

SUBSTITUTE FOR
SENATE BILL NO. 1015

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 16343a and part 182A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 16343A. FEES FOR AN INDIVIDUAL WHO IS 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 182A ARE AS FOLLOWS:**

5 (A) APPLICATION PROCESSING FEE..... \$ 75.00
6 (B) LICENSE FEE, PER YEAR..... 90.00

7 **PART 182A**

1 APPLIED BEHAVIOR ANALYSIS

2 SEC. 18251. (1) AS USED IN THIS PART:

3 (A) "APPLIED BEHAVIOR ANALYSIS SERVICES" MEANS SERVICES
4 PROVIDED TO CLIENTS THAT ARE INCLUDED IN THE PRACTICE OF APPLIED
5 BEHAVIOR ANALYSIS.

6 (B) "ASSISTANT BEHAVIOR ANALYST" MEANS AN INDIVIDUAL WHO IS
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, OR ITS
12 SUCCESSOR, AS DETERMINED BY THE BOARD.

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

16 (E) "BEHAVIOR TECHNICIAN" MEANS AN INDIVIDUAL WHO IS NOT
17 LICENSED OR AUTHORIZED TO PRACTICE A PROFESSION UNDER THIS PART AND
18 WHO DELIVERS APPLIED BEHAVIOR ANALYSIS SERVICES UNDER THE
19 DELEGATION AND SUPERVISION OF A BEHAVIOR ANALYST AND MEETS THE
20 REQUIREMENTS OF SECTION 18263.

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

23 (G) "OTHER CERTIFICATION BOARD" MEANS A NATIONALLY RECOGNIZED
24 BEHAVIOR ANALYSIS CERTIFICATION BOARD APPROVED BY THE DEPARTMENT BY
25 RULE.

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

1 BEHAVIOR ANALYST.

2 (I) "PRACTICE OF APPLIED BEHAVIOR ANALYSIS" MEANS THE DESIGN,
3 IMPLEMENTATION, AND EVALUATION OF INSTRUCTIONAL AND ENVIRONMENTAL
4 MODIFICATIONS TO PRODUCE SOCIALLY SIGNIFICANT IMPROVEMENTS IN HUMAN
5 BEHAVIOR. ALL OF THE FOLLOWING APPLY FOR PURPOSES OF THIS
6 SUBDIVISION:

7 (i) PRACTICE OF APPLIED BEHAVIOR ANALYSIS INCLUDES ALL OF THE
8 FOLLOWING:

9 (A) THE EMPIRICAL IDENTIFICATION OF FUNCTIONAL RELATIONS
10 BETWEEN BEHAVIOR AND ENVIRONMENTAL FACTORS, KNOWN AS FUNCTIONAL
11 ASSESSMENT AND ANALYSIS.

12 (B) APPLIED BEHAVIOR ANALYSIS INTERVENTIONS THAT ARE BASED ON
13 SCIENTIFIC RESEARCH AND THE DIRECT OBSERVATION AND MEASUREMENT OF
14 BEHAVIOR AND THE ENVIRONMENT.

15 (C) THE UTILIZATION OF CONTEXTUAL FACTORS, MOTIVATING
16 OPERATIONS, ANTECEDENT STIMULI, OR POSITIVE REINFORCEMENT.

17 (D) THE UTILIZATION OF OTHER CONSEQUENCES TO HELP INDIVIDUALS
18 DEVELOP NEW BEHAVIORS, INCREASE OR DECREASE EXISTING BEHAVIORS, AND
19 OMIT BEHAVIORS UNDER SPECIFIC ENVIRONMENTAL CONDITIONS.

20 (ii) THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS DOES NOT
21 INCLUDE ANY OF THE FOLLOWING:

22 (A) THE PRACTICE OF MEDICINE, THE PRACTICE OF OSTEOPATHIC
23 MEDICINE AND SURGERY, OR MEDICAL DIAGNOSIS OR TREATMENT.

24 (B) THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY.

25 (C) THE PRACTICE OF PHYSICAL THERAPY.

26 (D) THE PRACTICE OF OCCUPATIONAL THERAPY.

27 (E) PSYCHOLOGICAL TESTING, INCLUDING STANDARDIZED TESTING FOR

1 INTELLIGENCE OR PERSONALITY.

2 (F) DIAGNOSIS OF A MENTAL OR PHYSICAL IMPAIRMENT.

3 (G) THE PRACTICE OF NEUROPSYCHOLOGY, PSYCHOTHERAPY, COGNITIVE
4 THERAPY, SEX THERAPY, PSYCHOANALYSIS, HYPNOTHERAPY, OR COUNSELING
5 AS TREATMENT MODALITIES.

