

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HOUSE BILL 2470

## AN ACT

AMENDING SECTION 32-2065, ARIZONA REVISED STATUTES; AMENDING TITLE 32, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 43; AMENDING SECTION 41-1092, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3018.01; RELATING TO THE BEHAVIOR ANALYST BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 32-2065, Arizona Revised Statutes, is amended to  
3 read:

- 4 32-2065. Board of psychologist examiners fund; account  
5 A. The board of psychologist examiners fund is established.  
6 B. Except as provided in section 32-2081, pursuant to sections 35-146  
7 and 35-147, the board shall deposit ten per cent of all monies collected  
8 pursuant to this chapter in the state general fund and deposit the remaining  
9 ninety per cent in the board of psychologist examiners fund.  
10 C. All monies deposited in the board of psychologist examiners fund  
11 are subject to section 35-143.01.  
12 D. THE BOARD SHALL ESTABLISH A SEPARATE ACCOUNT IN THE FUND FOR MONIES  
13 TRANSFERRED TO THE FUND PURSUANT TO SECTION 32-4305.

14 Sec. 2. Title 32, Arizona Revised Statutes, is amended by adding  
15 chapter 43, to read:

16 CHAPTER 43  
17 BEHAVIOR ANALYST BOARD  
18 ARTICLE 1. GENERAL PROVISIONS

- 19 32-4301. Definitions  
20 A. IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:  
21 1. "ACTIVE LICENSE" MEANS A CURRENT LICENSE ISSUED BY THE BOARD.  
22 2. "ADEQUATE RECORDS" MEANS RECORDS THAT CONTAIN, AT A MINIMUM,  
23 SUFFICIENT INFORMATION TO IDENTIFY THE CLIENT, THE DATES OF SERVICE, THE FEE  
24 FOR SERVICE, THE PAYMENTS FOR SERVICE AND THE TYPE OF SERVICE GIVEN AND  
25 COPIES OF ANY REPORTS THAT MAY HAVE BEEN MADE.  
26 3. "BEHAVIOR ANALYSIS" MEANS THE DESIGN, IMPLEMENTATION AND EVALUATION  
27 OF SYSTEMATIC ENVIRONMENTAL MODIFICATIONS BY A BEHAVIOR ANALYST TO PRODUCE  
28 SOCIALLY SIGNIFICANT IMPROVEMENTS IN HUMAN BEHAVIOR BASED ON THE PRINCIPLES  
29 OF BEHAVIOR IDENTIFIED THROUGH THE EXPERIMENTAL ANALYSIS OF BEHAVIOR.  
30 BEHAVIOR ANALYSIS DOES NOT INCLUDE COGNITIVE THERAPIES OR PSYCHOLOGICAL  
31 TESTING, NEUROPSYCHOLOGY, PSYCHOTHERAPY, SEX THERAPY, PSYCHOANALYSIS,  
32 HYPNOTHERAPY AND LONG-TERM COUNSELING AS TREATMENT MODALITIES.  
33 4. "BEHAVIOR ANALYSIS SERVICES" MEANS THE USE OF BEHAVIOR ANALYSIS TO  
34 ASSIST A PERSON TO LEARN NEW BEHAVIOR, INCREASE EXISTING BEHAVIOR, REDUCE  
35 EXISTING BEHAVIOR AND EMIT BEHAVIOR UNDER PRECISE ENVIRONMENTAL CONDITIONS.  
36 BEHAVIOR ANALYSIS INCLUDES BEHAVIORAL PROGRAMMING AND BEHAVIORAL PROGRAMS.  
37 5. "BEHAVIOR ANALYST" MEANS A PERSON WHO IS LICENSED PURSUANT TO THIS  
38 CHAPTER TO PRACTICE BEHAVIOR ANALYSIS.  
39 6. "BOARD" MEANS THE BEHAVIOR ANALYST BOARD.  
40 7. "CLIENT" MEANS:  
41 (a) A PERSON OR ENTITY THAT RECEIVES BEHAVIOR ANALYSIS SERVICES.  
42 (b) A CORPORATE ENTITY, A GOVERNMENTAL ENTITY OR ANY OTHER  
43 ORGANIZATION THAT HAS A PROFESSIONAL CONTRACT TO PROVIDE SERVICES OR BENEFITS  
44 PRIMARILY TO AN ORGANIZATION RATHER THAN TO AN INDIVIDUAL.

1 (c) AN INDIVIDUAL'S LEGAL GUARDIAN FOR DECISION MAKING PURPOSES,  
2 EXCEPT THAT THE INDIVIDUAL IS THE CLIENT FOR ISSUES THAT DIRECTLY AFFECT THE  
3 INDIVIDUAL'S PHYSICAL OR EMOTIONAL SAFETY AND ISSUES THAT THE LEGAL GUARDIAN  
4 AGREES TO SPECIFICALLY RESERVE TO THE INDIVIDUAL.

5 8. "EXPLOIT" MEANS AN ACTION BY A BEHAVIOR ANALYST WHO TAKES UNDUE  
6 ADVANTAGE OF THE PROFESSIONAL ASSOCIATION WITH A CLIENT, STUDENT OR  
7 SUPERVISEE FOR THE ADVANTAGE OR PROFIT OF THE BEHAVIOR ANALYST.

8 9. "HEALTH CARE INSTITUTION" MEANS A FACILITY THAT IS LICENSED  
9 PURSUANT TO TITLE 36, CHAPTER 4, ARTICLE 1, A PERSON WHO IS AUTHORIZED TO  
10 TRANSACT DISABILITY INSURANCE PURSUANT TO TITLE 20, CHAPTER 6, ARTICLE 4 OR 5  
11 OR A PERSON WHO IS ISSUED A CERTIFICATE OF AUTHORITY PURSUANT TO TITLE 20,  
12 CHAPTER 4, ARTICLE 9.

13 10. "LETTER OF CONCERN" MEANS AN ADVISORY LETTER TO NOTIFY A LICENSEE  
14 THAT WHILE THERE IS INSUFFICIENT EVIDENCE TO SUPPORT DISCIPLINARY ACTION THE  
15 BOARD BELIEVES THE LICENSEE SHOULD MODIFY OR ELIMINATE CERTAIN PRACTICES AND  
16 THAT CONTINUATION OF THE ACTIVITIES THAT LED TO THE INFORMATION BEING  
17 SUBMITTED TO THE BOARD MAY RESULT IN ACTION AGAINST THE LICENSE.

18 11. "SUPERVISEE" MEANS A PERSON WHO ACTS UNDER THE EXTENDED AUTHORITY  
19 OF A BEHAVIOR ANALYST TO PROVIDE BEHAVIORAL SERVICES AND INCLUDES A PERSON  
20 WHO IS IN TRAINING TO PROVIDE THESE SERVICES.

21 12. "UNPROFESSIONAL CONDUCT" INCLUDES THE FOLLOWING ACTIVITIES, WHETHER  
22 OCCURRING IN THIS STATE OR ELSEWHERE:

23 (a) OBTAINING A FEE BY FRAUD OR MISREPRESENTATION.

24 (b) BETRAYING PROFESSIONAL CONFIDENCES.

25 (c) MAKING OR USING STATEMENTS OF A CHARACTER TENDING TO DECEIVE OR  
26 MISLEAD.

27 (d) AIDING OR ABETTING A PERSON WHO IS NOT LICENSED PURSUANT TO THIS  
28 CHAPTER IN REPRESENTING THAT PERSON AS A BEHAVIOR ANALYST.

29 (e) GROSS NEGLIGENCE IN THE PRACTICE OF A BEHAVIOR ANALYST.

30 (f) SEXUAL INTIMACIES OR SEXUAL INTERCOURSE WITH A CURRENT CLIENT OR A  
31 SUPERVISEE OR WITH A FORMER CLIENT WITHIN TWO YEARS AFTER THE CESSATION OR  
32 TERMINATION OF TREATMENT. FOR THE PURPOSES OF THIS SUBDIVISION, "SEXUAL  
33 INTERCOURSE" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-1401.

34 (g) ENGAGING OR OFFERING TO ENGAGE AS A BEHAVIOR ANALYST IN ACTIVITIES  
35 THAT ARE NOT CONGRUENT WITH THE BEHAVIOR ANALYST'S PROFESSIONAL EDUCATION,  
36 TRAINING AND EXPERIENCE.

37 (h) FAILING OR REFUSING TO MAINTAIN AND RETAIN ADEQUATE BUSINESS,  
38 FINANCIAL OR PROFESSIONAL RECORDS PERTAINING TO THE BEHAVIOR ANALYSIS  
39 SERVICES PROVIDED TO A CLIENT.

40 (i) COMMITTING A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE, OR  
41 A MISDEMEANOR INVOLVING MORAL TURPITUDE. IN EITHER CASE, CONVICTION BY A  
42 COURT OF COMPETENT JURISDICTION OR A PLEA OF NO CONTEST IS CONCLUSIVE  
43 EVIDENCE OF THE COMMISSION.

44 (j) MAKING A FRAUDULENT OR UNTRUE STATEMENT TO THE BOARD OR ITS  
45 INVESTIGATORS, STAFF OR CONSULTANTS.

1 (k) VIOLATING ANY FEDERAL OR STATE LAW THAT RELATES TO THE PRACTICE OF  
2 BEHAVIOR ANALYSIS OR TO OBTAIN A LICENSE TO PRACTICE BEHAVIOR ANALYSIS.

