**South Carolina General Assembly**

124th Session, 2021-2022

**H. 3731**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Erickson, Ballentine, Elliott, Bradley, Rose, Thayer, Trantham, Bennett, Caskey, Taylor, Allison, Burns, Bannister, Dillard, Herbkersman, Hixon, Kimmons, Hyde, Carter, M.M. Smith and Pope

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Companion/Similar bill(s): 630

Introduced in the House on January 27, 2021

Currently residing in the House Committee on **Medical, Military, Public and Municipal Affairs**

Summary: Counselors, therapists and psychologists, licensing

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/27/2021 House Introduced and read first time ([House Journal‑page 15](file:///h:\hj\20210127.docx))

1/27/2021 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 15](file:///h:\hj\20210127.docx))

2/11/2021 House Member(s) request name added as sponsor: Hyde

2/23/2021 House Member(s) request name added as sponsor: Carter, M.M.Smith

5/4/2021 House Member(s) request name added as sponsor: Pope

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**VERSIONS OF THIS BILL**

[1/27/2021](file:///p:\pprever\2021-22\3731_20210127.docx)

**A** **BILL**

TO AMEND SECTION 40‑75‑5, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, SECTION 40‑75‑10, AS AMENDED, SECTION 40‑75‑20, AS AMENDED, SECTION 40‑75‑30, AS AMENDED, SECTION 40‑75‑110, AS AMENDED, SECTION 40‑75‑190, AS AMENDED, SECTION 40‑75‑200, SECTION 40‑75‑220, AS AMENDED, SECTION 40‑75‑250, AS AMENDED, SECTION 40‑75‑260, AS AMENDED, SECTION 40‑75‑285, AS AMENDED, ALL RELATING TO THE REGULATION OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, ADDICTION COUNSELORS, AND PSYCHO‑EDUCATIONAL SPECIALISTS, SO AS TO PROVIDE FOR THE REGULATION OF BEHAVIOR ANALYSTS AND ASSISTANT BEHAVIOR ANALYSTS, AND TO MAKE MISCELLANEOUS AND CONFORMING CHANGES; TO REDESIGNATE CHAPTER 75, TITLE 40 AS “PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, BEHAVIOR ANALYSTS, AND LICENSED PSYCHO‑EDUCATIONAL SPECIALISTS”, AND TO REDESIGNATE ARTICLE 1, CHAPTER 75, TITLE 40 AS “PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, BEHAVIOR ANALYSTS, AND LICENSED PSYCHO‑EDUCATIONAL SPECIALISTS”.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑75‑5 of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

“Section 40‑75‑5. Unless otherwise provided for in this chapter, Article 1, Chapter 1, Title 40 applies to licensed professional counselors, licensed behavior analysts, licensed assistant behavior analysts, marriage and family therapists, addiction counselors, and psycho‑educational specialists regulated by the Department of Labor, Licensing and Regulation. If there is a conflict between this chapter and Article 1, Chapter 1, Title 40, the provisions of this chapter control.”

SECTION 2. Section 40‑75‑10 of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

“Section 40‑75‑10. (A) There is created the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, Behavior Analysts, and Psycho‑Educational Specialists composed of ~~eleven~~ thirteen members appointed by the Governor. Of the ~~eleven~~ thirteen members, ~~nine~~ eleven must be professional members, with representation from each congressional district in the State. Of the professional members, three must be licensed professional counselors, two must be licensed behavior analysts, two must be licensed addiction counselors, three must be marriage and family therapists, and one must be a psycho‑educational specialist. The remaining two members must be at large from the general public and must not be associated with, or financially interested in, the practice of professional counseling, marriage and family therapy, addiction counseling, behavior analysis, or psycho‑educational services.

