



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2710

Introduced 2/14/2019, by Rep. Kathleen Willis

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 80/4.40 new

Creates the Behavior Analyst Licensing Act. Provides for licensure of behavior analysts and assistant behavior analysts. Creates the Advisory Board of Behavior Analysts. Provides qualifications for licensure application, including for those who have met certain requirements before the effective date of the Act. 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 nondisciplinary actions, and authorizing examinations. Provides for grounds for disciplinary actions and for civil and criminal penalties for violations of the Act. Creates provisions concerning hearings, appointment of hearing officers, and rehearings. Provides for judicial review of all final administrative decisions of the Department. Amends the Regulatory Sunset Act. Provides that the Behavior Analyst Licensing Act is repealed on January 1, 2030. Effective immediately.

LRB101 07779 JRG 52828 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 "Address of record" means the designated address recorded
21 by the Department in the applicant's or licensee's application
22 file or license file as maintained by the Department's

1 licensure maintenance unit.

2 "Board" means the Advisory Board of Behavior Analysts
3 appointed by the Secretary.

4 "Certifying entity" means an entity certifying
5 professional practitioners of behavior analysis and that is
6 accredited by the National Commission for Certifying Agencies
7 or the American National Standards Institute.

8 "Department" means the Department of Financial and
9 Professional Regulation.

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

14 "Licensed assistant behavior analyst" means an individual
15 licensed under this Act to engage in practice as an assistant
16 behavior analyst under the supervision of a licensed behavior
17 analyst.

18 "Licensed behavior analyst" means an individual licensed
19 to engage in the practice of applied behavior analysis or a
20 licensed clinical psychologist.

21 "Practice of behavior analysis" means the design,
22 implementation, and evaluation of instructional and
23 environmental modifications to produce socially significant
24 improvement in human behavior. "Practice of behavior analysis"
25 includes the empirical identification of functional relations
26 between behavior environmental factors, known as functional

1 assessment and analysis. Applied behavior analysis
2 interventions are based on scientific research and the direct
3 observation and measurement of behavior and environment.
4 Applied behavior analysis interventions utilize contextual
5 factors, motivating operations, antecedent stimuli, positive
6 reinforcement, and other procedures to help individuals
7 develop new behaviors, increase or decrease existing
8 behaviors, and elicit behaviors under specific environmental
9 conditions. "Practice of behavior analysis" does not include:

10 (1) the practice of medicine, osteopathic medicine and
11 surgery, or medical diagnosis or treatment, as regulated by
12 the Medical Practice Act of 1987;

13 (2) the practice of nursing, as regulated by the Nurse
14 Practice Act;

15 (3) the practice of speech-language pathology, as
16 defined in the Illinois Speech-Language Pathology and
17 Audiology Practice Act;

18 (4) the practice of licensed clinical psychology, as
19 defined in the Clinical Psychologist Licensing Act;

20 (5) the practice of physical therapy, as defined in the
21 Illinois Physical Therapy Act;

22 (6) the practice of occupational therapy, as defined in
23 the Illinois Occupational Therapy Practice Act;

24 (7) psychological testing, including standardized
25 testing for intelligence or personality;

26 (8) diagnosis of a mental or physical disorder;

1 (9) the practice of neuropsychology, psychotherapy,
2 cognitive therapy, sex therapy, psychoanalysis,
3 hypnotherapy, and counseling as treatment modalities;

4 (10) the practice of school social work, as provided in
5 Section 34-18.58 of the School Code;

6 (11) the practice of clinical social work or social
7 work, as regulated by the Clinical Social Work and Social
8 Work Practice Act;

9 (12) the practice of professional counseling, as
10 defined in the Professional Counselor and Clinical
11 Professional Counselor Licensing and Practice Act; or

12 (13) the practice of marriage and family therapy, as
13 defined in the Marriage and Family Therapy Licensing Act.

14 "Secretary" means the Secretary of Financial and
15 Professional Regulation.

16 "Sexual offense" means an offense that would require an
17 individual to be subject to registration under the Sex Offender
18 Registration Act.

