

SENATE BILL No. 1015

June 7, 2016, Introduced by Senators WARREN, BIEDA, GREGORY, O'BRIEN, KNEZEK, ROCCA, SCHUITMAKER, NOFS, ANANICH, HOOD, EMMONS, KOWALL and BRANDENBURG and referred to the Committee on Regulatory Reform.

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

PART 182A

APPLIED BEHAVIOR ANALYSIS

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

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

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

7 (C) "BACB" MEANS THE BEHAVIOR ANALYST CERTIFICATION BOARD, A
8 NONPROFIT CORPORATION THAT IS EXEMPT FROM TAXATION UNDER SECTION
9 501(C) (3) OF THE INTERNAL REVENUE CODE OF 1986, 26 USC 501, OR ITS
10 SUCCESSOR, AS DETERMINED BY THE BOARD.

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

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

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

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

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

27 (I) "PRACTICE OF APPLIED BEHAVIOR ANALYSIS" MEANS THE DESIGN,

1 IMPLEMENTATION, AND EVALUATION OF INSTRUCTIONAL AND ENVIRONMENTAL
2 MODIFICATIONS TO PRODUCE SOCIALLY SIGNIFICANT IMPROVEMENTS IN HUMAN
3 BEHAVIOR. ALL OF THE FOLLOWING APPLY FOR PURPOSES OF THIS
4 SUBDIVISION:

5 (i) PRACTICE OF APPLIED BEHAVIOR ANALYSIS INCLUDES ALL OF THE
6 FOLLOWING:

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

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

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

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

18 (ii) THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS DOES NOT
19 INCLUDE ANY OF THE FOLLOWING:

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

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

23 (C) THE PRACTICE OF PHYSICAL THERAPY.

24 (D) THE PRACTICE OF OCCUPATIONAL THERAPY.

25 (E) PSYCHOLOGICAL TESTING, INCLUDING STANDARDIZED TESTING FOR
26 INTELLIGENCE OR PERSONALITY.

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

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

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

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

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

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

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

24 (A) SELF-CARE BY A PATIENT OR UNCOMPENSATED CARE BY A FRIEND
25 OR FAMILY MEMBER WHO DOES NOT REPRESENT OR HOLD HIMSELF OR HERSELF
26 OUT TO BE A BEHAVIOR ANALYST OR ASSISTANT BEHAVIOR ANALYST.

27 (B) A BEHAVIOR TECHNICIAN FROM IMPLEMENTING A CARE PLAN UNDER

1 THE DELEGATION AND SUPERVISION OF A BEHAVIOR ANALYST.

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

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

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

13 (F) AN INDIVIDUAL WHO HOLDS A LICENSE, CERTIFICATE,
14 REGISTRATION, OR OTHER AUTHORIZATION FROM THIS STATE AS A SCHOOL
15 PSYCHOLOGIST, SPEECH-LANGUAGE PATHOLOGIST, SPECIAL EDUCATOR,
16 OCCUPATIONAL THERAPIST, SOCIAL WORKER, OR OTHER MENTAL HEALTH
17 PRACTITIONER OR HOLDS ANOTHER LICENSE, CERTIFICATE, REGISTRATION,
18 OR OTHER AUTHORIZATION FROM THIS STATE THAT AUTHORIZES HIM OR HER
19 TO PERFORM 1 OR MORE OF THE SERVICES INCLUDED IN THE PRACTICE OF
20 APPLIED BEHAVIOR ANALYSIS, SO LONG AS THE INDIVIDUAL DOES NOT DO
21 ANY OF THE FOLLOWING:

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

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

1 (iii) REPRESENT THAT HE OR SHE IS A BEHAVIOR ANALYST OR
2 ASSISTANT BEHAVIOR ANALYST.

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

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

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

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

19 (4) THE DEPARTMENT SHALL ISSUE A LICENSE AS A BEHAVIOR ANALYST
20 TO AN INDIVIDUAL WHO ON OR BEFORE THE EFFECTIVE DATE OF THIS PART
21 HAD A CREDENTIAL AS A BOARD CERTIFIED BEHAVIOR ANALYST, OR
22 CONFERRED FOR APPLIED BEHAVIOR ANALYSIS BY THE BACB, AND WHO
23 APPLIES FOR LICENSURE AS A BEHAVIOR ANALYST BY 1 YEAR AFTER THE
24 EFFECTIVE DATE OF THE RULES PROMULGATED UNDER SECTION 18257.

25 (5) THE DEPARTMENT SHALL ISSUE A LICENSE AS AN ASSISTANT
26 BEHAVIOR ANALYST TO AN INDIVIDUAL WHO ON OR BEFORE THE EFFECTIVE
27 DATE OF THIS PART HAD A CREDENTIAL AS A BOARD CERTIFIED ASSISTANT

1 BEHAVIOR ANALYST, CONFERRED FOR APPLIED BEHAVIOR ANALYSIS BY THE
2 BACB, WHO IS UNDER THE SUPERVISION OF A BEHAVIOR ANALYST, AND WHO
3 APPLIES FOR LICENSURE AS AN ASSISTANT BEHAVIOR ANALYST BY 1 YEAR
4 AFTER THE EFFECTIVE DATE OF THE RULES PROMULGATED UNDER SECTION
5 18259.

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

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

21 SEC. 18261. (1) NOTWITHSTANDING SECTIONS 16221, 16226, AND
22 16245, THE DEPARTMENT SHALL INCLUDE IN RULES PROMULGATED UNDER
23 SECTIONS 18257 AND 18259 THAT AN APPLICATION FOR A LICENSE UNDER
24 THIS PART WILL BE DENIED IF THE APPLICANT'S CRIMINAL HISTORY CHECK
25 REQUIRED BY SECTION 16174 REVEALS THAT HE OR SHE WAS CONVICTED OF A
26 LISTED OFFENSE, AND THAT A LICENSEE'S LICENSE WILL BE PERMANENTLY
27 REVOKED IF HE OR SHE IS CONVICTED OF A LISTED OFFENSE WHILE

1 LICENSED UNDER THIS PART.

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

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

9 (A) HAS HAD A CRIMINAL HISTORY CHECK CONDUCTED AND THE
10 CRIMINAL HISTORY CHECK DOES NOT CONTAIN ANY CRIMINAL HISTORY RECORD
11 INFORMATION FOR THAT INDIVIDUAL.

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

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

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

23 (A) FOR A LICENSEE SEEKING RENEWAL OF HIS OR HER BEHAVIOR
24 ANALYST LICENSE, FURNISH EVIDENCE THAT, DURING THE LICENSING PERIOD
25 IMMEDIATELY PRECEDING THE APPLICATION FOR RENEWAL, HE OR SHE IS
26 CURRENT ON HIS OR HER CERTIFICATION BY THE BEHAVIOR ANALYST
27 CERTIFICATION BOARD OR OTHER CERTIFICATION BOARD AS A BOARD

1 CERTIFIED BEHAVIOR ANALYST.

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

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

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

15 Enacting section 2. This amendatory act does not take effect
16 unless Senate Bill No. 1016

17 of the 98th Legislature is enacted into law.