6 (J) "RULES" MEANS RULES PROMULGATED BY THE DEPARTMENT IN
7 CONSULTATION WITH THE BOARD UNDER THIS PART.

8 (2) IN ADDITION TO THE DEFINITIONS IN THIS PART, ARTICLE 1
9 CONTAINS GENERAL DEFINITIONS AND PRINCIPLES OF CONSTRUCTION
10 APPLICABLE TO ALL ARTICLES IN THIS CODE AND PART 161 CONTAINS
11 DEFINITIONS APPLICABLE TO THIS PART.

12 SEC. 18253. (1) BEGINNING 1 YEAR AFTER THE EFFECTIVE DATE OF
13 THE RULES PROMULGATED UNDER SECTIONS 18257 AND 18259 FOR LICENSURE
14 UNDER THIS PART, AN INDIVIDUAL SHALL NOT USE THE TITLES "LICENSED
15 BEHAVIOR ANALYST", "L.B.A.", "LICENSED ASSISTANT BEHAVIOR ANALYST",
16 "L.A.B.A.", OR SIMILAR WORDS OR LETTERS THAT INDICATE THAT HE OR
17 SHE IS LICENSED AS A BEHAVIOR ANALYST OR ASSISTANT BEHAVIOR ANALYST
18 UNLESS THE INDIVIDUAL IS LICENSED OR OTHERWISE AUTHORIZED UNDER
19 THIS PART. THE DEPARTMENT SHALL PROVIDE FOR A 4-YEAR LICENSE CYCLE.

20 (2) BEGINNING 1 YEAR AFTER THE EFFECTIVE DATE OF THE RULES
21 PROMULGATED UNDER SECTIONS 18257 AND 18259 FOR LICENSURE UNDER THIS
22 PART, AN INDIVIDUAL SHALL NOT ENGAGE IN THE PRACTICE OF APPLIED
23 BEHAVIOR ANALYSIS OR PRACTICE AS AN ASSISTANT BEHAVIOR ANALYST
24 UNLESS LICENSED OR OTHERWISE AUTHORIZED UNDER THIS ARTICLE.

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

26 (A) SELF-CARE BY A PATIENT OR UNCOMPENSATED CARE BY A FRIEND
27 OR FAMILY MEMBER WHO DOES NOT REPRESENT OR HOLD HIMSELF OR HERSELF

1 OUT TO BE A BEHAVIOR ANALYST OR ASSISTANT BEHAVIOR ANALYST.

2 (B) A BEHAVIOR TECHNICIAN FROM IMPLEMENTING A CARE PLAN UNDER
3 THE DELEGATION AND SUPERVISION OF A BEHAVIOR ANALYST.

4 (C) A FAMILY MEMBER FROM PROVIDING A FOLLOW-UP HOME PROGRAM
5 DESIGNED BY A BEHAVIOR ANALYST.

6 (D) A SCHOOL-BASED PARAPROFESSIONAL FROM IMPLEMENTING AN
7 APPLIED BEHAVIOR ANALYSIS INTERVENTION UNDER THE DELEGATION AND
8 SUPERVISION OF A LICENSED PROFESSIONAL DESCRIBED IN SUBDIVISION (E)
9 OR AN AUTHORIZED PROFESSIONAL DESCRIBED IN SUBDIVISION (F).

10 (E) AN INDIVIDUAL AUTHORIZED TO PRACTICE PSYCHOLOGY IN THE
11 STATE UNDER PART 182 FROM PROVIDING SERVICES INCLUDED IN THE
12 PRACTICE OF APPLIED BEHAVIOR ANALYSIS, IF THE BEHAVIOR ANALYSIS
13 SERVICES PROVIDED BY THAT INDIVIDUAL ARE WITHIN HIS OR HER
14 EDUCATION, TRAINING, AND EXPERIENCE.

15 (F) AN INDIVIDUAL WHO HOLDS A LICENSE, CERTIFICATE,
16 REGISTRATION, OR OTHER AUTHORIZATION FROM THIS STATE THAT
17 AUTHORIZES HIM OR HER TO PERFORM 1 OR MORE OF THE SERVICES INCLUDED
18 IN THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS, SO LONG AS THE
19 INDIVIDUAL DOES NOT DO ANY OF THE FOLLOWING:

20 (i) PERFORM ANY SERVICES INCLUDED IN THE PRACTICE OF APPLIED
21 BEHAVIOR ANALYSIS THAT ARE NOT WITHIN THE SCOPE OF PRACTICE OF HIS
22 OR HER PROFESSION OR OCCUPATION.

23 (ii) PERFORM ANY SERVICES INCLUDED IN THE PRACTICE OF APPLIED
24 BEHAVIOR ANALYSIS THAT HE OR SHE IS NOT QUALIFIED BY HIS OR HER
25 EDUCATION, TRAINING, AND EXPERIENCE TO PERFORM.

