

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 16342a and part
176A.

1 SEC. 16342A. FEES FOR AN INDIVIDUAL LICENSED OR SEEKING
2 LICENSURE TO ENGAGE IN THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS,
3 OR TO ENGAGE IN PRACTICE AS AN ASSISTANT BEHAVIOR ANALYST, UNDER
4 PART 176A ARE AS FOLLOWS:

7 PART 176A

1 APPLIED BEHAVIOR ANALYSIS

2 SEC. 17651. (1) AS USED IN THIS PART:

3 (A) "APPLIED BEHAVIOR ANALYSIS" MEANS THAT TERM AS DEFINED
4 IN SECTION 3406S OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL
5 500.3406S.

6 (B) "ASSISTANT BEHAVIOR ANALYST" MEANS AN INDIVIDUAL
7 LICENSED OR OTHERWISE AUTHORIZED UNDER THIS PART TO ENGAGE IN
8 PRACTICE AS AN ASSISTANT BEHAVIOR ANALYST.

9 (C) "BACB" MEANS THE BEHAVIOR ANALYST CERTIFICATION BOARD, A
10 NONPROFIT CORPORATION THAT IS EXEMPT FROM TAXATION UNDER SECTION
11 501(C) (3) OF THE INTERNAL REVENUE CODE OF 1986, 26 USC 501.

12 (D) "BEHAVIOR ANALYST" MEANS AN INDIVIDUAL LICENSED OR
13 OTHERWISE AUTHORIZED UNDER THIS PART TO ENGAGE IN THE PRACTICE OF
14 APPLIED BEHAVIOR ANALYSIS.

15 (E) "BEHAVIOR TECHNICIAN" MEANS A NONCREDENTIALLED INDIVIDUAL
16 WHO DELIVERS APPLIED BEHAVIOR ANALYSIS SERVICES UNDER THE
17 DELEGATION AND SUPERVISION OF A BEHAVIOR ANALYST.

18 (F) "BEHAVIORAL HEALTH TREATMENT" MEANS THAT TERM AS DEFINED
19 IN SECTION 3406S OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL
20 500.3406S.

21 (G) "LISTED OFFENSE" MEANS THAT TERM AS DEFINED IN SECTION 2
22 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.722.

23 (H) "OTHER CERTIFICATION BOARD" MEANS A NATIONALLY
24 RECOGNIZED BEHAVIOR ANALYSIS CERTIFICATION BOARD APPROVED IN
25 RULES.

26 (I) "PRACTICE AS AN ASSISTANT BEHAVIOR ANALYST" MEANS THE
27 PRACTICE OF APPLIED BEHAVIOR ANALYSIS UNDER THE SUPERVISION OF A

1 BEHAVIOR ANALYST.

2 (J) "PRACTICE OF APPLIED BEHAVIOR ANALYSIS" MEANS PROVIDING
3 APPLIED BEHAVIOR ANALYSIS SERVICES. THE PRACTICE OF APPLIED
4 BEHAVIOR ANALYSIS DOES NOT INCLUDE ANY OF THE FOLLOWING:

5 (i) THE PRACTICE OF MEDICINE, THE PRACTICE OF OSTEOPATHIC
6 MEDICINE AND SURGERY, OR MEDICAL DIAGNOSIS OR TREATMENT.

7 (ii) THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY.

8 (iii) THE PRACTICE OF PHYSICAL THERAPY.

9 (iv) THE PRACTICE OF OCCUPATIONAL THERAPY.

10 (v) PSYCHOLOGICAL TESTING INCLUDING STANDARDIZED TESTING FOR
11 INTELLIGENCE OR PERSONALITY.

12 (vi) DIAGNOSIS OF A MENTAL OR PHYSICAL DISORDER.

13 (vii) THE PRACTICE OF NEUROPSYCHOLOGY, PSYCHOTHERAPY,
14 COGNITIVE THERAPY, SEX THERAPY, PSYCHOANALYSIS, HYPNOTHERAPY, OR
15 COUNSELING AS TREATMENT MODALITIES.

16 (K) "RULES" MEANS RULES PROMULGATED BY THE DEPARTMENT IN
17 CONSULTATION WITH THE BOARD UNDER THIS PART.

