

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 19** Session of
2021

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MARCH 11, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JANUARY 26, 2022

AN ACT

1 Amending the act of December 20, 1985 (P.L.457, No.112),
2 entitled "An act relating to the right to practice medicine
3 and surgery and the right to practice medically related acts;
4 reestablishing the State Board of Medical Education and
5 Licensure as the State Board of Medicine and providing for
6 its composition, powers and duties; providing for the
7 issuance of licenses and certificates and the suspension and
8 revocation of licenses and certificates; provided penalties;
9 and making repeals," further providing for definitions, for
10 respiratory therapists, for perfusionist, for genetic
11 counselor and for prosthetists, orthotists, pedorthists and
12 orthotic fitters; providing for behavior analysts and
13 assistant behavior analysts; and further providing for
14 licenses and certificates and general qualification.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 2 of the act of December 20, 1985
18 (P.L.457, No.112), known as the Medical Practice Act of 1985, is
19 amended by adding definitions to read:

20 Section 2. Definitions.

1 The following words and phrases when used in this act shall
2 have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 * * *

5 "Applied behavior analysis." The design, implementation and
6 evaluation of instructional and environmental modifications with
7 an individual to produce socially significant improvement in
8 human behavior or to prevent loss of an attained skill or
9 function, including the use of direct observation, measurement
10 and functional analysis of the relations between environment and
11 behavior.

12 "Assistant behavior analyst." An individual who is licensed
13 under section 13.7(b) to assist in the practice of applied
14 behavior analysis under the supervision of a licensed behavior
15 analyst who is approved by a certifying entity to supervise
16 assistant behavior analysts. AN INDIVIDUAL WHO MEETS THE <--
17 CRITERIA SPECIFIED IN THIS DEFINITION MAY BE EMPLOYED OR
18 SUPERVISED BY ANOTHER PROFESSIONAL LICENSED IN THIS COMMONWEALTH
19 WHOSE STATUTORY OR REGULATED SCOPE OF PRACTICE INCLUDES APPLIED
20 BEHAVIOR ANALYSIS IF THE LICENSED PROFESSIONAL PRACTICES WITHIN
21 THE BOUNDARIES OF THE PROFESSION'S CODE OF ETHICS.

22 * * *

23 "Behavior analyst." An individual who is licensed by the
24 board to practice applied behavior analysis under section
25 13.7(a).

26 * * *

27 "Certifying entity." A nonprofit organization approved by
28 the board that provides programs to credential professional
29 practitioners of applied behavior analysis that are accredited
30 by the NCCA or the American National Standards Institute or a

1 successor institute.

2 * * *

3 Section 2. Sections 13.1(a) (3), 13.3(f) (2), 13.4(e) (2) and
4 13.5(a) (1) of the act are amended to read:

5 Section 13.1. Respiratory therapists.

6 (a) Qualifications.--An individual shall be eligible to
7 apply for licensure as a respiratory therapist if that
8 individual satisfies all of the following:

9 * * *

10 (3) Has proved to the satisfaction of the board that the
11 individual is of good moral character and is not unfit or
12 unable to practice as a respiratory therapist by reason of
13 physical or mental impairment. In assessing the moral
14 character of an individual with a criminal conviction, the
15 board shall conduct an individualized assessment in
16 accordance with 63 Pa.C.S. § 3113 (relating to consideration
17 of criminal convictions).

18 * * *

19 Section 13.3. Perfusionist.

20 * * *

21 (f) Qualifications.--An applicant shall be licensed to
22 practice perfusion under this act if the applicant meets all of
23 the following qualifications and has otherwise complied with the
24 provisions of this act:

25 * * *

26 (2) The person is of good moral character. In assessing
27 the moral character of an applicant with a criminal
28 conviction, the board shall conduct an individualized
29 assessment in accordance with 63 Pa.C.S. § 3113 (relating to
30 consideration of criminal convictions).

1 * * *

2 Section 13.4. Genetic counselor.

3 * * *

4 (e) Qualifications.--An applicant shall be licensed to
5 practice genetic counseling under this act if the applicant
6 meets all of the following qualifications and has otherwise
7 complied with the provisions of this act:

8 * * *

9 (2) The person is of good moral character. In assessing
10 the moral character of an applicant with a criminal
11 conviction, the board shall conduct an individualized
12 assessment in accordance with 63 Pa.C.S. § 3113 (relating to
13 consideration of criminal convictions).

