

HOUSE No. 4821

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act RELATIVE TO THE LICENSURE OF APPLIED BEHAVIOR ANALYSTS..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 13 of the General Laws, as appearing in the 2006 Official Edition,
2 is hereby amended by adding the following sections:-

3 Section 76A. There shall be within the board of registration of psychologists a
4 committee on registration of behavior analysts, hereinafter called the committee, consisting of
5 seven members appointed by the governor for terms of three years. One member shall be a
6 licensed psychologist who is a member of the board, one member shall be a licensed
7 psychologist who has been actively involved with the practice of applied behavior analysis for at
8 least five years, one member shall be from the general public and shall not be engaged in or have
9 a financial interest in the delivery of psychological services or applied behavior analysis, three
10 members shall be licensed behavior analysts, and one shall be a licensed assistant behavior
11 analyst.

12 Section 77A. The governor shall appoint four of the initial members to terms of three
13 years, and three of the initial members to terms of two years. Thereafter, all appointees shall
14 serve for terms of three years. Each member of said board shall hold office until his successor

15 has been qualified. A vacancy in the membership of the board shall be filled for the unexpired
16 term in the manner provided for the original appointment. No member shall serve more than two
17 consecutive full terms. A member appointed for less than a full term may serve 2 full terms in
18 addition to such part of a full term. The board shall fill vacancies with persons who possess the
19 qualification required of the original appointees. Those members appointed to the initial
20 committee as behavior analysts and as assistant behavior analysts need not be licensed as such,
21 but must meet the criteria for licensure in section ??? . Such members so appointed after the
22 initial committee is appointed shall be licensed under these provisions as licensed behavior
23 analysts or licensed assistant behavior analysts, prior to such appointment.

24 Section 78A. The governor shall have the power to remove from office any member of
25 the committee for cause; but no committee member may be so removed without being informed
26 in writing at least thirty days in advance of the reasons for his removal and of his right to a public
27 or private hearing with counsel.

28 Section 79A. The board shall at its first meeting and, annually thereafter, organize by
29 electing from among its members, by majority vote, a chairman, a vice-chairman, and a
30 secretary. Such officers shall serve until their successors are elected and qualified. The board
31 shall hold at least two meetings each year, but additional meetings may be held upon the call of
32 the chairman, or the secretary, or at the written request of any three members of the board. Four
33 members of the board shall constitute a quorum. The members of the board shall serve without
34 compensation but each member shall be reimbursed for actual expenses reasonably incurred in
35 the performance of his/her duties as a member on behalf of the board. The board shall be
36 empowered to hire such assistants as it may deem necessary to carry on its activities.

37 SECTION 2. Chapter 112 of the General Laws, as appearing in the 2008 Official
38 Edition, is hereby amended in section 130 by inserting the following new definition:

39 “Applied Behavior Analysis”, the design, implementation and evaluation of instructional
40 and environmental modifications, using behavioral stimuli and consequences to produce socially
41 significant improvements in human behavior through skill acquisition and the reduction of
42 problematic behavior. An applied behavior analysis program should be based on empirical
43 research, including the use of direct observation, measurement and functional analysis of the
44 relationship between environment and behavior. Applied behavior analysis programs utilize
45 antecedent stimuli, positive reinforcement and other consequences to produce behavior change,
46 but does not include cognitive therapies, psychological testing, neuropsychology, psychotherapy,
47 psychoanalysis, hypnotherapy, sex therapy or both short and long-term counseling as treatment
48 modalities.

49 SECTION 3. Chapter 112 of the General Laws, as appearing in the 2008 Official
50 Edition, is hereby amended in section 118 by inserting after the definition of “Board” the
51 following new definitions:

52 “Assistant Behavior Analyst”, an individual who is trained in applied behavior analysis
53 and who by training and experience meets the requirements of section 129G and is duly licensed
54 as defined in section 129J to practice applied behavior analysis as an assistant under the
55 supervision of a licensed behavior analyst.