19 Section 15. Address of record; email address of record. All
20 applicants and licensees shall:

21 (1) provide a valid address and email address to the
22 Department, which shall serve as the address of record and
23 email address of record, respectively, at the time of
24 application for licensure or renewal of a license; and

25 (2) inform the Department of any change of address of

1 record or email address of record within 14 days after such
2 change, either through the Department's website or by
3 contacting the Department's licensure maintenance unit.

4 Section 20. License required; exemptions.

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

9 (a-5) An individual licensed under this Act as an assistant
10 behavior analyst shall not engage in the practice of applied
11 behavior analysis unless supervised in accordance with rules
12 adopted by the certifying entity or supervised by a licensed
13 clinical psychologist.

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

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

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

25 (2) An individual from implementing a behavior

1 analytic treatment plan under the extended authority,
2 direction, and supervision of a licensed behavior analyst
3 or licensed assistant behavior analyst.

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

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

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

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

18 (8) An individual with a learning behavior specialist
19 or school support personnel endorsement from the Illinois
20 State Board of Education from delivering behavior analytic
21 services in a school setting when employed by that school
22 as long as those services are defined in the scope of
23 practice for that endorsement and that person is not in any
24 manner held out to the public as a licensed behavior
25 analyst or licensed assistant behavior analyst.

26 (9) A qualified intellectual disabilities

1 professional, meeting the minimum federal education
2 requirements outlined in 42 CFR 483.430, who is performing
3 such duties as required for individuals with intellectual
4 or developmental disabilities in programs and facilities
5 regulated by the federal Centers for Medicare and Medicaid
6 Services, the Department of Human Services, or the
7 Department of Public Health, so long as the individual does
8 not use the titles provided in subsection (b).

9 (d) This Act does not apply to an individual who, on the
10 effective date of this Act, is engaging in the practice of
11 applied behavior analysis for the medical assistance program
12 under the Illinois Public Aid Code and is under the supervision
13 of a licensed behavior analyst or licensed assistant behavior
14 analyst and seeking the education, training, and experience
15 necessary to obtain a license under this Act, so long as such
16 practice does not continue after 24 months after the effective
17 date of this Act.

18 Section 25. Qualifications for behavior analyst license.

19 (a) A person qualifies to be licensed as a behavior analyst
20 if that person:

21 (1) has applied in writing or electronically on forms
22 prescribed by the Department;

23 (2) is at least 21 years of age and has not engaged in
24 conduct or activities that would constitute grounds for
25 discipline under this Act;

1 (3) pays the required fees; and

2 (4) meets either of the following requirements:

3 (A) if the person successfully completed a
4 graduate degree from a nationally or regionally
5 accredited university approved by the Department
6 before the effective date of this Act, the person:

7 (i) demonstrates to the Department successful
8 completion before the effective date of this Act of
9 a graduate degree from a nationally or regionally
10 accredited university approved by the Department
11 and core coursework related to principles and
12 application of applied behavior analysis necessary
13 to qualify for the certification examination as
14 outlined by the certifying entity;

15 (ii) has met the supervised work experience
16 requirements in effect at the time of his or her
17 initial board certification examination;

18 (iii) has passed an independently administered
19 examination by the certifying entity and approved
20 by the Department for professional practitioners
21 of applied behavior analysis and is in good
22 standing with the certifying entity at the time of
23 application; or

24 (B) if the person has not successfully completed a
25 graduate degree from a nationally or regionally
26 accredited university approved by the Department

1 before the effective date of this Act, the person:

2 (i) holds a graduate degree from a nationally
3 or regionally accredited university approved by
4 the Department;

5 (ii) demonstrates successful completion of
6 both core graduate level coursework related to
7 principles and application of applied behavior
8 analysis necessary to qualify for the
9 certification examination as outlined by the
10 certifying entity and other graduate level course
11 work necessary to complete a master's or doctoral
12 degree as outlined by the university, approved by
13 the Department and defined by rule;

14 (iii) demonstrates successful completion of at
15 least 1,500 hours of supervised work experience
16 under the direction of a qualified supervisor as
17 defined by the certifying entity and defined by
18 rule;

19 (iv) passes an independently administered
20 examination by the certifying entity and approved
21 by the Department for professional practitioners
22 of applied behavior analysis; and

23 (v) is in good standing with the certifying
24 entity at the time of application.

