



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5580

by Rep. Dan Brady

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 80/4.39 new

Creates the Behavior Analyst Licensing Act. Provides for licensure of licensed behavior analyst and licensed assistant behavior analyst. Creates the Advisory Board of Behavior Analyst. Provides qualifications for licensure application. Establishes the powers and duties of the Department of Financial and Professional Regulation, including, but not limited to, adopting rules setting forth minimum standards for licensure, taking disciplinary or non-disciplinary actions and authorizing examinations. Provides for grounds for disciplinary actions. Provides for civil and criminal penalties for violations of this Act. Creates provisions concerning hearings, including record of proceedings, appointment of hearing officers, and rehearings. Provides for judicial review of all final administrative decisions of the Department. Effective immediately.

LRB100 19127 XWW 34390 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Behavior Analyst Licensing Act.

6 Section 5. Public policy. The practice of applied behavior
7 analysis is declared to affect the public health, safety, and
8 welfare and to be subject to regulation in the public interest.
9 The purpose of this Act is to protect and benefit the public by
10 setting standards of qualifications, education, training, and
11 experience for those who seek to obtain a license and hold the
12 title of "behavior analyst" or "assistant behavior analyst", to
13 promote high standards of professional performance for those
14 licensed to practice applied behavior analysis in the State of
15 Illinois, to protect the public from the practice of applied
16 behavior analysis by unqualified persons and from
17 unprofessional conduct by persons licensed to practice applied
18 behavior analysis.

19 Section 10. Definitions. As used in this Act:

20 "Board" means the Advisory Board of Behavior Analysts
21 appointed by the Secretary.

22 "Certifying entity" means the Behavior Analyst

1 Certification Board or an entity certifying professional
2 practitioners of behavior analysis and is accredited by the
3 National Commission on Certifying Agencies or the American
4 National Standards Institute.

5 "Department" means the Department of Financial and
6 Professional Regulation.

7 "Email address of record" means the designated email
8 address recorded by the Department in the applicant's
9 application file or the licensee's license file, as maintained
10 by the Department's licensure maintenance unit.

11 "Licensed assistant behavior analyst" means an individual
12 licensed under this Act to engage in practice as an assistant
13 behavior analyst under the supervision of a licensed behavior
14 analyst.

15 "Licensed behavior analyst" means an individual licensed
16 to engage in the practice of applied behavior analysis.

17 "Practice of behavior analysis" means the design,
18 implementation, and evaluation of instructional and
19 environmental modifications to produce socially significant
20 improvement in human behavior. The practice of behavior
21 analysis includes the empirical identification of functional
22 relations between environment and behavior, known as
23 functional assessment and analysis. Applied behavior analysis
24 interventions are based on scientific research and direct
25 observation and measurement of behavior and environment.
26 Applied behavior analysis interventions utilize contextual

1 factors, motivating operations, antecedent stimuli, positive
2 reinforcement, and other procedures to help individuals
3 develop new behaviors, increase or decrease existing
4 behaviors, or elicit behaviors under specific environmental
5 conditions. The practice of behavior analysis does not include:

6 (1) the practice of medicine, osteopathic medicine and
7 surgery, or medical diagnosis or treatment;

8 (2) the practice of speech-language pathology;

9 (3) the practice of physical therapy;

10 (4) the practice of occupational therapy;

11 (5) psychological testing, including standardized testing
12 for intelligence or personality;

13 (6) diagnosis of a mental or physical disorder; or

14 (7) the practice of neuropsychology, psychotherapy,
15 cognitive therapy, sex therapy, psychoanalysis, hypnotherapy,
16 and counseling as treatment modalities.

17 "Secretary" means the Secretary of the Illinois Department
18 of Financial and Professional Regulation.

19 "Sexual offense" means an offense that would require an
20 individual to be subject to registration under the Sex Offender
21 Registration Act.

22 Section 15. Address of record; email address of record. All
23 applicants and licensees shall: (1) provide a valid address and
24 email address to the Department, which shall serve as the
25 address of record and email address of record, respectively, at

1 the time of application for licensure or renewal of a license;
2 and (2) inform the Department of any change of address of
3 record or email address of record within 14 days after such
4 change, either through the Department's website or by
5 contacting the Department's licensure maintenance unit.

