

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 911

Introduced by Hardin, 48.

Read first time January 09, 2026

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to public health and welfare; to amend
2 sections 38-4401 and 68-901, Revised Statutes Cumulative Supplement,
3 2024, and section 71-1908, Revised Statutes Supplement, 2025; to
4 provide requirements for licensed applied behavior analysts; to
5 provide child care licensing requirements for certain facilities,
6 practices, and service locations; to provide powers and duties for
7 the Department of Health and Human Services and the Board of
8 Behavior Analysts; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 38-4401, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 38-4401 Sections 38-4401 to 38-4414 sections 2 to 4 of this act
4 shall be known and may be cited as the Behavior Analyst Practice Act.

5 **Sec. 2.** A licensed behavior analyst that supervises direct services
6 shall maintain a physical presence in the state through: (1) A primary
7 place of practice or residence; or (2) direct client contact or
8 supervision conducted within the state for a minimum of five percent of
9 the total direct service hours delivered per client per calendar month,
10 including no fewer than two in-person supervisory observations of
11 behavior technicians or equivalent staff during such period.

12 **Sec. 3.** (1) Remote-only clinical supervision is prohibited for any
13 applied behavior analysis treatment program providing more than fifteen
14 hours of direct services per client per week.

15 (2) Supervising clinicians shall:

16 (a) Hold an active license under the Behavior Analyst Practice Act;

17 (b) Conduct supervision in compliance with guidelines published by
18 the Behavior Analyst Certification Board, including a minimum of ten
19 percent observation of service hours; and

20 (c) Document at least one in-person observation of treatment
21 implementation and client progress per client per month.

22 **Sec. 4.** The board shall have authority to investigate complaints,
23 audit supervision records, and take disciplinary action against licensees
24 that violate the Behavior Analyst Practice Act.

25 **Sec. 5.** Section 68-901, Revised Statutes Cumulative Supplement,
26 2024, is amended to read:

27 68-901 Sections 68-901 to 68-9,111 and section 6 of this act shall
28 be known and may be cited as the Medical Assistance Act.

29 **Sec. 6.** The department shall establish clinical review protocols
30 for applied behavior analysis services under the Behavior Analyst
31 Practice Act that exceed (1) twenty hours per week of direct service per

1 client or (2) twelve consecutive months of ongoing authorization without
2 documented functional progress to ensure continuing medical necessity and
3 prevent program overutilization.

4 **Sec. 7.** Section 71-1908, Revised Statutes Supplement, 2025, is
5 amended to read:

6 71-1908 (1) Sections 71-1908 to 71-1923.03 and section 8 of this act
7 shall be known and may be cited as the Child Care Licensing Act.

8 (2) The Legislature finds that there is a present and growing need
9 for quality child care programs and facilities. There is a need to
10 establish and maintain licensure of persons providing such programs to
11 ensure that such persons are competent and are using safe and adequate
12 facilities. The Legislature further finds and declares that the
13 development and supervision of programs are a matter of statewide concern
14 and should be dealt with uniformly on the state and local levels. There
15 is a need for cooperation among the various state and local agencies
16 which impose standards on licensees, and there should be one agency which
17 coordinates the enforcement of such standards and informs the Legislature
18 about cooperation among the various agencies.

19 **Sec. 8.** (1) No facility, practice, or service location shall be
20 required to obtain licensure as a child care program under the Child Care
21 Licensing Act solely on the basis that:

22 (a) It provides medically necessary applied behavior analysis;

23 (b) It serves clients younger than twenty years of age during
24 billable therapeutic sessions; and

25 (c) It does not provide custodial care or recreational supervision
26 outside the scope of a client's prescribed treatment plan.

27 (2) A facility, practice, or service location providing applied
28 behavior analysis shall be subject to the requirements of the Child Care
29 Licensing Act if it (a) offers or permits naps, meals, or nonclinical
30 recreational programming not associated with a treatment plan or (b)
31 retains one or more children onsite for more than ten cumulative hours

1 per week of nonbillable, nontherapeutic time per child.

2 (3) For purposes of this section, nontherapeutic time means any time
3 that is not (a) billable as medically necessary applied behavior analysis
4 under medicaid or private insurance or (b) used for required caregiver
5 training or active case supervision documented by a licensed behavior
6 analyst.

7 (4) The department shall adopt and promulgate rules and regulations
8 to specify when a dual licensing arrangement, waiver, or exemption is
9 necessary for applied behavior analysis programs that operate extended
10 day, summer, or wraparound care components.

11 **Sec. 9.** Original sections 38-4401 and 68-901, Revised Statutes
12 Cumulative Supplement, 2024, and section 71-1908, Revised Statutes
13 Supplement, 2025, are repealed.