18 (L) "THERAPEUTIC CARE" MEANS THAT TERM AS DEFINED IN SECTION
19 3406S OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.3406S.

20 (M) "TREATMENT OF AUTISM SPECTRUM DISORDERS" MEANS THAT TERM
21 AS DEFINED IN SECTION 3406S OF THE INSURANCE CODE OF 1956, 1956
22 PA 218, MCL 500.3406S.

23 (2) IN ADDITION TO THE DEFINITIONS IN THIS PART, ARTICLE 1
24 CONTAINS GENERAL DEFINITIONS AND PRINCIPLES OF CONSTRUCTION
25 APPLICABLE TO ALL ARTICLES IN THIS CODE AND PART 161 CONTAINS
26 DEFINITIONS APPLICABLE TO THIS PART.

27 SEC. 17653. (1) BEGINNING 2 YEARS AFTER THE EFFECTIVE DATE

1 OF THE RULES PROMULGATED UNDER SECTIONS 17657 AND 17659 FOR
2 LICENSURE UNDER THIS PART, AN INDIVIDUAL SHALL NOT USE THE TITLES
3 "BEHAVIOR ANALYST", "B.A.", "LICENSED BEHAVIOR ANALYST",
4 "L.B.A.", "ASSISTANT BEHAVIOR ANALYST", "A.B.A.", "LICENSED
5 ASSISTANT BEHAVIOR ANALYST", "L.A.B.A.", OR SIMILAR WORDS OR
6 LETTERS THAT INDICATE THAT HE OR SHE IS LICENSED AS A BEHAVIOR
7 ANALYST OR ASSISTANT BEHAVIOR ANALYST UNLESS THE INDIVIDUAL IS
8 LICENSED OR OTHERWISE AUTHORIZED UNDER THIS PART. THE DEPARTMENT
9 SHALL PROVIDE FOR A 3-YEAR LICENSE CYCLE.

10 (2) BEGINNING 2 YEARS AFTER THE EFFECTIVE DATE OF THE RULES
11 PROMULGATED UNDER SECTIONS 17657 AND 17659 FOR LICENSURE UNDER
12 THIS PART, AN INDIVIDUAL SHALL NOT ENGAGE IN THE PRACTICE OF
13 APPLIED BEHAVIOR ANALYSIS OR PRACTICE AS AN ASSISTANT BEHAVIOR
14 ANALYST UNLESS LICENSED OR OTHERWISE AUTHORIZED UNDER THIS
15 ARTICLE.

16 (3) SUBSECTION (2) DOES NOT PREVENT ANY OF THE FOLLOWING:

17 (A) SELF-CARE BY A PATIENT OR UNCOMPENSATED CARE BY A FRIEND
18 OR FAMILY MEMBER WHO DOES NOT REPRESENT OR HOLD HIMSELF OR
19 HERSELF OUT TO BE A BEHAVIOR ANALYST OR ASSISTANT BEHAVIOR
20 ANALYST.

21 (B) A BEHAVIOR TECHNICIAN OR A FAMILY MEMBER FROM
22 IMPLEMENTING A PLAN UNDER THE EXTENDED AUTHORITY, DIRECTION, AND,
23 IF APPLICABLE, SUPERVISION OF A BEHAVIOR ANALYST.

24 (C) AN INDIVIDUAL LICENSED UNDER ANY OTHER PART OR LAW OF
25 THIS STATE FROM PERFORMING ACTIVITIES THAT ARE CONSIDERED UNDER
26 THIS PART TO BE THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS IF THE
27 ACTIVITIES ARE WITHIN THE LICENSEE'S SCOPE OF PRACTICE AND ARE

1 COMMENSURATE WITH HIS OR HER EDUCATION, TRAINING, AND EXPERIENCE,
2 AND IF THE INDIVIDUAL DOES NOT USE THE TITLES PROTECTED UNDER
3 SUBSECTION (1).

