

Regular Session, 2013

SENATE BILL NO. 134

BY SENATORS MORRELL AND HEITMEIER AND REPRESENTATIVE KLECKLEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH SERVICES. Provides for licensure of behavior analysts. (8/1/13) (2/3 - CA 7s2.1(A))

1 AN ACT
2 To enact R.S. 36:259(E)(25) and Chapter 60 of Title 37 of the Louisiana Revised Statutes
3 of 1950, to be comprised of R.S. 37:3701 through 3718, relative to behavior analysts;
4 to create the Louisiana Behavior Analyst Board within Department of Health and
5 Hospitals; to provide for the Behavior Analyst Practice Act; to provide for
6 definitions; to provide for the Louisiana Behavior Analyst Board and provide for its
7 powers and duties; to provide for the requirements of licensure, state certification,
8 or registration; to provide for the qualifications for licensure and state certification;
9 to provide for issuance and renewal of licenses and state certificates; to provide for
10 reinstatement of licenses and state certifications; to provide for the filing of licenses
11 and state certificates; to provide for the denial, revocation, or suspension of licenses
12 and state certificates; to provide for continuing education; to provide for fees; to
13 provide for certain exceptions; to provide for penalties; to provide for injunctive
14 proceedings; to provide for the sharing of resources between boards; to provide for
15 termination; and to provide for related matters.
16 Be it enacted by the Legislature of Louisiana:
17 Section 1. R.S. 36:259(E)(25) is hereby enacted to read as follows:

1 §259. Transfer of agencies and functions to Department of Health and Hospitals

2 * * *

3 E. The following agencies, as defined in R.S. 36:3, are transferred to and
4 hereafter shall be within the Department of Health and Hospitals, as provided in R.S.
5 36:803:

6 * * *

7 **(25) Louisiana Behavior Analyst Board (R.S. 37:3701 et seq.)**

8 Section 2. Chapter 60 of Title 37 of the Louisiana Revised Statutes of 1950,
9 comprised of R.S. 37:3701 through 3718, is hereby enacted to read as follows:

10 **CHAPTER 60. BEHAVIOR ANALYSTS**

11 **§3701. Short title**

12 **This Part shall be known and may be cited as the "Behavior Analyst**
13 **Practice Act".**

14 **§3702. Definitions**

15 **As used in this Part the following words, terms, and phrases have the**
16 **following meaning ascribed to them in this Section, unless the context clearly**
17 **indicates a different meaning:**

18 **(1) "Applied behavior analysis" means the design, implementation, and**
19 **evaluation of systematic instructional and environmental modifications by a**
20 **behavior analyst, to produce socially significant improvements in behavior.**

21 **(2) "Assistant behavior analyst", "state certified assistant behavior**
22 **analyst", or "SCABA" means an individual who by training, experience, and**
23 **examination meets the requirements for certification by the board and is duly**
24 **certified to engage in the practice of behavior analysis under the supervision of**
25 **a licensed behavior analyst.**

26 **(3) "Behavior analyst", "licensed behavior analyst" or "LBA" means an**
27 **individual who by training, experience, and examination meets the**
28 **requirements for licensing by the board and is duly licensed to independently**
29 **practice behavior analysis in the state of Louisiana. The distinction of a licensed**

1 behavior analyst or LBA is separate and apart from any other licensed
2 individuals, including but not limited to psychologists.

3 (4) "Board" means the Louisiana Behavior Analyst Board.

4 (5) "Line technician" or "registered line technician" means an individual
5 who works directly with the client to implement applied behavior analysis
6 services under the direction and supervision of a licensed behavior analyst and
7 is registered as required in this Chapter.

8 (6) "Scope of practice of behavior analysis" includes the empirical
9 identification of functional relations between behavior and environments. It
10 uses direct observation and measurement of behavior and environment, the
11 empirical identification of functional relations between behavior and
12 environmental factors, known as functional assessment and analysis. Applied
13 behavior analysis interventions are based on scientific research and the direct
14 observation and measurement of behavior and environment. They utilize
15 contextual factors, establishing operations, antecedent stimuli, positive
16 reinforcement, and other consequences to help people develop new behaviors,
17 increase or decrease existing behaviors, and emit behaviors under specific
18 environmental conditions. The practice of behavior analysis expressly excludes
19 psychological testing, neuropsychology, cognitive therapy, diagnosis of
20 psychiatric conditions, psychotherapy, sex therapy, psychoanalysis,
21 hypnotherapy, and mental health counseling or academic teaching by college or
22 university staff.