14 * * *

15 Section 13.5. Prosthetists, orthotists, pedorthists and
16 orthotic fitters.

17 (a) Licensure qualifications.--To qualify for licensure to
18 practice prosthetics, orthotics, pedorthics or orthotic fitting,
19 an applicant shall:

20 (1) Be of good moral character. In assessing the moral
21 character of an applicant with a criminal conviction, the
22 board shall conduct an individualized assessment in
23 accordance with 63 Pa.C.S. § 3113 (relating to consideration
24 of criminal convictions).

25 * * *

26 Section 3. The act is amended by adding a section to read:
27 Section 13.7. Behavior analysts and assistant behavior
28 analysts.

29 (a) Behavior analyst licensure.--An applicant shall be
30 licensed to practice as a behavior analyst by the board if the

1 applicant meets all of the following qualifications and has
2 otherwise complied with the provisions of this act:

3 (1) The applicant is at least 21 years of age.

4 (2) The applicant is of good moral character. In
5 assessing the moral character of an applicant with a criminal
6 conviction, the board shall conduct an individualized
7 assessment in accordance with 63 Pa.C.S. § 3113 (relating to
8 consideration of criminal convictions).

9 (3) The applicant has completed an application and paid
10 a fee as established by the board by regulation.

11 (4) The applicant has received a master's degree or
12 higher in a course of study required for certification from a
13 certifying entity.

14 (5) The applicant holds a current certification as a
15 board-certified behavior analyst from a certifying entity.

16 (6) The applicant has passed the examination for
17 certification as a board-certified behavior analyst by a
18 certifying entity as approved by the board.

19 (7) The applicant submits proof of professional
20 liability insurance coverage as required under subsection
21 (g).

22 (8) The applicant has not been convicted of a felony
23 under the act of April 14, 1972 (P.L.233, No.64), known as
24 The Controlled Substance, Drug, Device and Cosmetic Act, or
25 of an offense under the laws of another jurisdiction which,
26 if committed in this Commonwealth, would be a felony under
27 The Controlled Substance, Drug, Device and Cosmetic Act,
28 unless all of the following apply:

29 (i) At least ten years have elapsed from the date of
30 conviction.

1 (ii) The applicant has satisfactorily demonstrated
2 to the board that the applicant has made significant
3 progress in personal rehabilitation since the conviction.

4 (iii) The applicant has satisfactorily demonstrated
5 to the board that licensure of the applicant will not
6 create a substantial risk of harm to the health and
7 safety of the applicant's patients or the general public
8 or result in additional criminal violations.

9 (b) Assistant behavior analyst licensure.--An applicant
10 shall be licensed to practice as an assistant behavior analyst
11 by the board if the applicant meets all of the following
12 qualifications and has otherwise complied with the provisions of
13 this act:

14 (1) The applicant is at least 21 years of age.

15 (2) The applicant is of good moral character. In
16 assessing the moral character of an applicant with a criminal
17 conviction, the board shall conduct an individualized
18 assessment in accordance with 63 Pa.C.S. § 3113 (relating to
19 consideration of criminal convictions).

20 (3) The applicant has completed an application and paid
21 a fee as established by the board by regulation.

22 (4) The applicant has received a bachelor's degree or
23 higher in a course of study required for certification from a
24 certifying entity.

25 (5) The applicant holds a current certification as a
26 board-certified assistant behavior analyst from a certifying
27 entity.

28 (6) The applicant has passed the examination for
29 certification as a board-certified assistant behavior analyst
30 by a certifying entity as approved by the board.

1 (7) The applicant has not been convicted of a felony
2 under The Controlled Substance, Drug, Device and Cosmetic
3 Act, or of an offense under the laws of another jurisdiction
4 which, if committed in this Commonwealth, would be a felony
5 under The Controlled Substance, Drug, Device and Cosmetic
6 Act, unless all of the following apply:

7 (i) At least ten years have elapsed from the date of
8 conviction.