3 (l) PRACTICING BEHAVIOR ANALYSIS WHILE IMPAIRED OR INCAPACITATED TO  
4 THE EXTENT AND IN A MANNER THAT JEOPARDIZES THE WELFARE OF A CLIENT OR  
5 RENDERS THE SERVICES PROVIDED INEFFECTIVE.

6 (m) USING FRAUD, MISREPRESENTATION OR DECEPTION TO OBTAIN OR ATTEMPT  
7 TO OBTAIN A BEHAVIOR ANALYSIS LICENSE OR TO PASS OR ATTEMPT TO PASS A  
8 BEHAVIOR ANALYSIS LICENSING EXAMINATION OR IN ASSISTING ANOTHER PERSON TO DO  
9 SO.

10 (n) UNPROFESSIONAL CONDUCT IN ANOTHER JURISDICTION THAT RESULTED IN  
11 CENSURE, PROBATION OR A CIVIL PENALTY OR IN THE DENIAL, SUSPENSION,  
12 RESTRICTION OR REVOCATION OF A CERTIFICATE OR LICENSE TO PRACTICE AS A  
13 BEHAVIOR ANALYST.

14 (o) PROVIDING SERVICES THAT ARE UNNECESSARY OR UNSAFE OR OTHERWISE  
15 ENGAGING IN ACTIVITIES AS A BEHAVIOR ANALYST THAT ARE UNPROFESSIONAL BY  
16 CURRENT STANDARDS OF PRACTICE.

17 (p) FALSELY OR FRAUDULENTLY CLAIMING TO HAVE PERFORMED A PROFESSIONAL  
18 SERVICE, CHARGING FOR A SERVICE OR REPRESENTING A SERVICE AS THE LICENSEE'S  
19 OWN IF THE LICENSEE HAS NOT RENDERED THE SERVICE OR ASSUMED SUPERVISORY  
20 RESPONSIBILITY FOR THE SERVICE.

21 (q) REPRESENTING ACTIVITIES OR SERVICES AS BEING PERFORMED UNDER THE  
22 LICENSEE'S SUPERVISION IF THE BEHAVIOR ANALYST HAS NOT ASSUMED RESPONSIBILITY  
23 FOR THEM AND HAS NOT EXERCISED CONTROL, OVERSIGHT AND REVIEW.

24 (r) FAILING TO OBTAIN A CLIENT'S INFORMED AND WRITTEN CONSENT TO  
25 RELEASE PERSONAL OR OTHERWISE CONFIDENTIAL INFORMATION TO ANOTHER PARTY  
26 UNLESS THE RELEASE IS OTHERWISE AUTHORIZED BY LAW.

27 (s) FAILING TO MAKE CLIENT RECORDS IN THE BEHAVIOR ANALYST'S  
28 POSSESSION PROMPTLY AVAILABLE TO ANOTHER BEHAVIOR ANALYST ON RECEIPT OF  
29 PROPER AUTHORIZATION TO DO SO FROM THE CLIENT, A MINOR CLIENT'S PARENT, THE  
30 CLIENT'S LEGAL GUARDIAN OR THE CLIENT'S AUTHORIZED REPRESENTATIVE OR FAILING  
31 TO COMPLY WITH TITLE 12, CHAPTER 13, ARTICLE 7.1.

32 (t) FAILING TO TAKE REASONABLE STEPS TO INFORM OR PROTECT A CLIENT'S  
33 INTENDED VICTIM AND INFORM THE PROPER LAW ENFORCEMENT OFFICIALS IF THE  
34 BEHAVIOR ANALYST BECOMES AWARE DURING THE COURSE OF PROVIDING OR SUPERVISING  
35 BEHAVIOR ANALYSIS SERVICES THAT A CLIENT INTENDS OR PLANS TO INFLICT SERIOUS  
36 BODILY HARM ON ANOTHER PERSON.

37 (u) FAILING TO TAKE REASONABLE STEPS TO PROTECT A CLIENT IF THE  
38 BEHAVIOR ANALYST BECOMES AWARE DURING THE COURSE OF PROVIDING OR SUPERVISING  
39 BEHAVIOR ANALYSIS SERVICES THAT A CLIENT INTENDS OR PLANS TO INFLICT SERIOUS  
40 BODILY HARM ON HIMSELF.

41 (v) ABANDONING OR NEGLECTING A CLIENT IN NEED OF IMMEDIATE CARE  
42 WITHOUT MAKING SUITABLE ARRANGEMENTS FOR CONTINUATION OF THE CARE.

43 (w) ENGAGING IN DIRECT OR INDIRECT PERSONAL SOLICITATION OF CLIENTS  
44 THROUGH THE USE OF COERCION, DURESS, UNDUE INFLUENCE, COMPULSION OR  
45 INTIMIDATION PRACTICES.

1 (x) ENGAGING IN FALSE, DECEPTIVE OR MISLEADING ADVERTISING.  
2 (y) EXPLOITING A CLIENT, STUDENT OR SUPERVISEE.  
3 (z) FAILING TO REPORT INFORMATION TO THE BOARD REGARDING A POSSIBLE  
4 ACT OF UNPROFESSIONAL CONDUCT COMMITTED BY ANOTHER BEHAVIOR ANALYST WHO IS  
5 LICENSED PURSUANT TO THIS CHAPTER UNLESS THIS REPORTING VIOLATES THE BEHAVIOR  
6 ANALYST'S CONFIDENTIAL RELATIONSHIP WITH A CLIENT PURSUANT TO THIS CHAPTER.  
7 A BEHAVIOR ANALYST WHO REPORTS OR PROVIDES INFORMATION TO THE BOARD IN GOOD  
8 FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL DAMAGES.  
9 (aa) VIOLATING A FORMAL BOARD ORDER, CONSENT AGREEMENT, TERM OF  
10 PROBATION OR STIPULATED AGREEMENT ISSUED UNDER THIS CHAPTER.  
11 (bb) FAILING TO FURNISH INFORMATION IN A TIMELY MANNER TO THE BOARD OR  
12 ITS INVESTIGATORS OR REPRESENTATIVES IF REQUESTED OR SUBPOENAED BY THE BOARD  
13 AS PRESCRIBED BY THIS CHAPTER.  
14 (cc) FAILING TO MAKE AVAILABLE TO A CLIENT OR TO THE CLIENT'S  
15 DESIGNATED REPRESENTATIVE, ON WRITTEN REQUEST, A COPY OF THE CLIENT'S RECORD,  
16 EXCLUDING RAW TEST DATA, PSYCHOMETRIC TESTING MATERIALS AND OTHER INFORMATION  
17 AS PROVIDED BY LAW.  
18 (dd) VIOLATING AN ETHICAL STANDARD ADOPTED BY THE BOARD.  
19 B. THE BOARD SHALL NOT CONSIDER A COMPLAINT AGAINST A BEHAVIOR ANALYST  
20 ARISING OUT OF A JUDICIALLY ORDERED EVALUATION OF A PERSON CHARGED WITH  
21 VIOLATING ANY PROVISION OF TITLE 13, CHAPTER 14 TO PRESENT A CHARGE OF  
22 UNPROFESSIONAL CONDUCT UNLESS THE COURT ORDERING THE EVALUATION HAS FOUND A  
23 SUBSTANTIAL BASIS TO REFER THE COMPLAINT FOR CONSIDERATION BY THE BOARD.  
24 32-4302. Board; members; qualifications; appointments; terms;  
25 compensation; immunity  
26 A. THE BEHAVIOR ANALYST BOARD IS ESTABLISHED CONSISTING OF FIVE  
27 MEMBERS WHO ARE APPOINTED BY THE GOVERNOR PURSUANT TO SECTION 38-211.  
28 B. EACH MEMBER OF THE BOARD SHALL BE A CITIZEN OF THE UNITED STATES  
29 AND A RESIDENT OF THIS STATE AT THE TIME OF APPOINTMENT. THREE MEMBERS SHALL  
30 BE LICENSED PURSUANT TO THIS CHAPTER AND TWO SHALL BE PUBLIC MEMBERS WHO ARE  
31 NOT ELIGIBLE FOR LICENSURE. THE BOARD SHALL HAVE AT ALL TIMES, EXCEPT FOR  
32 THE PERIOD WHEN A VACANCY EXISTS, AT LEAST ONE MEMBER WHO IS LICENSED AND WHO  
33 IS A FULL-TIME FACULTY MEMBER AT A UNIVERSITY IN THIS STATE THAT HAS A  
34 GRADUATE TRAINING PROGRAM IN BEHAVIOR ANALYSIS THAT MEETS THE REQUIREMENTS OF  
35 THIS CHAPTER AND AT LEAST TWO MEMBERS WHO ARE BEHAVIOR ANALYSTS IN  
36 PROFESSIONAL PRACTICE. THE PUBLIC MEMBERS SHALL NOT HAVE A SUBSTANTIAL  
37 FINANCIAL INTEREST IN THE HEALTH CARE INDUSTRY AND SHALL NOT HAVE A HOUSEHOLD  
38 MEMBER WHO IS ELIGIBLE FOR LICENSURE UNDER THIS CHAPTER.  
39 C. EACH MEMBER SHALL SERVE FOR A TERM OF FIVE YEARS BEGINNING AND  
40 ENDING ON THE THIRD MONDAY IN JANUARY.  
41 D. A VACANCY ON THE BOARD OCCURRING OTHER THAN BY EXPIRATION OF THE  
42 TERM SHALL BE FILLED BY APPOINTMENT BY THE GOVERNOR FOR THE UNEXPIRED TERM AS  
43 PROVIDED IN SUBSECTION C OF THIS SECTION. THE GOVERNOR, AFTER A HEARING, MAY  
44 REMOVE ANY MEMBER OF THE BOARD FOR MISCONDUCT, INCOMPETENCY OR NEGLIGENCE OF  
45 DUTY.

