

Act No. 403  
Public Acts of 2016  
Approved by the Governor  
January 3, 2017  
Filed with the Secretary of State  
January 3, 2017  
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**STATE OF MICHIGAN  
98TH LEGISLATURE  
REGULAR SESSION OF 2016**

Introduced by Senators Warren, Bieda, Gregory, O'Brien, Knezek, Rocca, Schuitmaker, Nofs, Ananich, Hood, Emmons, Kowall and Brandenburg

# ENROLLED SENATE BILL No. 1015

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding section 16343a and part 182A.

*The People of the State of Michigan enact:*

Sec. 16343a. Fees for an individual who is licensed or seeking licensure to engage in the practice of applied behavior analysis, or to engage in practice as an assistant behavior analyst, under part 182A are as follows:

(a) Application processing fee .....	\$ 75.00
(b) License fee, per year .....	90.00

PART 182A

APPLIED BEHAVIOR ANALYSIS

Sec. 18251. (1) As used in this part:

(a) "Applied behavior analysis services" means services provided to clients that are included in the practice of applied behavior analysis.

(b) "Assistant behavior analyst" means an individual who is licensed or otherwise authorized under this part to engage in practice as an assistant behavior analyst.

(c) "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, or its successor, as determined by the board.

(d) "Behavior analyst" means an individual who is licensed or otherwise authorized under this part to engage in the practice of applied behavior analysis.

(e) "Behavior technician" means an individual who is not licensed or authorized to practice a profession under this part and who delivers applied behavior analysis services under the delegation and supervision of a behavior analyst and meets the requirements of section 18263.

(f) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(g) "Other certification board" means a nationally recognized behavior analysis certification board approved by the department by rule.

(h) "Practice as an assistant behavior analyst" means the practice of applied behavior analysis under the supervision of a behavior analyst.

(i) "Practice of applied behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. All of the following apply for purposes of this subdivision:

(i) Practice of applied behavior analysis includes all of the following:

(A) The empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis.

(B) Applied behavior analysis interventions that are based on scientific research and the direct observation and measurement of behavior and the environment.

(C) The utilization of contextual factors, motivating operations, antecedent stimuli, or positive reinforcement.

(D) The utilization of other consequences to help individuals develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.

(ii) The practice of applied behavior analysis does not include any of the following:

(A) The practice of medicine, the practice of osteopathic medicine and surgery, or medical diagnosis or treatment.

(B) The practice of speech-language pathology.

(C) The practice of physical therapy.

(D) The practice of occupational therapy.

(E) Psychological testing, including standardized testing for intelligence or personality.

(F) Diagnosis of a mental or physical impairment.

(G) The practice of neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or counseling as treatment modalities.

(j) "Rules" means rules promulgated by the department in consultation with the board under this part.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

Sec. 18253. (1) Beginning 1 year after the effective date of the rules promulgated under sections 18257 and 18259 for licensure under this part, an individual shall not use the titles "licensed behavior analyst", "l.b.a.", "licensed assistant behavior analyst", "l.a.b.a.", or similar words or letters that indicate that he or she is licensed as a behavior analyst or assistant behavior analyst unless the individual is licensed or otherwise authorized under this part. The department shall provide for a 4-year license cycle.

(2) Beginning 1 year after the effective date of the rules promulgated under sections 18257 and 18259 for licensure under this part, an individual shall not engage in the practice of applied behavior analysis or practice as an assistant behavior analyst unless licensed or otherwise authorized under this article.

(3) Subsection (2) does not prevent any of the following:

(a) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a behavior analyst or assistant behavior analyst.

(b) A behavior technician from implementing a care plan under the delegation and supervision of a behavior analyst.

(c) A family member from providing a follow-up home program designed by a behavior analyst.

(d) A school-based paraprofessional from implementing an applied behavior analysis intervention under the delegation and supervision of a licensed professional described in subdivision (e) or an authorized professional described in subdivision (f).

(e) An individual authorized to practice psychology in the state under part 182 from providing services included in the practice of applied behavior analysis, if the behavior analysis services provided by that individual are within his or her education, training, and experience.