56 “Behavior Analyst”, an individual who is trained in applied behavior analysis and who
57 by training and experience meets the requirements of section 129E and is duly licensed as
58 defined in section 129I to practice behavior analysis in the commonwealth.

59 “Certifying entity”, the nationally accredited Behavior Analyst Certification Board, or
60 other equivalent nationally accredited nongovernmental agency approved by the board which
61 certifies individuals who have completed academic, examination, training, and supervision
62 requirements in applied behavior analysis.

63 SECTION 4. Chapter 112 of the General Laws, as appearing in the 2008 Official
64 Edition, is hereby amended by inserting the following new sections:

65 Section 129C. The committee on registration of behavior analysts may adopt reasonable
66 rules to carry out sections 129D to 129K, inclusive, and may amend and revoke such rules at its
67 discretion. The committee shall keep a record of its proceedings and a register of all persons
68 licensed by it. The register shall contain the name of every living licensee, his address, and the
69 date and number of his license as a licensed behavior analyst or licensed assistant behavior
70 analyst. The committee shall develop criteria for the licensure of licensed behavior analysts or
71 licensed assistant behavior analysts, including both academic qualifications and supervised
72 experience. Rules created by the committee shall be subject to approval by the board of
73 registration of psychologists.

74 Section 129D. A person who desires to be licensed as a licensed behavior analyst shall
75 apply to the committee in the manner prescribed by the committee. The applicant shall include
76 statements under oath satisfactory to the committee, showing that he possesses the qualifications
77 preliminary to examination required by section 129E. He shall pay to the committee at the time
78 of his filing such application a fee which shall be determined annually by the secretary of
79 administration and finance under the provisions of section three B of chapter seven.

80 Section 129E. To be eligible for licensure by the committee as a licensed behavior
81 analyst, an applicant shall make application to the committee upon such form and in such manner
82 as the board shall prescribe and shall furnish evidence satisfactory to the board that such person:

83 (a) is at least eighteen years of age;

84 (b) is of good moral character;

85 (c) has a master's degree or higher degree from a regionally or nationally accredited
86 college or university;

87 (d) has received his degree from within the department of psychology at the university, or
88 other department designed specifically to train behavior analysts through the study of applied
89 behavior analysis;

90 (e) has completed a course sequence approved by a certifying entity within the
91 department of psychology or special education at the college or university, or a field of social
92 science or education approved by the committee.

93 (f) has completed a minimum of 1500 hours of supervised experience in the practice of
94 applied behavior analysis over a period of not less than one calendar year, of which not less than
95 75 hours is spent in direct 1:1 contact with the supervisor, and which is acceptable to the
96 committee on registration of behavior analysts;

97 (g) has been certified as a board certified behavior analyst by a certifying entity, as
98 defined in section 118 of Chapter 112 of the General Laws, as appearing in the 2008 Official
99 Edition.

100 (h) has passed an examination in applied behavior analysis the form and content of which
101 is determined by the board of registration of psychologists.

102 (i) has passed a state jurisprudence examination.

103 (j) conducts his professional activities in accordance with accepted standards including
104 the Ethical Standards of Psychologists of the American Psychological Association and the
105 Guidelines for Responsible Conduct of the Behavior Analyst Certification Board.

106 Section 129F. A person who desires to be licensed as an assistant behavior analyst shall
107 apply to the committee in the manner prescribed by the committee. The applicant shall include
108 statements under oath satisfactory to the committee, showing that he possesses the qualifications
109 preliminary to examination required by section 129G. He shall pay to the committee at the time
110 of his filing such application a fee which shall be determined annually by the secretary of
111 administration and finance under the provisions of section three B of chapter seven.

112 Section 129G. To be eligible for licensure by the committee as an assistant behavior
113 analyst, an applicant shall make application to the committee upon such form and in such manner
114 as the board shall prescribe and shall furnish evidence satisfactory to the board that such person:

115 (a) is at least eighteen years of age;

116 (b) is of good moral character;

117 (c) has a bachelor's degree or higher degree from a regionally or nationally accredited
118 college or university;

119 (d) has completed a course sequence approved by a certifying entity within the
120 department of psychology or special education at the college or university, or a field of social
121 science or education approved by the board.