23 §3703. Louisiana Behavior Analyst Board

24 A. There is hereby created within the Department of Health and
25 Hospitals the Louisiana Behavior Analyst Board which shall be subject to the
26 provisions of R.S. 36:803.

27 B. (1) The board shall consist of five behavior analysts who shall be
28 appointed by the governor from a list of nominees submitted by the Louisiana
29 Behavior Analysis Association, and who shall be confirmed by the Senate.

1 **(2) The five behavior analysts shall become licensed once this Chapter**
2 **becomes effective.**

3 **(3) Members of the board shall serve at the pleasure of the governor. A**
4 **vacancy in an unexpired term shall be filled in the manner of the original**
5 **appointment.**

6 **(4)(a) The first two appointments to the initial board shall each serve a**
7 **term of four years, and such positions on the board shall be four-year terms.**

8 **(b)The third and fourth appointments to the initial board shall each**
9 **serve a term of three years, and such positions on the board shall be three-year**
10 **terms.**

11 **(c) The fifth appointment to the initial board shall serve a term of five**
12 **years, and such position on the board shall be a five-year term.**

13 **(5) If there is a vacancy, the appointment to complete the term shall**
14 **follow the same process to appoint members to the board.**

15 **(6) No member of the board shall serve more than two consecutive**
16 **complete terms on the board.**

17 **(7) The State Board of Examiners of Psychologists shall appoint a**
18 **member to serve as an ex officio, nonvoting member of the board.**

19 **C. The board shall convene its first meeting no later than October 1,**
20 **2013. At this meeting, the board shall elect from among its membership a**
21 **chairman and vice chairman.**

22 **D. A majority of the members of the board shall constitute a quorum for**
23 **the transaction of all business. The ex officio member shall not be considered**
24 **for the purpose of establishing a quorum.**

25 **E. The board shall meet at least quarterly. The board shall meet at the**
26 **call of the chairman or at the request of at least three members.**

27 **F. Members of the board shall serve without compensation but shall be**
28 **reimbursed for reasonable travel expenses incurred in attendance at meetings**
29 **and other official business of the board.**

1 **§3704. Powers and duties**

2 **A. The board shall have and exercise all powers and duties granted to**
3 **it by this Chapter. In addition, the board shall have the authority to:**

4 **(1) Establish and publish standards of behavior analysis practice.**

5 **(2) Approve, deny, revoke, suspend, renew and reinstate licensure and**
6 **state certification of duly qualified applicants.**

7 **(3) Establish and publish standards for the registration of line**
8 **technicians.**

9 **(4) Adopt, revise, and enforce orders and rules, and promulgate**
10 **regulations governing the licensure of behavior analysts, the state certification**
11 **of assistant behavior analysts, the registration of line technicians, the practice**
12 **of behavior analysis, the protection of the public, and proper administration in**
13 **accordance with the Administrative Procedure Act.**

14 **(5) Promulgate rules in accordance with the Administrative Procedure**
15 **Act governing the temporary licensure of behavior analysts.**

16 **(6) Promulgate rules in accordance with the Administrative Procedure**
17 **Act governing the reciprocity of licensure of behavior analysts and the state**
18 **certification of assistant behavior analysts provided that the standards under**
19 **which the applicants were licensed or certified are at least as stringent as those**
20 **required in this Chapter.**

21 **(7) Receive, review, and approve or disapprove applications for an**
22 **emergency temporary license in response to a declared public health emergency.**

23 **(8) Fine, censure, revoke, suspend or deny a license or state certificate,**
24 **place on probation, reprimand or otherwise discipline licensees or holders of**
25 **certificates for violations of the code of ethics or the rules and regulations of the**
26 **board and committee.**

27 **(9) Summarily suspend the license of a licensee or a state certificate**
28 **holder of one who poses an imminent danger to the public acting upon the**
29 **recommendation of the committee provided that a hearing shall be afforded to**

1 the individual within ten days after any such action by the board to determine
2 whether such summary action was warranted.

