

Georgia Occupational Regulation
Review Council

House Bill 412, LC 33 8468
Applied Behavior Analyst
Licensure Act

A Review of the Proposed Legislation

AUGUST 2021

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Executive Summary

As provided in O.C.G.A. §43-1A, the Georgia Occupational Regulation Review Council (Council) reviews all bills proposing licensure of a profession or business referred to by the chairperson of the legislative committee of reference. Accordingly, the Council, at the request of the chairperson of the House Regulated Industries Committee, has reviewed House Bill 412, which proposes extending licensure to individuals practicing applied behavior analysis and to create the Georgia Behavior Analyst Licensing Board.

During the course of this review, Council staff obtained information from the applicant group – the Georgia Association for Behavior Analysis (GABA) – the Georgia Occupational Therapy Association (GOTA), the Georgia Academy of Audiology (GAA), the Georgia Speech-Language-Hearing Association (GSHA), the Georgia Psychological Association (GPA), Children’s Healthcare of Atlanta (CHOA), and the Office of the Secretary of State (SOS), while also conducting internal research.

O.C.G.A. §43-1A-6 requires the Council to consider certain criteria when determining the need for the regulation of a business or profession. For this review, the Council used these criteria to guide the development of findings related to the licensure of occupational therapists. The Council, with assistance from staff, developed the following findings during this review:

❖ **The unregulated practice of applied behavior analysis may harm or endanger the health, safety, and welfare of citizens of this state.**

With approximately 1,112 license-eligible individuals practicing applied behavior analysis in Georgia, citizens of this state may be harmed by the practice in an unregulated environment and the lack of consumer protections in place.

❖ **The practice of applied behavior analysis requires specialized skill or training.**

Behavior analysts and assistant behavior analysts must meet certain education requirements and attain certain degrees, undergo supervised training, and pass an exam to achieve certification by the Behavioral Analyst Certification Board, Inc., thereby meeting licensure requirements laid out in HB 412.

❖ **The citizens of this state will be best protected by state regulation of behavior analysts.**

Citizens of Georgia will be best protected from malpractice by regulating behavior analysts practicing in this state.

❖ **There are no means other than state regulation to protect the interests of the state.**

State regulation of behavior analysis is the only way to protect the interests of those receiving treatment in this state.

Based on these findings, the Council recommends that the bill pass but recommends that the applicant group work with the legislature to address the accountability and supervision of the Behavioral Technicians.

The vote was unanimous.

Georgia Occupational Regulation Review Council Membership 2021

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Georgia House of Representatives

Senator Ben Watson

Georgia State Senate

Introduction

House Bill (HB) 412 provides for licensure of individuals practicing applied behavior analysis (ABA) and would create the Georgia Behavior Analyst Licensing Board. Applied behavior analysis is defined as the ‘design, implementation, and evaluation of systematic instructional and environmental modifications by a behavior analyst, to produce socially significant improvements in behavior’ (lines 21-23). Techniques for the practice of applied behavior analysis include functional assessments, observations of behaviors and environments, among others to influence an individual’s behaviors, and does not include psychological testing, diagnosis of a mental or physical disorder, among other techniques. The Behavior Analyst Certification Board, Inc. (BACB) is used as the principal certifying entity for eligible behavior analysts. HB 412 would align Georgia with 33 other states that currently require state licensure for the practice of behavior analysis.

This report focuses on providing information concerning the nature of the legislation and presents an assessment of the need for such in the state of Georgia.

In conducting this review, the Georgia Occupational Regulation Review Council, referred to as Council for the remainder of this report, solicited input from any interested party that wished to submit information or participate in the process. The applicant group, the Georgia Association for Behavior Analysis (GABA), submitted a questionnaire providing background information for behavior analysts and the differing standards of licensure across the country.

Council staff also performed additional analysis comparing licensure laws for behavior analysts in other states to the proposals in HB 412.

The Council provided representatives from interested parties with the opportunity to present information during Council meetings, either by verbal presentation and/or through written material. The Council posted meeting dates, times, and locations to the Office of Planning and Budget website (<https://opb.georgia.gov/georgia-occupational-regulation-review-council>).