1 E. BOARD MEMBERS MAY RECEIVE COMPENSATION IN AN AMOUNT OF NOT MORE  
2 THAN ONE HUNDRED DOLLARS FOR EACH CUMULATIVE EIGHT HOURS OF ACTUAL SERVICE IN  
3 THE BUSINESS OF THE BOARD AND REIMBURSEMENT OF ALL EXPENSES PURSUANT TO TITLE  
4 38, CHAPTER 4, ARTICLE 2.

5 F. MEMBERS OF THE BOARD AND ITS EMPLOYEES, CONSULTANTS AND TEST  
6 EXAMINERS ARE PERSONALLY IMMUNE FROM SUIT WITH RESPECT TO ALL ACTS DONE AND  
7 ACTIONS TAKEN IN GOOD FAITH AND IN FURTHERANCE OF THE PURPOSES OF THIS  
8 CHAPTER.

9 32-4303. Powers and duties

10 A. THE BOARD SHALL:

11 1. ADMINISTER AND ENFORCE THIS CHAPTER AND BOARD RULES.  
12 2. REGULATE DISCIPLINARY ACTIONS, THE GRANTING, DENIAL, REVOCATION,  
13 RENEWAL AND SUSPENSION OF LICENSES AND THE REHABILITATION OF LICENSEES  
14 PURSUANT TO THIS CHAPTER AND BOARD RULES.

15 3. PRESCRIBE THE FORMS, CONTENT AND MANNER OF APPLICATION FOR  
16 LICENSURE AND RENEWAL OF LICENSURE AND SET DEADLINES FOR THE RECEIPT OF  
17 MATERIALS REQUIRED BY THE BOARD.

18 4. KEEP A RECORD OF ALL LICENSEES, BOARD ACTIONS TAKEN ON ALL  
19 APPLICANTS AND LICENSEES AND THE RECEIPT AND DISBURSAL OF MONIES.

20 5. ADOPT AN OFFICIAL SEAL FOR ATTESTATION OF LICENSES AND OTHER  
21 OFFICIAL PAPERS AND DOCUMENTS.

22 6. INVESTIGATE CHARGES OF VIOLATIONS OF THIS CHAPTER AND BOARD RULES  
23 AND ORDERS.

24 7. ANNUALLY ELECT FROM AMONG ITS MEMBERSHIP A CHAIRPERSON, A  
25 VICE-CHAIRPERSON AND A SECRETARY.

26 8. ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 TO CARRY OUT THIS  
27 CHAPTER AND TO DEFINE UNPROFESSIONAL CONDUCT.

28 9. ENGAGE IN A FULL EXCHANGE OF INFORMATION WITH OTHER REGULATORY  
29 BOARDS AND ASSOCIATIONS, NATIONAL ORGANIZATIONS AND STATEWIDE AND REGIONAL  
30 ASSOCIATIONS.

31 10. BY RULE, ADOPT A CODE OF ETHICS RELATING TO THE PRACTICE OF  
32 BEHAVIOR ANALYSIS THAT IS BASED ON THE CODE OF ETHICS ADOPTED AND PUBLISHED  
33 BY THE NATIONAL BEHAVIOR ANALYSIS CERTIFICATION BOARD. THE BOARD SHALL APPLY  
34 THE CODE TO ALL BOARD ENFORCEMENT POLICIES AND DISCIPLINARY CASE EVALUATIONS  
35 AND TO THE DEVELOPMENT OF LICENSING EXAMINATIONS.

36 B. THE BOARD MAY EMPLOY PERMANENT OR TEMPORARY PERSONNEL IT DEEMS  
37 NECESSARY TO CARRY OUT THIS CHAPTER, EXCEPT THAT THE EXECUTIVE DIRECTOR OF  
38 THE STATE BOARD OF PSYCHOLOGIST EXAMINERS SHALL SERVE AS THE EXECUTIVE  
39 DIRECTOR OF THE BEHAVIOR ANALYST BOARD AND THE STAFF OF THE STATE BOARD OF  
40 PSYCHOLOGIST EXAMINERS SHALL CARRY OUT THE ADMINISTRATIVE RESPONSIBILITIES OF  
41 THE BEHAVIOR ANALYST BOARD.

42 C. THE BOARD, IN INVESTIGATING VIOLATIONS OF THIS CHAPTER, MAY EMPLOY  
43 INVESTIGATORS WHO MAY BE BEHAVIOR ANALYSTS. THE BOARD OR ITS EXECUTIVE  
44 DIRECTOR MAY TAKE AND HEAR EVIDENCE, ADMINISTER OATHS AND AFFIRMATIONS AND  
45 COMPEL BY SUBPOENA THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF BOOKS,

1 PAPERS, RECORDS, DOCUMENTS AND OTHER INFORMATION RELATING TO THE  
2 INVESTIGATION OR HEARING.

3 D. THE BOARD MAY ACCEPT AND SPEND FEDERAL MONIES AND PRIVATE GRANTS,  
4 GIFTS, CONTRIBUTIONS AND DEVICES TO ASSIST IT IN CARRYING OUT THE PURPOSES OF  
5 THIS CHAPTER.

6 32-4304. Meetings; committees; quorum

7 A. THE BOARD SHALL HOLD REGULAR QUARTERLY MEETINGS AT A TIME AND PLACE  
8 DETERMINED BY THE CHAIRPERSON. THE BOARD SHALL HOLD SPECIAL MEETINGS THE  
9 CHAIRPERSON DETERMINES NECESSARY TO CARRY OUT THE FUNCTIONS OF THE BOARD.

10 B. THE CHAIRPERSON MAY ESTABLISH COMMITTEES FROM THE BOARD MEMBERSHIP  
11 NECESSARY TO CARRY OUT THE FUNCTIONS OF THE BOARD. THE BOARD MAY ESTABLISH  
12 COMMITTEES OF LICENSED BEHAVIOR ANALYSTS TO ACT AS CONSULTANTS TO THE  
13 BOARD. MEMBERS OF CONSULTANT COMMITTEES ARE ELIGIBLE FOR REIMBURSEMENT OF  
14 EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

15 C. A MAJORITY OF BOARD MEMBERS CONSTITUTES A QUORUM AND A MAJORITY  
16 VOTE OF A QUORUM PRESENT IS NECESSARY FOR THE BOARD TO TAKE ANY ACTION.

17 32-4305. Deposit of monies received by the board

18 EXCEPT AS PROVIDED IN SECTION 32-4351, SUBSECTION I THE BOARD SHALL  
19 DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, TEN PER CENT OF ALL MONIES  
20 COLLECTED PURSUANT TO THIS CHAPTER IN THE STATE GENERAL FUND AND DEPOSIT THE  
21 REMAINING NINETY PER CENT IN THE ACCOUNT ESTABLISHED FOR THE BEHAVIOR ANALYST  
22 BOARD IN THE BOARD OF PSYCHOLOGIST EXAMINERS FUND ESTABLISHED BY SECTION  
23 32-2065.

24 32-4306. Directory; change of address; costs; civil penalty

25 A. THE BOARD SHALL COMPILE AND PUBLISH ON ITS WEBSITE A DIRECTORY  
26 CONTAINING:

- 27 1. THE NAMES AND ADDRESSES OF THE OFFICERS AND MEMBERS OF THE BOARD.
- 28 2. THE NAMES AND ADDRESSES OF ALL LICENSEES.
- 29 3. CURRENT BOARD RULES.
- 30 4. A COPY OF THIS CHAPTER.
- 31 5. ADDITIONAL INFORMATION THE BOARD DEEMS OF INTEREST AND IMPORTANCE  
32 TO LICENSEES.

33 B. A LICENSEE SHALL INFORM THE BOARD IN WRITING OF THE LICENSEE'S  
34 CURRENT RESIDENCE ADDRESS, OFFICE ADDRESS AND TELEPHONE NUMBER WITHIN THIRTY  
35 DAYS AFTER EACH CHANGE IN THIS INFORMATION. THE BOARD MAY ASSESS THE COSTS  
36 INCURRED BY THE BOARD IN LOCATING A LICENSEE AND MAY ASSESS A CIVIL PENALTY  
37 OF NOT MORE THAN ONE HUNDRED DOLLARS AGAINST A LICENSEE WHO FAILS TO NOTIFY  
38 THE BOARD WITHIN THIRTY DAYS AFTER THE DATE OF ANY CHANGE OF INFORMATION  
39 REQUIRED TO BE REPORTED UNDER THIS SUBSECTION.

