

REFERENCE TITLE: behavior analysis; definition

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

# **SB 1121**

Introduced by  
Senators Bradley: Begay

AN ACT

AMENDING SECTION 32-2091, ARIZONA REVISED STATUTES; RELATING TO BEHAVIOR ANALYSTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 32-2091, Arizona Revised Statutes, is amended to  
3 read:  
4 32-2091. Definitions  
5 In this article, unless the context otherwise requires:  
6 1. "Active license" means a current license issued by the board to a  
7 person WHO IS licensed pursuant to this article.  
8 2. "Adequate records" means records that contain, at a minimum,  
9 sufficient information to identify the client, the dates of service, the fee  
10 for service, the payments for service and the type of service given and  
11 copies of any reports that may have been made.  
12 3. "Behavior analysis" means the design, implementation and evaluation  
13 of systematic environmental modifications by a behavior analyst to produce  
14 socially significant improvements in human behavior based on the principles  
15 of behavior identified through the experimental analysis of behavior.  
16 ~~Behavior analysis does not include cognitive therapies or psychological~~  
17 ~~testing, neuropsychology, psychotherapy, sex therapy, psychoanalysis,~~  
18 ~~hypnotherapy and long-term counseling as treatment modalities.~~  
19 4. "Behavior analysis services" means the use of behavior analysis to  
20 assist a person to learn new behavior, increase existing behavior, reduce  
21 existing behavior and emit behavior under precise environmental conditions.  
22 Behavior analysis ~~includes~~ SERVICES INCLUDE behavioral programming and  
23 behavioral programs.  
24 5. "Behavior analyst" means a person who is licensed pursuant to this  
25 article to practice behavior analysis.  
26 6. "Client" means:  
27 (a) A person or entity that receives behavior analysis services.  
28 (b) A corporate entity, a governmental entity or any other  
29 organization that has a professional contract to provide services or benefits  
30 primarily to an organization rather than to an individual.  
31 (c) An individual's legal guardian for ~~decision-making~~ DECISION-MAKING  
32 purposes, except that the individual is the client for issues that directly  
33 affect the individual's physical or emotional safety and issues that the  
34 legal guardian agrees to specifically reserve to the individual.  
35 7. "Exploit" means an action by a behavior analyst who takes undue  
36 advantage of the professional association with a client, student or  
37 supervisee for the advantage or profit of the behavior analyst.  
38 8. "Health care institution" means a facility that is licensed  
39 pursuant to title 36, chapter 4, article 1.  
40 9. "Incompetent as a behavior analyst" means that a person who is  
41 licensed pursuant to THIS article ~~4 of this chapter~~ lacks the knowledge or  
42 skills of a behavior analyst to a degree that is likely to endanger the  
43 health of a client.

1           10. "Letter of concern" means an advisory letter to notify a licensee  
2 that while there is insufficient evidence to support disciplinary action the  
3 board believes the licensee should modify or eliminate certain practices and  
4 that continuation of the activities that led to the information being  
5 submitted to the board may result in action against the license.

6           11. "Supervisee" means a person who acts under the extended authority  
7 of a behavior analyst to provide behavioral services and includes a person  
8 who is in training to provide these services.

9           12. "Unprofessional conduct" includes the following activities,  
10 whether occurring in this state or elsewhere:

11           (a) Obtaining a fee by fraud or misrepresentation.

12           (b) Betraying professional confidences.

13           (c) Making or using statements of a character tending to deceive or  
14 mislead.

15           (d) Aiding or abetting a person who is not licensed pursuant to this  
16 article in representing that person as a behavior analyst.

17           (e) Gross negligence in the practice of a behavior analyst.

18           (f) Sexual intimacies or sexual intercourse with a current client or a  
19 supervisee or with a former client within two years after the cessation or  
20 termination of treatment. For the purposes of this subdivision, "sexual  
21 intercourse" has the same meaning prescribed in section 13-1401.

22           (g) Engaging or offering to engage as a behavior analyst in activities  
23 that are not congruent with the behavior analyst's professional education,  
24 training and experience.