Description of Proposed Legislation

HB 412 amends Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to provide for the licensure of individuals in the practice of applied behavior analysis; to create the Georgia Behavior Analyst Licensing Board; to provide for licensure requirements; to provide for temporary licenses; and for other purposes. The bill provides the following:

- ❖ Allows for licensure of individuals practice applied behavior analysis in this state.
- ❖ Establishes the Georgia Behavior Analyst Licensing Board and grant the board full authority to promulgate rules and regulations pertaining to licensure.
- ❖ Provides a list of exemptions for which this chapter will not apply.

A summary of the bill can be found in Appendix A. A complete copy of the bill is located in Appendix B.

Current Practices

Applied behavior analysis (ABA) is defined as the ‘design, implementation, and evaluation of systematic instructional and environmental modifications by a behavior analyst, to produce socially significant improvements in behavior’ (lines 21-23). Treatment plans may include contextual factors, antecedent stimuli, and positive reinforcement, among other factors, to help develop new behaviors or positively impact existing behaviors to a meaningful degree. The client population may include individuals with developmental, intellectual, or physical disabilities, in addition to typically developing individuals. Treatment plans are tailored to each individual patient.

HB 412 pertains solely to applied behavior analysis; other disciplines of behavior analysis include theoretical, experimental, and professional credentials, among others. Behavior analysts operate in settings such as public and private clinics, private homes, hospitals, and schools; they may work independently (as a BCBA) or with other organizations.

The BACB is utilized as the principal certifying entity in HB 412. A Board Certified Behavior Analyst® (BCBA) is a graduate-level certification for independent practitioners, a Board Certified Assistant Behavior Analyst® (BCaBA) is an undergraduate-level certification for individuals practicing ABA under supervision, and a Registered Behavior Technician™ (RBT) is a paraprofessional delivering ABA services under close supervision of a BCBA or a BCaBA. BCBAs and BCaBAs are responsible for following the ethics standards outlined by the BACB. RBTs must submit an application, undergo a 40-hour training, pass a background check, pass an annual competency test, and pass an exam in order to be registered; they are responsible for adhering to the RBT Ethics Code and RBT Task List. Supervisors of RBTs are held responsible for the actions of RBTs while delivering services and must list all supervisees on their BACB account. The applicant group states there is no other accepted alternative certifying entity to the BACB.

Georgia Medicaid has covered ABA treatments since 2018. Medicaid reimbursement would remain unchanged, rather licensure would provide assurance that services are from qualified practitioners.

According to the GABA, there are approximately 4,948 total behavior analysts practicing in Georgia. Of that total, 1,112 are license-eligible. The total breakdown is 69 Doctoral-BCBAs, 856 BCBAs, 82 BCaBAs, and 3,941 RBTs. As the bill is currently written, RBTs are not eligible for licensure.

The Issue and Potential for Harm

Vulnerable client population

The client base for ABA includes patients with autism or other developmental, intellectual, or physical disabilities, individuals with traumatic brain injuries or other behavioral conditions that may jeopardize individual safety. According to research cited by the GABA, conditions that go untreated or mistreated may result in a use of psychotropic medications, emergency room services, hospitalizations, or emotional and financial burdens on patients and families. The applicant group claims by incorporating standards and procedures established and maintained by the BACB, state licensure of BCBAAs and BCaBAs would ensure qualified treatment in Georgia.

Fiscal impact

A Fiscal Note was completed for HB 412 LC 33 8468 on March 29, 2021. The Professional Licensing Board under the SOS provided an initial estimate of \$75,000 in one-time information systems costs and \$125,000 in ongoing costs for one licensure analyst and one investigator. A license fee of \$100 would be assessed for behavior analysts and assistant behavior analysts, as well as a \$30 fee for temporary behavior analysts. Licensed behavior analysts would pay a renewal fee of \$100 every two years. License revenue is estimated at more than \$90,000 every two years. A copy of the Fiscal Note is attached in Appendix C.