40 32-4307. Fees

41 A. THE BOARD, BY A FORMAL VOTE, SHALL ESTABLISH FEES FOR THE  
42 FOLLOWING:

- 43 1. AN APPLICATION FOR AN ACTIVE LICENSE.
- 44 2. AN APPLICATION FOR A TEMPORARY LICENSE.
- 45 3. RENEWAL OF AN ACTIVE LICENSE.





1           32-4322. Educational and training qualifications for licensure

2           A. AN APPLICANT FOR LICENSURE AS A BEHAVIOR ANALYST MUST:

3           1. HAVE A GRADUATE DEGREE, MASTER'S DEGREE OR DOCTORATE DEGREE FROM AN  
4 ACCREDITED COLLEGE OR UNIVERSITY OR INSTITUTION OF HIGHER LEARNING ACCREDITED  
5 BY A RECOGNIZED ACCREDITING AGENCY.

6           2. IF THE APPLICANT COMPLETES A DEGREE, COURSEWORK AND WORK EXPERIENCE  
7 REQUIREMENTS AFTER JANUARY 1, 2000, COMPLETE A MINIMUM OF ONE THOUSAND FIVE  
8 HUNDRED HOURS OF SUPERVISED WORK EXPERIENCE OR INDEPENDENT FIELDWORK IN THE  
9 PRACTICE OF APPLIED BEHAVIOR ANALYSIS IN NOT LESS THAN TWELVE MONTHS.

10          3. HAVE AS PART OF OR IN ADDITION TO THE COURSEWORK REQUIRED FOR THE  
11 GRADUATE DEGREE AT LEAST TWO HUNDRED TWENTY-FIVE CLASSROOM HOURS OF SPECIFIC  
12 GRADUATE LEVEL INSTRUCTION THAT MEET NATIONALLY RECOGNIZED STANDARDS FOR  
13 BEHAVIOR ANALYSTS AS DETERMINED BY THE BOARD.

14          4. HAVE A MINIMUM OF ONE THOUSAND FIVE HUNDRED HOURS OF SUPERVISED  
15 WORK EXPERIENCE AS A BEHAVIOR ANALYST ENGAGED IN TASKS THAT MEET NATIONALLY  
16 RECOGNIZED STANDARDS FOR BEHAVIOR ANALYSTS AS DETERMINED BY THE BOARD. THE  
17 SUPERVISED WORK EXPERIENCE HOURS MUST BE COMPLETED AFTER THE APPLICANT  
18 COMPLETES THE REQUIRED COURSEWORK PRESCRIBED PURSUANT TO PARAGRAPH 3 OF THIS  
19 SUBSECTION.

20          B. THE SUPERVISED WORK EXPERIENCE REQUIRED PURSUANT TO SUBSECTION A,  
21 PARAGRAPH 4 MUST INCLUDE THE FOLLOWING:

22          1. CONDUCTING BEHAVIORAL ASSESSMENTS AND ASSESSMENT ACTIVITIES RELATED  
23 TO THE NEED FOR BEHAVIORAL INTERVENTIONS.

24          2. DESIGNING, IMPLEMENTING AND MONITORING BEHAVIOR ANALYSIS PROGRAMS  
25 FOR CLIENTS.

26          3. OVERSEEING THE IMPLEMENTATION OF BEHAVIOR ANALYSIS PROGRAMS BY  
27 OTHERS.

28          4. OTHER ACTIVITIES NORMALLY PERFORMED BY A BEHAVIOR ANALYST THAT ARE  
29 DIRECTLY RELATED TO BEHAVIOR ANALYSIS, SUCH AS ATTENDING PLANNING MEETINGS  
30 REGARDING THE BEHAVIOR ANALYSIS PROGRAM, RESEARCHING THE LITERATURE RELATED  
31 TO THE PROGRAM, TALKING TO INDIVIDUALS ABOUT THE PROGRAM AND ANY ADDITIONAL  
32 ACTIVITIES RELATED TO OVERSIGHT OF BEHAVIORAL PROGRAMMING SUCH AS BEHAVIOR  
33 ANALYST SUPERVISION ISSUES OR EVALUATION OF BEHAVIOR ANALYSTS' PERFORMANCE.

34          C. THE FOLLOWING ACTIVITIES ARE NOT CONSIDERED SUPERVISED WORK  
35 EXPERIENCE REQUIRED PURSUANT TO SUBSECTION A, PARAGRAPH 4:

36          1. ATTENDING MEETINGS WITH LITTLE OR NO BEHAVIOR ANALYTIC CONTENT.

37          2. PROVIDING INTERVENTIONS THAT ARE NOT BASED IN BEHAVIOR ANALYSIS.

38          3. DOING NONBEHAVIOR ANALYTIC ADMINISTRATIVE ACTIVITIES.

39          4. ANY OTHER ACTIVITIES THAT ARE NOT DIRECTLY RELATED TO BEHAVIOR  
40 ANALYSIS.

41          D. FOR SUPERVISED WORK EXPERIENCE REQUIRED PURSUANT TO SUBSECTION A,  
42 PARAGRAPH 4, THE SUPERVISOR MUST OBSERVE THE APPLICANT ENGAGING IN BEHAVIOR  
43 ANALYTIC ACTIVITIES IN THE NATURAL ENVIRONMENT AT LEAST ONCE EVERY TWO WEEKS.  
44 THIS OBSERVATION MAY BE CONDUCTED BY WEB CAMERAS, VIDEOTAPE,  
45 VIDEOCONFERENCING OR SIMILAR MEANS INSTEAD OF THE SUPERVISOR BEING PHYSICALLY

1 PRESENT. SUPERVISION MAY BE CONDUCTED IN SMALL GROUPS OF TEN OR FEWER  
2 PARTICIPANTS FOR NOT MORE THAN HALF OF THE TOTAL SUPERVISED HOURS IN EACH  
3 SUPERVISORY PERIOD. THE REMAINDER OF THE TOTAL SUPERVISION HOURS IN EACH  
4 SUPERVISORY PERIOD MUST CONSIST OF DIRECT ONE-TO-ONE CONTACT. SUPERVISION  
5 HOURS MAY BE COUNTED TOWARD THE TOTAL NUMBER OF EXPERIENCE HOURS REQUIRED.

6 E. A SUPERVISOR CONDUCTING THE SUPERVISED WORK EXPERIENCE PURSUANT TO  
7 SUBSECTION D SHALL NOT BE THE APPLICANT'S RELATIVE, SUBORDINATE OR EMPLOYEE  
8 DURING THE EXPERIENCE PERIOD. THE SUPERVISOR IS NOT AN EMPLOYEE OF THE  
9 APPLICANT IF THE ONLY COMPENSATION RECEIVED BY THE SUPERVISOR FROM THE  
10 APPLICANT CONSISTS OF PAYMENT FOR SUPERVISION. A SUPERVISOR MUST BE ONE OF  
11 THE FOLLOWING:

12 1. A LICENSED BEHAVIOR ANALYST WHO MEETS REQUIREMENTS FOR LICENSURE  
13 PURSUANT TO SUBSECTION A.

14 2. A BEHAVIOR ANALYST WHO IS CERTIFIED BY A NATIONALLY RECOGNIZED  
15 BEHAVIOR ANALYST CERTIFICATION BOARD AS DETERMINED BY THE BOARD AND WHOSE  
16 CERTIFICATION IS IN GOOD STANDING.

17 3. AN INDIVIDUAL WHO HAS APPLIED AND BEEN APPROVED TO TAKE A  
18 NATIONALLY RECOGNIZED BEHAVIOR ANALYST CERTIFICATION EXAMINATION AS  
19 DETERMINED BY THE BOARD.

20 4. AN INDIVIDUAL PROVIDING SUPERVISION BEFORE SEPTEMBER 1, 2006.

21 F. AN APPLICANT MAY SUBMIT A WRITTEN REQUEST TO THE BOARD FOR AN  
22 EXEMPTION FROM THE REQUIREMENT PRESCRIBED IN SUBSECTION E. THE REQUEST MUST  
23 INCLUDE THE NAME OF THE BEHAVIOR ANALYST PROPOSED BY THE APPLICANT TO ACT AS  
24 THE CLINICAL SUPERVISOR, A COPY OF THE PROPOSED CLINICAL SUPERVISOR'S  
25 TRANSCRIPT AND CURRICULUM VITAE AND ANY ADDITIONAL DOCUMENTATION REQUESTED BY  
26 THE BOARD. THE BOARD SHALL REVIEW THE SUPERVISION EXEMPTION REQUEST TO  
27 DETERMINE IF THE PROPOSED SUPERVISOR HAS THE NECESSARY EDUCATION, TRAINING  
28 AND EXPERIENCE TO PROVIDE SUPERVISION ACCEPTABLE FOR BEHAVIOR ANALYST  
29 LICENSURE. IF THE PROPOSED SUPERVISOR HAS THE NECESSARY EDUCATION, TRAINING  
30 AND EXPERIENCE, THE BOARD SHALL GRANT THE SUPERVISION EXEMPTION REQUEST. THE  
31 BOARD SHALL NOT GRANT AN EXEMPTION REQUEST FOR AN UNLICENSED CLINICAL  
32 SUPERVISOR PROVIDING CLINICAL SUPERVISION IN THIS STATE AFTER JULY 1, 2010,  
33 EXCEPT THAT AN EXEMPTION MAY BE GRANTED BY THE BOARD IF THE CLINICAL  
34 SUPERVISOR HOLDS A CURRENT NATIONAL CERTIFICATION FROM A NATIONALLY  
35 RECOGNIZED BEHAVIOR ANALYST CERTIFICATION BOARD AS DETERMINED BY THE  
36 BEHAVIORAL ANALYST BOARD.

