

SENATE BILL No. 655

October 29, 2013, Introduced by Senators WARREN, ANANICH, HOOD, GREGORY, JOHNSON, YOUNG, BIEDA, ANDERSON, WHITMER, RICHARDVILLE, HILDENBRAND, EMMONS, HUNTER, HOPGOOD, SMITH, KOWALL, KAHN, HANSEN, GREEN, CASPERSON, ROCCA, ROBERTSON, SCHUITMAKER, CASWELL, BRANDENBURG, PAPPAGEORGE, BOOHER and PROOS and referred to the Committee on Health Policy.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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:

5 (A) APPLICATION PROCESSING FEE..... \$ 50.00
 6 (B) LICENSE FEE, PER YEAR..... 90.00

PART 176A

APPLIED BEHAVIOR ANALYSIS

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

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

(B) "APPLIED BEHAVIOR ANALYSIS DIRECT CONTACT TECHNICIAN" MEANS AN INDIVIDUAL WHO DIRECTLY IMPLEMENTS APPLIED BEHAVIOR ANALYSIS SERVICES.

(C) "ASSISTANT BEHAVIOR ANALYST" MEANS AN INDIVIDUAL LICENSED UNDER THIS PART TO ENGAGE IN PRACTICE AS AN ASSISTANT BEHAVIOR ANALYST.

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

(E) "BEHAVIOR ANALYST" MEANS AN INDIVIDUAL LICENSED UNDER THIS PART TO ENGAGE IN THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS.

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

(G) "PRACTICE AS AN ASSISTANT BEHAVIOR ANALYST" MEANS THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS UNDER THE SUPERVISION OF A BEHAVIOR ANALYST.

(H) "PRACTICE OF APPLIED BEHAVIOR ANALYSIS" MEANS PROVIDING APPLIED BEHAVIOR ANALYSIS SERVICES. THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS DOES NOT INCLUDE ANY OF THE FOLLOWING:

(i) THE PRACTICE OF MEDICINE OR OSTEOPATHIC MEDICINE AND

1 SURGERY OR MEDICAL DIAGNOSIS OR TREATMENT.

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

3 (iii) THE PRACTICE OF PHYSICAL THERAPY.

4 (iv) THE PRACTICE OF OCCUPATIONAL THERAPY.

5 (v) PSYCHOLOGICAL TESTING INCLUDING STANDARDIZED TESTING FOR
6 INTELLIGENCE OR PERSONALITY.

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

8 (vii) THE PRACTICE OF NEUROPSYCHOLOGY, PSYCHOTHERAPY,
9 COGNITIVE THERAPY, SEX THERAPY, PSYCHOANALYSIS, HYPNOTHERAPY, OR
10 COUNSELING AS TREATMENT MODALITIES.

11 (I) "THERAPEUTIC CARE" MEANS THAT TERM AS DEFINED IN SECTION
12 3406S OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.3406S.

13 (J) "TREATMENT OF AUTISM SPECTRUM DISORDERS" MEANS THAT TERM
14 AS DEFINED IN SECTION 3406S OF THE INSURANCE CODE OF 1956, 1956
15 PA 218, MCL 500.3406S.

16 (2) IN ADDITION TO THE DEFINITIONS IN THIS PART, ARTICLE 1
17 CONTAINS GENERAL DEFINITIONS AND PRINCIPLES OF CONSTRUCTION
18 APPLICABLE TO ALL ARTICLES IN THIS CODE AND PART 161 CONTAINS
19 DEFINITIONS APPLICABLE TO THIS PART.

20 SEC. 17653. (1) AFTER THE RULES DESCRIBED IN SECTIONS 17657
21 AND 17659 ARE PROMULGATED FOR LICENSURE UNDER THIS PART, AN
22 INDIVIDUAL SHALL NOT USE THE TITLES "BEHAVIOR ANALYST", "B.A.",
23 "LICENSED BEHAVIOR ANALYST", "L.B.A.", "ASSISTANT BEHAVIOR
24 ANALYST", "A.B.A.", "LICENSED ASSISTANT BEHAVIOR ANALYST",
25 "L.A.B.A.", OR SIMILAR WORDS OR LETTERS THAT INDICATE THAT HE OR
26 SHE IS LICENSED AS A BEHAVIOR ANALYST OR ASSISTANT BEHAVIOR
27 ANALYST UNLESS THE INDIVIDUAL IS LICENSED UNDER THIS PART. THE

1 DEPARTMENT SHALL PROVIDE FOR A 3-YEAR LICENSE CYCLE.

2 (2) AFTER THE RULES DESCRIBED IN SECTIONS 17657 AND 17659
3 ARE PROMULGATED FOR LICENSURE UNDER THIS PART, AN INDIVIDUAL
4 SHALL NOT ENGAGE IN THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS OR
5 PRACTICE AS AN ASSISTANT BEHAVIOR ANALYST UNLESS LICENSED OR
6 OTHERWISE AUTHORIZED UNDER THIS ARTICLE.