6 Section 20. License required; exemptions.

7 (a) Beginning 24 months after the effective date of this
8 Act, an individual shall not engage in the practice of applied
9 behavior analysis unless licensed under this Act or covered by
10 an exemption under subsection (c).

11 (1) An individual licensed under this Act as an
12 assistant behavior analyst shall not engage in the practice
13 of applied behavior analysis unless supervised in
14 accordance with rules adopted by the certifying entity.

15 (b) Beginning 24 months after the effective date of this
16 Act, an individual shall not use the title "licensed behavior
17 analyst", "L.B.A.", "licensed assistant behavior analyst",
18 "L.A.B.A", or similar words or letters indicating he or she is
19 licensed as a behavior analyst or assistant behavior analyst
20 unless he or she is actually licensed under this Act.

21 (c) This Act does not prohibit any of the following:

22 (1) Self-care by a patient or uncompensated care by a
23 friend or family member who does not represent or hold
24 himself or herself out to be a behavior analyst or
25 assistant behavior analyst.

1 (2) An individual from implementing a behavior
2 analytic treatment plan under the extended authority,
3 direction, and supervision of a licensed behavior analyst
4 or licensed assistant behavior analyst.

5 (3) An individual licensed under any other law of this
6 State from performing activities that are considered to be
7 practice of applied behavior analysis under this Act if the
8 activities are within the individual's scope of practice
9 and are commensurate with his or her education, training,
10 and experience, so long as the individual does not use the
11 titles provided in subsection (b).

12 (4) An individual from performing activities that are
13 considered to be the practice of applied behavior analysis
14 under this Act if the activities are with non-humans,
15 including applied animal behaviorists and animal trainers.
16 Such individual may use the title "behavior analyst" but
17 shall not represent himself or herself as a licensed
18 behavior analyst or licensed assistant behavior analyst
19 unless he or she holds a license issued by the State.

20 (5) An individual who provides general applied
21 behavior analysis services to organizations, so long as the
22 services are for the benefit of the organizations and do
23 not involve direct services to individuals. Such
24 individual may use the title "behavior analyst" but may not
25 represent himself or herself as a licensed behavior analyst
26 or licensed assistant behavior analyst unless he or she

1 holds a license issued by the State.

2 (6) An individual who is a matriculated student at a
3 nationally accredited university approved in rules or a
4 postdoctoral fellow from performing activities that are
5 considered to be the practice of applied behavior analysis
6 under this Act if the activities are part of a defined
7 program of study, course, practicum, internship, or
8 postdoctoral fellowship, provided that the applied
9 behavior analysis activities are directly supervised by a
10 licensed behavior analyst under this Act or an instructor
11 of a course sequence approved by the certifying entity.

12 (7) An individual who is not licensed under this Act
13 from pursuing experience consistent with the requirements
14 of the certifying entity if the experience is supervised by
15 a licensed behavior analyst in accordance with the
16 requirements of the certifying entity.

17 (8) An individual with a Learning Behavior Specialist
18 endorsement from the Illinois State Board of Education from
19 delivering behavior analytic services in a school setting
20 when employed by that school as long as that person is not
21 in any manner held out to the public as a licensed behavior
22 analyst or licensed assistant behavior analyst.

23 (d) This Act does not apply to an individual who, on the
24 effective date of this Act, is engaging in the practice of
25 applied behavior analysis of the medical assistance program
26 under the Illinois Public Aid Code and such individual is under

1 the supervision of a licensed behavior analyst or licensed
2 assistant behavior analyst and seeking the education,
3 training, and experience necessary to obtain a license under
4 this Act, so long as such practice does not continue after 24
5 months from the effective date of this Act.

6 Section 25. Qualifications; licensed behavior analyst. The
7 Department shall issue a license of behavior analyst to an
8 individual who currently has a Board Certified Behavior Analyst
9 or Board Certified Behavior Analyst-Doctoral verified by the
10 certifying entity.

11 Section 30. Qualifications; licensed assistant behavior
12 analyst. The Department shall issue a license of assistant
13 behavior analyst to an individual who has a Board Certified
14 Assistant Behavior Analyst verified by the certifying entity
15 and the individual shall provide evidence of current and
16 ongoing supervision by a Board Certified Behavior Analyst or
17 Board Certified Behavior Analysis-Doctoral in accordance with
18 the requirements of the certifying entity.