3 (10) Accept grants, donations, or gifts of money or services from public
4 or private individuals or organizations or from any other sources to be utilized
5 for the purposes of the board. Such monies shall be deposited into the treasury
6 of the board.

7 (11) Create and adopt an official seal for the board.

8 (12) Submit the names of applicants for licensure and state certification
9 to the Louisiana Bureau of Criminal Identification and Information of the office
10 of state police within the Department of Public Safety and Corrections for
11 criminal background checks. Upon the board's submission of an applicant's
12 fingerprints and such other identifying information as may be required, the
13 Louisiana Bureau of Criminal Identification and Information of the office of
14 state police within the Department of Public Safety and Corrections shall survey
15 its criminal history records and identification files and make a simultaneous
16 request of the Federal Bureau of Investigation for like information from other
17 jurisdictions. The Louisiana Bureau of Criminal Identification and Information
18 of the office of state police within the Department of Public Safety and
19 Corrections may charge the board a reasonable processing fee for conducting
20 and reporting on any such search.

21 (13) Perform such other functions and duties as may be required to carry
22 out under this Chapter.

23 B. The board shall maintain and make available to the public a registry
24 of licensed behavior analysts, state certified assistant behavior analysts, and
25 registered line technicians.

26 §3705. License, state certification, or registration required

27 A. No person shall hold himself out as a licensed behavior analyst, a
28 state certified assistant behavior analyst, or a registered line technician unless
29 licensed, state certified, or registered in accordance with the provisions of this

1 **Chapter.**

2 **B. This Section shall be enforced beginning December 31, 2013.**

3 **§3706. Qualifications of applicants of a licensed behavior analyst**

4 **A. Notwithstanding any other provision of the Chapter or other law to**
5 **the contrary, an applicant for licensure as a licensed behavior analyst shall be**
6 **issued a behavior analyst license by the board upon satisfaction of all the**
7 **following criteria:**

8 **(1) Submission to the board of a completed application form. The board**
9 **shall approve the form.**

10 **(2) Payment of all mandatory licensure fees.**

11 **(3) Proof of good moral character.**

12 **(4) Satisfactory completion of the criminal background check in**
13 **accordance with the authority granted to the board.**

14 **(5) Proof that the applicant passed a nationally recognized examination**
15 **administered by a nonprofit organization accredited by the National**
16 **Commission for Certifying Agencies, the American National Standards**
17 **Institute, or a substantial equivalent to credential professional practitioners of**
18 **behavior analysis related to the principles and practice of the profession of**
19 **behavior analysis that is approved by the board.**

20 **(6) Proof that the applicant passed the jurisprudence examination**
21 **covering the laws and rules governing the practice of behavior analysis in**
22 **Louisiana that is approved by the board.**

23 **(7) Proof that the applicant conducts his professional activities in**
24 **accordance with accepted standards, including the Guidelines for Responsible**
25 **Conduct for Behavior Analysts and Professional Disciplinary and Ethical**
26 **Standards of the Behavior Analyst Certification Board or other national**
27 **credentialing bodies as approved by the board.**

28 **(8) Proof that the applicant holds a master's degree from any accredited**
29 **university or other institution of higher learning.**

1 **B. The standards and requirements in this Chapter shall be separate and**
2 **unique from the standards and requirements for practicing psychology and**
3 **pertain to the practice of applied behavior analysis.**

4 **C. There shall be no requirement for individuals practicing under this**
5 **Chapter to be supervised by members of other professions.**

6 **D. A behavior analyst applicant who has a suspended license may**
7 **reapply for licensure after three years from the date of suspension.**

8 **§3707. Qualifications of applicants of a state certified assistant behavior analyst**

9 **A. Notwithstanding any other provision of the Chapter or other law to**
10 **the contrary, an applicant for state certification as a state certified assistant**
11 **behavior analyst shall be issued an assistant behavior analyst state certificate**
12 **by the board upon satisfaction of all the following criteria:**