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

8 (A) SELF-CARE BY A PATIENT OR UNCOMPENSATED CARE BY A FRIEND
9 OR FAMILY MEMBER WHO DOES NOT REPRESENT OR HOLD HIMSELF OR
10 HERSELF OUT TO BE A BEHAVIOR ANALYST OR ASSISTANT BEHAVIOR
11 ANALYST.

12 (B) AN APPLIED BEHAVIOR ANALYSIS DIRECT CONTACT TECHNICIAN
13 OR A FAMILY MEMBER FROM IMPLEMENTING A PLAN UNDER THE EXTENDED
14 AUTHORITY AND DIRECTION OF A BEHAVIOR ANALYST.

15 (C) AN INDIVIDUAL LICENSED OR REGISTERED UNDER ANY OTHER
16 PART OR LAW OF THIS STATE FROM PERFORMING ACTIVITIES THAT ARE
17 CONSIDERED UNDER THIS PART TO BE THE PRACTICE OF APPLIED BEHAVIOR
18 ANALYSIS IF THE ACTIVITIES ARE WITHIN THE LICENSEE'S OR
19 REGISTRANT'S SCOPE OF PRACTICE AND ARE COMMENSURATE WITH HIS OR
20 HER EDUCATION, TRAINING, AND EXPERIENCE, AND IF THE INDIVIDUAL
21 DOES NOT USE THE TITLES PROTECTED UNDER SUBSECTION (1).

22 (D) AN INDIVIDUAL FROM PERFORMING ACTIVITIES THAT ARE
23 CONSIDERED UNDER THIS PART TO BE THE PRACTICE OF APPLIED BEHAVIOR
24 ANALYSIS IF THE ACTIVITIES ARE WITH NONHUMAN OR NONPATIENT
25 CLIENTS OR CONSUMERS. INDIVIDUALS DESCRIBED IN THIS SUBDIVISION
26 INCLUDE, BUT ARE NOT LIMITED TO, APPLIED ANIMAL BEHAVIORISTS AND
27 PRACTITIONERS OF ORGANIZATIONAL BEHAVIOR MANAGEMENT.

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

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

(ii) APPOINTED AS THE INSTRUCTOR OF A COURSE SEQUENCE
APPROVED BY THE BACB AND THE BOARD.

(iii) IF APPROVED BY THE BOARD, CREDENTIALLED AS A BACB-
CERTIFIED BEHAVIOR ANALYST.

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

(4) THE DEPARTMENT SHALL ISSUE A LICENSE AS A BEHAVIOR
ANALYST TO AN INDIVIDUAL WHO ON OR BEFORE THE EFFECTIVE DATE OF
THIS PART HAD THE CREDENTIALS AS A CERTIFIED BEHAVIOR ANALYST, OR
ITS PREDECESSOR CREDENTIALS, CONFERRED FOR APPLIED BEHAVIOR
ANALYSIS BY THE BACB, OR ITS PREDECESSOR ORGANIZATION, AND WHO
APPLIES FOR LICENSURE AS A BEHAVIOR ANALYST WITHIN 1 YEAR AFTER
THE EFFECTIVE DATE OF THE RULES PROMULGATED UNDER SECTION 17657.

(5) THE DEPARTMENT SHALL ISSUE A LICENSE AS AN ASSISTANT
BEHAVIOR ANALYST TO AN INDIVIDUAL WHO ON OR BEFORE THE EFFECTIVE

1 DATE OF THIS PART HAD THE CREDENTIALS AS A CERTIFIED ASSISTANT
2 BEHAVIOR ANALYST, OR ITS PREDECESSOR CREDENTIALS, CONFERRED FOR
3 APPLIED BEHAVIOR ANALYSIS BY THE BACB, OR ITS PREDECESSOR
4 ORGANIZATION, WHO IS UNDER THE SUPERVISION OF A BEHAVIOR ANALYST,
5 AND WHO APPLIES FOR LICENSURE AS AN ASSISTANT BEHAVIOR ANALYST
6 WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE RULES PROMULGATED
7 UNDER SECTION 17659.