(B) The membership must be representative of race, ethnicity, and gender. The ~~eight~~ eleven professional members must have been actively engaged in the practice of their respective professions or in the education and training of professional counselors, marriage and family therapists, addiction counselors, behavior analysts, or psycho‑educational specialists for at least five years prior to appointment. Members may be licensed as a licensed professional counselor, marriage and family therapist, addiction counselor, behavior analyst, or psycho‑educational specialist. Members are eligible for reappointment. Vacancies must be filled in the same manner as the original appointment for the unexpired portion of the term. Each member shall receive per diem, subsistence, and mileage as allowed by law for members of state boards, commissions, and committees for each day actually engaged in the duties of the office, including a reasonable number of days, as determined by board regulation, for preparation and reviewing of applications and examinations in addition to time actually spent in conducting examinations.”

SECTION 3. Section 40‑75‑20 of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

“Section 40‑75‑20. As used in this article:

(1) ‘Addiction counselor’ means a professional who practices individual, family, and group addiction counseling.

(2) ‘Alcohol and drug counseling services’ means those services offered for a fee as part of the treatment and rehabilitation of persons with a substance abuse disorder, at risk of developing a substance abuse disorder, or is negatively affected by someone with a substance abuse disorder. The purpose of alcohol and drug counseling services is to help individuals, families, and groups to address and resolve problems caused by substance abuse.

(3) ‘Approved supervisor’ means a licensee who has met the requirements for approval as a professional counselor supervisor, marriage and family therapy supervisor, or addiction counselor supervisor as provided in regulation.

(4) ‘Assessment’ in the practice of counseling and therapy means selecting, administering, scoring, and interpreting evaluative or standardized instruments; assessing, diagnosing, and treating, using standard diagnostic nomenclature, a client’s attitudes, abilities, achievements, interests, personal characteristics, disabilities, and mental, emotional, and behavioral problems that are typical of the developmental life cycle; and the use of methods and techniques for understanding human behavior in relation to, coping with, adapting to, or changing life situations. A counselor may assess more serious problems as categorized in standard diagnostic nomenclature but only if the counselor has been specifically trained to assess and treat that particular problem. If a client presents with a problem which is beyond the counselor’s training and competence, the counselor must refer that problem to a licensed professional who has been specifically trained to diagnose and treat the presenting problem. In all cases, ethical guidelines as established by the board must be followed.

(5) ‘Associate’ means an individual who has met the requirements for licensure as a professional counselor associate, marriage and family therapy associate, or addiction counselor associate under the provisions of this article and has been issued a license by the board.

(6) ‘Behavior technician’ means a paraprofessional who practices under the close, ongoing supervision of a licensed behavior analyst or licensed assistant behavior analyst following the completion of a criminal background check. A behavior technician does not design assessment or intervention plans or procedures but delivers services as assigned by the supervisor responsible for his work.

(7) ‘Board’ means the South Carolina Board of Licensed Professional Counselors, Marriage and Family Therapists, Addictions Counselors, Behavior Analysts, and Psycho‑Educational Specialists.

~~(7)~~(8) ‘Certifying entity’ means the Behavior Analyst Certification Board or its successor.

(9) ‘Client’ means a person or patient, whether an individual or a member of a group, a group, an agency or an organization, who receives ~~in an office setting~~ any treatment or service that falls within the scope of practice of a licensed professional counselor, marriage and family therapist, addiction counselor, behavior analyst, or psycho‑educational specialist.

~~(8)~~(10) ‘Consulting’ means the application of scientific principles and procedures in counseling and human development to provide assistance in understanding and solving current or potential problems that the client may have in relation to a third party, individuals, groups, and organizations.

~~(9)~~(11) ‘Director’ means the Director of the Department of Labor, Licensing and Regulation.

~~(10)~~(12) ‘Federally assisted program’ means a program directly funded by the federal government, operated by the federal government, certified for Medicaid reimbursement, receiving federal block grant funds through a state or local government, licensed by the federal government, or exempt from paying taxes under a provision of the federal Internal Revenue Code.

~~(11)~~(13) ‘License’ means an authorization to practice counseling, marriage and family therapy, or behavior analysis, issued by the board pursuant to this article and includes an authorization to practice as a professional counselor associate, marriage and family therapy associate, behavior analyst, behavior analyst assistant, or addiction counselor associate.