It was noted, regarding discussion around expanding language in the bill to include licensure or registration of RBTs, that the Fiscal Note would be substantially impacted if RBTs are to be included. The number of estimated RBTs in the state is 3,941 compared to 1,007 Doctoral-BCBAAs, BCBAAs, and BCaBAAs.

Public Comment from Related Professions

The Council heard and compiled public comment from several related industries in the review of HB 412. All groups stated their support for the bill's passage in some form. All but one expressed concern about portions of the language of the bill, as currently drafted. Comments are listed below by each group.

Children's Healthcare of Atlanta (CHOA): CHOA supports the bill as currently written.

Georgia Academy of Audiology (GAA): GAA voiced concern over the potential for malpractice by practitioners. It is looking for clarifying scope of practice language to be included so certain aspects of audiology will not be taken advantage of, but also to take advantage of a possible situation to be reimbursed for care. GAA would like "communication assessment and treatment" to be excluded from the scope of practice of ABA, and for the professions of "audiologists and speech-language pathologists" to be added as exclusionary language.

Georgia Occupational Therapy Association (GOTA): GOTA agrees with the intent of the bill – licensure of behavior analysts – but raised issues regarding scope of practice and RBTs. It states the definition of applied behavior analysis overlaps with occupational therapy. It states RBTs are not comparable to

similar positions in Georgia in terms of education standards and training; GOTA takes issue with the lack of limit on the numbers of RBTs a supervisor may oversee at any given time. It states under the current language, the board would have no authority to discipline RBTs, and there is no way to register complaints about RBTs to the board; this may run in contention with *North Carolina Board of Dentistry v. Federal Trade Commission*. GOTA recommends the following: the board directly regulate RBTs, require RBTs to register with or be certified by the board, state the ABA supervises and is responsible for the actions of RBTs, provide for the board to know all supervisees of an ABA, establish a number of RBTs a supervisor can oversee at one time, and add Occupational Therapy to the list of professions in the exclusionary language at the end of the ABA scope of practice.

Georgia Psychological Association (GPA): GPA supports licensure but shares common concerns with other organizations. It would like the term “applied behavior analysis” to be used in all instances, as it is the most accurate subcategory of the field. GPA wants psychology terms to be indicated in the scope of practice, not just as an exclusion. It encourages the board to not delegate responsibilities for licensure to any private, third-party, or any national certifying entity. GPA requests a standing seat on the board.

Georgia Speech-Language-Hearing Association (GHSA): GHSA said the requirements of a 40-hour training and high school diploma are insufficient for RBTs. It states the bill could clarify that a complaint against a licensed ABA would be on the supervisor’s license. It is concerned that the term “behavior” is hard to define, but the scope should not include medical diagnoses. It wants to see RBTs registered with the state in some form, rather than solely with the BACB website. GHSA would like to be added to the list of professions that are excluded.

Response from the applicant group

The applicant group expressed willingness to work on language relating to the requirements and supervision of behavior technicians.

Findings

Pursuant to O.C.G.A. § 43-1A-6, the Georgia Occupational Regulation Review Council must review bills under their consideration according to the following criteria:

- ❖ Whether the unregulated practice of the occupation may harm or endanger the health, safety, and welfare of citizens of this state and whether the potential for harm is recognizable and not remote;
- ❖ Whether the practice of the occupation requires specialized skill or training and whether the public needs and will benefit by assurances of initial and continuing occupational ability;
- ❖ Whether the citizens of this state are or may be effectively protected by other means;
- ❖ Whether the overall cost effectiveness and economic impact would be positive for citizens of this state; and
- ❖ Whether there are means other than state regulation to protect the interests of the state.

Based on this set of criteria, the Council has reviewed HB 412, LC 33 8468, which would allow licensure for behavior analysts. In doing so, the Council developed the following findings:

The unregulated practice of applied behavior analysis may harm or endanger the health, safety, and welfare of citizens of this state.

With approximately 1,112 license-eligible individuals practicing applied behavior analysis in Georgia, citizens of this state may be harmed by the practice in an unregulated environment and the lack of consumer protections in place.

