HOUSE DOCKET, NO. 4001 FILED ON: 1/17/2025

HOUSE . . . . . No. 348

The Commonwealth of Massachusetts

PRESENTED BY:

Tackey Chan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the licensure of behavior analysts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Tackey Chan	*2nd Norfolk*	*1/17/2025*

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HOUSE . . . . . No. 348

By Representative Chan of Quincy, a petition (accompanied by bill, House, No. 348) of Tackey Chan relative to the licensure of behavior analysts. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act relative to the licensure of 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:

SECTION 1. Section 9 of chapter 13 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by inserting after the words "the board of allied health professions," in line 11 the following:- "the board of behavior analysts,"

SECTION 2. Section 89 of said chapter 13 of the General Laws is hereby amended by striking out the third paragraph and inserting in place thereof the following:-

Said members shall be appointed in such a manner as to proportionally represent the total number of active holders of each professional license type, as determined from time to time by the board; provided, that at least 1 member shall be a marriage and family therapist, at least 1 shall be a rehabilitation counselor, at least 1 shall be shall be a clinical mental health counselor, and at least 1 shall be an educational psychologist who meet the qualifications in the last 2 paragraphs of section 165 of chapter 112.

SECTION 3. Said chapter 13 of the General Laws is hereby further amended by adding the following 3 sections:-

Section 110. (a) There shall be within the department of public health a board of registration of behavior analysts. The board shall consist of 9 members to be appointed by the governor, 2 of whom shall be Licensed Behavior Analysts licensed under this section who hold doctoral degrees, 4 of whom shall be Licensed Behavior Analysts licensed under this section who hold master's degrees, 1 of whom shall be a Licensed Assistant Behavior Analyst licensed under this section who holds a bachelor's degree, and 2 members of the general public, subject to section 9B. Members of the board shall be residents of the commonwealth.

(b) Each member of the board shall serve for a term of 3 years and until a successor has been appointed and qualified. A vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. No member shall serve more than 2 full consecutive terms. A member appointed for less than a full term may serve 2 full terms in addition to that part of a full term. A former member shall be eligible for appointment after a lapse of 1 year.

(c) The governor may remove a member of the board for cause, but no board member shall be removed without first being informed in writing at least 30 days in advance of the reasons for such removal and of the member's right to a public or private hearing and to have counsel present at the hearing.

Section 111. The board shall hold at least 2 meetings annually and will determine an appropriate schedule of meetings that meets the needs of licensees. At its first regular meeting in each year the board shall elect from its own members by majority vote a chair. A majority of the

board shall constitute a quorum. The members of the board shall serve without compensation but shall be reimbursed for actual expenses reasonably incurred in the performance of their board duties. The board may hire such staff as it deems necessary to carry out its activities.

Section 112. (a) The board of registration of behavior analysts may: (i) pass upon the qualifications of an application for a license under sections 290 to 302, inclusive, of chapter 112 and shall issue a license to an applicant who is determined to be qualified to practice as a licensed behavior analyst or licensed assistant behavior analyst; (ii) adopt rules and regulations governing the licensure of behavior analysts and assistant behavior analysts; (iii) establish eligibility and renewal requirements; (iv) receive, review and approve or disapprove an application for a reciprocal license for an applicant who is licensed or certified as a behavior analyst in another state and who has demonstrated qualifications that equal or exceed those required under sections 290 to 302, inclusive, of said chapter 112; (v) fine, censure, revoke, suspend or deny a license and place on probation, reprimand or otherwise discipline a licensee for a violation of the code of ethics or the rules and regulations of the board under said sections 290 to 302, inclusive, of said chapter 112; (vi) summarily suspend the license of a licensee who poses an imminent danger to the public; provided, however, that a hearing shall be afforded to the licensee within 10 day after any such action by the board to determine whether such summary action is warranted; and (vii) perform any other functions and duties as may be required to carry out this section.

(b) The board shall make available to the public a list of licensed behavior analysts and licensed assistant behavior analysts.

(c) The members of the board, its officers and employees shall be indemnified by the commonwealth for all actions taken as part of their responsibilities described in this section.

SECTION 4. Section 163 of chapter 112 of the General Laws is hereby amended by striking out the definitions, “Licensed applied behavior analyst” and “Licensed assistant applied behavior analyst”, and inserting in place thereof the following definitions:-

"Licensed assistant behavior analyst”, an individual who, by training, experience and examination meets the requirements for licensing by the board of registration of behavior analysts and is duly licensed to engage in the practice of applied behavior analysis under the supervision of a licensed behavior analyst under sections 290 through 302, inclusive.

“Licensed behavior analyst”, an individual who, by training, experience and examination meets the requirements for licensing by the board of registration of behavior analysts and is duly licensed to engage in the practice of applied behavior analysis in the commonwealth under sections 290 through 302, inclusive.

SECTION 5. Section 165 of chapter 112 of the General Laws is hereby amended by striking out the following words in the title of the section:- “applied behavior analysts”.

SECTION 6. Said Section 165 of chapter 112 of the General Laws is hereby further amended by striking out the eighth through fifteenth paragraphs in lines 64 through100, inclusive, in their entirety.