19 Section 35. Advisory Board.

20 (a) There is hereby created the Advisory Board of Behavior
21 Analysts. The Board shall consist of 7 members appointed by the
22 Secretary. Among the 7 members, 4 members shall be licensed
23 behavior analysts, at least one of whom shall hold a doctoral

1 degree, one member shall be a licensed assistant behavior
2 analyst, one member shall be a licensed clinical psychologist,
3 and one member shall be member of the public. The Board shall
4 serve in an advisory capacity.

5 (b) Members of the Board shall have no criminal, civil, or
6 professional liability in an action based upon a disciplinary
7 proceeding or other activity performed in good faith as a
8 member of the Board, except for willful or wanton misconduct.
9 An individual or organization acting in good faith, and not in
10 a willful and wanton manner, participating in proceedings of
11 the Board, shall not be subject to criminal prosecution or
12 civil damages as a result of such actions.

13 (c) Members of the Board shall be indemnified by the State
14 for any actions occurring within the scope of services on the
15 Board, done in good faith and not willful and wanton in nature.
16 The Attorney General shall defend all such actions, unless he
17 or she determines either that there would be a conflict of
18 interest in such representation or that the actions complained
19 of were not in good faith or were willful and wanton. If the
20 Attorney General rejects representation, the member has the
21 right to employ counsel of his or her choice, whose fees shall
22 be provided by the State after approval by the Attorney
23 General, unless there is a determination by a court that the
24 member's actions were not in good faith or were willful and
25 wanton. The member must notify the Attorney General within 7
26 days after receipt of notice of the initiation of any action

1 involving services of the Board. Failure to notify the Attorney
2 General shall constitute an absolute waiver of the right to a
3 defense and indemnification. The Attorney General shall
4 determine, within 7 days after receiving such notice, whether
5 he or she will represent the member.

6 (d) In appointing members of the Board, the Secretary shall
7 give due consideration to the adequate representation of the
8 various practice specialties of behavior analysis and should
9 reasonably reflect representation from different geographic
10 areas of Illinois. In appointing members of the Board, the
11 Secretary shall give due consideration to recommendations made
12 by members of the profession of behavior analysis and by the
13 Statewide organizations representing the interests of behavior
14 analysts and organizations representing the interests of
15 academic programs in behavior analysis.

16 (e) Members of the Advisory Board shall be appointed for
17 terms of 4 years. No member shall be eligible to serve for more
18 than 2 full terms. Any appointment to fill a vacancy shall be
19 for the unexpired portion of the term. A member appointed to
20 fill a vacancy for an unexpired term for a duration of 2 years
21 or more may be reappointed for a maximum of one term, and a
22 member appointed to fill a vacancy for an unexpired term for a
23 duration of less than 2 years may be reappointed for a maximum
24 of 2 terms.

25 (f) The initial members of the Board who are behavior
26 analysts or assistant behavior analysts must be certified

1 accordingly by the certifying entity.

2 (g) In making initial appointments to the Board, the
3 Secretary shall stagger the terms of the appointees so that one
4 member serves an initial term of 2 years, 3 members shall serve
5 an initial term of 3 years, and 3 members serve initial terms
6 of 4 years. Each member of the Board shall hold office until
7 his or her successor has been qualified. A vacancy in the
8 membership of the Board shall be filled for the unexpired term
9 in the manner provided for the original appointment. A member
10 appointed for less than a full term may serve 2 full terms in
11 addition to such part of a full term.

12 (h) Each Board member shall be a resident of this State for
13 at least one year and shall, other than the public member, have
14 been licensed under this Act for at least 3 years prior to
15 appointment except for the original members of the Board who
16 shall have experience in the practice of applied behavior
17 analysis.

18 (i) The public member shall be a person who is not and
19 never was a member of any profession licensed or regulated
20 under this Act or the spouse of such individual; and an
21 individual who does not have and never has had a material
22 financial interest in either the providing of the professional
23 services regulated by this Act, or an activity or organization
24 directly related to any profession licensed or regulated under
25 this Act.

26 (j) The Board shall annually elect one of its members as

1 chairperson.

2 (k) The members of the Board shall be reimbursed for all
3 legitimate, necessary, and authorized expenses incurred in
4 attending the meetings of the Board.

5 (l) The Secretary shall give due consideration to all
6 recommendations of the Board.

