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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 19 Session of  
2023

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INTRODUCED BY MEHAFFIE, SCHLEGEL CULVER, SCHLOSSBERG, BURGOS,  
JAMES AND SHUSTERMAN, JULY 5, 2023

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REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, JULY 5, 2023

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AN ACT

1 Amending the act of December 20, 1985 (P.L.457, No.112),  
2 entitled "An act relating to the right to practice medicine  
3 and surgery and the right to practice medically related acts;  
4 reestablishing the State Board of Medical Education and  
5 Licensure as the State Board of Medicine and providing for  
6 its composition, powers and duties; providing for the  
7 issuance of licenses and certificates and the suspension and  
8 revocation of licenses and certificates; provided penalties;  
9 and making repeals," further providing for definitions, for  
10 respiratory therapists, for perfusionist, for genetic  
11 counselor and for prosthetists, orthotists, pedorthists and  
12 orthotic fitters; providing for behavior analysts and  
13 assistant behavior analysts; and further providing for  
14 licenses and certificates and general qualification.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 Section 1. Section 2 of the act of December 20, 1985  
18 (P.L.457, No.112), known as the Medical Practice Act of 1985, is  
19 amended by adding definitions to read:

20 Section 2. Definitions.

21 The following words and phrases when used in this act shall  
22 have the meanings given to them in this section unless the  
23 context clearly indicates otherwise:

24 \* \* \*

1 "Applied behavior analysis." The design, implementation and  
2 evaluation of environmental modifications, through the use of  
3 behavioral stimuli and consequences, to produce socially  
4 significant improvement in human behavior or to prevent loss of  
5 attained skill or function, including the use of direct  
6 observation, measurement and functional analysis of the  
7 relations between environment and behavior.

8 "Assistant behavior analyst." An individual who is licensed  
9 under section 13.7(b) to assist in the practice of applied  
10 behavior analysis under the supervision of a licensed behavior  
11 analyst who is approved by a certifying entity to supervise  
12 assistant behavior analysts. An individual who meets the  
13 criteria specified in this definition may be employed or  
14 supervised by another professional licensed in this Commonwealth  
15 whose statutory or regulated scope of practice includes applied  
16 behavior analysis if the licensed professional practices within  
17 the boundaries of the profession's code of ethics.

18 \* \* \*

19 "Behavior analyst." An individual who is licensed by the  
20 board to practice applied behavior analysis under section  
21 13.7(a).

22 \* \* \*

23 "Certifying entity." A nonprofit organization approved by  
24 the board that provides programs to credential professional  
25 practitioners of applied behavior analysis that are accredited  
26 by the NCCA or the American National Standards Institute or a  
27 successor institute.

28 \* \* \*

29 Section 2. Sections 13.1(a) (3), 13.3(f) (2), 13.4(e) (2) and  
30 13.5(a) (1) of the act are amended to read:

1 Section 13.1. Respiratory therapists.

2 (a) Qualifications.--An individual shall be eligible to  
3 apply for licensure as a respiratory therapist if that  
4 individual satisfies all of the following:

5 \* \* \*

6 (3) Has proved to the satisfaction of the board that the  
7 individual is of good moral character and is not unfit or  
8 unable to practice as a respiratory therapist by reason of  
9 physical or mental impairment. In assessing the moral  
10 character of an individual with a criminal conviction, the  
11 board shall conduct an individualized assessment in  
12 accordance with 63 Pa.C.S. § 3113 (relating to consideration  
13 of criminal convictions).

14 \* \* \*

15 Section 13.3. Perfusionist.

16 \* \* \*

17 (f) Qualifications.--An applicant shall be licensed to  
18 practice perfusion under this act if the applicant meets all of  
19 the following qualifications and has otherwise complied with the  
20 provisions of this act:

21 \* \* \*

22 (2) The person is of good moral character. In assessing  
23 the moral character of an applicant with a criminal  
24 conviction, the board shall conduct an individualized  
25 assessment in accordance with 63 Pa.C.S. § 3113 (relating to  
26 consideration of criminal convictions).

27 \* \* \*

28 Section 13.4. Genetic counselor.

29 \* \* \*

30 (e) Qualifications.--An applicant shall be licensed to

1 practice genetic counseling under this act if the applicant  
2 meets all of the following qualifications and has otherwise  
3 complied with the provisions of this act:

4 \* \* \*

5 (2) The person is of good moral character. In assessing  
6 the moral character of an applicant with a criminal  
7 conviction, the board shall conduct an individualized  
8 assessment in accordance with 63 Pa.C.S. § 3113 (relating to  
9 consideration of criminal convictions).