The practice of applied behavior analysis requires specialized skill or training.

Behavior analysts and assistant behavior analysts must meet certain education requirements and attain certain degrees, undergo supervised training, and pass an exam to achieve certification by the Behavioral Analyst Certification Board, Inc., thereby meeting licensure requirements laid out in HB 412.

The citizens of this state will be best protected by state regulation of behavior analysts.

Citizens of Georgia will be best protected from malpractice by regulating behavior analysts practicing in this state.

There are no means other than state regulation to protect the interests of the state.

State regulation of behavior analysis is the only way to protect the interests of those receiving treatment in this state.

Recommendation

The Council recommends that the bill pass but recommends that the applicant group work with the legislature to address the accountability and supervision of the Behavioral Technicians.

The vote was unanimous.

Appendix A: Summary of Proposed Legislation

Summary of HB 412

- HB 412 would amend Title 43 of the O.C.G.A. to create the Georgia Behavior Analyst Licensing Board and provide for the licensure of individuals practicing applied behavior analysis.
 - ‘Applied behavior analysis’ means the design, implementation, and evaluation of systematic instructional and environmental modifications by a behavior analyst, to produce socially significant improvements in behavior.
 - ‘Behavior technician’ means a paraprofessional who practices under the close, ongoing supervision of a licensed behavior analyst or licensed assistant behavior analyst and delivers services as assigned by such licensee but does not design assessment or intervention plans or procedures.
 - ‘Certifying entity’ means the Behavior Analyst Certification Board, Inc., or its successor, or another entity that conducts programs to certify professional practitioners of behavior analysis that are accredited by the National Commission on Certifying Agencies or the American National Standards Institute as identified by the board.
- The Georgia Behavior Analyst Licensing Board is composed of five members appointed by the Governor. Initial members will include: three (3) members who are either board certified behavior analysts or board certified behavior analysts-doctoral, one (1) board certified assistant behavior analyst, and one (1) public member who does not have a material interest in the practice of applied behavior analysis.
 - Subsequent board members will include: 3 licensed behavior analysts, 1 licensed assistant behavior analyst, and 1 public member.
- Members of the board will reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. Members will serve three-year terms, and no member will be appointed to more than two consecutive three-year terms. Vacancies for unexpired terms will be filled by the Governor.
- The board will meet at least twice annually, and three (3) members will constitute a quorum.
- The board is authorized to:
 - Adopt, amend, and repeal such rules and regulations as shall be reasonably necessary for the administration, enforcement, and implementation of the provisions and purposes of this chapter;
 - Issue, renew, and reinstate the licenses of duly qualified applicants for licensure;
 - Deny, suspend, revoke, or otherwise sanction licensees;
 - Initiate investigations for the purpose of discovering violations of this chapter;
 - Conduct hearings upon charges calling for the discipline of a licensee or on violations of this chapter;
 - Conduct national background checks by the submission of fingerprints to the Federal Bureau of Investigation through the Georgia Crime Information Center;
 - Adopt a seal; and
 - Do all other things necessary to administer and enforce this chapter and all rules and regulations adopted by the board pursuant to this chapter.

- Individuals must submit an application and relevant fees to the Board for licensure. Individuals must demonstrate good moral character, conduct professional activities in accordance with accepted professional and ethical standards, and receive satisfactory results from a fingerprint record check and criminal background check by the Georgia Crime Information Center and the FBI, as well as a background check.
 - The Board will issue and renew licenses to qualified applicants within 90 days of receiving a complete application.
 - A license shall be granted and valid for two (2) years.
 - Unlicensed individuals engaged in the practice of applied behavior analysis are subject to a \$1,000 fine for each violation.
 - Temporary licenses (no longer than 14 days) are available for Board certified behavior analysts or assistant behavior analysts residing and practicing in another state who temporarily provide applied behavior analysis services in Georgia
 - The Board may issue licenses to individuals actively licensed as a behavior analyst in another state with comparable licensure requirements.
-

Appendix B: Complete Text of House Bill 412

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to provide for the licensure of individuals in the practice of applied behavior
3 analysis; to provide legislative findings; to provide for definitions; to create the Georgia
4 Behavior Analyst Licensing Board; to provide for its membership and duties; to provide for
5 licensing requirements; to provide for penalties; to provide for statutory construction; to
6 provide for temporary licenses; to provide for reciprocity; to provide for related matters; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
11 is amended by adding a new chapter to read as follows:

12 "CHAPTER 7A

13 43-7A-1.