122 (e) has completed a minimum of 1000 hours of supervised experience in the practice of
123 applied behavior analysis over a period of not less than one calendar year, of which not less than
124 50 hours is spent in direct 1:1 contact with the supervisor, and which is acceptable to the
125 committee on registration of behavior analysts;

126 (f) has been certified as a board certified assistant behavior analyst by a certifying entity,
127 as defined in section 118 of Chapter 112 of the General Laws, as appearing in the 2008 Official
128 Edition.

129 (g) has passed an examination in applied behavior analysis the form and content of which
130 determined by the board of registration of psychologists.

131 (h) conducts his professional activities in accordance with accepted standards including
132 the Ethical Standards of Psychologists of the American Psychological Association and the
133 Guidelines for Responsible Conduct of the Behavior Analyst Certification Board.

134 Section 129H. The committee shall examine applicants for licensure as a licensed
135 behavior analyst and assistant behavior analyst at least annually in such places as it may
136 determine commencing in calendar year two thousand and eleven. The examination may be
137 written and/or oral and shall test the applicant's competency in and knowledge of the theory and
138 practice of behavioral psychology, applied behavior analysis, behavioral measurement,
139 functional analysis, reinforcement theory, single subject design, and theory underlying
140 behavioral treatment methodology. Additionally, applicants will be examined for knowledge of

141 ethics and relevant Massachusetts law. The committee shall determine the type of examination.
142 Substitution of this requirement with certification by the Behavior Analyst Certification Board
143 may be permitted as described in section 129E and section 129G. Any applicant who fails to
144 pass such examination may take a second examination upon the payment of an additional
145 application fee that shall be determined annually by the commissioner of administration and
146 finance under the provisions of section 3B of chapter 7, and must be so re-examined at the next
147 scheduled examination. Upon failure of an applicant to pass a second examination, the
148 committee may require him to complete additional courses of study as designated by the
149 committee, in which case he shall be required, before taking another examination, to present to
150 the committee satisfactory evidence of having completed the required additional courses, and
151 shall pay the re-examination fee as noted above.

152 Section 129I. The committee shall license as a behavior analyst each applicant who
153 proves to the satisfaction of the committee his fitness for licensure under the provisions of
154 sections 129D to 129E, inclusive. It shall issue to each person so licensed, a license, which shall
155 be prima facie evidence of the right of such person to represent himself as a behavior analyst and
156 authorized to use the title, “behavior analyst”.

157 Section 129J. The committee shall license as an assistant behavior analyst each applicant
158 who proves to the satisfaction of the committee his fitness for licensure under the provisions of
159 sections 129D to 129E, inclusive. It shall issue to each person so licensed, a license, which shall
160 be prima facie evidence of the right of such person to represent himself as an assistant behavior
161 analyst and authorized to use the title, “assistant behavior analyst”.

162 Section 129K. The director of professional licensure shall determine the renewal cycle
163 and renewal period for all licenses issued by the committee. Persons licensed in accordance with
164 these sections shall apply to the committee for renewal of their licenses on or before the
165 expiration date, as determined by the director, unless such license was earlier revoked, suspended
166 or canceled as a result of a disciplinary proceeding instituted pursuant to this chapter.
167 Applications for renewal shall be made on forms approved by the committee and accompanied
168 by payment of a renewal fee, as determined by the secretary of administration and finance
169 pursuant to section 3B of chapter 7. All licensing and application fees and civil administrative
170 penalties collected pursuant to sections 129D and 129F, shall be deposited into the trust fund
171 established in section 35V of chapter 10.