37 G. AN INDIVIDUAL WHO COMPLETED THE DEGREE, COURSEWORK OR EXPERIENCE  
38 BEFORE JANUARY 1, 2000 MAY HAVE SUPERVISED WORK EXPERIENCE OR CORE SPECIFIED  
39 COURSEWORK THAT WAS ACCRUED IN A SETTING OUTSIDE OF A COLLEGE OR UNIVERSITY  
40 PROGRAM IF THE FOLLOWING CONDITIONS ARE MET:

41 1. THE ACQUIRED COURSEWORK OR SUPERVISED WORK EXPERIENCE WAS ACQUIRED  
42 AFTER THE GRADUATE DEGREE AND BEFORE JANUARY 1, 2000.

43 2. THE APPLICANT HAS MET THE REQUIREMENTS FOR AND RECEIVED THE  
44 CERTIFICATION CREDENTIAL FROM A NATIONALLY RECOGNIZED BEHAVIOR ANALYST  
45 CERTIFICATION BOARD AS DETERMINED BY THE BEHAVIOR ANALYST BOARD.

1 H. THE BOARD MAY PRESCRIBE BY RULE ADDITIONAL REQUIREMENTS RELATING TO  
2 EDUCATION AND TRAINING.

3 32-4323. Reciprocity

4 THE BOARD MAY ISSUE A LICENSE TO A PERSON AS A BEHAVIOR ANALYST IF THE  
5 PERSON IS LICENSED OR CERTIFIED BY ANOTHER STATE REGULATORY AGENCY AT AN  
6 EQUIVALENT OR HIGHER PRACTICE LEVEL AS DETERMINED BY THE BOARD, PAYS THE FEE  
7 PRESCRIBED BY THE BOARD AND MEETS ALL OF THE FOLLOWING REQUIREMENTS:

8 1. SUBMITS A WRITTEN APPLICATION PRESCRIBED BY THE BOARD.

9 2. IS OF GOOD MORAL CHARACTER. THE BOARD'S STANDARD TO DETERMINE GOOD  
10 MORAL CHARACTER SHALL NOT VIOLATE FEDERAL DISCRIMINATION LAWS.

11 3. DOCUMENTS TO THE BOARD'S SATISFACTION PROOF OF INITIAL LICENSURE OR  
12 CERTIFICATION AT AN EQUIVALENT DESIGNATION FOR WHICH THE APPLICANT IS SEEKING  
13 LICENSURE IN THIS STATE AND PROOF THAT THE LICENSE OR CERTIFICATE IS CURRENT  
14 AND IN GOOD STANDING.

15 4. DOCUMENTS TO THE BOARD'S SATISFACTION PROOF THAT ANY OTHER LICENSE  
16 OR CERTIFICATE ISSUED TO THE APPLICANT BY ANOTHER STATE HAS NOT BEEN  
17 SUSPENDED OR REVOKED. IF A LICENSEE OR CERTIFICATE HOLDER HAS BEEN SUBJECTED  
18 TO ANY OTHER DISCIPLINARY ACTION, THE BOARD MAY ASSESS THE MAGNITUDE OF THAT  
19 ACTION AND MAKE A DECISION REGARDING RECIPROCITY BASED ON THIS ASSESSMENT.

20 5. MEETS ANY OTHER REQUIREMENTS PRESCRIBED BY THE BOARD BY RULE.

21 32-4324. Examinations

22 A. AN APPLICANT FOR LICENSURE MUST PASS AN EXAMINATION FROM A  
23 NATIONALLY RECOGNIZED BEHAVIOR ANALYST CERTIFICATION BOARD AS DETERMINED BY  
24 THE BEHAVIOR ANALYST BOARD.

25 B. THE BOARD MAY REQUIRE AN ADDITIONAL EXAMINATION FOR ALL APPLICANTS  
26 TO COVER AREAS OF PROFESSIONAL ETHICS AND PRACTICE THAT IS CONSISTENT WITH  
27 THE APPLICANT'S EDUCATION AND EXPERIENCE, STATE LAW RELATING TO THE PRACTICE  
28 OF BEHAVIOR ANALYSIS OR OTHER AREAS THE BOARD DETERMINES ARE SUITABLE.

29 C. AN APPLICANT MAY NOT TAKE AN EXAMINATION ADMINISTERED FOR OR BY THE  
30 BOARD UNTIL THE APPLICANT COMPLETES THE EDUCATION REQUIREMENTS OF THIS  
31 ARTICLE.

32 D. AN APPLICANT WHO FAILS THE NATIONAL EXAMINATION ADMINISTERED FOR OR  
33 BY ANY JURISDICTION THREE TIMES IS NOT ELIGIBLE TO TAKE THAT EXAMINATION  
34 AGAIN UNTIL THE APPLICANT MEETS ADDITIONAL REQUIREMENTS PRESCRIBED BY THE  
35 BOARD.

36 32-4325. Temporary licenses; inactive status; reinstatement to  
37 active status

38 A. IF THE BOARD REQUIRES AN ADDITIONAL EXAMINATION, IT MAY ISSUE A  
39 TEMPORARY LICENSE TO A BEHAVIOR ANALYST WHO IS LICENSED OR CERTIFIED UNDER  
40 THE LAWS OF ANOTHER JURISDICTION, IF THE BEHAVIOR ANALYST APPLIES TO THE  
41 BOARD FOR LICENSURE AND MEETS THE EDUCATIONAL, EXPERIENCE AND FIRST  
42 EXAMINATION REQUIREMENTS OF THIS ARTICLE.

43 B. A TEMPORARY LICENSE ISSUED PURSUANT TO THIS SECTION IS EFFECTIVE  
44 FROM THE DATE THE APPLICATION IS APPROVED UNTIL THE LAST DAY OF THE MONTH IN  
45 WHICH THE APPLICANT RECEIVES THE RESULTS OF THE ADDITIONAL EXAMINATION.

1 C. THE BOARD SHALL NOT EXTEND, RENEW OR REISSUE A TEMPORARY LICENSE OR  
2 ALLOW IT TO CONTINUE IN EFFECT BEYOND THE PERIOD AUTHORIZED BY THIS SECTION.

3 D. THE BOARD'S DENIAL OF AN APPLICATION FOR LICENSURE TERMINATES A  
4 TEMPORARY LICENSE.

5 E. THE BOARD MAY PLACE ON INACTIVE STATUS AND WAIVE THE LICENSE  
6 RENEWAL FEE REQUIREMENTS FOR A PERSON WHO IS TEMPORARILY OR PERMANENTLY  
7 UNABLE TO PRACTICE AS A BEHAVIOR ANALYST DUE TO PHYSICAL OR MENTAL INCAPACITY  
8 OR DISABILITY. AN INITIAL REQUEST FOR THE WAIVER OF RENEWAL FEES SHALL BE  
9 ACCOMPANIED BY THE RENEWAL FEE FOR AN ACTIVE LICENSE, WHICH THE BOARD SHALL  
10 RETURN IF THE WAIVER IS GRANTED. THE BOARD SHALL JUDGE EACH REQUEST FOR THE  
11 WAIVER OF RENEWAL FEES ON ITS OWN MERITS AND MAY SEEK THE VERIFICATION IT  
12 DEEMS NECESSARY TO SUBSTANTIATE THE FACTS OF THE SITUATION. A BEHAVIOR  
13 ANALYST WHO IS RETIRED IS EXEMPT FROM PAYING THE RENEWAL FEE. A BEHAVIOR  
14 ANALYST MAY REQUEST VOLUNTARY INACTIVE STATUS BY SUBMITTING TO THE BOARD AN  
15 APPLICATION ON A FORM PRESCRIBED BY THE BOARD AND AN AFFIRMATION THAT THE  
16 BEHAVIOR ANALYST WILL NOT PRACTICE AS A BEHAVIOR ANALYST IN THIS STATE FOR  
17 THE DURATION OF THE VOLUNTARY INACTIVE STATUS AND BY PAYING THE REQUIRED FEE.

18 F. A BEHAVIOR ANALYST WHO IS ON ANY FORM OF INACTIVE STATUS SHALL  
19 RENEW THE INACTIVE STATUS EVERY TWO YEARS BY SUBMITTING A RENEWAL FORM  
20 PROVIDED BY THE BOARD AND PAYING ANY APPLICABLE FEE. A NOTICE TO RENEW IS  
21 FULLY EFFECTIVE BY MAILING THE RENEWAL APPLICATION TO THE LICENSEE'S LAST  
22 KNOWN ADDRESS OF RECORD IN THE BOARD'S FILE. NOTICE IS COMPLETE AT THE TIME  
23 OF ITS DEPOSIT IN THE MAIL. A BEHAVIOR ANALYST WHO IS ON INACTIVE STATUS DUE  
24 TO PHYSICAL OR MENTAL INCAPACITY OR DISABILITY OR RETIREMENT SHALL USE THE  
25 TERM "INACTIVE" TO DESCRIBE THE PERSON'S STATUS AND SHALL NOT PRACTICE AS A  
26 BEHAVIOR ANALYST.