25 (b) All applicants have 3 years after the date of
26 application to complete the application process. If the process

1 has not been completed in 3 years, the application shall be
2 denied, the fee shall be forfeited, and the applicant must
3 reapply and meet the requirements in effect at the time of
4 reapplication.

5 Section 30. Qualifications for assistant behavior analyst
6 license.

7 (a) A person qualifies to be licensed as an assistant
8 behavior analyst if that person:

9 (1) has applied in writing or electronically on forms
10 prescribed by the Department;

11 (2) is at least 21 years of age and has not engaged in
12 conduct or activities that would constitute grounds for
13 discipline under this Act;

14 (3) pays the required fees; and

15 (4) meets either of the following requirements:

16 (A) if the person successfully completed a minimum
17 of a bachelor's degree from a nationally or regionally
18 accredited university approved by the Department
19 before the effective date of this Act, the person:

20 (i) demonstrates to the Department successful
21 completion before the effective date of this Act a
22 minimum of a bachelor's level degree from a
23 nationally or regionally accredited university
24 approved by the Department and core coursework
25 related to principles and application of applied

1 behavior analysis necessary to qualify for the
2 certification examination as outlined by the
3 certifying entity and coursework necessary to
4 complete the degree as outlined by the university;

5 (ii) passes an independently administered
6 examination by the certifying entity and approved
7 by the Department for professional practitioners
8 of applied behavior analysis;

9 (iii) is in good standing with the certifying
10 entity at the time of application; and

11 (iv) demonstrates a continued relationship
12 with a qualified supervisor as defined by the
13 certifying entity and approved by the Department;

14 or

15 (B) if the person has not successfully completed a
16 minimum of a bachelor's degree from a nationally or
17 regionally accredited university approved by the
18 Department before the effective date of this Act, the
19 person:

20 (i) holds a minimum of a bachelor's level
21 degree from a nationally or regionally accredited
22 university approved by the Department;

23 (ii) demonstrates successful completion of
24 both core coursework related to principles and
25 application of applied behavior analysis necessary
26 to qualify for the certification examination as

1 outlined by the certifying entity and other course
2 work necessary to complete the degree as outlined
3 by the university, approved by the Department and
4 defined by rule;

5 (iii) demonstrates successful completion of at
6 least 1,000 hours of supervised work experience
7 under the direction of a qualified supervisor as
8 defined by the certifying entity and approved by
9 the Department;

10 (iv) passes an independently administered
11 examination by the certifying entity for
12 professional practitioners of applied behavior
13 analysis;

14 (v) is in good standing with the certifying
15 entity at the time of application; and

16 (vi) demonstrates a continued relationship
17 with a qualified supervisor as defined by the
18 certifying entity and approved by the Department.

19 (b) Applicants have 3 years after the date of application
20 to complete the application process. If the process has not
21 been completed in 3 years, the application shall be denied, the
22 fee shall be forfeited, and the applicant must reapply and meet
23 the requirements in effect at the time of reapplication.

24 Section 35. Endorsement. The Department may issue a license
25 as a behavior analyst or assistant behavior analyst to an

1 applicant licensed under the laws of another jurisdiction if
2 the requirements for licensure in that jurisdiction are, on the
3 date of licensure, substantially equivalent to the
4 requirements of this Act or to any person who, at the time of
5 his or her licensure, possessed individual qualifications that
6 were substantially equivalent to the requirements then in force
7 in this State.

8 An applicant under this Section shall pay the required
9 fees. An individual applying for licensure as a licensed
10 behavior analyst or assistant behavior analyst who has been
11 licensed in another United States jurisdiction for 10
12 consecutive years without discipline is not required to submit
13 proof of completion of the education, professional experience,
14 and supervision required in Section 25 or 30.

15 Individuals with 10 consecutive years of experience must
16 submit certified verification of licensure from the
17 jurisdiction in which the applicant practiced and must comply
18 with all other licensing requirements and pay all required
19 fees. If the accuracy of any submitted documentation or the
20 relevance or sufficiency of the course work or experience is
21 questioned by the Department or the Board because of a lack of
22 information, discrepancies or conflicts in information given,
23 or a need for clarification, the applicant seeking licensure
24 may be required to provide additional information.