SECTION 7. Chapter 112 of the General Laws is hereby amended by adding the following 13 sections:-

Section 290. As used in sections 290 to 302, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Board”, the board of registration of behavior analysts.

“Certifying entity”, the Behavior Analyst Certification Board, Inc. (BACB), or another entity whose programs to credential practitioners of applied behavioral analysis are accredited by the National Commission on Certifying Agencies (NCCA) or American National Standards Institute (ANSI) and approved by the board.

" Licensed assistant behavior analyst”, an individual who, by training, experience and examination meets the requirements for licensing by the board and is duly licensed to engage in the practice of applied behavior analysis under the supervision of a licensed behavior analyst.

“Licensed behavior analyst”, an individual who, by training, experience and examination meets the requirements for licensing by the board and is duly licensed to engage in the practice of applied behavior analysis in the commonwealth.

“Practice of applied behavior analysis”, the design, implementation and evaluation of systematic instructional and environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvements in human behavior, including the direct observation and measurement of behavior and the environment, the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis, and the introduction of interventions based on scientific research and which utilize contextual factors, antecedent stimuli, positive reinforcement, and other consequences to develop new behaviors, increase or decrease existing behaviors, and elicit behaviors under specific environmental conditions that are delivered to individuals and groups of

individuals; provided, however, that the “practice of applied behavior analysis” shall not include psychological testing, neuropsychology, diagnosis of mental health or developmental conditions, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, psychopharmacological recommendations, hypnotherapy or academic teaching by college or university faculty.

“Recognized educational institution”, a degree-granting college or university which is accredited by (i) a regional accreditation body recognized by the United States Department of Education and (ii) a certifying entity.

Section 291. The board may issue a license to an applicant as a behavior analyst provided that the applicant:

(a) is of good moral character;

(b) has not engaged or is not engaging in any practice or conduct that would be grounds for refusing to issue a license under section 301; and

(c) has current certification at the appropriate level verified with the certifying entity by the board; and any other requirements and qualifications as deemed necessary by the board

Section 292. The board may issue a license to an applicant as an assistant behavior analyst provided that the applicant:

(a) is of good moral character;

(b) has not engaged or is not engaging in any practice or conduct that would be grounds for refusing to issue a license under section 301;

(c) has current certification at the appropriate level verified with the certifying entity by the board; and

(d) can provide the board upon request with evidence of current and ongoing supervision by a licensed behavior analyst who is approved as a supervisor by the certifying entity; and any other requirements and qualifications as deemed necessary by the board.

Section 293. Each person desiring to obtain a license as a behavior analyst or as an assistant behavior analyst shall make application to the board upon such form and in such manner as the board shall prescribe and shall furnish evidence satisfactory to the board that the person is of good moral character including, but not limited to, the fact that such applicant has not been convicted of a felony; provided, however, that for the purposes of this section, a conviction shall include a judgment, an admission of guilt or a plea of nolo contendere to any such felony charges or a conviction of an offense under the laws of another jurisdiction which, if committed in the commonwealth, would be a felony unless:

(i) at least 10 years have elapsed from the date of the conviction; and

(ii) the applicant satisfactorily demonstrates to the board that the applicant has made significant progress in personal rehabilitation since the conviction so that licensure of the applicant would not be expected to create a substantial risk of harm to the health and safety of the applicant's clients or the public or a substantial risk of further criminal violations.

The board shall have access to criminal offender record information to review such felony or misdemeanor convictions as are necessary to carry out this section.

Section 294. Notwithstanding sections 291 and 292, the board may issue a license to an applicant who presents evidence that such applicant has been licensed or certified as a behavior analyst or assistant behavior analyst by a similar board of another jurisdiction the standards of which are at least the same as those required in the commonwealth.

Section 295. A fee shall be paid to the board for the original license. A license to practice as a licensed behavior analyst or a licensed assistant behavior analyst shall be valid for 2 years and must be renewed biennially. Any application for renewal of a license that has expired shall require the payment of a re-registration fee.

On or before September 13 of the year preceding the expiration of a license, the board shall forward to the holder of the license a form of application for renewal thereof. Upon the receipt of the completed form and the renewal fee on or before November 13, the board shall verify with the certifying entity that the applicant is certified at the appropriate level and is not the subject of any active investigation or disciplinary action by the certifying entity. If such verification is attained, the board shall issue a new license for the year commencing January 1.

Section 296. All fees required by sections 290 to 302, inclusive, shall be determined annually by the secretary of administration and finance under section 3B of chapter 7. All licensing and application fees and civil administrative penalties collected under said sections 290 to 302, inclusive, shall be deposited into the Quality in Health Professions Trust Fund established in section 35X of chapter 10.