27 G. A BEHAVIOR ANALYST ON INACTIVE STATUS MAY REQUEST REINSTATEMENT OF  
28 THE LICENSE TO ACTIVE STATUS BY APPLYING TO THE BOARD. THE BOARD SHALL  
29 DETERMINE WHETHER THE PERSON HAS BEEN OR IS IN VIOLATION OF ANY PROVISIONS OF  
30 THIS CHAPTER AND WHETHER THE PERSON HAS MAINTAINED AND UPDATED THE PERSON'S  
31 PROFESSIONAL KNOWLEDGE AND CAPABILITY TO PRACTICE AS A BEHAVIOR ANALYST. THE  
32 BOARD MAY REQUIRE THE PERSON TO TAKE OR RETAKE THE LICENSURE EXAMINATIONS AND  
33 MAY REQUIRE OTHER KNOWLEDGE OR SKILL TRAINING EXPERIENCES. IF APPROVED FOR  
34 ACTIVE STATUS, THE PERSON SHALL PAY A RENEWAL FEE THAT EQUALS THE RENEWAL FEE  
35 FOR THE LICENSE TO BE REINSTATED.

36 32-4326. Active license; issuance; renewal; expiration;  
37 continuing education

38 A. IF THE APPLICANT SATISFIES ALL OF THE REQUIREMENTS FOR LICENSURE  
39 PURSUANT TO THIS ARTICLE, THE BOARD SHALL ISSUE AN ACTIVE LICENSE AND SHALL  
40 PRORATE THE FEE FOR ISSUING THAT LICENSE FOR THE PERIOD REMAINING UNTIL MAY 1  
41 OF THE NEXT ODD-NUMBERED YEAR.

42 B. A PERSON HOLDING AN ACTIVE OR INACTIVE LICENSE SHALL APPLY TO RENEW  
43 THE LICENSE ON OR BEFORE APRIL 30 OF EACH ODD-NUMBERED YEAR. THE APPLICATION  
44 SHALL INCLUDE ANY APPLICABLE RENEWAL FEE. A LICENSE EXPIRES IF THE LICENSEE  
45 FAILS TO RENEW THE LICENSE ON OR BEFORE APRIL 30 OF THAT YEAR. A LICENSEE

1 MAY REINSTATE AN EXPIRED LICENSE BY PAYING A REINSTATEMENT FEE ON OR BEFORE  
2 JUNE 30 OF THAT YEAR. BEGINNING ON JULY 1 OF THAT YEAR THROUGH APRIL 30 OF  
3 THE NEXT YEAR, A LICENSEE MAY REINSTATE THE LICENSE BY PAYING A REINSTATEMENT  
4 FEE AND PROVIDING PROOF OF COMPETENCY AND QUALIFICATIONS TO THE BOARD. THIS  
5 PROOF MAY INCLUDE CONTINUING EDUCATION, AN ORAL EXAMINATION, A WRITTEN  
6 EXAMINATION OR AN INTERVIEW WITH THE BOARD. A LICENSEE WHOSE LICENSE IS NOT  
7 REINSTATED ON OR BEFORE APRIL 30 OF THE NEXT EVEN-NUMBERED YEAR MAY REAPPLY  
8 FOR LICENSURE AS PRESCRIBED BY THIS ARTICLE. A NOTICE TO RENEW IS FULLY  
9 EFFECTIVE BY MAILING THE RENEWAL APPLICATION TO THE LICENSEE'S LAST KNOWN  
10 ADDRESS OF RECORD IN THE BOARD'S FILE. NOTICE IS COMPLETE AT THE TIME OF  
11 DEPOSIT IN THE MAIL.

12 C. A PERSON RENEWING A LICENSE SHALL ATTACH TO THE COMPLETED RENEWAL  
13 FORM A REPORT OF DISCIPLINARY ACTIONS OR RESTRICTIONS PLACED AGAINST THE  
14 LICENSE BY ANOTHER STATE LICENSING OR DISCIPLINARY BOARD OR DISCIPLINARY  
15 ACTIONS OR SANCTIONS IMPOSED BY A STATE OR NATIONAL BEHAVIOR ANALYSIS ETHICS  
16 COMMITTEE OR HEALTH CARE INSTITUTION. THE REPORT SHALL INCLUDE THE NAME AND  
17 ADDRESS OF THE SANCTIONING AGENCY OR HEALTH CARE INSTITUTION, THE NATURE OF  
18 THE ACTION TAKEN AND A GENERAL STATEMENT OF THE CHARGES LEADING TO THE  
19 ACTION.

20 D. A PERSON WHO RENEWS AN ACTIVE LICENSE TO PRACTICE BEHAVIOR ANALYSIS  
21 IN THIS STATE SHALL SATISFY A CONTINUING EDUCATION REQUIREMENT DESIGNED TO  
22 PROVIDE THE NECESSARY UNDERSTANDING OF CURRENT DEVELOPMENTS, SKILLS,  
23 PROCEDURES OR TREATMENT RELATED TO THE PRACTICE OF BEHAVIOR ANALYSIS IN THE  
24 AMOUNT AND DURING THE PERIOD THE BOARD PRESCRIBES. THE BOARD SHALL PRESCRIBE  
25 DOCUMENTATION REQUIREMENTS.

26 32-4327. Exemptions from licensure

27 A. THIS CHAPTER DOES NOT LIMIT THE ACTIVITIES, SERVICES AND USE OF A  
28 TITLE BY THE FOLLOWING:

29 1. A BEHAVIOR ANALYST WHO IS EMPLOYED IN A COMMON SCHOOL, HIGH SCHOOL  
30 OR CHARTER SCHOOL SETTING AND WHO IS CERTIFIED TO USE THAT TITLE BY THE  
31 DEPARTMENT OF EDUCATION IF THE SERVICES OR ACTIVITIES ARE A PART OF THE  
32 DUTIES OF THAT PERSON'S COMMON SCHOOL, HIGH SCHOOL OR CHARTER SCHOOL  
33 EMPLOYMENT.

34 2. AN EMPLOYEE OF A GOVERNMENT AGENCY IN A SUBDOCTORATE POSITION WHO  
35 USES THE WORD "ASSISTANT" OR "ASSOCIATE" AFTER THE TITLE AND WHO IS  
36 SUPERVISED BY A DOCTORATE POSITION EMPLOYEE WHO IS LICENSED AS A BEHAVIOR  
37 ANALYST, INCLUDING A TEMPORARY LICENSEE.

38 3. A STUDENT OF BEHAVIOR ANALYSIS PURSUING AN OFFICIAL COURSE OF  
39 GRADUATE STUDY AT AN EDUCATIONAL INSTITUTION ACCREDITED AS PRESCRIBED BY THE  
40 BOARD, IF AFTER THE TITLE THE WORD "TRAINEE", "INTERN" OR "EXTERN" APPEARS  
41 AND THE STUDENT USES THE TITLE ONLY IN CONJUNCTION WITH ACTIVITIES AND  
42 SERVICES THAT ARE A PART OF THE SUPERVISED PROGRAM.

43 4. A PERSON WHO RESIDES OUTSIDE OF THIS STATE AND WHO IS CURRENTLY  
44 LICENSED OR CERTIFIED AS A BEHAVIOR ANALYST IN THAT STATE IF THE ACTIVITIES  
45 AND SERVICES CONDUCTED IN THIS STATE ARE WITHIN THE BEHAVIOR ANALYST'S

1 CUSTOMARY AREA OF PRACTICE, DO NOT EXCEED TWENTY DAYS PER YEAR AND ARE NOT  
2 OTHERWISE IN VIOLATION OF THIS CHAPTER AND THE CLIENT, PUBLIC OR CONSUMER IS  
3 INFORMED OF THE LIMITED NATURE OF THESE ACTIVITIES AND SERVICES AND THAT THE  
4 BEHAVIOR ANALYST IS NOT LICENSED IN THIS STATE.

5 5. A PERSON IN THE EMPLOY OF ARIZONA STATE UNIVERSITY, NORTHERN  
6 ARIZONA UNIVERSITY OR THE UNIVERSITY OF ARIZONA IF THE SERVICES ARE A PART OF  
7 THE FACULTY DUTIES OF THAT PERSON'S SALARIED POSITION AND THE PERSON IS  
8 PARTICIPATING IN A POSTDOCTORAL PROGRAM.

9 6. A SUPERVISEE WHO IS PURSUING A POSTDOCTORAL PROFESSIONAL EXPERIENCE  
10 IF THE SERVICES OR ACTIVITIES ARE PROVIDED UNDER THE DIRECT SUPERVISION OF A  
11 LICENSED BEHAVIOR ANALYST, CLIENTS ARE INFORMED OF THE TRAINING NATURE OF THE  
12 SERVICES PROVIDED AND THE SUPERVISEE HAS A TITLE THAT DESIGNATES THAT  
13 PERSON'S TRAINING STATUS.

14 B. THIS CHAPTER DOES NOT LIMIT THE USE OF THE TITLE "BEHAVIOR ANALYST"  
15 BY A PERSON WHO POSSESSES A DOCTORAL DEGREE FROM AN EDUCATIONAL INSTITUTION  
16 IF THAT PERSON IS NOT ENGAGED IN THE PRACTICE OF BEHAVIOR ANALYSIS.