8 SEC. 17655. (1) THE MICHIGAN BOARD OF BEHAVIOR ANALYSTS IS
9 CREATED IN THE DEPARTMENT AND CONSISTS OF THE FOLLOWING 9 VOTING
10 MEMBERS WHO MEET THE REQUIREMENTS OF PART 161: 5 BEHAVIOR
11 ANALYSTS, 1 ASSISTANT BEHAVIOR ANALYST, AND 3 PUBLIC MEMBERS. OF
12 THE 3 PUBLIC MEMBERS, 1 MUST BE A PHYSICIAN LICENSED UNDER PART
13 170 OR 175 WHO WORKS WITH AUTISTIC OR BRAIN-INJURED PATIENTS. AT
14 LEAST 2 OF THE MEMBERS OF THE BOARD WHO ARE LICENSED UNDER THIS
15 ARTICLE MUST BE AFFILIATED WITH A UNIVERSITY IN THIS STATE THAT
16 PROVIDES INSTRUCTION OR CONDUCTS RESEARCH IN APPLIED BEHAVIOR
17 ANALYSIS.

18 (2) THE TERMS OF OFFICE OF INDIVIDUAL MEMBERS OF THE BOARD,
19 EXCEPT THOSE APPOINTED TO FILL VACANCIES, EXPIRE 4 YEARS AFTER
20 THE APPOINTMENT ON DECEMBER 31 OF THE YEAR IN WHICH THE TERM
21 EXPIRES. HOWEVER, FOR THE MEMBERS FIRST APPOINTED TO THE BOARD
22 UNDER SUBSECTION (1), 3 MUST SERVE FOR 2 YEARS, 3 MUST SERVE FOR
23 3 YEARS, AND 3 MUST SERVE FOR 4 YEARS.

24 SEC. 17657. THE DEPARTMENT SHALL PROMULGATE RULES UNDER
25 SECTION 16145 THAT ESTABLISH THE MINIMUM STANDARDS FOR LICENSURE
26 AS A BEHAVIOR ANALYST. FOR PURPOSES OF THIS SECTION, THE
27 DEPARTMENT MAY ADOPT IN ITS RULES THE PROFESSIONAL STANDARDS, IN

1 WHOLE OR IN PART, ISSUED BY THE BACB OR ANY OTHER NATIONALLY
2 RECOGNIZED PROFESSIONAL ASSOCIATION AS ITS STANDARDS UNDER THIS
3 SECTION. UNTIL RULES ARE PROMULGATED UNDER THIS SECTION, THE
4 DEPARTMENT SHALL USE AS INTERIM STANDARDS UNDER THIS SECTION THE
5 STANDARDS ADOPTED BY THE BACB AND IN EFFECT ON THE EFFECTIVE DATE
6 OF THIS PART.

7 SEC. 17659. THE DEPARTMENT SHALL PROMULGATE RULES UNDER
8 SECTION 16145 THAT ESTABLISH THE MINIMUM STANDARDS FOR LICENSURE
9 AS AN ASSISTANT BEHAVIOR ANALYST. FOR PURPOSES OF THIS SECTION,
10 THE DEPARTMENT MAY ADOPT IN ITS RULES THE PROFESSIONAL STANDARDS,
11 IN WHOLE OR IN PART, ISSUED BY THE BACB OR ANY OTHER NATIONALLY
12 RECOGNIZED PROFESSIONAL ASSOCIATION AS ITS STANDARDS UNDER THIS
13 SECTION. UNTIL RULES ARE PROMULGATED UNDER THIS SECTION, THE
14 DEPARTMENT SHALL USE AS INTERIM STANDARDS UNDER THIS SECTION THE
15 STANDARDS ADOPTED BY THE BACB AND IN EFFECT ON THE EFFECTIVE DATE
16 OF THIS PART.

17 SEC. 17661. (1) NOTWITHSTANDING SECTIONS 16221 AND 16226,
18 THE DEPARTMENT SHALL INCLUDE IN RULES PROMULGATED UNDER SECTIONS
19 17657 AND 17659 THAT AN APPLICATION FOR A LICENSE UNDER THIS PART
20 WILL BE DENIED IF THE APPLICANT'S CRIMINAL HISTORY CHECK UNDER
21 SECTION 16174 REVEALS THAT HE OR SHE WAS CONVICTED OF A LISTED
22 OFFENSE, AND THAT A LICENSEE'S LICENSE WILL BE REVOKED IF HE OR
23 SHE IS CONVICTED OF A LISTED OFFENSE WHILE LICENSED UNDER THIS
24 PART.

25 (2) AS USED IN THIS SECTION, "LISTED OFFENSE" MEANS THAT
26 TERM AS DEFINED IN SECTION 2 OF THE SEX OFFENDERS REGISTRATION
27 ACT, 1994 PA 295, MCL 28.722.

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

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

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

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