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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christopher D. Adams.

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## DIGEST

Proposed law enacts the Behavior Analysts Practice Act. Provides for definitions relative to the practice.

Proposed law provides for the Louisiana Behavior Analyst Board within the Department of Health and Hospitals. Provides for a board consisting of five behavior analysts appointed by the governor and subject to Senate confirmation. Board nominees are submitted to the governor by the Louisiana Behavior Analysis Association, and the members serve for staggered terms as follows: the first two appointees serve for four year terms; the third and fourth appointees serve for three year terms; and the fifth appointee serves for a five year term. Vacancies are to be filled in the same manner as the original appointees. Provides that no member of the board serve for more than two consecutive complete terms. Also provides for an ex officio, non-voting member appointed by the State Board of Examiners of Psychologists. Provides for the board to convene its first meeting no later than October 1, 2013, at which time the chairman and vice chairman are to be selected by the board. Provides that a majority of the board members shall constitute a quorum. Requires monthly meetings of the board and permits additional meetings at the call of the chairman or at the request of at least three members of the board. Provides for reimbursement of reasonable travel expenses but no compensation for board members.

Proposed law provides for the powers and duties of the board, including establishing standards of practice, licensure, revocation and suspension of license, reinstatement for behavior analysts and assistant behavior analysts, and for registration of line technicians. Also provides for fines and censure by the board.

Proposed law also authorizes the board to accept grants, donations, and gifts of money or services.

Proposed law requires the board to maintain and make available to the public a registry of behavior analysts, assistant behavior analysts, and line technicians.

Proposed law provides that no person shall hold himself out as a licensed behavior analyst, a state certified assistant behavior analyst, or a registered line technician unless licensed, state certified, or registered in accordance with the provisions of proposed law.

Proposed law provides the following licensure requirements for a behavior analyst:

- (1) Submission to the board of a completed application form.
- (2) Payment of all mandatory licensure fees.

- (3) Proof of good moral character.
- (4) Submission of applicant to a criminal background check in accordance with the authority granted to the board.
- (5) Proof that the applicant passed a nationally recognized examination administered by a nonprofit organization accredited by the National Commission for Certifying Agencies, the National Standards Institute, or a substantial equivalent to credential professional practitioners of behavior analysis related to the principles and practice of the profession of behavior analysis that is approved by the board.
- (6) Proof that the applicant passed the jurisprudence examination covering the laws and rules governing the practice of behavior analysis in Louisiana that is approved by the board.
- (7) Proof that the applicant conducts his professional activities in accordance with accepted standards, including the Guidelines for Responsible Conduct for Behavior Analysts and Professional Disciplinary and Ethical Standards of the Behavior Analyst Certification Board or other national professional organizations as approved by the board.
- (8) Proof that the applicant holds a master's degree from any regional accredited university or other institutions of higher learning.

Proposed law provides the following licensure requirements for a state certified assistant behavior analyst:

- (1) Submission to the board of a completed application form.
- (2) Payment of all mandatory certification fees.
- (3) Proof of good moral character.
- (4) Submission of applicant to a criminal background check in accordance with the authority granted to the board.
- (5) Proof that the applicant passed a nationally recognized examination administered by a nonprofit organization accredited by the National Commission for Certifying Agencies, the National Standards Institute, or a substantial equivalent to credential professional practitioners of behavior analysis related to the principles and practice of the profession of behavior analysis that is approved by the board.
- (6) Proof that the applicant passed the jurisprudence examination covering the laws and rules governing the practice of behavior analysis in Louisiana that is approved by the board.
- (7) Proof that the applicant conducts his professional activities in accordance with accepted

standards, including the Guidelines for Responsible Conduct for Behavior Analysts and Professional Disciplinary and Ethical Standards of the Behavior Analyst Certification Board or other national professional organizations as approved by the board.

- (8) Proof that the applicant holds a bachelor's degree from any regional accredited university or other institutions of higher learning.

Proposed law provides that a line technician be registered by his supervising licensed behavior analyst with the board, and requires that at registration, the line technician submit a criminal background report, issued not more than 14 days from the date of registration. Further requires annual renewal of the registration.

Proposed law provides for annual renewal of licenses and certificates, and for documentation of completion of continuing education as required by the board. Provides for filing of a copy of each license and certificate with the secretary of state. Provides for adherence to ethical and professional standards as promulgated by the board.

Proposed law provides for the power and duty of the board with regard to suspension and revocation of any license or certificate whenever the board, by affirmative vote of at least four of its five members, finds by a preponderance of the evidence that a licensee or holder of a certificate has engaged in any of the following acts or offenses:

- (1) Fraud or deception in applying for or procuring a license to practice behavior analysis.
- (2) Practicing behavior analysis in such a manner as to endanger the welfare of clients or patients, including but not limited to:
  - (a) Harassment, intimidation, or abuse, sexual or otherwise, of a client or patient.
  - (b) Engaging in sexual intercourse or other sexual contact with a client or patient.
  - (c) Gross malpractice, repeated malpractice, or gross negligence in the practice of behavior analysis.
- (3) Conviction of a felony. A copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence.
- (4) Conviction of any crime or offense which reflects the inability of the practitioner to practice behavior analysis with due regard for the health and safety of clients or patients.
- (5) Use of repeated untruthful, deceptive, or improbable statements concerning the licensee's qualifications or the effects or results of proposed treatment, including functioning outside of one's professional competence established by education, training, and experience.

- (6) Aiding or abetting the practice of behavior analysis by any person not licensed, state certified, or registered with the board and in violation of this Chapter.
- (7) Conviction of fraud in filing Medicare or Medicaid claims or in filing claims to any third party payor. A copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence.
- (8) Exercising undue influence in such a manner as to exploit the client or patient for financial or other personal advantage to the practitioner or a third party.
- (9) The suspension or revocation by another state of a license or certificate to practice behavior analysis. A certified copy of the record of suspension or revocation of the state making such a suspension or revocation shall be conclusive evidence thereof.
- (10) Refusal to appear before the board after having been ordered to do so in writing by a duly authorized agent of the board.
- (11) Making any fraudulent or untrue statement to the board.
- (12) Violation of the code of ethics adopted in the rules and regulations of the board or other immoral, unprofessional, or dishonorable conduct as defined in the rules and regulations of the board.
- (13) Inability to practice behavior analysis with reasonable skill and safety to patients or clients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition.
- (14) Failure to report the physical, mental, or sexual abuse of a child to a law enforcement agency or district attorney.
- (15) Violation of any of the provisions of this Chapter or of the rules and regulations promulgated by the board.

Further provides that disciplinary proceedings shall be conducted in compliance with the Administrative Procedure Act, and provides for the assessment of reasonable costs against the person subject to the disciplinary proceedings, to be paid no later than 30 days after the adjudication becomes final. Further provides for periods of suspension.

Proposed law authorizes the board to set fees and establishes the maximum amounts of such fees. Also provides penalties for those who violate the provisions of the proposed law.

Proposed law provides that its provisions shall terminate and have no effect on and after July 1, 2018.

Effective August 1, 2013.

(Adds R.S. 36:259(E)(25) and R.S. 37:3701-3717)