10 \* \* \*

11 Section 13.5. Prosthetists, orthotists, pedorthists and  
12 orthotic fitters.

13 (a) Licensure qualifications.--To qualify for licensure to  
14 practice prosthetics, orthotics, pedorthics or orthotic fitting,  
15 an applicant shall:

16 (1) Be of good moral character. In assessing the moral  
17 character of an applicant with a criminal conviction, the  
18 board shall conduct an individualized assessment in  
19 accordance with 63 Pa.C.S. § 3113 (relating to consideration  
20 of criminal convictions).

21 \* \* \*

22 Section 3. The act is amended by adding a section to read:

23 Section 13.7. Behavior analysts and assistant behavior  
24 analysts.

25 (a) Behavior analyst licensure.--An applicant shall be  
26 licensed to practice as a behavior analyst by the board if the  
27 applicant meets all of the following qualifications and has  
28 otherwise complied with the provisions of this act:

29 (1) The applicant is at least 21 years of age.

30 (2) The applicant is of good moral character. In

1 assessing the moral character of an applicant with a criminal  
2 conviction, the board shall conduct an individualized  
3 assessment in accordance with 63 Pa.C.S. § 3113 (relating to  
4 consideration of criminal convictions).

5 (3) The applicant has completed an application and paid  
6 a fee as established by the board by regulation.

7 (4) The applicant has received a master's degree or  
8 higher in a course of study required for certification from a  
9 certifying entity.

10 (5) The applicant holds a current certification as a  
11 board-certified behavior analyst from a certifying entity.

12 (6) The applicant has passed the examination for  
13 certification as a board-certified behavior analyst by a  
14 certifying entity as approved by the board.

15 (7) The applicant submits proof of professional  
16 liability insurance coverage as required under subsection  
17 (g).

18 (8) The applicant has not been convicted of a felony  
19 under the act of April 14, 1972 (P.L.233, No.64), known as  
20 The Controlled Substance, Drug, Device and Cosmetic Act, or  
21 of an offense under the laws of another jurisdiction which,  
22 if committed in this Commonwealth, would be a felony under  
23 The Controlled Substance, Drug, Device and Cosmetic Act,  
24 unless all of the following apply:

25 (i) At least ten years have elapsed from the date of  
26 conviction.

27 (ii) The applicant has satisfactorily demonstrated  
28 to the board that the applicant has made significant  
29 progress in personal rehabilitation since the conviction.

30 (iii) The applicant has satisfactorily demonstrated

1 to the board that licensure of the applicant will not  
2 create a substantial risk of harm to the health and  
3 safety of the applicant's patients or the general public  
4 or result in additional criminal violations.

5 (b) Assistant behavior analyst licensure.--An applicant  
6 shall be licensed to practice as an assistant behavior analyst  
7 by the board if the applicant meets all of the following  
8 qualifications and has otherwise complied with the provisions of  
9 this act:

10 (1) The applicant is at least 21 years of age.

11 (2) The applicant is of good moral character. In  
12 assessing the moral character of an applicant with a criminal  
13 conviction, the board shall conduct an individualized  
14 assessment in accordance with 63 Pa.C.S. § 3113.

15 (3) The applicant has completed an application and paid  
16 a fee as established by the board by regulation.

17 (4) The applicant has received a bachelor's degree or  
18 higher in a course of study required for certification from a  
19 certifying entity.

20 (5) The applicant holds a current certification as a  
21 board-certified assistant behavior analyst from a certifying  
22 entity.

23 (6) The applicant has passed the examination for  
24 certification as a board-certified assistant behavior analyst  
25 by a certifying entity as approved by the board.

26 (7) The applicant has not been convicted of a felony  
27 under The Controlled Substance, Drug, Device and Cosmetic  
28 Act, or of an offense under the laws of another jurisdiction  
29 which, if committed in this Commonwealth, would be a felony  
30 under The Controlled Substance, Drug, Device and Cosmetic

1 Act, unless all of the following apply:

2 (i) At least ten years have elapsed from the date of  
3 conviction.

4 (ii) The applicant has satisfactorily demonstrated  
5 to the board that the applicant has made significant  
6 progress in personal rehabilitation since the conviction.