9 (ii) The applicant has satisfactorily demonstrated
10 to the board that the applicant has made significant
11 progress in personal rehabilitation since the conviction.

12 (iii) The applicant has satisfactorily demonstrated
13 to the board that licensure of the applicant will not
14 create a substantial risk of harm to the health and
15 safety of the applicant's patients or the general public
16 or result in additional criminal violations.

17 (8) The applicant provides a letter from a licensed
18 behavior analyst in this Commonwealth who is approved by a
19 certifying entity to supervise licensed assistant behavior
20 analysts stating that the licensed behavior analyst is
21 supervising the applicant in accordance with the certifying
22 entity's current requirements.

23 ~~(c) Licensure required. Two years after the effective date~~ <--

24 ~~(C) LICENSURE REQUIRED.--~~ <--

25 (1) TWO YEARS AFTER THE EFFECTIVE DATE of this section,
26 it shall be unlawful for an individual to hold oneself out
27 to the public as a behavior analyst or an assistant behavior
28 analyst or to practice or assist in the practice of applied
29 behavior analysis or offer to practice or assist in the
30 practice of applied behavior analysis unless the individual

1 holds a license under subsection (a) or (b).

2 (2) WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS <--
3 SECTION, AN INDIVIDUAL WHO HAS PRACTICED APPLIED BEHAVIOR
4 ANALYSIS FOR THREE OF THE FIVE YEARS IMMEDIATELY PRECEDING
5 THE EFFECTIVE DATE OF THIS SECTION SHALL BE ELIGIBLE FOR
6 LICENSURE IF THE APPLICANT SUBMITS TO THE BOARD PROOF OF THE
7 REQUIRED EXPERIENCE AND COMPLIES WITH SUBSECTION (A) (1), (2),
8 (3), (4), (7) AND (8) OR (B) (1), (2), (3), (4), (7) AND (8).

9 (d) Prohibition or restriction.--In accordance with
10 subsection (c), nothing in this section shall be construed as
11 prohibiting or restricting the practice of any of the following:

12 (1) An individual licensed under any other section of
13 this act or any other law of this Commonwealth, while acting
14 within the scope of practice of the individual's license and
15 training, including, but not limited to, any of the
16 following:

17 (i) An individual licensed to engage in the practice
18 of psychology under the act of March 23, 1972 (P.L.136,
19 No.52), known as the Professional Psychologists Practice
20 Act.

21 (ii) An individual licensed to practice audiology or
22 speech-language pathology under the act of December 21,
23 1984 (P.L.1253, No.238), known as the Speech-Language
24 Pathologists and Audiologists Licensure Act.

25 (iii) An individual licensed to practice
26 occupational therapy under the act of June 15, 1982
27 (P.L.502, No.140), known as the Occupational Therapy
28 Practice Act.

29 (iv) An individual licensed as a behavior specialist
30 under section 635.2(g) of the act of May 17, 1921

1 (P.L.682, No.284), known as The Insurance Company Law of
2 1921.

3 (2) An individual employed by the Federal Government to
4 provide applied behavior analysis services while in the
5 discharge of the individual's official duties.

6 (3) A behavior analyst who practices with non-humans,
7 including an applied animal behaviorist or animal trainer. A
8 behavior analyst under this paragraph may use the title
9 "behavior analyst," but may not represent oneself as a
10 licensed behavior analyst or licensed assistant behavior
11 analyst.

12 (4) An individual who provides general applied behavior
13 analysis services to an organization for which the individual
14 is employed if the services are for the benefit of the
15 organization and do not involve direct services to
16 individuals. An individual under this paragraph may use the
17 title "behavior analyst" but may not represent oneself as a
18 licensed behavior analyst or licensed assistant behavior
19 analyst.

20 (5) A student of an accredited college or university or
21 a postdoctoral fellow whose applied behavior analysis
22 activities are part of a defined program of study, course,
23 practicum, internship or fellowship and are directly
24 supervised by a licensed behavior analyst or qualified
25 faculty member.

26 (6) An individual pursuing supervised experiential
27 training in applied behavior analysis consistent with a
28 certifying entity's requirements if the training is
29 supervised by a licensed behavior analyst or licensed
30 psychologist who is approved by the certifying entity to

1 provide the supervision.