13 **(1) Submission to the board of a completed application form. The board**
14 **shall approve the form.**

15 **(2) Payment of all mandatory certification fees.**

16 **(3) Proof of good moral character.**

17 **(4) Satisfactory completion of the criminal background check in**
18 **accordance with the authority granted to the board.**

19 **(5) Proof that the applicant passed a nationally recognized examination**
20 **administered by a nonprofit organization accredited by the National**
21 **Commission for Certifying Agencies, the National Standards Institute, or a**
22 **substantial equivalent to credential professional practitioners of behavior**
23 **analysis related to the principles and practice of the profession of behavior**
24 **analysis that is approved by the board.**

25 **(6) Proof that the applicant passed the jurisprudence examination**
26 **covering the laws and rules governing the practice of behavior analysis in**
27 **Louisiana that is approved by the board.**

28 **(7) Proof that the applicant conducts his professional activities in**
29 **accordance with accepted standards, including the Guidelines for Responsible**

1 Conduct for Behavior Analysts and Professional Disciplinary and Ethical
2 Standards of the Behavior Analyst Certification Board or other national
3 professional organizations as approved by the board.

4 (8) Proof that the applicant holds a bachelor's degree from any
5 accredited university or other institution of higher learning.

6 B. The standards and requirements in this Chapter shall be separate and
7 unique from the standards and requirements for practicing psychology and
8 pertain to the practice of applied behavior analysis.

9 C. There shall be no requirement for practicing under this Chapter to
10 be supervised by members of other professions.

11 D. An assistant behavior analyst applicant who has a suspended
12 certificate may reapply for certification after three years from the date of
13 suspension.

14 §3708. Registration of line technician

15 A. A line technician shall be registered by his supervising licensed
16 behavior analyst with the board.

17 B. At registration, the line technician shall submit a criminal background
18 report from the Louisiana Bureau of Criminal Identification and Information
19 of the office of state police within the Department of Public Safety and
20 Corrections, issued not more than fourteen days from the date of registration.

21 C. The registration provided for in this Section shall be renewed
22 annually by the supervising licensed behavior analyst.

23 §3709. Issuance and renewal of license and state certificate

24 A. The board shall issue a license or state certificate to any person who
25 meets the qualifications provided in this Chapter and the rules and regulations
26 of the board, and who pays the applicable fees fixed by the board.

27 B. A license or state certificate issued under provisions of this Chapter
28 shall be subject to annual renewal and shall expire and become null and void
29 unless renewed in the manner prescribed by the board.

1 **C. License and state certificate renewal shall require documentation of**
2 **completion of the continuing education as required by this Chapter.**

3 **§3710. Reinstatement of license and state certificate**

4 **A. Any license or state certificate suspended, revoked, or otherwise**
5 **restricted by the board may be reinstated by the board.**

6 **B. A license or state certificate that has expired without renewal for a**
7 **period of one year from the date of expiration may be reinstated by the board**
8 **provided the applicant shall otherwise be eligible under the provisions of this**
9 **Chapter, pays the applicable fees, satisfies the continuing education**
10 **requirement, and meets such other requirements as may be established by the**
11 **board.**

12 **§3711. License and state certificate; filing**

13 **The board shall issue a license or certificate signed by the board's**
14 **chairman, vice chairman, and all members of the board whenever a candidate**
15 **for licensure or state certification is found to be qualified as provided in this**
16 **Chapter. A copy of such license or state certificate, so certified by the board's**
17 **vice chairman as a true copy, shall be filed with the secretary of state by the**
18 **administrative assistant of the board. Any filing fees in connection with such**
19 **filing shall be paid, in advance, to the administrative assistant of the board by**
20 **the person being licensed or receiving a certificate.**

21 **§3712. Denial, revocation, or suspension of license or state certificate**

22 **A. A licensed behavior analyst and anyone under the supervision of a**
23 **licensed behavior analyst shall conduct their activities in conformity with ethical**
24 **and professional standards promulgated by the board under its current rules**
25 **and regulations.**

26 **B. The board shall have the power and duty to suspend, place on**
27 **probation, require remediation for a specified time, revoke any license or state**
28 **certificate to practice behavior analysis, or take any other action specified in the**
29 **rules and regulations whenever the board, by affirmative vote of at least four**

1 of its five members, shall find by a preponderance of the evidence that a
2 behavior analyst or assistant behavior analyst has engaged in any of the
3 following acts or offenses:

4 (1) Fraud or deception in applying for or procuring a license or a state
5 certificate to practice behavior analysis.