17 C. THIS CHAPTER DOES NOT PREVENT A MEMBER OF OTHER RECOGNIZED  
18 PROFESSIONS WHO IS LICENSED, CERTIFIED OR REGULATED UNDER THE LAWS OF THIS  
19 STATE FROM RENDERING SERVICES WITHIN THAT PERSON'S SCOPE OF PRACTICE AND CODE  
20 OF ETHICS IF THAT PERSON DOES NOT CLAIM TO BE A BEHAVIOR ANALYST.

21 ARTICLE 3. REGULATION

22 32-4351. Grounds for disciplinary action; duty to report;  
23 immunity; proceedings; board action; notice  
24 requirements; civil penalty

25 A. THE BOARD ON ITS OWN MOTION MAY INVESTIGATE EVIDENCE THAT APPEARS  
26 TO SHOW THAT A LICENSEE IS PSYCHOLOGICALLY INCOMPETENT, GUILTY OF  
27 UNPROFESSIONAL CONDUCT OR MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN  
28 THE PRACTICE OF BEHAVIOR ANALYSIS. A HEALTH CARE INSTITUTION SHALL, AND ANY  
29 OTHER PERSON MAY, REPORT TO THE BOARD INFORMATION THAT APPEARS TO SHOW THAT A  
30 LICENSEE IS PSYCHOLOGICALLY INCOMPETENT, GUILTY OF UNPROFESSIONAL CONDUCT OR  
31 MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE PRACTICE OF BEHAVIOR  
32 ANALYSIS. THE BOARD SHALL NOTIFY THE LICENSEE ABOUT WHOM INFORMATION HAS  
33 BEEN RECEIVED AS TO THE CONTENT OF THE INFORMATION WITHIN ONE HUNDRED TWENTY  
34 DAYS AFTER RECEIVING THE INFORMATION. A PERSON WHO REPORTS OR PROVIDES  
35 INFORMATION TO THE BOARD IN GOOD FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL  
36 DAMAGES. THE BOARD, IF REQUESTED, SHALL NOT DISCLOSE THE NAME OF THE PERSON  
37 PROVIDING INFORMATION UNLESS THIS INFORMATION IS ESSENTIAL TO PROCEEDINGS  
38 CONDUCTED PURSUANT TO THIS SECTION. THE BOARD SHALL REPORT A HEALTH CARE  
39 INSTITUTION THAT FAILS TO REPORT AS REQUIRED BY THIS SECTION TO THE  
40 INSTITUTION'S LICENSING AGENCY.

41 B. A HEALTH CARE INSTITUTION SHALL INFORM THE BOARD IF THE PRIVILEGES  
42 OF A LICENSEE TO PRACTICE IN THAT INSTITUTION ARE DENIED, REVOKED, SUSPENDED  
43 OR LIMITED BECAUSE OF ACTIONS BY THE LICENSEE THAT APPEAR TO SHOW THAT THE  
44 PERSON IS PSYCHOLOGICALLY INCOMPETENT, GUILTY OF UNPROFESSIONAL CONDUCT OR  
45 MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE PRACTICE OF BEHAVIOR

1 ANALYSIS, ALONG WITH A GENERAL STATEMENT OF THE REASONS THAT LED THE HEALTH  
2 CARE INSTITUTION TO TAKE THIS ACTION. A HEALTH CARE INSTITUTION SHALL INFORM  
3 THE BOARD IF A LICENSEE UNDER INVESTIGATION RESIGNS THE LICENSEE'S PRIVILEGES  
4 OR IF A LICENSEE RESIGNS IN LIEU OF DISCIPLINARY ACTION BY THE HEALTH CARE  
5 INSTITUTION. NOTIFICATION MUST INCLUDE A GENERAL STATEMENT OF THE REASONS  
6 FOR THE RESIGNATION.

7 C. THE BOARD MAY REQUIRE THE LICENSEE TO UNDERGO ANY COMBINATION OF  
8 MENTAL, PHYSICAL OR PSYCHOLOGICAL COMPETENCE EXAMINATIONS AT THE LICENSEE'S  
9 EXPENSE AND SHALL CONDUCT INVESTIGATIONS NECESSARY TO DETERMINE THE  
10 COMPETENCE AND CONDUCT OF THE LICENSEE.

11 D. THE CHAIRPERSON OF THE BOARD SHALL APPOINT A COMPLAINT SCREENING  
12 COMMITTEE OF AT LEAST THREE MEMBERS OF THE BOARD, INCLUDING A PUBLIC MEMBER.  
13 THE COMPLAINT SCREENING COMMITTEE IS SUBJECT TO OPEN MEETING REQUIREMENTS  
14 PURSUANT TO TITLE 38, CHAPTER 3, ARTICLE 3.1. THE COMPLAINT SCREENING  
15 COMMITTEE SHALL REVIEW ALL COMPLAINTS AND, BASED ON THE INFORMATION PROVIDED  
16 PURSUANT TO SUBSECTION A OR B OF THIS SECTION, MAY TAKE EITHER OF THE  
17 FOLLOWING ACTIONS:

18 1. DISMISS THE COMPLAINT IF THE COMMITTEE DETERMINES THAT THE  
19 COMPLAINT IS WITHOUT MERIT. COMPLAINTS DISMISSED BY THE COMPLAINT SCREENING  
20 COMMITTEE SHALL NOT BE DISCLOSED IN RESPONSE TO A TELEPHONE INQUIRY OR PLACED  
21 ON THE BOARD'S WEBSITE.

22 2. REFER THE COMPLAINT TO THE FULL BOARD FOR FURTHER REVIEW AND  
23 ACTION.

24 E. IF THE BOARD FINDS, BASED ON THE INFORMATION IT RECEIVES UNDER  
25 SUBSECTION A OR B OF THIS SECTION, THAT THE PUBLIC HEALTH, SAFETY OR WELFARE  
26 REQUIRES EMERGENCY ACTION, THE BOARD MAY ORDER A SUMMARY SUSPENSION OF A  
27 LICENSE PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION. IF THE BOARD  
28 ISSUES THIS ORDER, IT SHALL SERVE THE LICENSEE WITH A WRITTEN NOTICE OF  
29 COMPLAINT AND FORMAL HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10,  
30 SETTING FORTH THE CHARGES MADE AGAINST THE LICENSEE AND THE LICENSEE'S RIGHT  
31 TO A FORMAL HEARING BEFORE THE BOARD OR AN ADMINISTRATIVE LAW JUDGE WITHIN  
32 SIXTY DAYS.

33 F. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO  
34 SUBSECTION A OR B OF THIS SECTION IS NOT OF SUFFICIENT SERIOUSNESS TO MERIT  
35 DIRECT ACTION AGAINST THE LICENSEE, IT MAY TAKE ANY OF THE FOLLOWING ACTIONS:

36 1. DISMISS IF THE BOARD BELIEVES THE INFORMATION IS WITHOUT MERIT.

37 2. FILE A LETTER OF CONCERN.

38 3. ISSUE A NONDISCIPLINARY ORDER REQUIRING THE LICENSEE TO COMPLETE A  
39 PRESCRIBED NUMBER OF HOURS OF CONTINUING EDUCATION IN AN AREA OR AREAS  
40 PRESCRIBED BY THE BOARD TO PROVIDE THE LICENSEE WITH THE NECESSARY  
41 UNDERSTANDING OF CURRENT DEVELOPMENTS, SKILLS, PROCEDURES OR TREATMENT.

42 G. IF THE BOARD BELIEVES THE INFORMATION PROVIDED PURSUANT TO  
43 SUBSECTION A OR B OF THIS SECTION IS OR MAY BE TRUE, IT MAY REQUEST AN  
44 INFORMAL INTERVIEW WITH THE LICENSEE. IF THE LICENSEE REFUSES TO BE  
45 INTERVIEWED OR IF PURSUANT TO AN INTERVIEW THE BOARD DETERMINES THAT CAUSE

1 MAY EXIST TO REVOKE OR SUSPEND THE LICENSE, IT SHALL ISSUE A FORMAL COMPLAINT  
2 AND HOLD A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. IF AS A  
3 RESULT OF AN INFORMAL INTERVIEW OR A HEARING THE BOARD DETERMINES THAT THE  
4 FACTS DO NOT WARRANT REVOCATION OR SUSPENSION OF THE LICENSE, IT MAY TAKE ANY  
5 OF THE FOLLOWING ACTIONS:

6 1. DISMISS IF THE BOARD BELIEVES THE INFORMATION IS WITHOUT MERIT.

7 2. FILE A LETTER OF CONCERN.

8 3. ISSUE A DECREE OF CENSURE.

9 4. FIX A PERIOD AND TERMS OF PROBATION BEST ADAPTED TO PROTECT THE  
10 PUBLIC HEALTH AND SAFETY AND TO REHABILITATE OR EDUCATE THE LICENSEE.  
11 PROBATION MAY INCLUDE TEMPORARY SUSPENSION FOR NOT MORE THAN TWELVE MONTHS,  
12 RESTRICTION OF THE LICENSE OR RESTITUTION OF FEES TO A CLIENT RESULTING FROM  
13 VIOLATIONS OF THIS CHAPTER. IF A LICENSEE FAILS TO COMPLY WITH A TERM OF  
14 PROBATION, THE BOARD MAY FILE A COMPLAINT AND NOTICE OF HEARING PURSUANT TO  
15 TITLE 41, CHAPTER 6, ARTICLE 10 AND TAKE FURTHER DISCIPLINARY ACTION.