~~(12)~~(14) ‘Licensee’ means an individual who has met the requirements for licensure under this article and has been issued a license to practice as a professional counselor or professional counselor associate, marriage and family therapist or marriage and family therapy associate, behavior analyst, behavior analyst assistant, or addiction counselor associate.

(15) ‘Licensed assistant behavior analyst’ means an individual who is certified by the certifying entity as a board‑certified assistant behavior analyst and is licensed in this State to practice behavior analysis under the extended authority and supervision of a licensed behavior analyst who is approved as a supervisor by the certifying entity.

(16) ‘Licensed behavior analyst’ means an individual who is certified by the certifying entity as a board‑certified behavior analyst or board‑certified behavior analyst‑doctoral and is licensed in this State to practice behavior analysis independently.

~~(13)~~(17) ‘Licensed professional counselor’ means an individual who practices professional counseling.

~~(14)~~(18) ‘Marriage and family therapy’ means the assessment and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems. Marriage and family therapy involves the application of psycho‑therapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating diagnosed emotional, mental, behavioral, or addictive disorders.

~~(15)~~(19) ‘Person’ means an individual, organization, or corporation, except that only individuals can be licensed under this article.

(20) ‘Practice of behavior analysis’ means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. The practice of behavior analysis includes 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. Behavior analysts uses 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 diagnosis of disorders, psychological testing, psychotherapy, cognitive therapy, psychoanalysis, or counseling.

~~(16)~~(21) ‘Practice of marriage and family therapy’ means the rendering of marriage and family therapy services to individuals, couples, and families, singly or in groups, whether these services are offered directly to the general public or through organizations, either public or private.

~~(17)~~(22) ‘Practice of professional counseling’ means functioning as a psycho‑therapist and may include, but is not limited to, providing individual therapy, family counseling, group therapy, marital counseling, play therapy, couples counseling, substance abuse counseling, vocational counseling, school counseling, rehabilitation counseling, intervention, human growth and development counseling, behavioral modification counseling, and hypnotherapy. The practice of professional counseling may include assessment, crisis intervention, guidance and counseling to facilitate normal growth and development, including educational and career development; utilization of functional assessment and counseling for persons requesting assistance in adjustment to a disability or handicapping condition; and consultation and research. The use of specific methods, techniques, or modalities within the practice of licensed professional counseling is restricted to professional counselors appropriately trained in the use of these methods, techniques, or modalities.

~~(18)~~(23) ‘Practice of addiction counseling’ means providing professional services that are delivered by a licensed addiction professional, designed to change substance use or addictive behavior, and involve specialized knowledge and skill related to addictions and addictive behaviors, including understanding addiction, knowledge of the treatment process, application to practice and professional readiness. The term includes:

(a) gathering information through structured interview screens using routine protocols;

(b) reviewing assessment findings to assist in the development of a plan individualized for treatment services and to coordinate services;

(c) referring for further assessment, diagnosis, evaluation and mental health therapy;

(d) providing client and family education related to addictions;

(e) providing information on social networks and community systems for referrals and discharge planning;

(f) participating in multidisciplinary treatment team meetings or consulting with clinical addiction professionals;

(g) counseling, through individual and group counseling, as well as group and family education, to treat addiction and substance use disorders in a variety of settings; and

(h) maintaining the highest level of professionalism and ethical responsibility.

~~(19)~~(24) ‘Referral’ means evaluating and identifying needs of a client to determine the advisability of referral to other specialists, informing the client of this determination, and communicating as requested or considered appropriate with these referral sources.

~~(20)~~(25) ‘Supervision’ means the supervision of clinical services in accordance with standards established by the board under the supervision of an approved supervisor.”