2 (7) An individual who teaches behavior analysis or
3 conducts behavior-analytic research at an accredited college
4 or university if the activities do not involve the direct
5 delivery of applied behavior analysis services beyond the
6 typical parameters of applied research. An individual under
7 this paragraph may use the title "behavior analyst" but may
8 not represent oneself as a licensed behavior analyst or
9 licensed assistant behavior analyst.

10 ~~(8) A nonresident of this Commonwealth who is licensed~~ <--
11 ~~to practice applied behavior analysis in another state or~~
12 ~~territory of the United States whose requirements are~~
13 ~~substantially equivalent to the requirements under this~~
14 ~~section as determined by the board and who practices in this~~
15 ~~Commonwealth for no more than 15 days in a calendar year.~~

16 ~~(9)~~ (8) An individual employed or contracted by an <--
17 entity regulated by the Department of Education who delivers
18 applied behavior analysis services to an individual served by
19 the same entity.

20 (e) Use of title.--Except as provided under subsection (d)
21 (4) and (7), only an individual who holds an active license
22 under subsection (a) or (b) may use the title "behavior
23 analyst," "licensed behavior analyst," "assistant behavior
24 analyst," "licensed assistant behavior analyst" or use any
25 similar words or symbols indicating that the individual is a
26 behavior analyst or an assistant behavior analyst or the
27 abbreviation of "B.A.," "L.B.A.," "A.B.A." or "L.A.B.A."

28 (f) Limitation.--Nothing in this section shall be construed
29 as an authorization for a behavior analyst or an assistant
30 behavior analyst to practice any branch of the healing arts,

1 except as otherwise specified under this act, or to issue a
2 diagnosis of a disorder.

3 (g) Liability insurance.--

4 (1) An individual licensed under subsection (a) and
5 practicing in this Commonwealth shall maintain a level of
6 professional liability insurance coverage in the minimum
7 amount of \$1,000,000 per occurrence or claims made. Failure
8 to maintain the professional liability insurance coverage as
9 required under this paragraph shall subject the licensee to
10 disciplinary proceedings by the board. The board shall accept
11 as satisfactory evidence of insurance coverage any of the
12 following:

13 (i) Self-insurance.

14 (ii) Personally purchased liability insurance.

15 (iii) Professional liability insurance coverage
16 provided by the licensee's employer or similar insurance
17 coverage acceptable to the board.

18 (2) An applicant shall provide proof that the applicant
19 has obtained professional liability insurance coverage in
20 accordance with paragraph (1). The proof required under this
21 paragraph shall be satisfied if the applicant files with the
22 application a copy of a letter from the applicant's
23 professional liability insurance carrier indicating that the
24 applicant will be covered against professional liability in
25 the required amounts effective upon the issuance of the
26 applicant's license to practice as a behavior analyst.

27 (3) Upon the issuance of a license under subsection (a),
28 the licensee shall have 30 days to submit to the board the
29 certificate of insurance or a copy of the policy declaration
30 page to comply with the professional liability insurance

1 coverage under paragraph (1).

2 (4) The board shall adopt by regulation standards and
3 procedures established by the Insurance Commissioner for
4 self-insurance. In the absence of these standards and
5 procedures, the board, after consultation with the Insurance
6 Commissioner, shall establish standards and procedures by
7 regulation for self-insurance under this subsection.

8 (h) Temporary licenses.--

9 (1) The board shall grant a temporary license under this
10 section to an applicant if the applicant submits all the
11 required documentation to the board. A temporary license
12 under this paragraph shall be valid until the board completes
13 the processing of the application and denies or grants
14 licensure under subsection (a) or (b).

15 (2) The board may grant a temporary license under this
16 section to a nonresident who engages in the practice of
17 applied behavior analysis in this Commonwealth for no more
18 than three months in a calendar year if the individual meets
19 any of the following requirements:

20 (i) The individual is licensed to practice applied
21 behavior analysis in another state or territory of the
22 United States whose licensure requirements are
23 substantially equivalent to the requirements in this
24 Commonwealth.