6 (2) Practicing behavior analysis in such a manner as to endanger the
7 welfare of clients or patients, including but not limited to:

8 (a) Harassment, intimidation, or abuse, sexual or otherwise, of a client
9 or patient.

10 (b) Engaging in sexual intercourse or other sexual contact with a client
11 or patient.

12 (c) Gross malpractice, repeated malpractice, or gross negligence in the
13 practice of behavior analysis.

14 (3) Conviction of a felony. A copy of the record of conviction, certified
15 by the clerk of the court entering the conviction, shall be conclusive evidence.

16 (4) Conviction of any crime or offense which reflects the inability of the
17 practitioner to practice behavior analysis with due regard for the health and
18 safety of clients or patients.

19 (5) Use of repeated untruthful, deceptive, or improbable statements
20 concerning the licensee's qualifications or the effects or results of proposed
21 treatment, including functioning outside of one's professional competence
22 established by education, training, and experience.

23 (6) Aiding or abetting the practice of behavior analysis by any person not
24 licensed, state certified, or registered with the board and in violation of this
25 Chapter.

26 (7) Conviction of fraud in filing Medicare or Medicaid claims or in filing
27 claims to any third-party payor. A copy of the record of conviction, certified by
28 the clerk of the court entering the conviction, shall be conclusive evidence.

29 (8) Exercising undue influence in such a manner as to exploit the client

1 or patient for financial or other personal advantage to the practitioner or a
2 third party.

3 (9) The suspension or revocation by another state of a license or
4 certificate to practice behavior analysis. A certified copy of the record of
5 suspension or revocation of the state making such a suspension or revocation
6 shall be conclusive evidence thereof.

7 (10) Refusal to appear before the board after having been ordered to do
8 so in writing by a duly authorized agent of the board.

9 (11) Making any fraudulent or untrue statement to the board.

10 (12) Violation of the code of ethics adopted in the rules and regulations
11 of the board or other immoral, unprofessional, or dishonorable conduct as
12 defined in the rules and regulations of the board.

13 (13) Inability to practice behavior analysis with reasonable skill and
14 safety to patients or clients by reason of illness, inebriation, misuse of drugs,
15 narcotics, alcohol, chemicals, or any other substance, or as a result of any
16 mental or physical condition.

17 (14) Failure to report the physical, mental, or sexual abuse of a child to
18 a law enforcement agency or district attorney.

19 (15) Violation of any of the provisions of this Chapter or of the rules and
20 regulations promulgated by the board.

21 C. Proceedings for disciplinary action or for the denial or withholding
22 of a license or state certificate under the authority of this Section shall be
23 conducted in compliance with the Administrative Procedure Act. The board
24 may require a person against whom disciplinary action has been taken by the
25 board after hearing to pay reasonable costs of the proceedings incurred by the
26 board for hearing and any judicial review, including attorney, stenographer,
27 and witness fees. These costs shall be paid no later than thirty days after the
28 adjudication by the board becomes final. No license shall be issued, reinstated,
29 or renewed until such costs have been paid.

1 **D. The board may deny or withhold for a specified time not to exceed**
2 **two years the granting of a license or a state certificate to any applicant or**
3 **candidate who has committed any of the acts or offenses set forth in Subsection**
4 **B of this Section.**

5 **E. Suspension by the board of the license of a behavior analyst or the**
6 **state certificate of an assistant behavior analyst shall be for a period not**
7 **exceeding two years.**

8 **F. A person who has been refused a license or state certificate, or whose**
9 **license or state certificate has been revoked, under the provisions of this Section,**
10 **may reapply for licensure or state certification after more than two years have**
11 **elapsed from the date such denial or revocation is legally effective.**

