certification
4 applications, renewal of certifications, and other services.

5 (7) Maintain a record of all proceedings.

6 (8) Maintain records of certified behavior analysts.

7 (9) Adopt at least one (1) examination that an applicant may
8 use for certification under this article.

9 (b) The procedures adopted under this section must include
10 decertification procedures that may be used to determine whether
11 an individual continues to meet the qualifications for certification
12 or the professional performance standards and, if not, to decertify
13 an employee or a service provider.

14 Sec. 2. The board may do the following:

15 (1) Conduct administrative hearings.

16 (2) Administer oaths in matters relating to the discharge of
17 the official duties of the board.

18 Chapter 4. Certification

19 Sec. 1. After December 31, 2008, an individual may not practice
20 or offer to practice behavior analysis without a certification issued
21 by the board.

22 Sec. 2. (a) To be certified as a behavior analyst, a person must:

23 (1) meet the standards established by the board; and

24 (2) pay the fee established by the commission.

25 (b) An application for a behavior analyst certification must be:

26 (1) made to the board in the form and manner provided by
27 the board; and

28 (2) accompanied by an application fee in the amount set by
29 the board.

30 Sec. 3. The board shall certify an applicant if:

31 (1) the applicant, within the five (5) years immediately
32 preceding the submission of the application to the board
33 under this chapter, has been credentialed by another state
34 that has credentialing standards for behavior analysts that
35 are substantially equivalent to the credentialing standards
36 established by the board; or

37 (2) the applicant:

38 (A) holds a current certification from the Behavior Analyst
39 Certification Board, Inc. (BACB); and

40 (B) is a current member of a professional behavior analyst
41 association;

42 and the applicant meets other requirements established by the

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board.

Sec. 4. The board may recognize the certification of behavior analysts awarded by a nonprofit corporation that adheres to the national standards of boards:

- (1) that determine professional credentials; and**
- (2) whose mission is to meet professional credentialing needs identified by behavior analysts, state governments, and consumers of behavior analysis services.**

The certification procedures recognized by the board must undergo regular psychometric review and validation under a job analysis survey of the profession and standards established by content experts in the field.

Sec. 5. (a) The board may grant certification by endorsement to an individual who:

- (1) is licensed, certified, or registered in another state or country having credentialing standards that are at least as strict as the credentialing standards adopted by the board;**
- (2) is in good standing with the standards of the other state or country;**
- (3) pays an application fee established by the board; and**
- (4) provides a history of the individual's criminal convictions, if any, including any criminal convictions relating to the practice of the profession.**

(b) An applicant for a certification by endorsement shall cause each state that previously credentialed the applicant to provide the board with the applicant's current status in the state.

Section. 6. The board shall deny an application for certification if the applicant:

- (1) has been convicted of:**
 - (A) prostitution;**
 - (B) rape; or**
 - (C) sexual misconduct; or**
- (2) is a registered sex offender.**

Sec. 7. An individual may not profess to be a board certified:

- (1) behavior analyst; or**
- (2) associate behavior analyst;**

unless the individual holds and maintains, respectively, the certified behavior analyst or certified associate behavior analyst credentials administered by the Behavior Analyst Certification Board, Inc. (BACB).

Chapter 5. Certification Renewal

Sec. 1. A certification issued by the board is valid for two (2)

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1 years. A certification expires at midnight on the date established by
2 the licensing agency under IC 25-1-6-4 and every two (2) years
3 thereafter, unless renewed before that date.

4 **Sec. 2. An individual who applies to renew a certification as a
5 behavior analyst must:**

6 (1) apply for renewal in the manner required by the board;
7 and

8 (2) pay a renewal fee established by the board.

9 **Sec. 3. If a renewal application is not submitted within the time
10 specified in section 1 of this chapter, the board shall charge the
11 applicant a reinstatement fee in an amount established under
12 IC 25-1-8-6.**

13 **Chapter 6. Discipline and Violations**

14 **Sec. 1. (a) This section does not apply to the violation of a rule
15 adopted by the board.**

16 (b) A person who knowingly violates or causes a violation of this
17 article commits a Class C infraction.

18 **Sec. 2. The board shall follow the disciplinary procedures
19 established under IC 25-1-7 and IC 25-1-11.**

20 **Sec. 3. If an individual certified under this article is convicted of
21 a crime, the individual shall notify the board of the conviction not
22 later than thirty (30) days after the conviction.**

23 **SECTION 3. [EFFECTIVE JULY 1, 2008] (a) Notwithstanding
24 IC 25-41, as added by this act, the state board of behavior analysts
25 established by IC 25-41-2-1, as added by this act, may issue a
26 certification before July 1, 2009, to an applicant who practiced
27 behavior analysis in Indiana before July 1, 2008, if the applicant
28 meets one (1) of the following conditions:**

29 (1) Provides the board with evidence of the following:

30 (A) Current certification from the Behavior Analyst
31 Certification Board, Inc. (BACB).

32 (B) Membership in a professional behavior analyst
33 association.

34 (2) Provides proof of licensure, certification, or registration in
35 another state or country having credentialing standards that
36 are at least as strict as the credentialing standards adopted by
37 the board.

38 (b) This SECTION expires July 1, 2009.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1288, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

SUMMERS, Chair

Committee Vote: yeas 10, nays 0.

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