7 (m) Four members of the Board shall constitute a quorum. A
8 quorum is required for all Board decisions.

9 Section 40. Application for original license. Applications
10 for original licenses shall be made to the Department
11 electronically or on forms prescribed by the Department and
12 accompanied by a required fee that is nonrefundable. An
13 application shall contain such information that, in the
14 judgment of the Department, will enable the Department to pass
15 on the qualifications of the applicant for a license to
16 practice as a licensed behavior analyst or licensed assistant
17 behavior analyst.

18 Section 45. Rules; minimum standards; renewal. The
19 Department, in consultation with the Board, shall adopt rules
20 establishing the minimum standards for licensure as a licensed
21 behavior analyst or a licensed assistant behavior analyst.

22 For purposes of this Section, the Department may adopt
23 ethical and disciplinary professional rules from a certifying
24 entity in whole or in part, as its standards. Until rules are

1 adopted under this Section by the Department, the Department
2 shall use the ethical and disciplinary standards of the
3 certifying entity that are in effect on the effective date of
4 this Act.

5 The Department shall include in its rules that an
6 application for licensure will be denied if the applicant's
7 criminal history records indicates that he or she has been
8 convicted of a sexual offense and that a licensee's license
9 will be permanently revoked if he or she is convicted of a
10 sexual offense while licensed under this Act.

11 The Department shall adopt rules requiring that a licensee
12 seeking renewal to have his or her current certification
13 verified by the certifying entity.

14 The Department shall adopt rules requiring that an
15 assistant behavior analyst shall furnish evidence that he or
16 she is practicing under the supervision of a licensed behavior
17 analyst.

18 Section 50. Grounds for discipline.

19 (a) The Department may refuse to issue or renew a license,
20 or may revoke, suspend, place on probation, reprimand, or take
21 other disciplinary or non-disciplinary action as the
22 Department deems appropriate with regard to the license of any
23 person issued under this Act, including imposing fines not to
24 exceed \$10,000 for each violation, upon any of the following
25 grounds:

1 (1) Material misstatement in furnishing information to
2 the Department or to any other State agency.

3 (2) Violations or negligent or intentional disregard
4 of this Act or rules adopted under this Act.

5 (3) Conviction of the licensee by plea of guilty or
6 nolo contendere, finding of guilt, jury verdict, or entry
7 of judgment or by sentencing for any crime, including, but
8 not limited to, convictions, preceding sentences of
9 supervision, conditional discharge, or first offender
10 probation, under the laws of any jurisdiction of the United
11 States that (i) is a felony under the laws of this State or
12 (ii) is a misdemeanor, an essential element of which is
13 dishonesty, or that is directly related to the practice of
14 the behavior analyst profession.

15 (4) Fraud or any misrepresentation in applying for or
16 procuring a license under this Act or in connection with
17 applying for the renewal of a license under this Act.

18 (5) Professional incompetence or gross negligence in
19 rendering licensed behavior analyst or licensed assistant
20 behavior analyst services.

21 (6) Malpractice.

22 (7) Aiding or assisting another person in violating any
23 provision of this Act or any rules.

24 (8) Failing to provide information within 60 days in
25 response to a written request made by the Department.

26 (9) Engaging in dishonorable, unethical, or

1 unprofessional conduct of a character likely to deceive,
2 defraud, or harm the public and violating the rules of
3 professional conduct adopted by the Department.

4 (10) Habitual or excessive use or abuse of drugs as
5 defined in law as controlled substances, alcohol, or any
6 other substance that results in the inability to practice
7 with reasonable skill, judgment, or safety.

8 (11) Discipline by another jurisdiction, including the
9 District of Columbia, territory, county, or governmental
10 agency, if at least one of the grounds for the discipline
11 is the same or substantially equivalent to those set forth
12 in this Section.

13 (12) Abandonment of a client.

14 (13) Willfully filing false reports relating to the
15 licensee's practice, including, but not limited to, false
16 records filed with federal or State agencies or
17 departments.

18 (14) Willfully failing to report an instance of
19 suspected child abuse or neglect as required by the Abused
20 and Neglected Child Reporting Act and in matters pertaining
21 to suspected abuse, neglect, financial exploitation, or
22 self-neglect of adults with disabilities and older adults
23 as set forth in the Adult Protective Services Act.