25 Section 40. Advisory Board of Behavior Analysts.

1 (a) The Advisory Board of Behavior Analysts is created
2 within the Department of Financial and Professional
3 Regulation. The Board shall consist of the following 5 members
4 appointed by the Secretary: one licensed behavior analyst
5 holding a doctoral degree, one licensed assistant behavior
6 analyst, 2 licensed behavior analysts, and one public member.
7 The Board shall serve in an advisory capacity.

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

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

1 member's actions were not in good faith or were willful and
2 wanton. The member must notify the Attorney General within 7
3 days after receipt of notice of the initiation of any action
4 involving services of the Board. Failure to notify the Attorney
5 General shall constitute an absolute waiver of the right to a
6 defense and indemnification. The Attorney General shall
7 determine, within 7 days after receiving such notice, whether
8 he or she will represent the member.

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

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

1 of 2 terms.

2 (f) The initial members of the Board who are behavior
3 analysts or assistant behavior analysts must be certified
4 accordingly by the certifying entity.

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

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

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

1 directly related to any profession licensed or regulated under
2 this Act.

3 (j) The Board shall annually elect one of its members as
4 chairperson.

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

8 (l) The Secretary shall give due consideration to all
9 recommendations of the Board. The Secretary may consider the
10 recommendation of the Board on all matters and questions
11 relating to this Act, including rules for administration of
12 this Act.

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

15 (o) The Secretary shall have the authority to remove or
16 suspend any member for cause at any time prior to the
17 expiration of his or her term. The Secretary shall be the sole
18 arbiter of cause.

19 Section 45. Rules; minimum standards; renewal.

20 (a) The Department, in consultation with the Board, shall
21 adopt rules establishing the minimum standards for licensure as
22 a licensed behavior analyst or a licensed assistant behavior
23 analyst.

24 (b) For the purposes of this Section, the Department may
25 adopt ethical and disciplinary professional rules from a

1 certifying entity in whole or in part, as its standards. Until
2 rules are adopted under this Section by the Department, the
3 Department shall use the ethical and disciplinary standards of
4 the certifying entity that are in effect on the effective date
5 of this Act.

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

12 (d) The Department shall adopt rules requiring that a
13 licensee seeking renewal to have his or her current
14 certification verified by the certifying entity. The
15 expiration date and renewal period for each license issued
16 under this Act shall be set by rule. The licensee may renew a
17 license during the 60-day period preceding its expiration date
18 by paying the required fee and by demonstrating compliance with
19 any continuing education requirements. The Department shall
20 adopt rules establishing minimum requirements of continuing
21 education and means for verification of the completion of the
22 continuing education requirements.

23 (e) The Department shall adopt rules requiring that an
24 assistant behavior analyst shall furnish evidence that he or
25 she is practicing under the supervision of a licensed behavior
26 analyst.

1 Section 50. Grounds for discipline.

2 (a) The Department may refuse to issue or renew a license,
3 or may revoke, suspend, place on probation, reprimand, or take
4 other disciplinary or nondisciplinary action as the Department
5 deems appropriate with regard to the license of any person
6 issued under this Act, including imposing fines not to exceed
7 \$10,000 for each violation, upon any of the following grounds:

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

10 (2) Violations or negligent or intentional disregard
11 of this Act or rules adopted under this Act.

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

22 (4) Fraud or any misrepresentation in applying for or
23 procuring a license under this Act or in connection with
24 applying for the renewal of a license under this Act.

25 (5) Professional incompetence or gross negligence in

1 rendering licensed behavior analyst or licensed assistant
2 behavior analyst services.

3 (6) Malpractice.

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

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

8 (9) Engaging in dishonorable, unethical, or
9 unprofessional conduct of a character likely to deceive,
10 defraud, or harm the public and violating the rules of
11 professional conduct adopted by the Department.

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

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

21 (12) Abandonment of a client.

22 (13) Willfully filing false reports relating to the
23 licensee's practice, including, but not limited to, false
24 records filed with federal or State agencies or
25 departments.