Section 297. Nothing in sections 290 to 302, inclusive, shall be construed to prevent qualified members of other professions or occupations including, but not limited to, physicians, psychologists, teachers, members of the clergy, authorized Christian Science practitioners,

attorneys-at-law, social workers, guidance counselors, clinical counselors, adjustment counselors, speech pathologists, audiologists or rehabilitation counselors from practicing applied behavior analysis if it is consistent with the legislated scope of practice and accepted ethical standards of their respective professions and the individual professional's training and competence; provided, however, that no such Christian Science practitioner, attorneys-at-law, social worker, guidance counselor, clinical counselor, adjustment counselor, speech pathologist, audiologist or rehabilitation counselor shall use any title or description stating or implying that such person is a licensed behavior analyst or licensed assistant behavior analyst without holding said license.

Section 298. A person licensed under sections 290 to 302, inclusive, shall comply with the standards of ethical practice as adopted by the board.

Section 299. A person not licensed to practice applied behavior analysis who holds himself out to be a licensed behavior analyst or licensed assistant behavior analyst or who uses the title "licensed behavior analyst" or "licensed assistant behavior analyst" or engages in the practice of applied behavior analysis shall be subject to the penalties set forth in section 65A.

Section 300. The penalties set forth in section 299 shall not apply to faculty or students of applied behavior analysis currently enrolled in a recognized educational institution which meets educational standards determined by the board or to interns or persons preparing for the practice of applied behavior analysis under qualified supervision in any such program; provided, they are designated by such titles as "behavior analyst intern", "behavior analyst trainee" or other title clearly indicating such training status.

Section 301. The board shall investigate all complaints relating to the proper practice of applied behavior analysis by a person licensed under sections 290 to 302, inclusive.

The board, after a hearing held under chapter 30A, may revoke, suspend or cancel the license, or reprimand, censure or otherwise discipline a licensed behavior analyst or licensed assistant behavior analyst upon proof satisfactory to a majority of the board that the licensee:

(i) fraudulently procured the license;

(ii) is guilty of an offense under any law of the commonwealth relating to the practice of applied behavior analysis or a rule or regulation adopted under those laws;

(iii) engaged in conduct that calls into question their competence to practice applied behavior analysis including, but not limited to, gross misconduct in the practice of applied behavior analysis or of practicing applied behavior analysis fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions;

(iv) practiced applied behavior analysis while the ability to practice was impaired by alcohol, drugs, physical disability or mental instability;

(v) has been habitually drunk or being or having been within a reasonable period of time addicted to, dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effects;

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

(vii) has been convicted of a criminal offense which reasonably calls into question the licensee's ability to practice applied behavior analysis;

(viii) violated any rule or regulation of the board governing the practice of applied behavior analysis; or

(ix) violated any professional disciplinary or ethical standard established by the board.

No person who files a complaint or who reports or provides information under this section or assists the board at its request in any manner in discharging its duties and functions shall be liable in a cause of action arising out of the receiving of such information or assistance if the person making the complaint or reporting or providing the information or assistance does so in good faith and without malice.

If the licensee is found not to have violated this section, the board shall forthwith order a dismissal of the charges.

Written notice of a contemplated revocation or suspension of a license or the cause therefor, in sufficient particularity, and the date of a hearing thereon, shall be sent by registered or certified mail to the licensee at the licensee's last known address at least 15 days before the date of the hearing. The licensee against whom a charge is filed shall have a right to appear before the board in person or by counsel, or both, may produce witnesses, introduce evidence and question witnesses. No license shall be revoked or suspended without such hearing, but the nonappearance of the licensee, after notice, shall not prevent such revocation or suspension. All matters upon which a contemplated revocation or suspension is based shall be introduced in evidence at the proceeding. The licensee shall be notified in writing of the board's decision. The

board may make such rules and regulations as it deems proper for the filing of charges and the conduct of hearings.

After issuing an order of revocation or suspension, the board may file a petition in equity in the superior court in a county in which the respondent resides or transacts business, or in Suffolk County, to ensure appropriate injunctive relief to expedite and secure the enforcement of its order, pending the final determination.

A decision by the board under this section shall be subject to review in superior court under chapter 30A.

Section 302. After three years from the date of revocation, an application for reinstatement may be made to the board and the board may, upon the affirmative vote of a majority of its members, grant such reinstatement.

SECTION 8. Notwithstanding section 110 of chapter 13 of the General Laws, the initial members of the board of registration of behavior analysts shall consist of 9 members to be appointed by the governor, 2 of whom shall be doctoral-level, Board-Certified Behavior Analysts designated as such by the Behavior Analyst Certification Board, 4 of whom shall be Board-Certified Behavior Analysts designated as such by the Behavior Analyst Certification Board who hold master's degrees, 1 of whom shall be a Board-Certified Assistant Behavior Analyst designated as such by the Behavior Analyst Certification Board who holds a bachelor's degree, and 2 members of the general public, subject to section 9B of chapter 13. Of the said initial members appointed to the board, 3 shall serve for terms of 3 years, 3 shall serve for terms of 2 years and 3 shall serve for a term of 1 year.

SECTION 9. Individuals licensed in good standing as applied behavior analysts or assistant applied behavior analysts within the commonwealth upon the effective date of this Act shall be grandfathered, and not required to resubmit applications for licensure until the time as their license is due for renewal.