SECTION 4. Section 40‑75‑30 of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

“Section 40‑75‑30. (A) It is unlawful for a person to practice as a professional counselor, a marriage and family therapist, a behavior analyst, assistant behavior analyst, or an addiction counselor in this State without being licensed in accordance with this article unless exempt pursuant to Section 40‑75‑285. A professional counselor associate may practice only under the direct supervision of a licensed professional counselor supervisor. A marriage and family therapy associate may practice only under the direct supervision of a licensed marriage and family therapist supervisor, as approved by the board. A licensed assistant behavior analyst only may work under the direct supervision of a licensed behavior analyst who is approved as a supervisor by the certifying entity. An addiction counselor associate only may work under a licensed addiction counselor supervisor or other approved board‑licensed clinician as provided in regulation.

(B) A person is guilty of practicing without a license if the person represents himself or herself to be a marriage and family therapist by the use of any title or description of services which incorporates the words ‘licensed marital and family therapist’, ‘licensed marriage and family therapist’, ‘marital and family therapist’, ‘marriage and family therapist’, or ‘marriage and family counselor’ to describe a function or service performed without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their profession are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(C) A person is guilty of practicing without a license if the person represents himself or herself to be a professional counselor by the use of any title or description of services which incorporates the words ‘licensed professional counselor’, ‘professional counselor’, or ‘licensed counselor’ without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their professions are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(D) A person is guilty of practicing without a license if the person represents himself to be an addiction counselor by the use of any title or description of services which incorporates the words ‘licensed addiction counselor’ or ‘addiction counselor’ without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their professions are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(E) A person is guilty of practicing without a license if he represents himself to be a behavior analyst by the use of any title or description of services that incorporates the words ‘licensed behavior analyst’ or ‘licensed assistant behavior analyst’ without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their professions are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(F) A licensed professional counselor, a licensed marital and family therapist, a licensed behavior analyst, a licensed assistant behavior analyst, or a licensed addiction counselor may not use the title of ‘psycho‑therapist’.”

SECTION 5. Section 40‑75‑110(A) of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

“(A) The board may revoke, suspend, publicly or privately reprimand, or restrict a licensee or otherwise discipline a licensee when it is established to the satisfaction of the board that a licensee has:

(1) uttered a false or fraudulent statement or forged a statement or document or committed or practiced a fraudulent, deceitful, or dishonest act in connection with license requirements;

(2) been convicted of a felony or other crime involving moral turpitude. Forfeiture of a bond or a plea of nolo contendere is the equivalent of a conviction;

(3) violated a regulation, directive, or order of the board;

(4) knowingly performed an act which substantially assists a person to practice counseling, marriage and family therapy, behavior analysis, or addiction counseling illegally;

(5) caused to be published or circulated directly or indirectly fraudulent, false, or misleading statements as to the skills or methods or practice of a license holder when malice is shown;

(6) failed to provide and maintain reasonable sanitary facilities;

(7) sustained physical or mental impairment or disability which renders practice dangerous to the public;

(8) violated the code of ethics adopted by the board in regulations;

(9) obtained fees or assisted in obtaining fees under deceptive, false, or fraudulent circumstances;

(10) used an intentionally false or fraudulent statement in a document connected with the practice of professional counseling, marriage and family therapy, behavior analysis, or addiction counseling;

(11) been found by the board to lack the professional competence to practice;

(12) practiced during the time his license has lapsed or been suspended or revoked;

(13) practiced the profession or occupation while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice his profession or occupation.”

SECTION 6. Section 40‑75‑190(B) of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

“(B) All communications between clients and their licensed professional counselor, marriage and family therapist, licensed behavior analyst, licensed assistant behavior analyst, or addiction counselor are considered privileged as provided in Section 19‑11‑95, protecting confidences between patients of mental illness or emotional condition and licensees under this chapter, and as provided in Section 19‑11‑100, providing limited protection for persons engaged in the gathering of information for journalistic or literary purposes. Additionally, a licensed professional counselor, a licensed marital and family therapist, a licensed behavior analyst, a licensed assistant behavior analyst, or addiction counselor must maintain privileged communications and patient confidentiality as required of psycho‑therapists. All records of treatments maintained by a licensed professional counselor, marriage and family therapist, a licensed behavior analyst, a licensed assistant behavior analyst, or an addiction counselor are confidential and must not be disclosed except under the circumstances provided for in this subsection.”

