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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1900 Session of  
2019

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INTRODUCED BY MEHAFFIE, MURT, RYAN, MATZIE, HILL-EVANS, HARKINS, JAMES, IRVIN, McNEILL, ORTITAY, NEILSON, DiGIROLAMO, DONATUCCI, MULLINS, RAVENSTAHL, TOOIL, READSHAW, SOLOMON, WARREN, LEWIS, KRUEGER, RADER, ROTHMAN, GALLOWAY, MASSER, SIMS, STURLA, MADDEN, ROZZI, SIMMONS, KOSIEROWSKI, SCHLEGEL, CULVER, GREGORY, WEBSTER, HEFFLEY, SAPPEY, KIRKLAND, CIRESI, STEPHENS, MARKOSEK, WHEATLEY, MALAGARI, NESBIT, THOMAS, OTTEN, RIGBY, NELSON, MALONEY, CALTAGIRONE, PASHINSKI, DAVIDSON, DELLOSO, ZABEL, POLINCHOCK, KORTZ, HANBIDGE, SHUSTERMAN, BRIGGS, SANCHEZ, HOWARD, A. DAVIS, SNYDER, TOBASH, KAIL, SCHWEYER, JOZWIAK, FLYNN, SCHLOSSBERG, MARSHALL, DALEY, GAINNEY, PETRARCA, HELM, HENNESSEY, CONKLIN, DAY, TOEPEL, HOHENSTEIN, BROWN, BULLOCK, ULLMAN, MERSKI, ROEBUCK, GAYDOS, ISAACSON, DEASY, STAATS, DeLUCA, CEPHAS, FRANKEL, SCHMITT, MOUL, BIZZARRO, QUINN, SCHROEDER, FARRY, T. DAVIS, BERNSTINE, KIM, KENYATTA, FREEMAN, STRUZZI, KULIK, HAHN, BROOKS AND KLUNK, SEPTEMBER 30, 2019

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REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,  
SEPTEMBER 30, 2019

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AN ACT

1 Providing for licensure of behavior analysts and assistant  
2 behavior analysts; establishing the Behavior Analyst  
3 Licensing Board and providing for its membership, powers and  
4 duties; establishing the Behavior Analyst Licensure Fund; and  
5 providing for penalties.

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20 The General Assembly of the Commonwealth of Pennsylvania  
21 hereby enacts as follows:

22 CHAPTER 1

23 PRELIMINARY PROVISIONS

24 Section 101. Legislative findings and declaration of policy.

25 The General Assembly finds and declares as follows:

26 (1) The practice of applied behavior analysis affects  
27 the health, safety and welfare of the residents of this  
28 Commonwealth.

29 (2) Individuals practicing applied behavior analysis  
30 shall be subject to regulation to protect the public from the

1 practice of applied behavior analysis by unqualified  
2 individuals and to prevent unprofessional, unethical and  
3 harmful conduct.

4 Section 102. Short title.

5 This act shall be known and may be cited as the Behavior  
6 Analyst Licensure Act.

7 Section 103. Definitions.

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

11 "Behavior technician." An individual who practices under the  
12 supervision and direction of a licensed professional, delivers  
13 services as assigned by the clinical supervisor responsible for  
14 the individual's work and does not design assessment or  
15 intervention plans or procedures. A behavior technician may be  
16 employed or supervised by another professional licensed in this  
17 Commonwealth, provided that any applied behavior analysis  
18 services delivered by the technician are supervised by a  
19 licensed behavior analyst, licensed assistant behavior analyst  
20 or other professional licensed in this Commonwealth whose  
21 legislated scope of practice includes applied behavior analysis  
22 and who is practicing within the boundaries of the  
23 professional's code of ethics. A behavior technician who holds  
24 the Behavior Analyst Certification Board's registered behavior  
25 technician credential shall obtain supervision from a licensed  
26 behavior analyst, licensed assistant behavior analyst or other  
27 professional licensed in this Commonwealth who is approved by  
28 the certifying entity to supervise registered behavior  
29 technicians in accordance with the certifying entity's current  
30 supervision requirements.

