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

7017

I N S E N A T E

April 23, 2012

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 providing for the licensure of behavior analysts

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 8405-a to read as follows:

S 8405-A. BEHAVIOR ANALYST. 1. DEFINITION OF THE PRACTICE OF BEHAVIOR ANALYSIS. THE PRACTICE OF THE PROFESSION OF BEHAVIOR ANALYSIS IS DEFINED AS THE DESIGN, IMPLEMENTATION, AND EVALUATION OF INSTRUCTIONAL AND ENVIRONMENTAL MODIFICATIONS TO PRODUCE SOCIALLY SIGNIFICANT IMPROVEMENTS IN HUMAN BEHAVIOR. IT INCLUDES THE EMPIRICAL IDENTIFICATION OF FUNCTIONAL RELATIONS BETWEEN BEHAVIOR AND ENVIRONMENTAL FACTORS, KNOWN AS FUNCTIONAL ASSESSMENT AND ANALYSIS. APPLIED BEHAVIOR ANALYSIS INTERVENTIONS ARE BASED ON SCIENTIFIC RESEARCH AND THE DIRECT OBSERVATION AND MEASUREMENT OF BEHAVIOR AND ENVIRONMENT. THEY UTILIZE CONTEXTUAL FACTORS, ESTABLISHING OPERATIONS, ANTECEDENT STIMULI, POSITIVE REINFORCEMENTS, AND OTHER CONSEQUENCES TO HELP PEOPLE DEVELOP NEW BEHAVIORS, INCREASE OR DECREASE EXISTING BEHAVIORS, AND EMIT BEHAVIORS UNDER SPECIFIC ENVIRONMENTAL CONDITIONS. THE PRACTICE OF BEHAVIOR ANALYSIS DOES NOT INCLUDE PSYCHOLOGICAL TESTING, NEUROPSYCHOLOGY, PSYCHOTHERAPY, COGNITIVE THERAPY, SEX THERAPY, MARRIAGE COUNSELING, PSYCHOANALYSIS, HYPNOTHERAPY, AND LONG-TERM COUNSELING AS TREATMENT MODALITIES.

2. PRACTICE OF BEHAVIOR ANALYSIS AND USE OF THE TITLE "LICENSED BEHAVIOR ANALYST". ONLY A PERSON LICENSED OR EXEMPT UNDER THIS ARTICLE SHALL PRACTICE BEHAVIOR ANALYSIS. ONLY A PERSON LICENSED UNDER THIS ARTICLE SHALL USE THE TITLE "LICENSED BEHAVIOR ANALYST" OR ANY OTHER DESIGNATION TENDING TO IMPLY THAT THE PERSON IS LICENSED TO PRACTICE BEHAVIOR ANALYSIS.

3. REQUIREMENTS FOR A PROFESSIONAL LICENSE. TO QUALIFY FOR A LICENSE AS A "LICENSED BEHAVIOR ANALYST", AN APPLICANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

(A) APPLICATION. FILE AN APPLICATION WITH THE DEPARTMENT.

(B) EXAMINATION. PASS THE BEHAVIOR ANALYST CERTIFICATION EXAMINATION ADMINISTERED BY THE BEHAVIOR ANALYST CERTIFICATION BOARD AND BE CERTI-

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

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FIED AS A BOARD CERTIFIED BEHAVIOR ANALYST (BCBA) BY THE BEHAVIOR ANALYST CERTIFICATION BOARD.

(C) STATUS. MAINTAIN ACTIVE STATUS AND FULFILL ALL REQUIREMENTS FOR RENEWAL AND RECERTIFICATION WITH THE BEHAVIOR ANALYST CERTIFICATION BOARD AS A BOARD CERTIFIED BEHAVIOR ANALYST.

(D) ETHICS. CONDUCT HIS OR HER 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.

(E) DISCIPLINE. NOT BEEN SUBJECT TO DISCIPLINARY SUSPENSION OR REVOCATION BY THE BEHAVIOR ANALYST CERTIFICATION BOARD.

(F) AGE. BE AT LEAST TWENTY-ONE YEARS OF AGE.

(G) CHARACTER. BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT.

(H) FEES. PAY A FEE OF ONE HUNDRED SEVENTY-FIVE DOLLARS TO THE DEPARTMENT FOR AN INITIAL LICENSE; AND A FEE OF ONE HUNDRED SEVENTY DOLLARS FOR EACH TRIENNIAL REGISTRATION PERIOD.

S 2. Subdivisions 1 and 7 of section 8410 of the education law, subdivision 1 as amended by chapter 210 of the laws of 2004 and subdivision 7 as added by chapter 130 of the laws of 2010, are amended to read as follows:

1. Apply to the practice, conduct, activities, services or use of any title by any person licensed or otherwise authorized to practice medicine within the state pursuant to article one hundred thirty-one of this title or by any person registered to perform services as a physician assistant within the state pursuant to article one hundred thirty-one-B of this title or by any person licensed or otherwise authorized to practice psychology within this state pursuant to article one hundred fifty-three of this title or by any person licensed or otherwise authorized to practice social work within this state pursuant to article one hundred fifty-four of this title, or by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within this state pursuant to article one hundred thirty-nine of this title; provided, however, that no physician, physician's assistant, registered professional nurse, nurse practitioner, psychologist, licensed master social worker, or licensed clinical social worker may use the titles "licensed mental health counselor", "licensed marriage and family therapist", "licensed creative arts therapist", [or] "licensed psychoanalyst", OR "LICENSED BEHAVIOR ANALYST" unless licensed under this article.

7. Prohibit the practice of mental health counseling, marriage and family therapy, creative arts therapy [or], psychoanalysis, OR BEHAVIOR ANALYSIS to the extent permissible within the scope of practice of such professions, by any not-for-profit corporation or education corporation providing services within the state of New York and operating under a waiver pursuant to section sixty-five hundred three-a of this title, provided that such entities offering mental health counseling, marriage and family therapy, creative arts therapy or psychoanalysis services shall only provide such services through an individual appropriately licensed or otherwise authorized to provide such services or a professional entity authorized by law to provide such services.

S 3. This act shall take effect six months after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rules or regulations necessary for the implementation of this act on its effective date are authorized to be made on or before such date.