SECTION 7. Section 40‑75‑200(A) of the 1976 Code is amended to read:

“(A) A person who practices or offers to practice as a counselor, behavior analyst, assistant behavior analyst, or marriage and family therapist in this State in violation of this chapter or a regulation promulgated under this chapter or who knowingly submits false information to the board for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than six months, or both.”

SECTION 8. Section 40‑75‑220 of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

“Section 40‑75‑220. To be licensed by the board as a professional counselor, marriage and family therapist, behavior analyst, assistant behavior analyst, or addiction counselor, an individual must:

(1) pay the appropriate fees and pass an examination approved by the board;

(2) complete forms prescribed by the board; and

(3) complete the following educational requirements:

(a) for licensed professional counselor or marriage and family therapist, successfully complete a minimum of a master’s degree or higher degree program and have been awarded a graduate degree as provided in regulation, provided all course work, including any additional core coursework, must be taken at a college or university accredited by a national educational accrediting body, or one that follows similar educational standards and by the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, or a post‑degree program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, or a regionally accredited institution of higher learning subsequent to receiving the graduate degree; ~~or~~

(b) for licensed addiction counselor, successfully complete a minimum of a master’s degree or higher degree program and have been awarded a graduate degree as provided in regulation, provided all course work, including any additional core coursework, must be taken at a college or university accredited by a national educational accrediting body, or one that follows similar standards and the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, the National Addiction Studies Accreditation Commission, other board‑approved educational institution, or a regionally accredited institution of higher learning; or

(c) for licensed behavior analyst or licensed assistant behavior analyst, have current certification at the appropriate level verified with the certifying entity by the board and complete a criminal background check pursuant to regulation of the board. The cost of the criminal background check must be paid by the applicant. An applicant shall submit to the board two complete sets of fingerprints and a form, sworn to by the applicant, containing his name, date of birth, and Social Security number for completion of the criminal background check. The board shall submit the fingerprints and form to the State Law Enforcement Division to determine any state criminal history, a fingerprint‑based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23‑3‑430. The board shall keep information received pursuant to this section confidential, except that any information received and relied upon in denying the issuance of a license in this State may be disclosed if necessary to support the denial. Behavior technicians also must complete a criminal background check consistent with this subsection.”

SECTION 9. Section 40‑75‑250(A) of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

“(A) If an applicant satisfies all licensure requirements as provided for in this article, the board may issue a license to the applicant. A license is a personal right and not transferable, and the issuance of a license is evidence that the person is entitled to all rights and privileges of a licensed professional counselor, a marriage and family therapist, a licensed behavior analyst, licensed assistant behavior analyst, an addiction counselor, or of an associate, while the license remains current and unrestricted. However, the license is the property of the State and upon suspension or revocation immediately must be returned to the board.”

SECTION 10. Section 40‑75‑260 of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

“Section 40‑75‑260. (A) The board may enter into a reciprocal agreement with a state that credentials professional counselors, marriage and family therapists, behavior analysts, assistant behavior analysts, or addiction counselors if the board finds that the state has substantially the same or higher licensure requirements.

(B)(1) The board may license an individual who is currently credentialed or meets the requirements of a licensed professional counselor, licensed marriage and family therapist, licensed behavior analysts, licensed assistant behavior analyst, or addiction counselor in another jurisdiction of the United States if the individual has met the standards defined in regulation.

(2) The board shall delineate in regulation procedures for verifying an applicant’s credentials from another jurisdiction.

(3) The board may not license an applicant who is under investigation in this or another jurisdiction for an act that would constitute a violation of this chapter until the investigation is complete. When deciding a case, the board shall determine what, if any, rules or discipline apply.

(C) The board may grant a license to practice professional counseling, marriage and family therapy, behavior analysis, or addiction counseling to an applicant who has completed an educational program in a college or university in a foreign country if the applicant:

(1) meets all requirements of this article; ~~and~~

(2) complete a criminal background check pursuant to Section 40‑75‑220(4); and

(3) demonstrates to the satisfaction of the board that the applicant’s experience, command of the English language, and completed academic program meet the standards of a relevant academic program of an accredited educational institution within the United States. If the requirements of this item are met, the applicant must be considered to have received the education from an accredited educational institution as required by this article.”