1 "Board." The Behavior Analyst Licensing Board established  
2 under section 301.

3 "Certifying entity." The Behavior Analyst Certification  
4 Board or another entity whose programs to credential  
5 practitioners of applied behavior analysis are accredited by the  
6 National Commission for Certifying Agencies or the American  
7 National Standards Institute.

8 "Conviction." A judgment, admission of guilt or plea of nolo  
9 contendere.

10 "Fund." The Behavior Analyst Licensure Fund established  
11 under section 701.

12 "Licensed assistant behavior analyst." An individual who is  
13 certified by the certifying entity as a board-certified  
14 assistant behavior analyst and who is licensed under this act to  
15 engage in the practice of applied behavior analysis under the  
16 supervision of a licensed behavior analyst who is approved by  
17 the certifying entity to supervise assistant behavior analysts.  
18 A licensed assistant behavior analyst may be employed or  
19 supervised by another professional licensed in this Commonwealth  
20 whose legislated scope of practice includes applied behavior  
21 analysis, provided that the licensed professional practices  
22 within the boundaries of the professional's code of ethics. If  
23 the licensed professional is not approved by the certifying  
24 entity to supervise assistant behavior analysts, then the  
25 licensed assistant behavior analyst shall also obtain  
26 supervision from a licensed behavior analyst in this  
27 Commonwealth who is approved by the certifying entity to  
28 supervise assistant behavior analysts in accordance with the  
29 certifying entity's current supervision requirements.

30 "Licensed behavior analyst." An individual who is certified

1 by the certifying entity as a board-certified behavior analyst  
2 or board-certified behavior analyst-doctoral and is licensed  
3 under this act to engage in the practice of applied behavior  
4 analysis.

5 "License holder." An individual holding an active license  
6 under this act.

7 "Practice of applied behavior analysis." The design,  
8 implementation and evaluation of instructional and environmental  
9 modifications to produce socially significant improvements in  
10 human behavior or prevent the loss of an attained skill or  
11 function. The practice of applied behavior analysis includes the  
12 empirical identification of functional relations between  
13 behavior and environmental factors, known as functional  
14 assessment and analysis. Applied behavior analysis interventions  
15 are based on scientific research analysis and direct and  
16 indirect observation and measurement of behavior and  
17 environment. An individual practicing applied behavior analysis  
18 utilizes contextual factors, motivating operations, antecedent  
19 stimuli, positive reinforcement and other procedures to help  
20 individuals develop new behaviors, increase or decrease existing  
21 behaviors and emit behaviors under specific environmental  
22 conditions. The practice of applied behavior analysis excludes  
23 diagnosis of disorders, psychological testing, psychotherapy,  
24 cognitive therapy, psychoanalysis and counseling.

25 CHAPTER 3

26 BOARD

27 Section 301. Behavior Analyst Licensing Board.

28 (a) Establishment.--The Behavior Analyst Licensing Board is  
29 established. The board shall promulgate regulations and  
30 establish fees necessary to implement this act and investigate

1 complaints relating to the practice of applied behavior analysis  
2 by a licensed behavior analyst, licensed assistant behavior  
3 analyst or any other individual alleged to be in violation of  
4 this act.

5 (b) Membership.--The board shall consist of five members  
6 appointed by the Governor as follows:

7 (1) The members shall include:

8 (i) One board-certified behavior analyst-doctoral  
9 who is eligible for licensure under this act and has a  
10 minimum of five years' post-doctoral experience  
11 designing, overseeing or delivering applied behavior  
12 analysis services.

13 (ii) Two board-certified behavior analysts who are  
14 eligible for licensure under this act and have a minimum  
15 of five years' experience designing, overseeing or  
16 delivering applied behavior analysis services.

17 (iii) One board-certified behavior analyst or  
18 assistant behavior analyst who is eligible for licensure  
19 under this act and has a minimum of five years'  
20 experience in or experience assisting with the design,  
21 oversight or delivery of applied behavior analysis  
22 services.