12 **G. The board shall notify all licensed behavior analysts, state certified**
13 **assistant behavior analysts, and registered line technicians of any disciplinary**
14 **action taken against a licensed behavior analyst, a state certified assistant**
15 **behavior analyst, or a registered line technician.**

16 **§3713. Continuing education**

17 **A.(1) A licensed behavior analyst shall annually complete a minimum**
18 **number of hours of continuing education relevant to the practice of behavior**
19 **analysis as established by the board.**

20 **(2) A certified assistant behavior analyst shall annually complete a**
21 **minimum number of hours of continuing education relevant to the practice of**
22 **behavior analysis as established by the board.**

23 **B. The board shall develop the requirements for continuing education.**

24 **C. The continuing education classes shall be approved by the board.**

25 **§3714. Fees**

26 **A. All monies received by the board under this Section shall be paid into**
27 **the treasury of the board.**

28 **B. Fees set by the board under the authority of this Chapter shall include**
29 **fees for the following purposes which shall not exceed the maximum amounts**

1 **listed below:**

2	<u>(1) For application for licensure</u>	<u>\$400</u>
3	<u>(2) For application for certification</u>	<u>\$250</u>
4	<u>(3) For application for registration</u>	<u>\$50</u>
5	<u>(4) For renewal of licensure</u>	<u>\$400</u>
6	<u>(5) For renewal of certification</u>	<u>\$250</u>
7	<u>(6) For renewal of registration</u>	<u>\$50</u>
8	<u>(7) For JE examination</u>	<u>\$75</u>
9	<u>(8) For late fees</u>	<u>\$50</u>
10	<u>(9) For reissuance of license or certificate</u>	<u>\$15</u>
11	<u>(10) For name changes on record</u>	<u>\$25</u>
12	<u>(11) For background check</u>	<u>\$50</u>
13	<u>(12) License verification</u>	<u>\$15</u>
14	<u>(13) Insufficient check fee</u>	<u>\$15</u>
15	<u>(14) For copies of documents in the board or committee's</u>	
16	<u>possession</u>	<u>\$2 per page</u>
17	<u>(15) For temporary licensure</u>	<u>\$125</u>

18 **§3715. Persons and practices not affected**

19 **The provisions of this Chapter shall not be construed as prohibiting or**
 20 **restricting the practice of any of the following:**

21 **(1) Other human service professionals who are licensed, certified, or**
 22 **registered by the state of Louisiana, provided such individuals are working**
 23 **within the scope of practice of their profession and the scope of their training**
 24 **and competence.**

25 **(2) State certified assistant behavior analyst or registered line technician**
 26 **who delivers applied behavior analysis services under the extended authority**
 27 **and direction of a licensed behavior analyst. Such state certified assistant**
 28 **behavior analyst or registered line technician shall not represent himself as a**
 29 **behavior analyst.**

1 **(3) A family member or guardian of a recipient of applied behavior**
2 **analysis services who implements certain applied behavior analysis procedures**
3 **with recipient under the extended authority and direction of a licensed behavior**
4 **analyst or a state certified assistant behavior analyst, who is supervised by a**
5 **licensed behavior analyst. Such an individual shall not represent himself as a**
6 **behavior analyst.**

7 **(4) An individual who practices with nonhumans, including applied**
8 **animal behaviorists and animal trainers.**

9 **(5) An individual who provides general applied behavior analysis**
10 **services to an organization, so long as those services are for the benefit of such**
11 **organization and do not involve direct services to individuals.**

12 **(6) A matriculated college or university student, intern, or postdoctoral**
13 **fellow whose activities are part of a defined behavior analysis program of study,**
14 **practicum, intensive practicum, or supervised independent fieldwork. Such**
15 **practice under this exemption requires the direct supervision by a licensed**
16 **behavior analyst in this state or an instructor in an approved course sequence**
17 **approved by the board. A student, intern, or postdoctoral fellow shall not**
18 **represent himself as a behavior analyst and shall use a title that clearly indicates**
19 **his training status, such as "behavior analysis student", "behavior analysis**
20 **intern", "behavior analysis trainee", or other title clearly indicating such**
21 **training status.**

22 **(7) An individual who teaches behavior analysis or conducts behavior**
23 **analytic research, provided that such teaching or research shall not involve the**
24 **delivery of direct behavior analytic services. Such individual may use the title**
25 **"behavior analyst" but may not represent himself as a licensed behavior analyst**
26 **or a state certified assistant behavior analyst unless he holds one of those**
27 **credentials issued by the board.**

28 **(8) An unlicensed individual pursuing experiential training in behavior**
29 **analysis consistent with the licensure requirements and standards as required**

1 by the board, provided such experience is supervised by a licensed behavior
2 analyst.