4 (D) AN INDIVIDUAL FROM PERFORMING ACTIVITIES THAT ARE
5 CONSIDERED UNDER THIS PART TO BE THE PRACTICE OF APPLIED BEHAVIOR
6 ANALYSIS IF THE ACTIVITIES ARE WITH NONHUMAN OR NONPATIENT
7 CLIENTS OR CONSUMERS. INDIVIDUALS DESCRIBED IN THIS SUBDIVISION
8 INCLUDE, BUT ARE NOT LIMITED TO, APPLIED ANIMAL BEHAVIORISTS AND
9 PRACTITIONERS OF ORGANIZATIONAL BEHAVIOR MANAGEMENT.

10 (E) AN INDIVIDUAL WHO IS A MATRICULATED STUDENT AT A
11 NATIONALLY ACCREDITED UNIVERSITY APPROVED IN RULES OR WHO IS A
12 POSTDOCTORAL FELLOW FROM PERFORMING ACTIVITIES THAT ARE
13 CONSIDERED UNDER THIS PART TO BE THE PRACTICE OF APPLIED BEHAVIOR
14 ANALYSIS IF THE ACTIVITIES ARE PART OF A DEFINED BEHAVIOR
15 ANALYSIS PROGRAM OF STUDY OR PRACTICUM APPROVED IN RULES AND IF
16 THE STUDENT OR FELLOW IS DIRECTLY SUPERVISED BY AN INDIVIDUAL WHO
17 IS ANY OF THE FOLLOWING:

18 (i) LICENSED AS A BEHAVIOR ANALYST UNDER THIS PART.

19 (ii) APPOINTED AS THE INSTRUCTOR OF A COURSE SEQUENCE
20 APPROVED BY THE BACB OR OTHER CERTIFICATION BOARD.

21 (F) AN INDIVIDUAL WHO IS NOT LICENSED UNDER THIS PART FROM
22 PURSUING EXPERIENCE IN BEHAVIOR ANALYSIS COMPATIBLE WITH THE
23 BACB'S EXPERIENCE REQUIREMENTS FOR APPLIED BEHAVIOR ANALYSIS
24 CREDENTIALS, IF THE EXPERIENCE IS SUPERVISED BY AN INDIVIDUAL WHO
25 IS LICENSED AS A BEHAVIOR ANALYST UNDER THIS PART.

26 (4) THE DEPARTMENT SHALL ISSUE A LICENSE AS A BEHAVIOR
27 ANALYST TO AN INDIVIDUAL WHO ON OR BEFORE THE EFFECTIVE DATE OF

1 THIS PART HAD THE CREDENTIALS AS A CERTIFIED BEHAVIOR ANALYST, OR
2 ITS PREDECESSOR CREDENTIALS, CONFERRED FOR APPLIED BEHAVIOR
3 ANALYSIS BY THE BACB, OR ITS PREDECESSOR ORGANIZATION, AND WHO
4 APPLIES FOR LICENSURE AS A BEHAVIOR ANALYST BY 1 YEAR AFTER THE
5 EFFECTIVE DATE OF THE RULES PROMULGATED UNDER SECTION 17657.

6 (5) THE DEPARTMENT SHALL ISSUE A LICENSE AS AN ASSISTANT
7 BEHAVIOR ANALYST TO AN INDIVIDUAL WHO ON OR BEFORE THE EFFECTIVE
8 DATE OF THIS PART HAD THE CREDENTIALS AS A CERTIFIED ASSISTANT
9 BEHAVIOR ANALYST, OR ITS PREDECESSOR CREDENTIALS, CONFERRED FOR
10 APPLIED BEHAVIOR ANALYSIS BY THE BACB, OR ITS PREDECESSOR
11 ORGANIZATION, WHO IS UNDER THE SUPERVISION OF A BEHAVIOR ANALYST,
12 AND WHO APPLIES FOR LICENSURE AS AN ASSISTANT BEHAVIOR ANALYST BY
13 1 YEAR AFTER THE EFFECTIVE DATE OF THE RULES PROMULGATED UNDER
14 SECTION 17659.

15 (6) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THIS
16 SECTION DOES NOT APPLY TO AN INDIVIDUAL WHO, ON THE EFFECTIVE
17 DATE OF THIS PART, IS ENGAGING IN THE PRACTICE OF APPLIED
18 BEHAVIOR ANALYSIS UNDER THE MEDICAID PROGRAM OR MICHILD PROGRAM
19 IN THIS STATE WHILE THAT INDIVIDUAL IS SEEKING THE EDUCATION,
20 TRAINING, AND EXPERIENCE NECESSARY TO OBTAIN A LICENSE UNDER THIS
21 PART AND ONLY WHILE THE INDIVIDUAL IS PROVIDING APPLIED BEHAVIOR
22 ANALYSIS SERVICES TO CHILDREN IN COMPLIANCE WITH THE STATE PLAN
23 AMENDMENT FOR PROVIDING HOME AND COMMUNITY-BASED SERVICES.