23 (iv) One public member who is not a professional  
24 behavior analyst.

25 (2) The board-certified behavior analyst-doctoral,  
26 board-certified behavior analyst and board-certified  
27 assistant behavior analyst members of the board shall apply  
28 for licensure under this act as soon as feasible.

29 (3) Appointments to the board shall be made without  
30 regard to the race, color, disability, sex, sexual

1 orientation, religion, age or national origin of the  
2 appointee.

3 (4) Terms of the initial board members shall be as  
4 follows:

5 (i) The board-certified behavior analyst-doctoral  
6 shall serve a term of three years.

7 (ii) The board-certified behavior analysts under  
8 paragraph (1)(ii) shall serve terms of two years.

9 (iii) The board-certified behavior analyst or  
10 assistant behavior analyst under paragraph (1)(iii) shall  
11 serve a term of one year.

12 (iv) The public member shall serve a term of two  
13 years.

14 (5) The terms of subsequent board members shall be for  
15 three years, and no member shall serve more than two  
16 consecutive terms.

17 (6) A vacancy on the board shall be filled in the manner  
18 of the original appointment for the unexpired portion of the  
19 term.

20 (7) The Governor, after notice and opportunity for a  
21 hearing, may remove any member of the board for malfeasance,  
22 neglect of duty, incompetency or revocation or suspension of  
23 a license.

24 (8) The board may request the removal of a board member  
25 by the Governor.

26 (9) The board shall annually elect a chair, vice chair  
27 and secretary.

28 (10) Members of the board may not receive a salary but  
29 shall be allowed reimbursement for mileage and subsistence  
30 and receive a per diem as deemed necessary by the board.

1           (11) There shall be no liability on the part of, and no  
2 action for damages against, any current or former board  
3 member, representative, agent or employee of the board when  
4 the individual is functioning within the scope of board  
5 duties, acting without malice and with the reasonable belief  
6 that the actions taken by the individual are permitted by  
7 law.

8           (c) Meetings of board.--The board shall meet at least twice  
9 annually and may meet at such other times as necessary to  
10 complete the business required. A majority of the members of the  
11 board shall constitute a quorum for the transaction of business.

12           (d) Board staff and expenses.--The board may employ an  
13 executive secretary and any clerical or other assistants as  
14 necessary for the performance of the board's work and may make  
15 expenditures of funds for any purpose which in the opinion of  
16 the board is necessary for proper performance of the board's  
17 duties, including compensation of the executive secretary.

18 Section 302. Powers and duties of board.

19           (a) General rule.--The board shall:

20               (1) Review applications for initial licensure and  
21 renewals, collect required fees, make determinations on  
22 alleged violations, check certifications and clearances and  
23 issue licenses if appropriate.

24               (2) Have the power to institute proceedings for a  
25 violation of this act.

26               (3) Have the power and duty to deny, approve, issue,  
27 revoke, suspend or renew licenses of applicants and licensed  
28 behavior analysts and licensed assistant behavior analysts  
29 under this act and conduct hearings in connection with those  
30 powers and duties.



1 (4) Have the authority to administer oaths, receive  
2 evidence, interview individuals, issue subpoenas and require  
3 the production of books, papers, documents or other evidence.

4 (5) Hold meetings at the call of the chair or at the  
5 call of a majority of members of the board upon not less than  
6 10 days' written notice, unless notice shall be waived. The  
7 presence of any member at a meeting of the board shall  
8 constitute a waiver of notice by the member.

9 (6) Maintain a book to keep the minutes containing a  
10 record of all meetings of the board.

11 (7) Maintain a register of all individuals licensed  
12 under this act. The register shall contain the names of every  
13 license holder in this Commonwealth, the license holder's  
14 last reported business and residential address and telephone  
15 numbers and the date and number of the holder's license. A  
16 license holder shall notify the board of a change of name,  
17 address or telephone number within 90 days of the change.

18 (8) Annually update the board's records.

19 (9) Annually make available a current directory of all  
20 licensed behavior analysts, licensed assistant behavior  
21 analysts and temporary license holders.

