

**ONE HUNDRED EIGHTH LEGISLATURE - FIRST SESSION - 2023**  
**COMMITTEE STATEMENT (CORRECTED)**  
**LB123**

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**Hearing Date:** Thursday January 26, 2023  
**Committee On:** Health and Human Services  
**Introducer:** Fredrickson  
**One Liner:** Adopt the Behavior Analyst Practice Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File

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**Vote Results:**

**Aye:** 7 Senators Hansen, B., Hardin, Ballard, Day, Riepe, Walz, Cavanaugh, M.  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Testimony:**

**Proponents:**

Senator John Fredrickson  
Desiree Dawson  
Mark Shriver  
Bethany Hansen  
Andrea Clements  
Alex Cordry\*

**Representing:**

Introducer  
Self  
Self  
Self  
NEABA Public Policy  
Self

**Opponents:**

**Representing:**

**Neutral:**

Melissa Kimmerling  
Vicky McHugh

**Representing:**

Nebraska OT Association  
American Physical Therapy Association-Nebraska Chapter

\* ADA Accommodation Written Testimony

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**Summary of purpose and/or changes:**

LB 123 requires behavior analysts to obtain a credential under the Uniform Credentialing Act (UCA). The Board of Behavior Analysts is added to the statutory list of medical boards and duties. Credentialing exceptions are provided for certain health professionals working in this field of practice. Criminal background checks are required for this profession.  
Sec. 1: Citation for Behavior Analyst Practice Act  
Sec. 2: Application of new definitions  
Sec. 3: Defines assistant behavior analyst as an individual approved by the certifying entity as a board-certified assistant behavior analyst and practices under the close, ongoing supervision of a licensed behavior analyst.

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Sec. 4: Defines behavior technician as a paraprofessional who practices under the close, ongoing supervision of a licensed behavior analyst.

Sec 5: Defines Board as Board of Behavior Analysts

Sec 6: Defines certifying entity as the Behavior Analyst Certification Board or another entity designated by the Board of Behavior Analysts or another entity designated by the Board of Analysts which has programs to credential practitioners of applied behavior analysis that are accredited by the National Commission on Certifying Agencies or the American National Standards Institute as determined by the Board of Analysts.

Sec. 7: Defines behavior analyst as an individual who meets this bill's requirements and is issued a license under this Act.

Sec. 8: Defines practice of applied behavior analysis (ABA) as the design, implementation, and Evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. The practice of applied behavior analysts includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis. Interventions are defined. Diagnosis of disorders, psychological testing, psychotherapy, cognitive therapy, psychoanalysis, and counseling are excluded.

Sec. 9: This Act does not prohibit the following practices if licensing and scope requirements are met and the professional represents the appropriate title of their profession. These practices consist of a licensed psychologist in Nebraska; any person who delivers psychological services under the supervision of a psychologist; a board-certified assistant behavior analyst, a behavior technician; a caregiver of a recipient of these services; a behavior analyst who practices with animals; a professional who provides general ABA services to organizations; a college student or postdoctoral fellow whose ABA activity is part of a program of study and is supervised by a licensed applied behavior analyst; an unlicensed individual pursuing experience in ABA; an individual who teaches behavior analysis or conducts research; and an individual employed by a school district performing the duties for which employed.

Sec. 10: Beginning one year after the effective date of this act, each applicant for licensure is required to submit an application. The board shall adopt rules and regulations to specific minimum standards and may include certification as a board-certified behavior analyst or a board-certified behavior analyst-doctoral as part of the minimum standards.

Sec. 11: A behavior analyst who is licensed in another jurisdiction, certified to practice independently may apply for a temporary license. An applicant for a temporary license shall submit evidence that the practice is temporary. DHHS shall issue a temporary license only if it verifies the applicant's licensure or certification status with the relevant entity. An applicant who is a military spouse may apply for a temporary license.

Sec. 12: A behavior technician shall not represent that it is a professional behavior analyst and shall use a title that indicates the non-professional status (i.e. ABA technician, behavior technician, tutor). A behavior technician shall not design assessment or intervention plans or procedures, but may deliver services as assigned by the supervisor.

Sec. 13: The Board shall adopt a code of conduct based on the Ethics Code for Behavior Analysts adopted by the certifying entity.

Sec. 14: DHHS shall establish and collect fees for initial licensure and renewal.

Sec. 15: The Behavior Analyst Practice Act is added to the UCA.

Sec. 16: Adds behavior analysis, one year after effective date of the act, to the UCA.

Sec. 17: Adds this Act to reciprocity provisions.

Sec. 18: Requires a licensed behavior analyst to be subject to criminal background checks.

Sec. 19: Adds Board of Behavior Analysts to current medical board designations.

Sec. 20: Harmonizes language in disciplinary provisions.

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Ben Hansen, Chairperson