26 (14) Willfully failing to report an instance of

1 suspected child abuse or neglect as required by the Abused
2 and Neglected Child Reporting Act and in matters pertaining
3 to suspected abuse, neglect, financial exploitation, or
4 self-neglect of adults with disabilities and older adults
5 as set forth in the Adult Protective Services Act.

6 (15) Being named as a perpetrator in an indicated
7 report by the Department of Children and Family Services
8 pursuant to the Abused and Neglected Child Reporting Act,
9 and upon proof by clear and convincing evidence that the
10 licensee has caused a child to be an abused child or
11 neglected child as defined in the Abused and Neglected
12 Child Reporting Act.

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

18 (17) Solicitation of professional services by using
19 false or misleading advertising.

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

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

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

26 (21) Gross and willful overcharging for professional

1 services, including filing statements for collection of
2 fees or moneys for which services are not rendered.

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

6 All fines imposed under this Section shall be paid within
7 60 days after the effective date of the order imposing the
8 fine.

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

19 (c) In cases where the Department of Healthcare and Family
20 Services has previously determined a licensee or a potential
21 licensee is more than 30 days delinquent in the payment of
22 child support and has subsequently certified the delinquency to
23 the Department, the Department may refuse to issue or renew or
24 may revoke or suspend that person's license or may take other
25 disciplinary action against that person based solely upon the
26 certification of delinquency made by the Department of

1 Healthcare and Family Services in accordance with item (5) of
2 subsection (a) of Section 2105-15 of the Department of
3 Professional Regulation Law of the Civil Administrative Code of
4 Illinois.

5 (d) The determination by a court that a licensee is subject
6 to involuntary admission or judicial admission as provided in
7 the Mental Health and Developmental Disabilities Code shall
8 result in an automatic suspension of his or her license. The
9 suspension shall end upon a finding by a court that the
10 licensee is no longer subject to involuntary admission or
11 judicial admission, the issuance of an order so finding and
12 discharging the patient, and the recommendation of the Board to
13 the Secretary that the licensee be allowed to resume
14 professional practice.

15 (e) In enforcing this Act, the Department, upon a showing
16 of a possible violation, may compel an individual licensed to
17 practice under this Act, or who has applied for licensure under
18 this Act, to submit to a mental or physical examination, or
19 both, as required by and at the expense of the Department. The
20 Department may order the examining physician to present
21 testimony concerning the mental or physical examination of the
22 licensee or applicant. No information shall be excluded by
23 reason of any common law or statutory privilege relating to
24 communications between the licensee or applicant and the
25 examining physician. The examining physicians shall be
26 specifically designated by the Department. The individual to be

1 examined may have, at his or her own expense, another physician
2 of his or her choice present during all aspects of this
3 examination. The examination shall be performed by a physician
4 licensed to practice medicine in all its branches. Failure of
5 an individual to submit to a mental or physical examination,
6 when directed, shall result in an automatic suspension without
7 hearing.

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

1 In instances in which the Secretary immediately suspends a
2 person's license under this Section, a hearing on that person's
3 license shall be convened by the Department within 15 days
4 after the suspension and completed without appreciable delay.
5 The Department shall have the authority to review the subject
6 individual's record of treatment and counseling regarding the
7 impairment to the extent permitted by applicable federal
8 statutes and regulations safeguarding the confidentiality of
9 medical records.

10 An individual licensed under this Act and affected under
11 this Section shall be afforded an opportunity to demonstrate to
12 the Department that he or she can resume practice in compliance
13 with acceptable and prevailing standards under the provisions
14 of his or her license.

15 (f) All fines imposed under this Section shall be paid
16 within 55 days after the effective date of the order imposing
17 the fine or in accordance with the terms set forth in the order
18 imposing the fine.

19 Section 55. Illinois Administrative Procedure Act. The
20 Illinois Administrative Procedure Act is hereby expressly
21 adopted and incorporated in this Act as if all of the
22 provisions of the Illinois Administrative Procedure Act were
23 included in this Act, except that the provision of subsection
24 (d) of Section 10-65 of the Illinois Administrative Procedure
25 Act is expressly excluded, which provides that at hearings the

1 license holder has the right to show compliance with all lawful
2 requirements for retention, continuation, or renewal of a
3 license. For the purposes of this Act, the notice required
4 under Section 10-25 of the Illinois Administrative Procedure
5 Act is deemed sufficient when served personally upon, mailed to
6 the last known address of record of, or emailed to the email
7 address of record of a party.