14 The General Assembly finds that the practice of applied behavior analysis in Georgia is
15 hereby declared to affect the public health, safety, and welfare of citizens of Georgia and
16 should be subject to regulation to protect the public from: (i) the practice of applied
17 behavior analysis by unqualified persons; and (ii) unprofessional, unethical, and harmful
18 conduct by behavior analysis practitioners.

19 43-7A-2.

20 As used in this chapter, the term:

21 (1) 'Applied behavior analysis' means the design, implementation, and evaluation of

22 systematic instructional and environmental modifications by a behavior analyst, to
23 produce socially significant improvements in behavior.

24 (2) 'Behavior technician' means a paraprofessional who practices under the close,
25 ongoing supervision of a licensed behavior analyst or licensed assistant behavior analyst
26 and delivers services as assigned by such licensee but does not design assessment or
27 intervention plans or procedures.

28 (3) 'Board' means the Georgia Behavior Analyst Licensing Board created pursuant to this
29 chapter.

30 (4) 'Board certified' means a certification issued by a certifying entity to a practitioner
31 of applied behavior analysis demonstrating that such practitioner meets specific
32 requirements.

33 (5) 'Certifying entity' means the Behavior Analyst Certification Board, Inc., or its
34 successor, or another entity that conducts programs to certify professional practitioners
35 of behavior analysis that are accredited by the National Commission on Certifying
36 Agencies or the American National Standards Institute as identified by the board.

37 (6) 'Licensed assistant behavior analyst' means an individual who is licensed pursuant
38 to this chapter to practice as an assistant behavior analyst.

39 (7) 'Licensed behavior analyst' means an individual who is licensed pursuant to this
40 chapter to practice as a behavior analyst.

41 (8) 'Practice of applied behavior analysis' means the design, implementation, and
42 evaluation of instructional and environmental modifications to produce socially
43 significant improvements in human behavior. Such term includes the empirical
44 identification of functional relations between behavior and environmental factors, known
45 as functional assessment and analysis; interventions based on scientific research and

46 direct and indirect observation and measurement of behavior and the environment; and
47 the utilization of contextual factors, motivating operations, antecedent stimuli, positive
48 reinforcement, and other consequences to help people develop new behaviors, increase
49 or decrease existing behaviors, and emit behaviors under specific environmental
50 conditions. Such term expressly excludes psychological testing, diagnosis of a mental
51 or physical disorder, psychotherapy, cognitive therapy, psychoanalysis, and counseling.
52 43-7A-3.

53 (a) The Georgia Behavior Analyst Licensing Board is hereby established. The board shall
54 be composed of five members appointed by the Governor.

55 (b)(1) The initial board members shall include:

56 (A) Three members each of whom are either a board certified behavior analyst or a
57 board certified behavior analyst-doctoral and who are eligible for licensure under this
58 chapter. Such members shall apply for licensure as soon as feasible after appointment;

59 (B) One member who is a board certified assistant behavior analyst who is eligible for
60 licensure under this chapter. Such member shall apply for licensure as soon as feasible
61 after appointment; and

62 (C) One public member who:

63 (i) Is not a licensed behavior analyst or a licensed assistant behavior analyst or the
64 spouse of such person;

65 (ii) Has never been in the practice of applied behavior analysis or the spouse of such
66 person; and

67 (iii) Does not have and has never had a material interest in the practice of applied
68 behavior analysis.