26 (iii) REPRESENT THAT HE OR SHE IS A BEHAVIOR ANALYST OR
27 ASSISTANT BEHAVIOR ANALYST.

1 (G) AN INDIVIDUAL WHO IS A MATRICULATED STUDENT AT A
2 NATIONALLY ACCREDITED UNIVERSITY APPROVED IN RULES OR WHO IS A
3 POSTDOCTORAL FELLOW FROM PERFORMING ACTIVITIES THAT ARE CONSIDERED
4 UNDER THIS PART TO BE THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS IF
5 THE ACTIVITIES ARE PART OF A DEFINED BEHAVIOR ANALYSIS PROGRAM OF
6 STUDY OR PRACTICUM APPROVED IN RULES AND IF THE STUDENT OR FELLOW
7 IS DIRECTLY SUPERVISED BY AN INDIVIDUAL WHO IS ANY OF THE
8 FOLLOWING:

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

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

12 (H) AN INDIVIDUAL WHO IS NOT LICENSED UNDER THIS PART FROM
13 PURSUING EXPERIENCE IN BEHAVIOR ANALYSIS COMPATIBLE WITH THE BACB'S
14 EXPERIENCE REQUIREMENTS FOR AN APPLIED BEHAVIOR ANALYSIS
15 CREDENTIAL, IF THE EXPERIENCE IS SUPERVISED BY AN INDIVIDUAL WHO IS
16 LICENSED AS A BEHAVIOR ANALYST UNDER THIS PART.

17 (I) AN INDIVIDUAL FROM PERFORMING ACTIVITIES THAT ARE
18 CONSIDERED UNDER THIS PART TO BE THE PRACTICE OF APPLIED BEHAVIOR
19 ANALYSIS IF THE ACTIVITIES ARE WITH NONHUMAN OR NONPATIENT CLIENTS
20 OR CONSUMERS. INDIVIDUALS DESCRIBED IN THIS SUBDIVISION INCLUDE,
21 BUT ARE NOT LIMITED TO, APPLIED ANIMAL BEHAVIORISTS AND
22 PRACTITIONERS OF ORGANIZATIONAL BEHAVIOR MANAGEMENT.

23 (4) THE DEPARTMENT SHALL ISSUE A LICENSE AS A BEHAVIOR ANALYST
24 TO AN INDIVIDUAL WHO ON OR BEFORE THE EFFECTIVE DATE OF THIS PART
25 HAD A CREDENTIAL AS A BOARD CERTIFIED BEHAVIOR ANALYST, OR
26 CONFERRED FOR APPLIED BEHAVIOR ANALYSIS BY THE BACB, AND WHO
27 APPLIES FOR LICENSURE AS A BEHAVIOR ANALYST BY 1 YEAR AFTER THE

1 EFFECTIVE DATE OF THE RULES PROMULGATED UNDER SECTION 18257.

2 (5) THE DEPARTMENT SHALL ISSUE A LICENSE AS AN ASSISTANT
3 BEHAVIOR ANALYST TO AN INDIVIDUAL WHO ON OR BEFORE THE EFFECTIVE
4 DATE OF THIS PART HAD A CREDENTIAL AS A BOARD CERTIFIED ASSISTANT
5 BEHAVIOR ANALYST, CONFERRED FOR APPLIED BEHAVIOR ANALYSIS BY THE
6 BACB, WHO IS UNDER THE SUPERVISION OF A BEHAVIOR ANALYST, AND WHO
7 APPLIES FOR LICENSURE AS AN ASSISTANT BEHAVIOR ANALYST BY 1 YEAR
8 AFTER THE EFFECTIVE DATE OF THE RULES PROMULGATED UNDER SECTION
9 18259.

10 SEC. 18257. BY 2 YEARS AFTER THE EFFECTIVE DATE OF THIS PART,
11 THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, SHALL PROMULGATE
12 RULES THAT ESTABLISH THE MINIMUM STANDARDS FOR LICENSURE AS A
13 BEHAVIOR ANALYST. FOR PURPOSES OF THIS SECTION, THE DEPARTMENT MAY
14 ADOPT IN ITS RULES THE PROFESSIONAL STANDARDS, IN WHOLE OR IN PART,
15 ISSUED BY THE BACB OR ANY OTHER NATIONALLY RECOGNIZED PROFESSIONAL
16 ASSOCIATION AS ITS STANDARDS UNDER THIS SECTION.