24 SEC. 17655. (1) THE MICHIGAN BOARD OF BEHAVIOR ANALYSTS IS
25 CREATED IN THE DEPARTMENT AND CONSISTS OF THE FOLLOWING 9 VOTING
26 MEMBERS:

27 (A) FOUR BEHAVIOR ANALYSTS, 3 OF WHOM PROVIDE CLINICAL

1 SERVICES.

2 (B) ONE INDIVIDUAL WHO IS AFFILIATED WITH A UNIVERSITY IN
3 THIS STATE AND PROVIDES INSTRUCTION OR CONDUCTS RESEARCH IN
4 APPLIED BEHAVIOR ANALYSIS.

5 (C) ONE ASSISTANT BEHAVIOR ANALYST.

6 (D) ONE PHYSICIAN WHO IS LICENSED UNDER PART 170 OR 175 AND
7 WORKS WITH PATIENTS WITH AUTISM SPECTRUM DISORDERS OR BRAIN
8 INJURIES.

9 (E) TWO PUBLIC MEMBERS.

10 (2) THE TERMS OF OFFICE OF INDIVIDUAL MEMBERS OF THE BOARD,
11 EXCEPT THOSE APPOINTED TO FILL VACANCIES, EXPIRE 4 YEARS AFTER
12 THE APPOINTMENT ON DECEMBER 31 OF THE YEAR IN WHICH THE TERM
13 EXPIRES. HOWEVER, FOR THE MEMBERS FIRST APPOINTED TO THE BOARD
14 UNDER SUBSECTION (1), 3 MUST SERVE FOR 2 YEARS, 3 MUST SERVE FOR
15 3 YEARS, AND 3 MUST SERVE FOR 4 YEARS.

16 SEC. 17657. BY 2 YEARS AFTER THE EFFECTIVE DATE OF THIS
17 PART, THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, SHALL
18 PROMULGATE RULES THAT ESTABLISH THE MINIMUM STANDARDS FOR
19 LICENSURE AS A BEHAVIOR ANALYST. FOR PURPOSES OF THIS SECTION,
20 THE DEPARTMENT MAY ADOPT IN ITS RULES THE PROFESSIONAL STANDARDS,
21 IN WHOLE OR IN PART, ISSUED BY THE BACB OR ANY OTHER NATIONALLY
22 RECOGNIZED PROFESSIONAL ASSOCIATION AS ITS STANDARDS UNDER THIS
23 SECTION. UNTIL RULES ARE PROMULGATED UNDER THIS SECTION, THE
24 DEPARTMENT SHALL USE AS INTERIM STANDARDS UNDER THIS SECTION THE
25 STANDARDS ADOPTED BY THE BACB AND IN EFFECT ON THE EFFECTIVE DATE
26 OF THIS PART.

27 SEC. 17659. BY 2 YEARS AFTER THE EFFECTIVE DATE OF THIS

1 PART, THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, SHALL
2 PROMULGATE RULES THAT ESTABLISH THE MINIMUM STANDARDS FOR
3 LICENSURE AS AN ASSISTANT BEHAVIOR ANALYST. FOR PURPOSES OF THIS
4 SECTION, THE DEPARTMENT MAY ADOPT IN ITS RULES THE PROFESSIONAL
5 STANDARDS, IN WHOLE OR IN PART, ISSUED BY THE BACB OR ANY OTHER
6 NATIONALLY RECOGNIZED PROFESSIONAL ASSOCIATION AS ITS STANDARDS
7 UNDER THIS SECTION. UNTIL RULES ARE PROMULGATED UNDER THIS
8 SECTION, THE DEPARTMENT SHALL USE AS INTERIM STANDARDS UNDER THIS
9 SECTION THE STANDARDS ADOPTED BY THE BACB AND IN EFFECT ON THE
10 EFFECTIVE DATE OF THIS PART.