69 (2) Subsequent board members shall include:

70 (A) Three licensed behavior analysts;

71 (B) One licensed assistant behavior analyst; and

72 (C) One public member who:

73 (i) Is not a licensed behavior analyst or a licensed assistant behavior analyst or the

74 spouse of such person;

75 (ii) Has never been in the practice of applied behavior analysis or the spouse of such

76 person; and

77 (iii) Does not have and has never had a material interest in the practice of applied

78 behavior analysis.

79 (c) The membership of the board shall reflect the racial, gender, geographic, urban/rural,

80 and economic diversity of the state.

81 (d) Members shall serve three-year terms and until their successors are duly appointed and

82 qualified; provided, however, that initial terms shall be staggered so that one member

83 serves an initial term of one year, two members serve initial terms of two years, and two

84 members serve initial terms of three years, as designated by the Governor. No member

85 shall be appointed to more than two consecutive three-year terms.

86 (e) A vacancy on the board for any reason other than expiration of the term shall be filled

87 for the remainder of the unexpired term by appointment of the Governor.

88 (f) Members of the board shall receive the expense allowance as provided by

89 subsection (b) of Code Section 45-7-21 and the same mileage allowance for the use of a

90 personal car as that received by other state officials and employees or a travel allowance

91 of actual transportation cost if traveling by public carrier within this state for attendance

92 at board meetings.

93 (g) The board shall meet at least twice annually and may meet at such other times as

94 necessary, at the call of the chair or by a majority of the members, as necessary to transact
95 its business.

96 (h) Three members of the board shall constitute a quorum.

97 (i) The board shall annually elect a chairperson from among its membership and such other
98 officers as deemed necessary.

99 43-7A-4.

100 The board shall be authorized to:

101 (1) Adopt, amend, and repeal such rules and regulations as shall be reasonably necessary
102 for the administration, enforcement, and implementation of the provisions and purposes
103 of this chapter;

104 (2) Issue, renew, and reinstate the licenses of duly qualified applicants for licensure;

105 (3) Deny, suspend, revoke, or otherwise sanction licensees;

106 (4) Initiate investigations for the purpose of discovering violations of this chapter;

107 (5) Conduct hearings upon charges calling for the discipline of a licensee or on violations
108 of this chapter;

109 (6) Conduct national background checks by the submission of fingerprints to the Federal
110 Bureau of Investigation through the Georgia Crime Information Center;

111 (7) Adopt a seal; and

112 (8) Do all other things necessary to administer and enforce this chapter and all rules and
113 regulations adopted by the board pursuant to this chapter.

114 43-7A-5.

115 (a) Each person desiring to obtain a license pursuant to this chapter shall submit an
116 application and applicable fees to the board. An application shall furnish satisfactory
117 evidence demonstrating that the applicant:

118 (1) Is of good moral character;

119 (2) Conducts his or her professional activities in accordance with accepted professional

120 and ethical standards and guidelines for responsible conduct for behavior analysts

121 established by a certifying entity; and

122 (3) Has received satisfactory results from a fingerprint record check report conducted by

123 the Georgia Crime Information Center and the Federal Bureau of Investigation, as

124 determined by the board. Application for the issuance of a license under this chapter

125 shall constitute express consent and authorization for the board or its representative to

126 perform a criminal background check. Each applicant who submits an application to the

127 board for licensure agrees to provide the board with any and all information necessary to

128 run a criminal background check, including, but not limited to, classifiable sets of

129 fingerprints. Such applicant shall be responsible for all fees associated with the

130 performance of such background check.

131 (b) An applicant to be a licensed behavior analyst shall furnish satisfactory evidence

132 demonstrating that the applicant:

133 (1) Has successfully passed a behavior analyst examination conducted by a certifying

134 entity; and

135 (2) Maintains active status as a board certified behavior analyst.

136 (c) An applicant to be a licensed assistant behavior analyst shall furnish satisfactory

137 evidence demonstrating that the applicant:

138 (1) Has successfully passed an assistant behavior analyst examination conducted by a

139 certifying entity;

140 (2) Maintains active status as a board certified assistant behavior analyst; and

141 (3) Will have ongoing supervision by a licensed behavior analyst in a manner consistent

142 with the certifying entity's requirements for supervision of board certified assistant
143 behavior analysts.

