S T A T E O F N E W Y O R K

3676

2009-2010 Regular Sessions

I N S E N A T E

March 27, 2009

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to an exemption for behavior analysis

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The education law is amended by adding a new section 7601-b to read as follows:

S 7601-B. DEFINITION OF BEHAVIOR ANALYSIS. BEHAVIOR ANALYSIS IS DEFINED AS THE DESIGN, IMPLEMENTATION, AND EVALUATION OF SYSTEMATIC ENVIRONMENTAL MODIFICATIONS FOR THE PURPOSE OF PRODUCING SOCIALLY SIGNIFICANT IMPROVEMENTS IN THE UNDERSTANDING OF HUMAN BEHAVIOR IDENTIFIED THROUGH THE EXPERIMENTAL ANALYSIS OF BEHAVIOR. IT INCLUDES THE IDENTIFICATION OF FUNCTIONAL RELATIONSHIPS BETWEEN BEHAVIOR AND ENVIRONMENTS. IT USES DIRECT OBSERVATION AND MEASUREMENT OF BEHAVIOR AND ENVIRONMENT. CONTEXTUAL FACTORS, ESTABLISHING OPERATIONS, ANTECEDENT STIMULI, POSITIVE REINFORCERS, AND OTHER CONSEQUENCES ARE USED, BASED ON IDENTIFIED FUNCTIONAL RELATIONSHIPS WITH THE ENVIRONMENT, IN ORDER TO PRODUCE PRACTICAL BEHAVIOR CHANGE. BEHAVIOR ANALYSIS DOES NOT RELY ON COGNITIVE THERAPIES AND EXPRESSLY EXCLUDES PSYCHOLOGICAL TESTING, NEUROPSYCHOLOGY, PSYCHOTHERAPY, SEX THERAPY, PSYCHOANALYSIS, HYPNOTHERAPY AND LONG TERM COUNSELING AS TREATMENT MODALITIES.

S 2. Section 7605 of the education law is amended by adding a new subdivision 9 to read as follows:

9. THE PRACTICE, CONDUCT, ACTIVITIES, OR SERVICES OF AN INDIVIDUAL WHO SOLELY ENGAGES IN BEHAVIOR ANALYSIS, AS DEFINED BY THIS CHAPTER, PROVIDED THE INDIVIDUAL IS A BOARD CERTIFIED BEHAVIOR ANALYST AND HE OR SHE DOES NOT HOLD HIMSELF OR HERSELF OUT TO THE PUBLIC AS POSSESSING A LICENSE ISSUED PURSUANT TO THIS ARTICLE OR ARTICLE ONE HUNDRED SIXTY-THREE OF THIS TITLE OR USE A TITLE DESCRIPTION PROTECTED BY EITHER THIS ARTICLE OR ARTICLE ONE HUNDRED SIXTY-THREE OF THIS TITLE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 3. Section 8410 of the education law is amended by adding a new subdivision 7 to read as follows:

7. PROHIBIT OR LIMIT A BOARD CERTIFIED BEHAVIOR ANALYST FROM PERFORMING WORK CONSISTENT WITH SECTION SEVENTY-SIX HUNDRED ONE-B OF THIS TITLE, PROVIDED HE OR SHE DOES NOT HOLD HIMSELF OR HERSELF OUT TO THE PUBLIC AS POSSESSING A LICENSE ISSUED PURSUANT TO THIS ARTICLE OR USE THE TITLES "LICENSED MENTAL HEALTH COUNSELOR", "LICENSED MARRIAGE AND FAMILY THERAPIST", "LICENSED CREATIVE ARTS THERAPIST", OR "LICENSED PSYCHOANALYST", UNLESS LICENSED UNDER THIS ARTICLE.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law. Effective immediately the department of education is authorized to promulgate any and all rules and regulations to implement the requirements of this act.