7 (iii) The applicant has satisfactorily demonstrated  
8 to the board that licensure of the applicant will not  
9 create a substantial risk of harm to the health and  
10 safety of the applicant's patients or the general public  
11 or result in additional criminal violations.

12 (8) The applicant provides a letter from a licensed  
13 behavior analyst in this Commonwealth who is approved by a  
14 certifying entity to supervise licensed assistant behavior  
15 analysts stating that the licensed behavior analyst is  
16 supervising the applicant in accordance with the certifying  
17 entity's current requirements.

18 (c) Licensure required.--

19 (1) Two years after the effective date of this section,  
20 it shall be unlawful for an individual to hold oneself out to  
21 the public as a behavior analyst or an assistant behavior  
22 analyst or to practice or assist in the practice of applied  
23 behavior analysis or offer to practice or assist in the  
24 practice of applied behavior analysis unless the individual  
25 holds a license under subsection (a) or (b).

26 (2) Within two years after the effective date of this  
27 section, an individual who has practiced applied behavior  
28 analysis for three of the five years immediately preceding  
29 the effective date of this section shall be eligible for  
30 licensure if the applicant submits to the board proof of the

1 required experience and complies with subsection (a) (1), (2),  
2 (3), (4), (7) and (8) or (b) (1), (2), (3), (4), (7) and (8).  
3 (d) Prohibition or restriction.--In accordance with  
4 subsection (c), nothing in this section shall be construed as  
5 prohibiting or restricting the practice of any of the following:

6 (1) An individual licensed under any other section of  
7 this act or any other law of this Commonwealth, while acting  
8 within the scope of practice of the individual's license and  
9 training, including, but not limited to, any of the  
10 following:

11 (i) An individual licensed to engage in the practice  
12 of psychology under the act of March 23, 1972 (P.L.136,  
13 No.52), known as the Professional Psychologists Practice  
14 Act.

15 (ii) An individual licensed to practice audiology or  
16 speech-language pathology under the act of December 21,  
17 1984 (P.L.1253, No.238), known as the Speech-Language  
18 Pathologists and Audiologists Licensure Act.

19 (iii) An individual licensed to practice  
20 occupational therapy under the act of June 15, 1982  
21 (P.L.502, No.140), known as the Occupational Therapy  
22 Practice Act.

23 (iv) An individual licensed as a behavior specialist  
24 under section 635.2(g) of the act of May 17, 1921  
25 (P.L.682, No.284), known as The Insurance Company Law of  
26 1921.

27 (v) An individual licensed as a social  
28 worker, marriage and family therapist or professional  
29 counselor under the act of July 9, 1987 (P.L.220, No.39),  
30 known as the Social Workers, Marriage and Family



1 Therapists and Professional Counselors Act.

2 (2) An individual employed by the Federal Government to  
3 provide applied behavior analysis services while in the  
4 discharge of the individual's official duties.

5 (3) A behavior analyst who practices with nonhumans,  
6 including an applied animal behaviorist or animal trainer. A  
7 behavior analyst under this paragraph may use the title  
8 "behavior analyst," but may not represent oneself as a  
9 licensed behavior analyst or licensed assistant behavior  
10 analyst.

11 (4) An individual who provides general applied behavior  
12 analysis services to an organization for which the individual  
13 is employed if the services are for the benefit of the  
14 organization and do not involve direct services to  
15 individuals. An individual under this paragraph may use the  
16 title "behavior analyst" but may not represent oneself as a  
17 licensed behavior analyst or licensed assistant behavior  
18 analyst.

19 (5) A student of an accredited college or university or  
20 a postdoctoral fellow whose applied behavior analysis  
21 activities are part of a defined program of study, course,  
22 practicum, internship or fellowship and are directly  
23 supervised by a licensed behavior analyst or qualified  
24 faculty member.

25 (6) An individual pursuing supervised experiential  
26 training in applied behavior analysis consistent with a  
27 certifying entity's requirements if the training is  
28 supervised by a licensed behavior analyst or licensed  
29 psychologist who is approved by the certifying entity to  
30 provide the supervision.

1           (7) An individual who teaches behavior analysis or  
2 conducts behavior-analytic research at an accredited college  
3 or university if the activities do not involve the direct  
4 delivery of applied behavior analysis services beyond the  
5 typical parameters of applied research. An individual under  
6 this paragraph may use the title "behavior analyst" but may  
7 not represent oneself as a licensed behavior analyst or  
8 licensed assistant behavior analyst.