144 (d) The board shall issue and renew licenses to qualified applicants no later than 90 days
145 after receipt of a complete application or renewal application.

146 43-7A-6.

147 (a) The unlicensed practice of applied behavior analysis is prohibited in this state, except
148 as otherwise provided in Code Section 43-7A-7.

149 (b) No person shall hold himself or herself out to be a licensed behavior analyst or licensed
150 assistant behavior analyst unless he or she is licensed pursuant to this chapter.

151 (c) Any person in violation of subsection (a) or (b) of this Code section shall be subject to
152 a fine of \$1,000.00 for each violation.

153 43-7A-7.

154 The provisions of this chapter shall not be construed to prohibit or restrict the practice of
155 any of the following:

156 (1) An individual licensed to practice psychology in this state, so long as the applied
157 behavior analysis services provided by the licensed psychologist are within his or her
158 education, training, and experience or an individual acting under the extended authority
159 and direction of a licensed psychologist;

160 (2) A behavior technician or a family member implementing a plan within the home,
161 who acts under the extended authority and direction of a licensed behavior analyst or a
162 licensed assistant behavior analyst; provided, however, that he or she shall not represent
163 themselves as a licensed behavior analyst or a licensed assistant behavior analyst and he
164 or she shall use titles that indicate their nonprofessional status, such as 'Registered
165 Behavior Technician,' if applicable, 'ABA technician,' 'behavior technician,' 'tutor,' or

166 'therapist';

167 (3) A behavior analyst who practices with nonhuman or nonpatient clients or consumers,
168 including, but not limited to, applied animal behaviorists and practitioners of
169 organizational behavior management. Such individuals may use the title 'behavior
170 analyst' but shall not represent themselves as licensed behavior analysts or licensed
171 assistant behavior analysts unless they are licensed pursuant to this chapter;

172 (4) A licensed professional authorized to practice in this state who is not a behavior
173 analyst, so long as the licensed professional does not represent that he or she is a licensed
174 behavior analyst or licensed assistant behavior analyst and so long as any applied
175 behavior analysis services performed are within the scope of practice of his or her
176 profession and are commensurate with the licensed professional's education, training, and
177 experience;

178 (5) A matriculated graduate student or postdoctoral fellow whose activities are part of
179 a defined behavior analysis program of study, practicum, or intensive practicum, provided
180 that such program of study, practicum, or intensive practicum is directly supervised by
181 a licensed behavior analyst or an instructor in a course sequence approved by a certifying
182 entity. Such individuals shall not represent themselves as licensed behavior analysts or
183 licensed assistant behavior analysts unless they are licensed pursuant to this chapter and
184 shall only use titles that clearly indicate their trainee status, such as 'student,' 'intern,' or
185 'trainee';

186 (6) Unlicensed individuals pursuing experience in applied behavior analysis consistent
187 with the experience requirements of a certifying entity, provided that such experience is
188 supervised in accordance with the requirements of a certifying entity and that such
189 experience is supervised by a licensed behavior analyst;

190 (7) Professionals who provide general applied behavior analysis services to
191 organizations, so long as those services are for the benefit of the organizations and do not
192 involve direct services to individuals. Such individuals may use the title 'behavior
193 analyst' but shall not represent themselves as licensed behavior analysts or licensed
194 assistant behavior analysts unless they are licensed pursuant to this chapter;

195 (8) Individuals who teach behavior analysis or conduct behavior analysis research,
196 provided that such teaching or research does not involve the direct delivery of applied
197 behavior analysis services. Such individuals may use the title 'behavior analyst' but shall
198 not represent themselves as licensed behavior analysts or licensed assistant behavior
199 analysts unless they are licensed pursuant to this chapter;

200 (9) Behavior analysts licensed in another jurisdiction or certified by the certifying entity
201 to practice independently and who work in Georgia no more than 14 days within a
202 calendar year and have received a temporary behavior analyst license pursuant to this
203 chapter;

204 (10) An individual employed by a local board of education performing the duties of their
205 positions; provided, however, that such individuals shall not represent themselves as
206 licensed behavior analysts or licensed assistant behavior analysts or offer or provide
207 applied behavior analysis services to any persons or entities other than their employing
208 local board of education or accept remuneration for providing applied behavior analysis
209 services other than the remuneration they receive from their employing local board of
210 education unless he or she is licensed pursuant to this chapter; or

211 (11) A licensed physician who is practicing medicine.