SECTION 11. Section 40‑75‑285 of the 1976 Code, as last amended by Act 249 of 2018, is further amended to read:

“Section 40‑75‑285. (A) This article is for the regulation of the practice of licensed professional counselors, marriage and family therapists, licensed behavior analysts, licensed assistant behavior analyst, and addiction counselors only and does not prevent human resource professionals, business consultants, and other persons from providing advice and counseling in their organizations or affiliated groups or to their companies and employees of their companies or from engaging in activities performed in the course of their employment.

(B) The following are exempt from licensure as behavior analysts or assistant behavior analysts:

(1) Behavior technicians who deliver applied behavior analysis services under the extended authority and direction of a licensed behavior analyst or a licensed assistant behavior analyst who is responsible for seeing that each technician they supervise completes a criminal background check. Behavior technicians must not represent themselves as professional behavior analysts, and must use titles that indicate their nonprofessional status, such as ‘ABA technician’, ‘behavior technician’, or ‘tutor’.

(2) Caregivers of recipients of applied behavior analysis services who deliver those services to the recipients under the extended authority and direction of a licensed behavior analyst or a licensed assistant behavior analyst. Such individuals may not represent themselves as professional behavior analysts.

(3) Behavior analysts who practice with nonhumans, including applied animal behaviorists and animal trainers. Such individuals may use the title ‘behavior analyst’ but may not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless licensed under this chapter.

(4) Professionals who provide general applied behavior analysis services to organizations, so long as those services are for the benefit of the organizations and do not involve direct services to individual clients. Such professionals may use the title ‘behavior analyst’ but may not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless licensed under this chapter.

(5) Matriculated college or university students or postdoctoral fellows whose applied behavior analysis activities are part of a defined program of study, course, practicum, internship, or fellowship and are directly supervised by a licensed behavior analyst in this jurisdiction or a qualified faculty member. Such individuals must not represent themselves as professional behavior analysts and must use titles that clearly indicate their trainee status, such as ‘student,’ ‘intern,’ or ‘trainee.’

(6) Unlicensed individuals pursuing experience in applied behavior analysis consistent with the experience requirements of the certifying entity, provided such experience be supervised in accordance with the requirements of the certifying entity.

(7) Individuals who teach behavior analysis or conduct behavior‑analytic research, if such activities do not involve the direct delivery of applied behavior analysis services beyond the typical parameters of applied research. Such individuals may use the title ‘behavior analyst’ but may not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless licensed under this chapter.

(8) Individuals employed by a school board performing the duties of their positions. Such individuals may not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless licensed under this chapter, and may not offer applied behavior analysis services to any persons or entities other than their school employer or accept remuneration for providing applied behavior analysis services other than the remuneration they receive from their school employer.

(9) Unlicensed individuals who were approved as behavior support providers or as qualified providers of behavior analysis services by the Department of Health and Human Services (DHHS) prior to December 31, 2021, and only until December 31, 2026. Such individuals must not design, oversee, or provide applied behavior analysis services outside of their contracts with DHHS and must not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless licensed under this chapter. All such individuals must obtain a license under the terms of this chapter by December 31, 2026. This exemption includes any future derivative iterations of DHHS titles used for behavior support services or intensive behavioral interventions. The provisions of this item expire six years after the effective date of this act.”

SECTION 12. A. Chapter 75, Title 40 of the 1976 Code is redesignated “Professional Counselors, Marriage and Family Therapists, Behavior Analysts, and Licensed Psycho‑educational Specialists”.

B. Article 1, Chapter 75, Title 40 of the 1976 Code is redesignated “Professional Counselors, Marriage and Family Therapists, and Behavior Analysts and Licensed Psycho‑Educational Specialists”.

SECTION 13. This act takes effect six months after approval by the Governor.

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