25           (h) Failing or refusing to maintain and retain adequate business,  
26 financial or professional records pertaining to the behavior analysis  
27 services provided to a client.

28           (i) Committing a felony, whether or not involving moral turpitude, or  
29 a misdemeanor involving moral turpitude. In either case, conviction by a  
30 court of competent jurisdiction or a plea of no contest is conclusive  
31 evidence of the commission.

32           (j) Making a fraudulent or untrue statement to the board or its  
33 investigators, staff or consultants.

34           (k) Violating any federal or state law that relates to the practice of  
35 behavior analysis or to obtain a license to practice behavior analysis.

36           (l) Practicing behavior analysis while impaired or incapacitated to  
37 the extent and in a manner that jeopardizes the welfare of a client or  
38 renders the services provided ineffective.

39           (m) Using fraud, misrepresentation or deception to obtain or attempt  
40 to obtain a behavior analysis license or to pass or attempt to pass a  
41 behavior analysis licensing examination or in assisting another person to do  
42 so.

43           (n) Unprofessional conduct in another jurisdiction that resulted in  
44 censure, probation or a civil penalty or in the denial, suspension,

1 restriction or revocation of a certificate or license to practice as a  
2 behavior analyst.

3 (o) Providing services that are unnecessary or unsafe or otherwise  
4 engaging in activities as a behavior analyst that are unprofessional by  
5 current standards of practice.

6 (p) Falsely or fraudulently claiming to have performed a professional  
7 service, charging for a service or representing a service as the licensee's  
8 own if the licensee has not rendered the service or assumed supervisory  
9 responsibility for the service.

10 (q) Representing activities or services as being performed under the  
11 licensee's supervision if the behavior analyst has not assumed responsibility  
12 for them and has not exercised control, oversight and review.

13 (r) Failing to obtain a client's informed and written consent to  
14 release personal or otherwise confidential information to another party  
15 unless the release is otherwise authorized by law.

16 (s) Failing to make client records in the behavior analyst's  
17 possession promptly available to another behavior analyst on receipt of  
18 proper authorization to do so from the client, a minor client's parent, the  
19 client's legal guardian or the client's authorized representative or failing  
20 to comply with title 12, chapter 13, article 7.1.

21 (t) Failing to take reasonable steps to inform or protect a client's  
22 intended victim and inform the proper law enforcement officials if the  
23 behavior analyst becomes aware during the course of providing or supervising  
24 behavior analysis services that a client intends or plans to inflict serious  
25 bodily harm on another person.

26 (u) Failing to take reasonable steps to protect a client if the  
27 behavior analyst becomes aware during the course of providing or supervising  
28 behavior analysis services that a client intends or plans to inflict serious  
29 bodily harm on self.

30 (v) Abandoning or neglecting a client in need of immediate care  
31 without making suitable arrangements for continuation of the care.

32 (w) Engaging in direct or indirect personal solicitation of clients  
33 through the use of coercion, duress, undue influence, compulsion or  
34 intimidation practices.

35 (x) Engaging in false, deceptive or misleading advertising.

36 (y) Exploiting a client, student or supervisee.

37 (z) Failing to report information to the board regarding a possible  
38 act of unprofessional conduct committed by another behavior analyst who is  
39 licensed pursuant to this article unless this reporting violates the behavior  
40 analyst's confidential relationship with a client pursuant to this article.  
41 A behavior analyst who reports or provides information to the board in good  
42 faith is not subject to an action for civil damages.

43 (aa) Violating a formal board order, consent agreement, term of  
44 probation or stipulated agreement issued under this article.

1           (bb) Failing to furnish information in a timely manner to the board or  
2 its investigators or representatives if requested or subpoenaed by the board  
3 as prescribed by this article.

4           (cc) Failing to make available to a client or to the client's  
5 designated representative, on written request, a copy of the client's record,  
6 excluding raw test data, psychometric testing materials and other information  
7 as provided by law.

8           (dd) Violating an ethical standard adopted by the board.

9           (ee) Representing oneself as a psychologist or permitting others to do  
10 so if the behavior analyst is not also licensed as a psychologist pursuant to  
11 this chapter.