212 43-7A-8.

213 A Board Certified Behavior Analyst or Board Certified Assistant Behavior Analyst residing

214 and practicing in another state who temporarily provides applied behavior analysis services
215 in this state to a resident of this state may apply for a temporary license to practice behavior
216 analysis in this state. A temporary behavior analysis license may be issued only if the
217 behavior analysis services are to be delivered during a limited and defined period of not
218 more than 14 days within a calendar year or shorter term otherwise approved by the board.
219 43-7A-9.

220 The board shall issue a license to a person who is actively licensed as a behavior analyst
221 in good standing in another state if such state imposes comparable licensure requirements
222 as those imposed pursuant to this chapter and such state offers reciprocity to individuals
223 licensed in this state. Applicants for reciprocity shall submit proof of current licensure,
224 current certification by a certifying entity, compliance with ethical standards, and
225 satisfactory results on a criminal background check.

226 43-7A-10.

227 A license shall be granted for a period of two years. Prior to expiration of a license, the
228 license may be renewed upon submission of an application for renewal, including proof of
229 continued certification by a certifying entity and payment of the renewal fee imposed by
230 the board."

231

SECTION 2.

232 All laws and parts of laws in conflict with this Act are repealed.



DEPARTMENT OF AUDITS AND ACCOUNTS

270 Washington St., S.W.,
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Greg S. Griffin
STATE AUDITOR
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March 29, 2021

Honorable Alan Powell

Chairman, House Regulated Industries
Committee 613-B Coverdell Legislative Office
Bldg.

Atlanta, Georgia 30334

SUBJECT: Fiscal Note
House Bill 412 (LC 33 8705S)

Dear Chairman Powell:

The bill would create the Georgia Behavior Analyst Licensing Board and establish state licensing requirements for individuals practicing applied behavior analysis. Under the bill, the board would license behavior analysts and assistant behavior analysts. License applicants must pass a behavior analyst examination conducted by a certifying entity, hold a master's degree (bachelor's for assistant analyst license) related to behavior analysis, maintain board certification, and pass a fingerprint background check. Application fees would be charged for new licenses and renewals after two years. The Secretary of State would provide staff for the board.

The bill will incur one-time and annual costs related to establishing new license types in the current licensing system and hiring additional staff. The bill will likely result in revenue that would offset some portion of these costs, but the revenue is dependent on the number of license applicants and license renewals.

Impact of Expenditures

- *Information System* – The SOS will update its licensing information system to add three additional license types – behavior analyst, assistant behavior analyst, and temporary behavior analyst. The SOS estimates that the system update will result in a one-time cost of approximately \$75,000.
- *Additional Staff* – The bill will require SOS to process additional licenses and conduct additional investigations. SOS estimates this additional workload will require one additional licensure analyst and one additional investigator at a total annual cost of approximately \$125,000.

Impact on Revenue

- *License Application & Renewal Fees* – The SOS indicated that a license application fee of \$100 would be assessed for Behavior Analysts and Assistant Behavior Analysts, in addition to a \$30 license application fee for Temporary Behavior Analysts. The SOS also indicated that a renewal fee of \$100 would be assessed for Behavior Analysts and Assistant Behavior Analysts every two years. Currently more than 900 Georgians carry a Behavior Analyst or Assistant Behavior Analyst certification from the Behavior Analyst Certification Board. License revenue is estimated at more than \$90,000 every two years.

Sincerely,



Greg S.
Griffin
State
Auditor



Kelly Farr,
Director Office of
Planning and
Budget