9           (8) An individual employed or contracted by an entity  
10 regulated by the Department of Education who delivers applied  
11 behavior analysis services to an individual served by the  
12 same entity.

13           (9) An individual supervised by another individual  
14 specified under this subsection while acting within the scope  
15 of practice of the individual's license and training.

16           (e) Use of title.--Except as provided under subsection (d)  
17 (4) and (7), only an individual who holds an active license  
18 under subsection (a) or (b) may use the title "behavior  
19 analyst," "licensed behavior analyst," "assistant behavior  
20 analyst" or "licensed assistant behavior analyst" or use any  
21 similar words or symbols indicating that the individual is a  
22 behavior analyst or an assistant behavior analyst or the  
23 abbreviation of "B.A.," "L.B.A.," "A.B.A." or "L.A.B.A."

24           (f) Limitation.--Nothing in this section shall be construed  
25 as an authorization for a behavior analyst or an assistant  
26 behavior analyst to practice any branch of the healing arts,  
27 except as otherwise specified under this act, or to issue a  
28 diagnosis of a disorder.

29           (g) Liability insurance.--

30           (1) An individual licensed under subsection (a) and

1 practicing in this Commonwealth shall maintain a level of  
2 professional liability insurance coverage in the minimum  
3 amount of \$1,000,000 per occurrence or claims made. Failure  
4 to maintain the professional liability insurance coverage as  
5 required under this paragraph shall subject the licensee to  
6 disciplinary proceedings by the board. The board shall accept  
7 as satisfactory evidence of insurance coverage any of the  
8 following:

9 (i) Self-insurance.

10 (ii) Personally purchased liability insurance.

11 (iii) Professional liability insurance coverage  
12 provided by the licensee's employer or similar insurance  
13 coverage acceptable to the board.

14 (2) An applicant shall provide proof that the applicant  
15 has obtained professional liability insurance coverage in  
16 accordance with paragraph (1). The proof required under this  
17 paragraph shall be satisfied if the applicant files with the  
18 application a copy of a letter from the applicant's  
19 professional liability insurance carrier indicating that the  
20 applicant will be covered against professional liability in  
21 the required amounts effective upon the issuance of the  
22 applicant's license to practice as a behavior analyst.

23 (3) Upon the issuance of a license under subsection (a),  
24 the licensee shall have 30 days to submit to the board the  
25 certificate of insurance or a copy of the policy declaration  
26 page to comply with the professional liability insurance  
27 coverage under paragraph (1).

28 (4) The board shall adopt by regulation standards and  
29 procedures established by the Insurance Commissioner for  
30 self-insurance. In the absence of these standards and

1 procedures, the board, after consultation with the Insurance  
2 Commissioner, shall establish standards and procedures by  
3 regulation for self-insurance under this subsection.

4 (h) Temporary licenses.--

5 (1) The board shall grant a temporary license under this  
6 section to an applicant if the applicant submits all the  
7 required documentation to the board. A temporary license  
8 under this paragraph shall be valid until the board completes  
9 the processing of the application and denies or grants  
10 licensure under subsection (a) or (b).

11 (2) The board may grant a temporary license under this  
12 section to a nonresident who engages in the practice of  
13 applied behavior analysis in this Commonwealth for no more  
14 than three months in a calendar year if the individual meets  
15 any of the following requirements:

16 (i) The individual is licensed to practice applied  
17 behavior analysis in another state or territory of the  
18 United States whose licensure requirements are  
19 substantially equivalent to the requirements in this  
20 Commonwealth.

21 (ii) The individual holds a current certification by  
22 a certifying entity to practice applied behavior  
23 analysis.

24 (3) An applicant for a temporary license under this  
25 subsection shall submit an application and pay a fee as  
26 determined by the board by regulation. A temporary license  
27 holder shall be subject to all other licensure and  
28 disciplinary requirements as specified under this section and  
29 by the board.

30 (i) Renewal.--A license issued under subsection (a) or (b)

1 shall be subject to biennial renewal. The board may issue a  
2 license renewal to a licensee upon the submission of all of the  
3 following:

4 (1) An application and a fee as established by the board  
5 by regulation.