24 (15) Being named as a perpetrator in an indicated
25 report by the Department of Children and Family Services
26 pursuant to the Abused and Neglected Child Reporting Act,

1 and upon proof by clear and convincing evidence that the
2 licensee has caused a child to be an abused child or
3 neglected child as defined in the Abused and Neglected
4 Child Reporting Act.

5 (16) Physical or mental illness or disability,
6 including, but not limited to, deterioration through the
7 aging process or loss of abilities and skills which results
8 in the inability to practice the profession with reasonable
9 judgment, skill, or safety.

10 (17) Solicitation of professional services by using
11 false or misleading advertising.

12 (18) Allowing one's license under this Act to be used
13 by an unlicensed person in violation of this Act.

14 (19) A finding that licensure has been applied for or
15 obtained by fraudulent means.

16 (20) Practicing under a false or, except as provided by
17 law, an assumed name.

18 (21) Gross and willful overcharging for professional
19 services including filing statements for collection of
20 fees or moneys for which services are not rendered.

21 (22) Clinical supervisors failing to adequately and
22 responsibly monitor supervisees in accordance with
23 guidelines set forth by the certifying entity.

24 All fines imposed under this Section shall be paid within
25 60 days after the effective date of the order imposing the
26 fine.

1 (b) The Department may refuse to issue or may suspend
2 without hearing, as provided for in the Code of Civil
3 Procedure, the license of any person who fails to file a
4 return, pay the tax, penalty, or interest shown in a filed
5 return, or pay any final assessment of the tax, penalty, or
6 interest as required by any tax Act administered by the
7 Illinois Department of Revenue, until such time as the
8 requirements of any such tax Act are satisfied in accordance
9 with subsection (g) of Section 2105-15 of the Department of
10 Professional Regulation Law of the Civil Administrative Code of
11 Illinois.

12 (c) In cases where the Department of Healthcare and Family
13 Services has previously determined a licensee or a potential
14 licensee is more than 30 days delinquent in the payment of
15 child support and has subsequently certified the delinquency to
16 the Department, the Department may refuse to issue or renew or
17 may revoke or suspend that person's license or may take other
18 disciplinary action against that person based solely upon the
19 certification of delinquency made by the Department of
20 Healthcare and Family Services in accordance with item (5) of
21 subsection (a) of Section 2105-15 of the Department of
22 Professional Regulation Law of the Civil Administrative Code of
23 Illinois.

24 (d) The determination by a court that a licensee is subject
25 to involuntary admission or judicial admission as provided in
26 the Mental Health and Developmental Disabilities Code will

1 result in an automatic suspension of his or her license. The
2 suspension will end upon a finding by a court that the licensee
3 is no longer subject to involuntary admission or judicial
4 admission, the issuance of an order so finding and discharging
5 the patient, and the recommendation of the Board to the
6 Secretary that the licensee be allowed to resume professional
7 practice.

8 (e) In enforcing this Act, the Department, upon a showing
9 of a possible violation, may compel an individual licensed to
10 practice under this Act, or who has applied for licensure under
11 this Act, to submit to a mental or physical examination, or
12 both, as required by and at the expense of the Department. The
13 Department may order the examining physician to present
14 testimony concerning the mental or physical examination of the
15 licensee or applicant. No information shall be excluded by
16 reason of any common law or statutory privilege relating to
17 communications between the licensee or applicant and the
18 examining physician. The examining physicians shall be
19 specifically designated by the Department. The individual to be
20 examined may have, at his or her own expense, another physician
21 of his or her choice present during all aspects of this
22 examination. The examination shall be performed by a physician
23 licensed to practice medicine in all its branches. Failure of
24 an individual to submit to a mental or physical examination,
25 when directed, shall result in an automatic suspension without
26 hearing.

1 A person holding a license under this Act or who has
2 applied for a license under this Act who, because of a physical
3 or mental illness or disability, including, but not limited to,
4 deterioration through the aging process or loss of motor
5 skills, is unable to practice the profession with reasonable
6 judgment, skill, or safety, may be required by the Department
7 to submit to care, counseling, or treatment by physicians
8 approved or designated by the Department as a condition, term,
9 or restriction for continued, reinstated, or renewed licensure
10 to practice. Submission to care, counseling, or treatment as
11 required by the Department shall not be considered discipline
12 of a license. If the licensee refuses to enter into a care,
13 counseling, or treatment agreement or fails to abide by the
14 terms of the agreement, the Department may file a complaint to
15 revoke, suspend, or otherwise discipline the license of the
16 individual. The Secretary may order the license to be suspended
17 immediately, pending a hearing by the Department. Fines shall
18 not be assessed in disciplinary actions involving physical or
19 mental illness or impairment.