11 SEC. 17661. NOTWITHSTANDING SECTIONS 16221, 16226, AND
12 16245, THE DEPARTMENT SHALL INCLUDE IN RULES PROMULGATED UNDER
13 SECTIONS 17657 AND 17659 THAT AN APPLICATION FOR A LICENSE UNDER
14 THIS PART WILL BE DENIED IF THE APPLICANT'S CRIMINAL HISTORY
15 CHECK REQUIRED BY SECTION 16174 REVEALS THAT HE OR SHE WAS
16 CONVICTED OF A LISTED OFFENSE, AND THAT A LICENSEE'S LICENSE WILL
17 BE PERMANENTLY REVOKED IF HE OR SHE IS CONVICTED OF A LISTED
18 OFFENSE WHILE LICENSED UNDER THIS PART.

19 SEC. 17663. (1) AN INDIVIDUAL SHALL NOT ACT AS A BEHAVIOR
20 TECHNICIAN IN THIS STATE UNLESS HE OR SHE HAS HAD A CRIMINAL
21 HISTORY CHECK CONDUCTED AND THE CRIMINAL HISTORY CHECK DOES NOT
22 CONTAIN ANY CRIMINAL HISTORY RECORD INFORMATION FOR THAT
23 INDIVIDUAL.

24 (2) A BEHAVIOR TECHNICIAN SHALL NOT USE WORDS, TITLES, OR
25 LETTERS THAT INDICATE THAT HE OR SHE IS A BEHAVIOR ANALYST OR AN
26 ASSISTANT BEHAVIOR ANALYST OR THAT HE OR SHE IS ENGAGING IN THE
27 PRACTICE OF APPLIED BEHAVIOR ANALYSIS OR PRACTICE AS AN ASSISTANT

1 BEHAVIOR ANALYST. A BEHAVIOR TECHNICIAN SHALL USE A TITLE THAT
2 INDICATES HIS OR HER NONCREDENTIALLED STATUS, INCLUDING "BEHAVIOR
3 TECHNICIAN", "ABA TECHNICIAN", OR "TUTOR".

4 SEC. 17665. IN ADDITION TO THE REQUIREMENTS OF PART 161, THE
5 DEPARTMENT, IN CONSULTATION WITH THE BOARD, MAY PROMULGATE RULES
6 TO REQUIRE A LICENSEE SEEKING RENEWAL TO DO 1 OF THE FOLLOWING:

7 (A) FOR A LICENSEE SEEKING RENEWAL OF HIS OR HER BEHAVIOR
8 ANALYST LICENSE, FURNISH EVIDENCE THAT, DURING THE LICENSING
9 PERIOD IMMEDIATELY PRECEDING THE APPLICATION FOR RENEWAL, HE OR
10 SHE IS CURRENT ON HIS OR HER CERTIFICATION BY THE BACB OR OTHER
11 CERTIFICATION BOARD AS A BOARD-CERTIFIED BEHAVIOR ANALYST.

12 (B) FOR A LICENSEE SEEKING RENEWAL OF HIS OR HER ASSISTANT
13 BEHAVIOR ANALYST LICENSE, FURNISH EVIDENCE THAT, DURING THE
14 LICENSING PERIOD IMMEDIATELY PRECEDING THE APPLICATION FOR
15 RENEWAL, HE OR SHE IS CURRENT ON HIS OR HER CERTIFICATION BY THE
16 BACB OR OTHER CERTIFICATION BOARD AS A BOARD-CERTIFIED ASSISTANT
17 BEHAVIOR ANALYST AND THAT HE OR SHE IS PRACTICING UNDER THE
18 SUPERVISION OF A LICENSED BEHAVIOR ANALYST.

19 SEC. 17667. THIS PART DOES NOT REQUIRE NEW OR ADDITIONAL
20 THIRD PARTY REIMBURSEMENT OR MANDATED WORKER'S COMPENSATION
21 BENEFITS FOR SERVICES RENDERED BY AN INDIVIDUAL LICENSED AS A
22 BEHAVIOR ANALYST OR AN ASSISTANT BEHAVIOR ANALYST UNDER THIS
23 PART.