22 (10) Adopt a seal which shall be affixed to every  
23 license granted by the board.

24 (b) Regulation of practice of applied behavior analysis.--

25 The board shall:

26 (1) Have the responsibility of evaluating the  
27 qualifications of applicants for licensure.

28 (2) Promulgate rules and regulations that:

29 (i) Establish standards for temporary licensure and  
30 inactive and retirement status.

1           (ii) Govern the physical and mental examination of  
2 licensed behavior analysts, licensed assistant behavior  
3 analysts and temporary license holders who may be  
4 impaired by reason of a mental, physical or other  
5 condition that impedes the individual's ability to  
6 practice competently. For purposes of enforcing this  
7 section, the board shall have the power to order an  
8 immediate temporary suspension of licensure if there is a  
9 reasonable cause to believe that a licensed behavior  
10 analyst, licensed assistant behavior analyst, temporary  
11 license holder or applicant may be impaired by reason of  
12 a mental, physical or other condition that impedes the  
13 individual's ability to practice competently.

14           (iii) Establish reasonable fees for the licensure  
15 and license renewal of licensed behavior analysts,  
16 licensed assistant behavior analysts and temporary  
17 license holders.

18   CHAPTER 5

19   LICENSURE

20 Section 501. Qualifications for licensure.

21       (a) Licenses.--Except as provided in subsection (b), no  
22 person may practice or hold oneself out as being able to  
23 practice applied behavior analysis in this Commonwealth unless  
24 the person holds a current, unsuspended, unrevoked license  
25 issued by the board.

26       (b) Exclusions.--The provisions of this section shall not be  
27 construed as prohibiting or restricting the practice of any of  
28 the following:

29           (1) An individual licensed to practice psychology in  
30 this Commonwealth, so long as the applied behavior analysis

1 services provided by the licensed psychologist are practiced  
2 within the psychologist's code of ethics as determined by the  
3 State Board of Psychology and the licensed psychologist does  
4 not represent oneself as a licensed behavior analyst unless  
5 also licensed under this act.

6 (2) An individual licensed to practice another  
7 profession in this Commonwealth and those who deliver  
8 services under the licensed individual's supervision, so long  
9 as applied behavior analysis is in the profession's  
10 legislated scope of practice and the professional practices  
11 in accordance within the professional's code of ethics. The  
12 licensed individual shall not represent oneself as a licensed  
13 behavior analyst unless also licensed under this act.

14 (3) A behavior technician or family member who delivers  
15 applied behavior analysis services under the extended  
16 authority and direction of a licensed behavior analyst, a  
17 licensed assistant behavior analyst or another licensed  
18 professional excluded under this act, provided that in the  
19 latter case, applied behavior analysis is in the legislated  
20 scope of practice of that profession and the licensed  
21 professional practices within the professional's code of  
22 ethics. The individual may not represent oneself as a  
23 professional behavior analyst and shall use a title that  
24 indicates the individual's nonprofessional status.

25 (4) A behavior analyst who practices with nonhumans,  
26 including applied animal behaviorists and animal trainers.  
27 The individual may use the title "behavior analyst" but may  
28 not represent oneself as a licensed behavior analyst or a  
29 licensed assistant behavior analyst unless also licensed  
30 under this act.

1           (5) An individual who provides general applied behavior  
2 analysis services to organizations, so long as these services  
3 are for the benefit of the organizations and do not involve  
4 direct services to individuals. The individual may use the  
5 title "behavior analyst" but may not represent oneself as a  
6 licensed behavior analyst or a licensed assistant behavior  
7 analyst unless also licensed under this act.

8           (6) A matriculated college or university student or  
9 postdoctoral fellow whose applied behavior analysis  
10 activities are part of a defined program of study, course,  
11 practicum, internship or fellowship and are directly  
12 supervised by a licensed behavior analyst in this  
13 Commonwealth or a qualified faculty member. The individual  
14 may not represent oneself as a licensed behavior analyst and  
15 shall use a title that clearly indicates the individual's  
16 trainee status.