20 In instances in which the Secretary immediately suspends a
21 person's license under this Section, a hearing on that person's
22 license shall be convened by the Department within 15 days
23 after the suspension and completed without appreciable delay.
24 The Department shall have the authority to review the subject
25 individual's record of treatment and counseling regarding the
26 impairment to the extent permitted by applicable federal

1 statutes and regulations safeguarding the confidentiality of
2 medical records.

3 An individual licensed under this Act and affected under
4 this Section shall be afforded an opportunity to demonstrate to
5 the Department that he or she can resume practice in compliance
6 with acceptable and prevailing standards under the provisions
7 of his or her license.

8 (f) All fines imposed under this Section shall be paid
9 within 55 days after the effective date of the order imposing
10 the fine or in accordance with the terms set forth in the order
11 imposing the fine.

12 Section 55. Illinois Administrative Procedure Act. The
13 Illinois Administrative Procedure Act is hereby expressly
14 adopted and incorporated in this Act as if all of the
15 provisions of the Illinois Administrative Procedure Act were
16 included in this Act, except that the provision of subsection
17 (d) of Section 10-65 of the Illinois Administrative Procedure
18 Act is expressly excluded, which provides that at hearings the
19 license holder has the right to show compliance with all lawful
20 requirements for retention, continuation, or renewal of a
21 license. For the purposes of this Act, the notice required
22 under Section 10-25 of the Illinois Administrative Procedure
23 Act is deemed sufficient when served personally upon, mailed to
24 the last known address of record of, or emailed to the email
25 address of record of a party.

1 Section 60. Unlicensed practice; violation; civil penalty.

2 (a) Any person who practices, offers to practice, attempts
3 to practice, or holds himself or herself out to practice as a
4 licensed behavior analyst or licensed assistant behavior
5 analyst without being licensed or exempt under this Act shall,
6 in addition to any other penalty provided by law, pay a civil
7 penalty to the Department in an amount not to exceed \$10,000
8 for each offense, as determined by the Department. The civil
9 penalty shall be assessed by the Department after a hearing is
10 held in accordance with the provisions set forth in this Act
11 regarding the provision of a hearing for the discipline of a
12 licensee.

13 (b) The Department may investigate any actual, alleged, or
14 suspected unlicensed activity.

15 (c) The civil penalty shall be paid within 60 days after
16 the effective date of the order imposing the civil penalty. The
17 order shall constitute a final judgment and may be filed and
18 execution had thereon in the same manner as any judgment from
19 any court of record.

20 Section 65. Violations; injunction; cease and desist
21 order.

22 (a) If an individual violates a provision of this Act, the
23 Secretary may, in the name of the People of the State of
24 Illinois, through the Attorney General of the State of Illinois

1 or the State's Attorney of the county in which the violation is
2 alleged to have occurred, petition for an order enjoining the
3 violation or for an order enforcing compliance with this Act.
4 Upon the filing of a verified petition, the court with
5 appropriate jurisdiction may issue a temporary restraining
6 order without notice or bond, and may preliminarily and
7 permanently enjoin the violation. If it is established that the
8 individual has violated or is violating the injunction, the
9 court may punish the offender for contempt of court.
10 Proceedings under this Section are in addition to all other
11 remedies and penalties provided by this Act.

12 (b) If an individual holds himself or herself out as being
13 a licensed behavior analyst or a licensed assistant behavior
14 analyst under this Act and is not licensed to do so, then any
15 licensed behavior analyst, licensed assistant behavior
16 analyst, interested party, or any person injured thereby may
17 petition for relief as provided in subsection (a) of this
18 Section.

19 (c) Whenever, in the opinion of the Department, an
20 individual violates a provision of this Act, the Department may
21 issue a rule to show cause why an order to cease and desist
22 should not be entered against that person. The rule shall
23 clearly set forth the grounds relied upon by the Department and
24 shall allow at least 7 days from the date of the rule to file an
25 answer satisfactory to the Department. Failure to answer to the
26 satisfaction of the Department shall cause an order to cease

1 and desist to be issued.