6 (2) Verification of current certification in good  
7 standing by a certifying entity.

8 (3) Evidence of having active professional liability  
9 insurance coverage as specified under subsection (g).

10 (4) Completion of 30 hours of continuing education. The  
11 following shall apply:

12 (i) An applicant for licensure renewal under this  
13 subsection shall complete at least three hours of the  
14 continuing education requirement under this paragraph in  
15 approved child abuse recognition and reporting training  
16 as specified under 23 Pa.C.S. § 6383(b)(3) (relating to  
17 education and training).

18 (ii) An individual who applies for initial licensure  
19 under subsection (a) or (b) shall be exempt from the  
20 continuing education requirement under this paragraph for  
21 the biennial renewal period after initial licensure.

22 (iii) The board may waive all or a portion of the  
23 continuing education requirement under this paragraph for  
24 a licensee who shows to the satisfaction of the board  
25 that the licensee was unable to complete or satisfy the  
26 continuing education requirement due to serious illness,  
27 military service or other demonstrated hardship.

28 (iv) The board may not give credit towards the  
29 completion of the continuing education requirement under  
30 this paragraph to a licensee for office management or

1 practice building.

2 (j) Other renewals.--A license issued under subsection (c)  
3 (2) shall be subject to biennial renewal. The board may issue a  
4 license renewal to a licensee under subsection (c)(2) upon the  
5 submission of all of the requirements in subsection (i), not  
6 including the requirement under subsection (i)(2).

7 (k) Effect of licensure.--Licensure under this section shall  
8 not be construed as requiring new or additional third-party  
9 reimbursement or otherwise mandating coverage under 75 Pa.C.S.  
10 Ch. 17 (relating to financial responsibility) or the act of June  
11 2, 1915 (P.L.736, No.338), known as the Workers' Compensation  
12 Act.

13 Section 4. Section 22(b) introductory paragraph of the act  
14 is amended to read:

15 Section 22. Licenses and certificates; general qualification.

16 \* \* \*

17 (b) Qualifications.--The board shall not issue a license or  
18 certificate to an applicant unless the applicant establishes  
19 with evidence, verified by an affidavit or affirmation of the  
20 applicant, that the applicant is of legal age, is of good moral  
21 character and is not addicted to the intemperate use of alcohol  
22 or the habitual use of narcotics or other habit-forming drugs  
23 and that the applicant has completed the educational  
24 requirements prescribed by the board and otherwise satisfies the  
25 qualifications for the license or certificate contained in or  
26 authorized by this act. In assessing the moral character of an  
27 applicant with a criminal conviction, the board shall conduct an  
28 individualized assessment in accordance with 63 Pa.C.S. § 3113  
29 (relating to consideration of criminal convictions). The board  
30 shall not issue a license or certificate to an applicant who has

1 been convicted of a felony under the act of April 14, 1972  
2 (P.L.233, No.64), known as The Controlled Substance, Drug,  
3 Device and Cosmetic Act, or of an offense under the laws of  
4 another jurisdiction which, if committed in this Commonwealth,  
5 would be a felony under The Controlled Substance, Drug, Device  
6 and Cosmetic Act, unless:

7 \* \* \*

8 Section 5. In order to facilitate the prompt implementation  
9 of the addition of section 13.7 of the act, the State Board of  
10 Medicine shall promulgate temporary regulations within 180 days  
11 of the effective date of this section that shall expire no later  
12 than two years following the publication of the temporary  
13 regulations. Temporary regulations promulgated under this  
14 section shall not be subject to:

15 (1) Section 612 of the act of April 9, 1929 (P.L.177,  
16 No.175), known as The Administrative Code of 1929.

17 (2) Sections 201, 202, 203, 204 and 205 of the act of  
18 July 31, 1968 (P.L.769, No.240), referred to as the  
19 Commonwealth Documents Law.

20 (3) Sections 204(b) and 301(10) of the act of October  
21 15, 1980 (P.L.950, No.164), known as the Commonwealth  
22 Attorneys Act.

23 (4) The act of June 25, 1982 (P.L.633, No.181), known as  
24 the Regulatory Review Act.

25 Section 6. The State Board of Medicine shall promulgate  
26 final regulations necessary to implement the addition of section  
27 13.7 of the act no later than two years after the expiration of  
28 the temporary regulations promulgated under section 5 of this  
29 act.

30 Section 7. This act shall take effect in 60 days.