17           (7) An unlicensed individual pursuing supervised  
18 experiential training in applied behavior analysis consistent  
19 with a certifying entity's requirements, provided that the  
20 experience is supervised by a licensed behavior analyst or  
21 licensed psychologist in this Commonwealth who is approved by  
22 the certifying entity to provide the supervision. The  
23 individual may not represent oneself as a licensed behavior  
24 analyst and shall use a title that clearly indicates the  
25 individual's trainee status.

26           (8) An individual who teaches behavior analysis or  
27 conducts behavior-analytic research at an accredited college  
28 or university, provided that those activities do not involve  
29 the direct delivery of applied behavior analysis services  
30 beyond the typical parameters of applied research. The

1 individual may use the title "behavior analyst" but may not  
2 represent oneself as a licensed behavior analyst or a  
3 licensed assistant behavior analyst unless also licensed  
4 under this act.

5 (9) An individual employed by an entity regulated by the  
6 Department of Education who delivers applied behavior  
7 analysis services to individuals served by the entity. The  
8 individual may not represent oneself as a licensed behavior  
9 analyst or a licensed assistant behavior analyst unless  
10 licensed under this act and may not offer applied behavior  
11 analysis services to any individuals or employers other than  
12 the entity or accept remuneration for providing applied  
13 behavior analysis services other than the remuneration the  
14 individual receives from the entity.

15 Section 502. Application process.

16 (a) Application.--An applicant for licensure as a behavior  
17 analyst or assistant behavior analyst shall submit an  
18 application and requisite fees as provided by the board. The  
19 application shall include evidence of the following:

20 (1) A criminal background check conducted by the  
21 Pennsylvania State Police, a State-approved child abuse  
22 clearance and a Federal Bureau of Investigation fingerprint-  
23 based record check in accordance with applicable Federal law  
24 and 23 Pa.C.S. Ch. 63 (relating to child protective services)  
25 conducted through either the Department of Education or the  
26 Department of Human Services.

27 (2) For a licensed behavior analyst applicant, a copy of  
28 the applicant's current certification as a board-certified  
29 behavior analyst or board-certified behavior analyst-  
30 doctoral. The board shall verify the applicant's status with

1 the certifying entity.

2 (3) For a licensed assistant behavior analyst applicant,  
3 the following:

4 (i) A copy of the applicant's current certification  
5 as a board-certified assistant behavior analyst. The  
6 board shall verify the applicant's status with the  
7 certifying entity.

8 (ii) A letter from a licensed behavior analyst in  
9 this Commonwealth who is approved by the certifying  
10 entity to supervise board-certified assistant behavior  
11 analysts stating that the licensed behavior analyst is  
12 supervising the applicant in accordance with the  
13 certifying entity's current requirements. The board shall  
14 verify with the certifying entity that the licensed  
15 behavior analyst has the necessary approval to supervise.

16 (4) Good moral character as determined by the board.

17 (b) Licensure restrictions.--The board may not grant a  
18 license to an applicant who:

19 (1) Has been convicted of a felony offense under section  
20 635.2(g) (3) of the act of May 17, 1921 (P.L.682, No.284),  
21 known as The Insurance Company Law of 1921, unless at least  
22 10 years have elapsed from the date of conviction and the  
23 applicant has satisfactorily demonstrated to the board that  
24 the applicant has made significant progress in personal  
25 rehabilitation since the conviction and that licensure of the  
26 applicant should not be expected to create a substantial risk  
27 of harm to the health and safety of the applicant's patients  
28 or the public or a substantial risk of further criminal  
29 violations.

30 (2) Has been convicted of, entered a plea of nolo

1        contendere to or has been adjudicated delinquent of a crime  
2        for which the applicant has been required to register under  
3        42 Pa.C.S. Ch. 97 Subch. H (relating to registration of  
4        sexual offenders) without regard to the time elapsed since  
5        the date of the conviction, plea or adjudication or the  
6        length of the registration required.

7            (3) Has failed to satisfy the board that the applicant  
8        is of good moral character.