2 Section 70. Powers and duties of the Department.

3 (a) The Department shall exercise the powers and duties
4 prescribed by the Civil Administrative Code of Illinois for the
5 administration of licensure Acts and shall exercise other
6 powers and duties necessary for effectuating the purposes of
7 this Act.

8 (b) The Department may adopt rules to administer and
9 enforce this Act, including, but not limited to, fees for
10 original licensure and renewal and restoration of licenses, and
11 may prescribe forms to be issued to implement this Act. At a
12 minimum, the rules adopted by the Department shall include
13 standards and criteria for licensure and for professional
14 conduct and discipline. The Department may consult with the
15 Board in adopting rules. The Department may at any time seek
16 the advice and expert knowledge of the Board on any matter
17 relating to the administration of this Act.

18 (c) Subject to the provisions of this Act, the Department
19 may:

20 (1) Authorize examinations to ascertain the
21 qualifications and fitness of applicants for licensing as
22 licensed behavior analysts or licensed assistant behavior
23 analysts and pass upon the qualifications of applicants for
24 licensure by endorsement.

25 (2) Conduct hearings or proceedings to refuse to issue

1 or renew or to revoke licenses or suspend, place on
2 probation, censure, or reprimand or take any other
3 disciplinary or non-disciplinary action with regard to a
4 person licensed under this Act.

5 (3) Formulate rules and regulations required for the
6 administration of this Act.

7 (4) Maintain rosters of the names and addresses of all
8 licensees, and all persons whose licenses have been
9 suspended, revoked, or denied renewal for cause within the
10 previous calendar year. These rosters shall be available
11 upon written request and payment of the required fee.

12 (d) All information collected by the Department in the
13 course of an examination or investigation of a licensee or
14 applicant, including, but not limited to, any complaint against
15 a licensee filed with the Department and information collected
16 to investigate any such complaint, shall be maintained for the
17 confidential use of the Department and shall not be disclosed.
18 The Department may not disclose the information to anyone other
19 than law enforcement officials, other regulatory agencies that
20 have an appropriate regulatory interest as determined by the
21 Secretary, or to a party presenting a lawful subpoena to the
22 Department. Information and documents disclosed to a federal,
23 State, county, or local law enforcement agency shall not be
24 disclosed by the agency for any purpose to any other agency or
25 person. A formal complaint filed against a licensee by the
26 Department or any order issued by the Department against a

1 licensee or applicant shall be a public record, except as
2 otherwise prohibited by law.

3 Section 75. Investigations; notice; hearing.

4 (a) The Department may investigate the actions of any
5 applicant or of any person or persons holding or claiming to
6 hold a license under this Act.

7 (b) The Department shall, before disciplining an applicant
8 or licensee, at least 30 days before the date set for the
9 hearing, (i) notify the accused in writing of the charges made
10 and the time and place for the hearing on the charges, (ii)
11 direct him or her to file a written answer to the charges under
12 oath within 20 days after service, and (iii) inform the
13 applicant or licensee that failure to answer will result in a
14 default being entered against the applicant or licensee.

15 (c) At the time and place fixed in the notice, the Board or
16 hearing officer appointed by the Secretary shall proceed to
17 hear the charges, and the parties or their counsel shall be
18 accorded ample opportunity to present any pertinent
19 statements, testimony, evidence, and arguments. The Board or
20 hearing officer may continue the hearing from time to time. In
21 case the person, after receiving the notice, fails to file an
22 answer, his or her license may, in the discretion of the
23 Secretary, having first received the recommendation of the
24 Board, be suspended, revoked, or placed on probationary status,
25 or be subject to any disciplinary action the Secretary

1 considers proper, including, but not limited to, limiting the
2 scope, nature, or extent of the person's practice or the
3 imposition of a fine without hearing if the act or acts charged
4 constitute sufficient grounds for that action under this Act.

5 (d) The written notice and any notice in the subsequent
6 proceeding may be served by regular or certified mail to the
7 applicant's or licensee's address of record.