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

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

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

22 (c) The civil penalty shall be paid within 60 days after
23 the effective date of the order imposing the civil penalty. The
24 order shall constitute a final judgment and may be filed and
25 execution had thereon in the same manner as any judgment from

1 any court of record.

2 Section 65. Violations; injunction; cease and desist
3 order.

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

18 (b) If an individual holds himself or herself out as being
19 a licensed behavior analyst or a licensed assistant behavior
20 analyst under this Act and is not licensed to do so, then any
21 licensed behavior analyst, licensed assistant behavior
22 analyst, interested party, or any person injured thereby may
23 petition for relief as provided in subsection (a) of this
24 Section.

25 (c) Whenever, in the opinion of the Department, an

1 individual violates a provision of this Act, the Department may
2 issue a rule to show cause why an order to cease and desist
3 should not be entered against that person. The rule shall
4 clearly set forth the grounds relied upon by the Department and
5 shall allow at least 7 days from the date of the rule to file an
6 answer satisfactory to the Department. Failure to answer to the
7 satisfaction of the Department shall cause an order to cease
8 and desist to be issued.

9 Section 70. Powers and duties of the Department.

10 (a) The Department shall exercise the powers and duties
11 prescribed by the Civil Administrative Code of Illinois for the
12 administration of licensure Acts and shall exercise other
13 powers and duties necessary for effectuating the purposes of
14 this Act.

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

25 (c) Subject to the provisions of this Act, the Department

1 may:

2 (1) Authorize examinations to ascertain the
3 qualifications and fitness of applicants for licensing as
4 licensed behavior analysts or licensed assistant behavior
5 analysts and pass upon the qualifications of applicants for
6 licensure by endorsement.

7 (2) Conduct hearings or proceedings to refuse to issue
8 or renew or to revoke licenses or suspend, place on
9 probation, censure, or reprimand or take any other
10 disciplinary or nondisciplinary action with regard to a
11 person licensed under this Act.

12 (3) Adopt rules required for the administration of this
13 Act.

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

19 (d) All information collected by the Department in the
20 course of an examination or investigation of a licensee or
21 applicant, including, but not limited to, any complaint against
22 a licensee filed with the Department and information collected
23 to investigate any such complaint, shall be maintained for the
24 confidential use of the Department and shall not be disclosed.
25 The Department may not disclose the information to anyone other
26 than law enforcement officials, other regulatory agencies that

1 have an appropriate regulatory interest as determined by the
2 Secretary, or to a party presenting a lawful subpoena to the
3 Department. Information and documents disclosed to a federal,
4 State, county, or local law enforcement agency shall not be
5 disclosed by the agency for any purpose to any other agency or
6 person. A formal complaint filed against a licensee by the
7 Department or any order issued by the Department against a
8 licensee or applicant shall be a public record, except as
9 otherwise prohibited by law.

10 Section 75. Investigations; notice; hearing.

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

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

22 (c) At the time and place fixed in the notice, the Board or
23 hearing officer appointed by the Secretary shall proceed to
24 hear the charges, and the parties or their counsel shall be
25 accorded ample opportunity to present any pertinent

1 statements, testimony, evidence, and arguments. The Board or
2 hearing officer may continue the hearing from time to time. In
3 case the person, after receiving the notice, fails to file an
4 answer, his or her license may, in the discretion of the
5 Secretary, having first received the recommendation of the
6 Board, be suspended, revoked, or placed on probationary status,
7 or be subject to any disciplinary action the Secretary
8 considers proper, including, but not limited to, limiting the
9 scope, nature, or extent of the person's practice or the
10 imposition of a fine without hearing if the act or acts charged
11 constitute sufficient grounds for that action under this Act.

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

15 (e) Notwithstanding any other provision of this Act, the
16 Secretary shall have the authority to appoint any attorney duly
17 licensed to practice law in the State of Illinois to serve as
18 the hearing officer in any action for refusal to issue, renew
19 or discipline a license. The hearing officer shall have full
20 authority to conduct the hearing. The hearing officer shall
21 report his or her findings of fact, conclusions of law, and
22 recommendations to the Board and the Secretary.