9        Section 503. Temporary license.

10        A behavior analyst licensed in another jurisdiction or  
11        certified by a certifying entity to practice independently who  
12        provides applied behavior analysis services in this Commonwealth  
13        on a time-limited basis as defined by the board by regulation  
14        may apply for a temporary license. An applicant for a temporary  
15        license shall submit an application and fee as provided by the  
16        board and evidence that the applicant's practice in the  
17        jurisdiction is time limited. A temporary license shall only be  
18        granted if the board verifies the validity of the applicant's  
19        certification with the licensed certifying entity or determines  
20        that the individual is licensed in good standing in another  
21        jurisdiction that imposes licensure requirements comparable to  
22        those specified in this act.

23        Section 504. Licensure by endorsement.

24            (a) Board authority.--The board may issue a license to an  
25        individual who is currently licensed as a behavior analyst or  
26        assistant behavior analyst in good standing in another  
27        jurisdiction that imposes licensure requirements comparable to  
28        those specified in this act. An applicant for licensure shall  
29        have the applicant's current license verified by the board and  
30        comply with other requirements under this act.

1 (b) Requirements.--An applicant for licensure shall provide  
2 the board with a State-approved criminal background check, a  
3 State-approved child abuse clearance and a Federal Bureau of  
4 Investigation fingerprint-based record check in accordance with  
5 applicable Federal law and 23 Pa.C.S. Ch. 63 (relating to child  
6 protective services) conducted through either the Department of  
7 Education or the Department of Human Services.

8 (c) Limitation.--A person holding a valid license in another  
9 state to practice applied behavior analysis and who has applied  
10 for a license in this Commonwealth under the provisions of this  
11 act may practice applied behavior analysis under the supervision  
12 of a person fully licensed in this Commonwealth while awaiting  
13 approval of the license application.

14 Section 505. License expiration, renewal and other status.

15 (a) General rule.--A license issued under this act shall be  
16 valid for two years. Prior to expiration of a license, the board  
17 may issue a license renewal upon submission of the following:

18 (1) An application for renewal as provided by the board.

19 (2) Board verification of current certification in good  
20 standing by the certifying entity, which signifies that the  
21 applicant for renewal has met all requirements for  
22 maintaining certification at the appropriate level.

23 (3) Payment of the renewal fee imposed by the board.

24 (4) Record of completion of a State-approved criminal  
25 background check, a State-approved child abuse clearance and  
26 a Federal Bureau of Investigation fingerprint-based record  
27 check in accordance with applicable Federal law and 23  
28 Pa.C.S. Ch. 63 (relating to child protective services)  
29 conducted through either the Department of Education or the  
30 Department of Human Services.



1 (5) Updated records of completion of the child abuse  
2 recognition and reporting continuing education required under  
3 section 506(b), if applicable.

4 (b) Inactive or retired status.--The board may adopt a  
5 system for placing an individual licensed under this act on  
6 inactive or retired status.

7 Section 506. Child abuse recognition and reporting continuing  
8 education.

9 (a) Applicants for license.--An applicant for licensure  
10 under this act shall report suspected child abuse as provided  
11 under 23 Pa.C.S. Ch. 63 (relating to child protective services)  
12 and shall complete at least three hours of approved child abuse  
13 recognition and reporting continuing education as provided under  
14 23 Pa.C.S. § 6383(b) (3) (relating to education and training).

15 (b) License renewals.--A license holder subject to  
16 subsection (a) applying for the renewal of a license under this  
17 act shall complete at least two hours of approved child abuse  
18 recognition and reporting continuing education as provided under  
19 23 Pa.C.S. § 6383(b) (3).

20 CHAPTER 7

21 ADMINISTRATION AND ENFORCEMENT

22 Section 701. Behavior Analyst Licensure Fund.

23 The Behavior Analyst Licensure Fund is established as a  
24 special fund in the State Treasury. All fees received by the  
25 board and all penalties assessed in accordance with this act  
26 shall be deposited into the Behavior Analyst Licensure Fund to  
27 be used by the board for the administration of this act.