172 Section 129J. The committee may, after a hearing pursuant to chapter thirty A, revoke,
173 suspend, or cancel the license of a licensed behavior analyst, or reprimand or censure a licensed
174 behavior specialist if it finds upon proof satisfactory to the committee that such licensed behavior
175 specialist:

176 (a) fraudulently procured licensure as a licensed behavior analyst;

177 (b) violated any provision of law relating to practice as a licensed behavior analyst, or
178 any rule or regulation adopted hereunder;

179 (c) acted with gross misconduct in practicing as a licensed behavior analyst or of
180 practicing fraudulently, or beyond its authorized scope, or with gross incompetence, or with
181 gross negligence on a particular occasion or negligence on repeated occasions;

182 (d) practiced as a licensed behavior analyst while the ability to practice was impaired by
183 alcohol, drugs, physical disability or mental instability;

184 (e) was habitually drunk or being or having been addicted to, dependent on, or a habitual
185 user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar
186 effects;

187 (f) knowingly permitted, aided or abetted an unlicensed person to perform activities
188 requiring a license for purposes of fraud, deception or personal gain;

189 (g) has been convicted of a criminal offense which reasonably calls into question the
190 ability to practice as a licensed behavior analyst;

191 (h) violated any rule or regulation of the board or the committee;

192 (i) acted in a manner which is professionally unethical according to ethical standards of
193 the American Psychological Association or the Behavior Analyst Certification Board.

194 No person filing a complaint or reporting information pursuant to this section or assisting
195 the committee or board at its request in any manner in discharging its duties and functions shall
196 be liable in any cause of action arising out of receiving such information or assistance, providing
197 the person making the complaint or reporting or providing such information or assistance does so
198 in good faith and without malice.

199 Section 129K. Any person who practices applied behavior analysis in the commonwealth
200 without a license shall be punished by a fine of not less than \$100 nor more than \$1,000 or by
201 imprisonment for not more than three months, or both. Nothing in this statute shall prevent the
202 practice of applied behavior analysis within school, residential or day treatment settings or state-
203 operated facilities by individuals trained to provide such services, providing (1) they do not hold
204 themselves out as licensed behavior analysts, (2) they are licensed by the commonwealth within

205 their respective field and are practicing within their scope of practice, training and experience, or
206 (3) they are working under the direct clinical supervision of an individual who is licensed by the
207 commonwealth within their respective field and are practicing within their scope of practice,
208 training and experience.

209 The committee may petition in any court of competent jurisdiction for an injunction
210 against any person practicing as a behavior specialist without a license. Such injunction may be
211 issued without proof of damage sustained by any person. Such injunction shall not relieve such
212 person from criminal prosecution for practicing without a license.

213 Section 129L. A person who does not possess a valid license and existing and current
214 certificate of registration as a licensed behavior analyst pursuant to the provisions of this statute,
215 shall not represent himself as a “behavior analyst,” or “licensed behavior analyst”, use the title
216 “behavior analyst” or “licensed behavior analyst”, or imply that he or she is a behavior analyst or
217 licensed behavior analyst unless the person is licensed under this Chapter. Any person who
218 violates this section shall be punished by a fine of not less than \$100 nor more than \$1,000 or by
219 imprisonment for not more than three months, or both.

220 Section 129M. A person who does not possess a valid license and existing and current
221 certificate of registration as an assistant behavior analyst pursuant to the provisions of this
222 statute, shall not represent himself as an “assistant behavior analyst,” use the title “assistant
223 behavior analyst” or imply that he or she is an assistant behavior analyst unless the person is
224 licensed under this Chapter. Any person who violates this section shall be punished by a fine of
225 not less than \$100 nor more than \$1,000 or by imprisonment for not more than three months, or
226 both.

227 SECTION 5. Nothing in this act shall prevent other professionals licensed by the
228 commonwealth from engaging in the practice of applied behavior analysis, if the services
229 performed are within the scope of the professional’s practice under their existing license and are
230 performed commensurate with the professional’s training and experience, and the professional
231 does not represent that he or she is a behavior analyst.