8 (e) Notwithstanding any other provision of this Act, the
9 Secretary shall have the authority to appoint any attorney duly
10 licensed to practice law in the State of Illinois to serve as
11 the hearing officer in any action for refusal to issue, renew
12 or discipline a license. The hearing officer shall have full
13 authority to conduct the hearing. The hearing officer shall
14 report his or her findings of fact, conclusions of law, and
15 recommendations to the Board and the Secretary.

16 (f) Record of proceedings; transcript. The Department, at
17 its expense, shall preserve a record of all proceedings at any
18 formal hearing of any case. The notice of hearing, complaint
19 and all other documents in the nature of pleadings and written
20 motions filed in the proceedings, the transcript of testimony,
21 the report of the Board, and the orders of the Department shall
22 be the record of the proceedings. The Department shall furnish
23 a copy of the record to any person upon payment of the fee
24 required under Section 2105-115 of the Department of
25 Professional Regulation Law.

26 (g) The Board or the hearing officer appointed by the

1 Secretary shall hear evidence in support of the formal charges
2 and evidence produced by the licensee. At the conclusion of the
3 hearing, the Board shall present to the Secretary a written
4 report of its findings of fact, conclusions of law, and
5 recommendations.

6 (h) At the conclusion of the hearing, a copy of the Board
7 or hearing officer's report shall be served to the applicant or
8 licensee by the Department, either personally or as provided in
9 this Act for the service of a notice of hearing. Within 20
10 calendar days after service, the applicant or licensee may
11 present to the Department a motion in writing for a rehearing,
12 which shall specify the particular grounds for rehearing. The
13 Department may respond to the motion for rehearing within 20
14 calendar days after its service on the Department. If no motion
15 for rehearing is filed, then after the expiration of the time
16 specified for filing such motion, or upon denial of a motion
17 for rehearing, the Secretary may enter an order in accordance
18 with the recommendation of the Board or hearing officer. If the
19 applicant or licensee orders from the reporting service and
20 pays for a transcript of the record within the time for filing
21 a motion for rehearing, the 20-day period within which a motion
22 may be filed shall commence upon the delivery of the transcript
23 to the applicant or licensee.

24 (i) If the Secretary disagrees in any regard with the
25 report of the Board, the Secretary may issue an order contrary
26 to the report.

1 (j) Whenever the Secretary is not satisfied that
2 substantial justice has been done, the Secretary may order a
3 rehearing by the same or another hearing officer.

4 (k) At any point in any investigation or disciplinary
5 proceeding provided for in this Act, both parties may agree to
6 a negotiated consent order. The consent order shall be final
7 upon the signature of the Secretary.

8 (l) Any fine imposed shall be payable within 60 days after
9 the effective date of the order imposing the fine.

10 Section 80. Administrative review.

11 (a) All final administrative decisions of the Department
12 hereunder shall be subject to judicial review pursuant to the
13 provisions of the Administrative Review Law, and all amendments
14 and modifications thereof, and the rules adopted pursuant
15 thereto. The term "administrative decision" is defined as in
16 Section 3-101 of the Code of Civil Procedure.

17 (b) Proceedings for judicial review shall be commenced in
18 the circuit court of the county in which the party applying for
19 review resides, but if the party is not a resident of Illinois,
20 the venue shall be in Sangamon County.

21 Section 85. Certification of record. The Department shall
22 not be required to certify any record to the court, file any
23 answer in court, or otherwise appear in any judicial review
24 proceedings, unless and until the Department has received from

1 the plaintiff payment of the costs of furnishing and certifying
2 the record, which costs shall be determined by the Department.
3 Failure on the part of the plaintiff to file a receipt in court
4 shall be grounds for dismissal of the action.

5 Section 90. Fees. The Department shall provide by rule for
6 a schedule of fees for the administration and enforcement of
7 this Act, including, but not limited to, original licensure,
8 registration, renewal, and restoration. The fees shall be
9 nonrefundable.

10 All fees, fines, and penalties collected under this Act
11 shall be deposited into the General Professions Dedicated Fund
12 and shall be appropriated to the Department for the ordinary
13 and contingent expenses of the Department in the administration
14 of this Act.

15 Section 95. The Regulatory Sunset Act is amended by adding
16 Section 4.39 as follows:

17 (5 ILCS 80/4.39 new)

18 Sec. 4.39. Act repealed on January 1, 2029. The following
19 Act is repealed on January 1, 2029:

20 The Behavior Analyst Licensing Act.

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.