17 SEC. 18259. BY 2 YEARS AFTER THE EFFECTIVE DATE OF THIS PART,
18 THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, SHALL PROMULGATE
19 RULES THAT ESTABLISH THE MINIMUM STANDARDS FOR LICENSURE AS AN
20 ASSISTANT BEHAVIOR ANALYST. FOR PURPOSES OF THIS SECTION, THE
21 DEPARTMENT MAY ADOPT IN ITS RULES THE PROFESSIONAL STANDARDS, IN
22 WHOLE OR IN PART, ISSUED BY THE BACB OR ANY OTHER NATIONALLY
23 RECOGNIZED PROFESSIONAL ASSOCIATION AS ITS STANDARDS UNDER THIS
24 SECTION.

25 SEC. 18261. (1) NOTWITHSTANDING SECTIONS 16221, 16226, AND
26 16245, THE DEPARTMENT SHALL INCLUDE IN RULES PROMULGATED UNDER
27 SECTIONS 18257 AND 18259 THAT AN APPLICATION FOR A LICENSE UNDER

1 THIS PART WILL BE DENIED IF THE APPLICANT'S CRIMINAL HISTORY CHECK
2 REQUIRED BY SECTION 16174 REVEALS THAT HE OR SHE WAS CONVICTED OF A
3 LISTED OFFENSE, AND THAT A LICENSEE'S LICENSE WILL BE PERMANENTLY
4 REVOKED IF HE OR SHE IS CONVICTED OF A LISTED OFFENSE WHILE
5 LICENSED UNDER THIS PART.

6 (2) THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR A HEARING
7 UNDER SECTION 16232 TO AN INDIVIDUAL WHOSE APPLICATION IS DENIED OR
8 WHOSE LICENSE IS PERMANENTLY REVOKED UNDER THE RULES PROMULGATED
9 UNDER SUBSECTION (1).

10 SEC. 18263. (1) AN INDIVIDUAL SHALL NOT ACT AS A BEHAVIOR
11 TECHNICIAN IN THIS STATE UNLESS HE OR SHE MEETS BOTH OF THE
12 FOLLOWING, IF APPLICABLE:

13 (A) HAS HAD A CRIMINAL HISTORY CHECK CONDUCTED AND THE
14 CRIMINAL HISTORY CHECK DOES NOT CONTAIN ANY CRIMINAL HISTORY RECORD
15 INFORMATION FOR THAT INDIVIDUAL.

16 (B) BEGINNING 3 YEARS AFTER THE EFFECTIVE DATE OF THIS
17 SECTION, HAS COMPLETED A TRAINING PROGRAM THAT IS BASED ON THE
18 BACB'S REGISTERED BEHAVIOR TECHNICIAN TASK LIST.

19 (2) A BEHAVIOR TECHNICIAN SHALL NOT USE WORDS, TITLES, OR
20 LETTERS THAT INDICATE THAT HE OR SHE IS A BEHAVIOR ANALYST OR AN
21 ASSISTANT BEHAVIOR ANALYST OR THAT HE OR SHE IS ENGAGING IN THE
22 PRACTICE OF APPLIED BEHAVIOR ANALYSIS OR PRACTICE AS AN ASSISTANT
23 BEHAVIOR ANALYST.

24 SEC. 18265. IN ADDITION TO THE REQUIREMENTS OF PART 161, THE
25 DEPARTMENT, IN CONSULTATION WITH THE BOARD, MAY PROMULGATE RULES TO
26 REQUIRE A LICENSEE SEEKING RENEWAL TO DO 1 OF THE FOLLOWING:

27 (A) FOR A LICENSEE SEEKING RENEWAL OF HIS OR HER BEHAVIOR

1 ANALYST LICENSE, FURNISH EVIDENCE THAT, DURING THE LICENSING PERIOD
2 IMMEDIATELY PRECEDING THE APPLICATION FOR RENEWAL, HE OR SHE IS
3 CURRENT ON HIS OR HER CERTIFICATION BY THE BEHAVIOR ANALYST
4 CERTIFICATION BOARD OR OTHER CERTIFICATION BOARD AS A BOARD
5 CERTIFIED BEHAVIOR ANALYST.

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

13 SEC. 18267. THIS PART DOES NOT REQUIRE NEW OR ADDITIONAL THIRD
14 PARTY REIMBURSEMENT OR MANDATED WORKER'S COMPENSATION BENEFITS FOR
15 SERVICES RENDERED BY AN INDIVIDUAL LICENSED AS A BEHAVIOR ANALYST
16 OR AN ASSISTANT BEHAVIOR ANALYST UNDER THIS PART.

17 Enacting section 1. This amendatory act takes effect 90 days
18 after the date it is enacted into law.

19 Enacting section 2. This amendatory act does not take effect
20 unless Senate Bill No. 1016 of the 98th Legislature is enacted into
21 law.