28 Section 702. Sanctions and disciplinary action.

29 (a) Violations.--The following shall constitute a violation  
30 of this act:

1           (1) The unlicensed practice of applied behavior analysis  
2 in this Commonwealth, unless exempt under section 501(b).

3           (2) To hold oneself out to be a licensed behavior  
4 analyst or licensed assistant behavior analyst unless the  
5 individual is licensed under this act.

6           (3) To hold oneself out as a professional, clinical  
7 behavior analyst, or use a substantially similar term, unless  
8 the individual is exempt under section 501(b).

9           (b) Revocation and other disciplinary action.--The board may  
10 refuse to issue or renew and may suspend or revoke a license of  
11 any person or applicant by a vote of at least a majority of the  
12 members of the board for any of the following reasons:

13           (1) Ineligibility for licensure, including, but not  
14 limited to, failure to maintain active certification by a  
15 certifying entity or falsification of documentation submitted  
16 for licensure.

17           (2) Aiding and abetting an unlicensed individual to  
18 directly or indirectly perform activities requiring a license  
19 for the practice of behavior analysis.

20           (3) Engaging in professional misconduct, incompetence,  
21 gross negligence or manifest incapacity in the practice of  
22 behavior analysis.

23           (4) Engaging in the practice of behavior analysis while  
24 impaired by alcohol or drugs.

25           (5) Engaging in conduct or practice contrary to a  
26 certifying entity's current professional and ethical  
27 standards.

28           (6) Failing to comply with, observe or adhere to any law  
29 in a manner that causes the board to determine that the  
30 applicant or license holder is unfit to hold a license.

1           (7) Having a license revoked or suspended or other  
2 disciplinary action by a Federal or State agency for any  
3 reason that is provided by applicable licensing laws or by  
4 this section.

5           (8) Having been convicted of a crime directly related to  
6 the qualifications, functions or duties of the practice of  
7 behavior analysis.

8           (9) Failing to report in writing to the board any  
9 disciplinary decision issued against the applicant or license  
10 holder in another jurisdiction within 30 days of the  
11 disciplinary decision.

12           (10) Failing to report in writing to the board  
13 revocation or disciplinary action of the certification of a  
14 license holder by a certifying entity within 15 days of the  
15 revocation.

16           (11) Employing, whether gratuitously or for pay, an  
17 individual not licensed under this act to perform the  
18 functions or duties of the practice of behavior analysis.

19       (c) Board action.--When the board, after notice of a  
20 violation of this act and an opportunity for a hearing, finds  
21 that the license of any behavior analyst or assistant behavior  
22 analyst may be refused, revoked or suspended under this section,  
23 the board may:

24           (1) Administer a public reprimand.

25           (2) Mandate specific continuing education.

26           (3) Revoke, suspend, limit or otherwise restrict a  
27 license as determined by the board.

28           (4) Suspend enforcement of the board's finding thereof  
29 and place a license holder on probation with the right to  
30 vacate the probationary order for noncompliance.

1 (5) Restore or reissue, in the board's discretion, a  
2 suspended license to practice applied behavior analysis and  
3 impose any disciplinary or corrective measure which the board  
4 might originally have imposed.

5 (6) Issue a notice to a certifying authority.

6 (7) Impose a fine of not more than \$2,500.

7 (d) Appeal.--An individual aggrieved by a final order of the  
8 board denying, suspending or revoking a license may appeal to  
9 the Bureau of Professional and Occupational Affairs in the  
10 Department of State.

11 Section 703. Reinstatement of license.

12 (a) Lapsed license.--Within three years, the board may  
13 reinstate a license that has lapsed upon completion of all  
14 renewal requirements, including payment of the required renewal  
15 fee and a reinstatement fee to be established by the board.

16 (b) Revoked or suspended license.--The board may reinstate a  
17 license that has been revoked or suspended if the board  
18 determines that the applicant is currently certified in good  
19 standing at the appropriate level by a certifying entity. As a  
20 condition of reinstatement, the board may impose reasonable  
21 restrictions under which the license holder may practice.