3 (9) An individual licensed to practice psychology within the state, so long
4 as the applied behavior analysis services provided by the licensed psychologist
5 are within the licensed psychologist's education, training and expertise. This
6 includes individuals acting under the extended authority and direction of
7 licensed psychologists. Licensed psychologists and those acting under their
8 extended authority are prohibited from representing themselves as behavior
9 analysts, licensed behavior analysts, assistant behavior analysts, or state
10 certified assistant behavior analysts without being duly licensed or state
11 certified.

12 §3716. Penalties

13 A. It shall be a misdemeanor for any individual:

14 (1) Not licensed, state certified, or registered under this Chapter to
15 represent himself as a licensed behavior analyst, a state certified assistant
16 behavior analyst, or a registered line technician.

17 (2) Not licensed, state certified, or registered under this Chapter to
18 engage in the practice of behavior analysis.

19 (3) To represent himself as a licensed behavior analyst or a state
20 certified assistant behavior analyst during the time that his license or state
21 certificate as a behavior analyst or an assistant behavior analyst shall be
22 suspended or revoked or lapsed.

23 (4) To employ as a line technician, a line technician who is not registered
24 pursuant to this Chapter.

25 B. Such misdemeanor shall be punishable upon conviction by
26 imprisonment for not more than six months or by a fine of not less than one
27 hundred dollars nor more than five hundred dollars, or both. Each violation
28 shall be deemed a separate offense.

29 C. Such misdemeanor shall be prosecuted by the district attorney of the

1 **judicial district in which the offense was committed.**

2 **§3717. Injunctive proceedings**

3 **A. The board may investigate any evidence or allegation which appears**
4 **to show that any person is or may be in violation of any provision of this**
5 **Chapter.**

6 **B. The board may apply for an injunction in any court of competent**
7 **jurisdiction to enjoin any person from committing any act which is in violation**
8 **of this Chapter.**

9 **C. If it be established that the defendant has been or is committing an**
10 **act which is in violation of this Chapter, the court shall enter a decree**
11 **perpetually enjoining said defendant from further committing such act.**

12 **D. In case of violation of any injunction issued under the provisions of**
13 **this Section, the court may summarily try and punish the offender for contempt**
14 **of court.**

15 **E. Such injunctive proceedings shall be in addition to, and not in lieu of,**
16 **all penalties and other remedies as provided in this Chapter.**

17 **§3718. Termination**

18 **The provisions of this Chapter shall terminate and have no effect on and**
19 **after July 1, 2018.**

20 Section 3. The Louisiana Behavior Analyst Board and the State Board of Examiners
21 of Psychologists shall share office space, professional staff, and other resources in the
22 operation and management of each of the respective boards.

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

DIGEST

Morrell (SB 134)

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, nonvoting 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 licensed behavior analysts, state certified 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) Satisfactory completion of the 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 American 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 credentialing bodies as approved by the board.
- (8) Proof that the applicant holds a master's degree from any 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) Satisfactory completion of the 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 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 from the Louisiana Bureau of Criminal Identification and Information of the office of state police within the Department of Public Safety and Corrections, 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 or a state certificate 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 the board with authority for injunctive proceedings

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. 37:3701-3718)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Changes the meeting requirement for the board from monthly to quarterly.
2. Removes the authority to issue temporary state certificates and registration.
3. Authorizes enforcement of the requirement for licensure, state certification, and registration beginning December 31, 2013.
4. Authorizes in the fee schedule the fee for temporary licensure to a maximum of \$125.
5. Provides the board with injunctive proceedings authority.
6. Technical changes.