25 (ii) The individual holds a current certification by
26 a certifying entity to practice applied behavior
27 analysis.

28 (3) An applicant for a temporary license under this
29 subsection shall submit an application and pay a fee as
30 determined by the board by regulation. A temporary license

1 holder shall be subject to all other licensure and
2 disciplinary requirements as specified under this section and
3 by the board.

4 (i) Renewal.--A license issued under subsection (a) or (b)
5 shall be subject to biennial renewal. The board may issue a
6 license renewal to a licensee upon the submission of all of the
7 following:

8 (1) An application and a fee as established by the board
9 by regulation.

10 (2) Verification of current certification in good
11 standing by a certifying entity.

12 (3) Evidence of having active professional liability
13 insurance coverage as specified under subsection (g).

14 (4) Completion of 30 hours of continuing education. The
15 following shall apply:

16 (i) An applicant for licensure renewal under this
17 subsection shall complete at least three hours of the
18 continuing education requirement under this paragraph in
19 approved child abuse recognition and reporting training
20 as specified under 23 Pa.C.S. § 6383(b)(3) (relating to
21 education and training).

22 (ii) An individual who applies for initial licensure
23 under subsection (a) or (b) shall be exempt from the
24 continuing education requirement under this paragraph for
25 the biennial renewal period after initial licensure.

26 (iii) The board may waive all or a portion of the
27 continuing education requirement under this paragraph for
28 a licensee who shows to the satisfaction of the board
29 that the licensee was unable to complete or satisfy the
30 continuing education requirement due to serious illness,

1 military service or other demonstrated hardship.

2 (iv) The board may not give credit towards the
3 completion of the continuing education requirement under
4 this paragraph to a licensee for office management or
5 practice building.

6 (J) OTHER RENEWALS.--A LICENSE ISSUED UNDER SUBSECTION (C) <--
7 (2) SHALL BE SUBJECT TO BIENNIAL RENEWAL. THE BOARD MAY ISSUE A
8 LICENSE RENEWAL TO A LICENSEE UNDER SUBSECTION (C) (2) UPON THE
9 SUBMISSION OF ALL OF THE REQUIREMENTS IN SUBSECTION (I), NOT
10 INCLUDING THE REQUIREMENT UNDER SUBSECTION (I) (2).

11 ~~(j)~~ (K) Effect of licensure.--Licensure under this section <--
12 shall not be construed as requiring new or additional third-
13 party reimbursement or otherwise mandating coverage under 75
14 Pa.C.S. Ch. 17 (relating to financial responsibility) or the act
15 of June 2, 1915 (P.L.736, No.338), known as the Workers'
16 Compensation Act.

17 Section 4. Section 22(b) introductory paragraph of the act
18 is amended to read:

19 Section 22. Licenses and certificates; general qualification.

20 * * *

21 (b) Qualifications.--The board shall not issue a license or
22 certificate to an applicant unless the applicant establishes
23 with evidence, verified by an affidavit or affirmation of the
24 applicant, that the applicant is of legal age, is of good moral
25 character and is not addicted to the intemperate use of alcohol
26 or the habitual use of narcotics or other habit-forming drugs
27 and that the applicant has completed the educational
28 requirements prescribed by the board and otherwise satisfies the
29 qualifications for the license or certificate contained in or
30 authorized by this act. In assessing the moral character of an

1 applicant with a criminal conviction, the board shall conduct an
2 individualized assessment in accordance with 63 Pa.C.S. § 3113
3 (relating to consideration of criminal convictions). The board
4 shall not issue a license or certificate to an applicant who has
5 been convicted of a felony under the act of April 14, 1972
6 (P.L.233, No.64), known as The Controlled Substance, Drug,
7 Device and Cosmetic Act, or of an offense under the laws of
8 another jurisdiction which, if committed in this Commonwealth,
9 would be a felony under The Controlled Substance, Drug, Device
10 and Cosmetic Act, unless:

11 * * *

12 Section 5. The State Board of Medicine shall promulgate
13 final regulations necessary to implement the addition of section
14 13.7 of the act within 180 days of the effective date of this
15 section.

16 Section 6. This act shall take effect in 60 days.