23 Section 80. Record of proceedings; transcript.

24 (a) The Department, at its expense, shall preserve a record
25 of all proceedings at any formal hearing of any case. The

1 notice of hearing, complaint and all other documents in the
2 nature of pleadings and written motions filed in the
3 proceedings, the transcript of testimony, the report of the
4 Board, and the orders of the Department shall be the record of
5 the proceedings. The Department shall furnish a copy of the
6 record to any person upon payment of the fee required under
7 Section 2105-115 of the Department of Professional Regulation
8 Law of the Civil Administrative Code of Illinois.

9 (b) The Board or the hearing officer appointed by the
10 Secretary shall hear evidence in support of the formal charges
11 and evidence produced by the licensee. At the conclusion of the
12 hearing, the Board shall present to the Secretary a written
13 report of its findings of fact, conclusions of law, and
14 recommendations.

15 (c) At the conclusion of the hearing, a copy of the Board
16 or hearing officer's report shall be served to the applicant or
17 licensee by the Department, either personally or as provided in
18 this Act for the service of a notice of hearing. Within 20
19 calendar days after service, the applicant or licensee may
20 present to the Department a motion in writing for a rehearing,
21 which shall specify the particular grounds for rehearing. The
22 Department may respond to the motion for rehearing within 20
23 calendar days after its service on the Department. If no motion
24 for rehearing is filed, then after the expiration of the time
25 specified for filing such motion, or upon denial of a motion
26 for rehearing, the Secretary may enter an order in accordance

1 with the recommendation of the Board or hearing officer. If the
2 applicant or licensee orders from the reporting service and
3 pays for a transcript of the record within the time for filing
4 a motion for rehearing, the 20-day period within which a motion
5 may be filed shall commence upon the delivery of the transcript
6 to the applicant or licensee.

7 (d) If the Secretary disagrees in any regard with the
8 report of the Board, the Secretary may issue an order contrary
9 to the report.

10 (e) If the Secretary is not satisfied that substantial
11 justice has been done, the Secretary may order a rehearing by
12 the same or another hearing officer.

13 (f) At any point in any investigation or disciplinary
14 proceeding provided for in this Act, both parties may agree to
15 a negotiated consent order. The consent order shall be final
16 upon the signature of the Secretary.

17 (g) Any fine imposed shall be payable within 60 days after
18 the effective date of the order imposing the fine.

19 Section 85. Administrative review.

20 (a) All final administrative decisions of the Department
21 hereunder shall be subject to judicial review pursuant to the
22 provisions of the Administrative Review Law, and all amendments
23 and modifications thereof, and the rules adopted pursuant
24 thereto. The term "administrative decision" is defined as in
25 Section 3-101 of the Code of Civil Procedure.

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

5 Section 90. Certification of record. The Department shall
6 not be required to certify any record to the court, file any
7 answer in court, or otherwise appear in any judicial review
8 proceedings, unless and until the Department has received from
9 the plaintiff payment of the costs of furnishing and certifying
10 the record, which costs shall be determined by the Department.
11 Failure on the part of the plaintiff to file a receipt in court
12 shall be grounds for dismissal of the action.

13 Section 95. Fees. The Department shall provide by rule for
14 a schedule of fees for the administration and enforcement of
15 this Act, including, but not limited to, original licensure,
16 registration, renewal, and restoration. The fees shall be
17 nonrefundable.

18 All fees, fines, and penalties collected under this Act
19 shall be deposited into the General Professions Dedicated Fund
20 and shall be appropriated to the Department for the ordinary
21 and contingent expenses of the Department in the administration
22 of this Act.

23 Section 900. The Regulatory Sunset Act is amended by adding

1 Section 4.40 as follows:

2 (5 ILCS 80/4.40 new)

3 Sec. 4.40. Act repealed on January 1, 2030. The following

4 Act is repealed on January 1, 2030:

5 The Behavior Analyst Licensing Act.

6 Section 999. Effective date. This Act takes effect upon
7 becoming law.