(f) An individual who holds a license, certificate, registration, or other authorization from this state that authorizes him or her to perform 1 or more of the services included in the practice of applied behavior analysis, so long as the individual does not do any of the following:

(i) Perform any services included in the practice of applied behavior analysis that are not within the scope of practice of his or her profession or occupation.

(ii) Perform any services included in the practice of applied behavior analysis that he or she is not qualified by his or her education, training, and experience to perform.

(iii) Represent that he or she is a behavior analyst or assistant behavior analyst.

(g) An individual who is a matriculated student at a nationally accredited university approved in rules 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 in rules 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 or other certification board.

(h) An individual who is not licensed under this part from pursuing experience in behavior analysis compatible with the BACB's experience requirements for an applied behavior analysis credential, if the experience is supervised by an individual who is licensed as a behavior analyst under this part.

(i) An individual from performing activities that are considered under this part to be the practice of applied behavior analysis if the activities are with nonhuman or nonpatient clients or consumers. Individuals described in this subdivision include, but are not limited to, applied animal behaviorists and practitioners of organizational behavior management.

(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 a credential as a board certified behavior analyst, or conferred for applied behavior analysis by the BACB, and who applies for licensure as a behavior analyst by 1 year after the effective date of the rules promulgated under section 18257.

(5) The department shall issue a license as an assistant behavior analyst to an individual who on or before the effective date of this part had a credential as a board certified assistant behavior analyst, conferred for applied behavior analysis by the BACB, who is under the supervision of a behavior analyst, and who applies for licensure as an assistant behavior analyst by 1 year after the effective date of the rules promulgated under section 18259.

Sec. 18257. By 2 years after the effective date of this part, the department, in consultation with the board, shall promulgate rules that establish the minimum standards for licensure as a behavior analyst. For purposes of this section, the department may adopt in its rules the professional standards, in whole or in part, issued by the BACB or any other nationally recognized professional association as its standards under this section.

Sec. 18259. By 2 years after the effective date of this part, the department, in consultation with the board, shall promulgate rules that establish the minimum standards for licensure as an assistant behavior analyst. For purposes of this section, the department may adopt in its rules the professional standards, in whole or in part, issued by the BACB or any other nationally recognized professional association as its standards under this section.

Sec. 18261. (1) Notwithstanding sections 16221, 16226, and 16245, the department shall include in rules promulgated under sections 18257 and 18259 that an application for a license under this part will be denied if the applicant's criminal history check required by section 16174 reveals that he or she was convicted of a listed offense, and that a licensee's license will be permanently revoked if he or she is convicted of a listed offense while licensed under this part.

(2) The department shall provide an opportunity for a hearing under section 16232 to an individual whose application is denied or whose license is permanently revoked under the rules promulgated under subsection (1).

Sec. 18263. (1) An individual shall not act as a behavior technician in this state unless he or she meets both of the following, if applicable:

(a) Has had a criminal history check conducted and the criminal history check does not contain any criminal history record information for that individual.

(b) Beginning 3 years after the effective date of this section, has completed a training program that is based on the BACB's registered behavior technician task list.

(2) A behavior technician shall not use words, titles, or letters that indicate that he or she is a behavior analyst or an assistant behavior analyst or that he or she is engaging in the practice of applied behavior analysis or practice as an assistant behavior analyst.

Sec. 18265. In addition to the requirements of part 161, the department, in consultation with the board, may promulgate rules to require a licensee seeking renewal to do 1 of the following:

(a) For a licensee seeking renewal of his or her behavior analyst license, furnish evidence that, during the licensing period immediately preceding the application for renewal, he or she is current on his or her certification by the Behavior Analyst Certification Board or other certification board as a board certified behavior analyst.

(b) For a licensee seeking renewal of his or her assistant behavior analyst license, furnish evidence that, during the licensing period immediately preceding the application for renewal, he or she is current on his or her certification by the BACB or other certification board as a board certified assistant behavior analyst and that he or she is practicing under the supervision of a licensed behavior analyst.

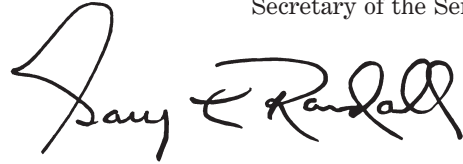
Sec. 18267. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as a behavior analyst or an assistant behavior analyst under this part.

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

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



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

.....  
Governor