22 Section 704. Consumer protection and complaint procedures.

23 (a) Duty to report by license holders and employers.--A  
24 license holder or an employer of a license holder having actual  
25 or direct knowledge of facts shall report to the board a  
26 licensed behavior analyst or licensed assistant behavior analyst  
27 who:

28 (1) has been convicted of a felony that involved an act  
29 that bears directly on the qualifications or ability of the  
30 applicant or license holder to practice behavior analysis;

1           (2) is suspected of fraud or deceit in procuring or  
2 attempting to procure a license to practice behavior analysis  
3 or of negligently performing actions that justify action  
4 against a licensed behavior analyst's or licensed assistant  
5 behavior analyst's license;

6           (3) has had a license to practice as a behavior analyst  
7 or assistant behavior analyst denied, limited, suspended,  
8 probated or revoked in another jurisdiction on grounds  
9 sufficient to cause a license or certificate to be denied,  
10 limited, suspended, probated or revoked in this Commonwealth;  
11 or

12           (4) has had a certification revoked or suspended by the  
13 certifying entity.

14       (b) Duty to report by others.--An individual having actual  
15 or direct knowledge of facts shall report to the board an  
16 individual who is practicing behavior analysis without a current  
17 license issued by the board. The following shall apply:

18           (1) The board shall provide reasonable assistance to an  
19 individual who wishes to file a complaint regarding an  
20 individual or activity regulated under this act.

21           (2) The board shall provide information on filing a  
22 complaint about a licensed behavior analyst, licensed  
23 assistant behavior analyst or temporary license holder or an  
24 individual who is practicing behavior analysis without a  
25 license.

26       (c) Confidentiality of complaint information.--All of the  
27 following shall apply:

28           (1) Except as provided by law, a complaint and  
29 investigation and all information and materials compiled by  
30 the board in connection with the complaint and investigation

1 shall remain confidential.

2 (2) A complaint or investigation under this section and  
3 relevant information and materials compiled by the board in  
4 connection with the complaint may be disclosed to:

5 (i) The board and employees or agents of the board  
6 involved in discipline.

7 (ii) A party to a disciplinary action or that  
8 party's designated representative.

9 (iii) A law enforcement agency if required by law.

10 (iv) A governmental agency if:

11 (A) The disclosure is required by law.

12 (B) The agency obtaining the disclosure protects  
13 the identity of any patient whose records are  
14 examined.

15 (3) The board shall protect the identity of a patient  
16 whose records are examined in connection with a disciplinary  
17 investigation or proceeding, except:

18 (i) a patient who initiates the disciplinary action;

19 or

20 (ii) a patient who has submitted a written consent  
21 to release records.

22 CHAPTER 21

23 MISCELLANEOUS PROVISIONS

24 Section 2101. Application.

25 An individual eligible for and seeking licensure under this  
26 act must submit an application for licensure within 24 months of  
27 the effective date of this section.

28 Section 2102. Regulations.

29 (a) General rule.--The board shall:

30 (1) Promulgate regulations necessary to carry out the

1 provisions of this act.

2 (2) Promulgate temporary regulations which shall expire  
3 no later than five years following publication. The board may  
4 promulgate temporary regulations not subject to:

5 (i) Sections 201, 202, 203, 204 and 205 of the act  
6 of July 31, 1968 (P.L.769, No.240), referred to as the  
7 Commonwealth Documents Law.

8 (ii) Section 204(b) of the act of October 15, 1980  
9 (P.L.950, No.164), known as the Commonwealth Attorneys  
10 Act.

11 (iii) The act of June 25, 1982 (P.L.633, No.181),  
12 known as the Regulatory Review Act.

13 (b) Temporary regulations.--The authority provided to the  
14 board to adopt temporary regulations under subsection (a)(2)  
15 shall expire five years following the publication of the  
16 temporary regulations. Regulations adopted after this period  
17 shall be promulgated as provided by law.

18 Section 2103. Effective date.

19 (1) Sections 501(a) and 702(a) shall take effect in two  
20 years.

21 (2) The remainder of this act shall take effect in 60  
22 days.