16 5. ENTER INTO AN AGREEMENT WITH THE LICENSEE TO RESTRICT OR LIMIT THE  
17 LICENSEE'S PRACTICE OR ACTIVITIES IN ORDER TO REHABILITATE THE LICENSEE,  
18 PROTECT THE PUBLIC AND ENSURE THE LICENSEE'S ABILITY TO SAFELY ENGAGE IN THE  
19 PRACTICE OF BEHAVIOR ANALYSIS.

20 6. ISSUE A NONDISCIPLINARY ORDER REQUIRING THE LICENSEE TO COMPLETE A  
21 PRESCRIBED NUMBER OF HOURS OF CONTINUING EDUCATION IN AN AREA OR AREAS  
22 PRESCRIBED BY THE BOARD TO PROVIDE THE LICENSEE WITH THE NECESSARY  
23 UNDERSTANDING OF CURRENT DEVELOPMENTS, SKILLS, PROCEDURES OR TREATMENT.

24 H. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO  
25 SUBSECTION A OR B OF THIS SECTION WARRANTS SUSPENSION OR REVOCATION OF A  
26 LICENSE, IT SHALL HOLD A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.  
27 NOTICE OF A COMPLAINT AND HEARING IS FULLY EFFECTIVE BY MAILING A TRUE COPY  
28 TO THE LICENSEE'S LAST KNOWN ADDRESS OF RECORD IN THE BOARD'S FILES. NOTICE  
29 IS COMPLETE AT THE TIME OF ITS DEPOSIT IN THE MAIL.

30 I. THE BOARD MAY IMPOSE A CIVIL PENALTY OF AT LEAST THREE HUNDRED  
31 DOLLARS BUT NOT MORE THAN THREE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS  
32 CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER. THE BOARD SHALL DEPOSIT,  
33 PURSUANT TO SECTIONS 35-146 AND 35-147, ALL MONIES IT COLLECTS FROM CIVIL  
34 PENALTIES PURSUANT TO THIS SUBSECTION IN THE STATE GENERAL FUND.

35 J. IF THE BOARD DETERMINES AFTER A HEARING THAT A LICENSEE HAS  
36 COMMITTED AN ACT OF UNPROFESSIONAL CONDUCT, IS MENTALLY OR PHYSICALLY UNABLE  
37 TO SAFELY ENGAGE IN THE PRACTICE OF BEHAVIOR ANALYSIS OR IS PSYCHOLOGICALLY  
38 INCOMPETENT, IT MAY DO ANY OF THE FOLLOWING IN ANY COMBINATION AND FOR ANY  
39 PERIOD OF TIME IT DETERMINES NECESSARY:

40 1. SUSPEND OR REVOKE THE LICENSE.

41 2. CENSURE THE LICENSEE.

42 3. PLACE THE LICENSEE ON PROBATION.

43 K. A LICENSEE MAY SUBMIT A WRITTEN RESPONSE TO THE BOARD WITHIN THIRTY  
44 DAYS AFTER RECEIVING A LETTER OF CONCERN. THE RESPONSE IS A PUBLIC DOCUMENT  
45 AND SHALL BE PLACED IN THE LICENSEE'S FILE.



1 L. A LETTER OF CONCERN IS A PUBLIC DOCUMENT AND MAY BE USED IN FUTURE  
2 DISCIPLINARY ACTIONS AGAINST A LICENSEE. A DECREE OF CENSURE IS AN OFFICIAL  
3 ACTION AGAINST THE BEHAVIOR ANALYST'S LICENSE AND MAY INCLUDE A REQUIREMENT  
4 THAT THE LICENSEE RETURN FEES TO A CLIENT.

5 M. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, A PERSON  
6 MAY APPEAL A FINAL DECISION MADE PURSUANT TO THIS SECTION TO THE SUPERIOR  
7 COURT PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

8 N. IF DURING THE COURSE OF AN INVESTIGATION THE BOARD DETERMINES THAT  
9 A CRIMINAL VIOLATION MAY HAVE OCCURRED INVOLVING THE DELIVERY OF BEHAVIOR  
10 ANALYSIS SERVICES, IT SHALL INFORM THE APPROPRIATE CRIMINAL JUSTICE AGENCY.

11 32-4352. Right to examine and copy evidence; subpoenas; right  
12 to counsel; confidentiality

13 A. IN CONNECTION WITH AN INVESTIGATION CONDUCTED PURSUANT TO THIS  
14 CHAPTER, AT ALL REASONABLE TIMES THE BOARD AND ITS AUTHORIZED AGENTS MAY  
15 EXAMINE AND COPY DOCUMENTS, REPORTS, RECORDS AND OTHER PHYSICAL EVIDENCE  
16 WHEREVER LOCATED RELATING TO THE LICENSEE'S PROFESSIONAL COMPETENCE,  
17 UNPROFESSIONAL CONDUCT OR MENTAL OR PHYSICAL ABILITY TO SAFELY PRACTICE  
18 BEHAVIOR ANALYSIS.

19 B. THE BOARD AND ITS AUTHORIZED AGENTS MAY ISSUE SUBPOENAS TO COMPEL  
20 THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF DOCUMENTS AND  
21 OTHER PHYSICAL EVIDENCE AS PRESCRIBED IN SUBSECTION A. THE BOARD MAY  
22 PETITION THE SUPERIOR COURT TO ENFORCE A SUBPOENA.

23 C. WITHIN FIVE DAYS OF RECEIVING A SUBPOENA, A PERSON MAY PETITION THE  
24 BOARD TO REVOKE, LIMIT OR MODIFY THE SUBPOENA. THE BOARD SHALL TAKE THIS  
25 ACTION IF IT DETERMINES THAT THE EVIDENCE DEMANDED IS NOT RELEVANT TO THE  
26 INVESTIGATION. THE PERSON MAY PETITION THE SUPERIOR COURT FOR THIS RELIEF  
27 WITHOUT FIRST PETITIONING THE BOARD.

28 D. A PERSON APPEARING BEFORE THE BOARD OR ITS AUTHORIZED AGENTS MAY BE  
29 REPRESENTED BY AN ATTORNEY.

30 E. DOCUMENTS ASSOCIATED WITH AN INVESTIGATION ARE NOT OPEN TO THE  
31 PUBLIC AND SHALL REMAIN CONFIDENTIAL. DOCUMENTS MAY NOT BE RELEASED WITHOUT  
32 A COURT ORDER COMPELLING THEIR PRODUCTION.

33 F. THIS SECTION OR ANY OTHER PROVISION OF LAW MAKING COMMUNICATIONS  
34 BETWEEN A BEHAVIOR ANALYST AND CLIENT PRIVILEGED DOES NOT APPLY TO AN  
35 INVESTIGATION CONDUCTED PURSUANT TO THIS CHAPTER. THE BOARD, ITS EMPLOYEES  
36 AND ITS AGENTS SHALL KEEP IN CONFIDENCE THE NAMES OF CLIENTS WHOSE RECORDS  
37 ARE REVIEWED DURING AN INVESTIGATION.

38 32-4353. Injunction

39 A. THE BOARD MAY PETITION THE SUPERIOR COURT FOR AN ORDER TO ENJOIN  
40 THE FOLLOWING:

41 1. A PERSON WHO IS NOT LICENSED PURSUANT TO THIS CHAPTER FROM  
42 PRACTICING BEHAVIOR ANALYSIS.

43 2. THE ACTIVITIES OF A LICENSEE THAT ARE AN IMMEDIATE THREAT TO THE  
44 PUBLIC.

45 3. CRIMINAL ACTIVITIES.

1 B. IF THE BOARD SEEKS AN INJUNCTION TO STOP THE UNLICENSED PRACTICE OF  
2 BEHAVIOR ANALYSIS, IT IS SUFFICIENT TO CHARGE THAT THE RESPONDENT ON A  
3 CERTAIN DAY IN A SPECIFIC COUNTY ENGAGED IN THE PRACTICE OF BEHAVIOR ANALYSIS  
4 WITHOUT A LICENSE AND WITHOUT BEING EXEMPT FROM THE LICENSURE REQUIREMENTS OF  
5 THIS CHAPTER. IT IS NOT NECESSARY TO SHOW SPECIFIC DAMAGES OR INJURY.

6 C. THE ISSUANCE OF AN INJUNCTION DOES NOT LIMIT THE BOARD'S AUTHORITY  
7 TO TAKE OTHER ACTION AGAINST A LICENSEE PURSUANT TO THIS CHAPTER.

8 32-4354. Violations; classification

9 A. IT IS A CLASS 2 MISDEMEANOR FOR A PERSON WHO IS NOT LICENSED  
10 PURSUANT TO THIS CHAPTER TO ENGAGE IN THE PRACTICE OF BEHAVIOR ANALYSIS.

11 B. IT IS A CLASS 2 MISDEMEANOR FOR ANY PERSON TO:

12 1. SECURE A LICENSE TO PRACTICE PURSUANT TO THIS CHAPTER BY FRAUD OR  
13 DECEIT.

14 2. IMPERSONATE A MEMBER OF THE BOARD IN ORDER TO ISSUE A LICENSE TO  
15 PRACTICE PURSUANT TO THIS CHAPTER.

16 C. IT IS A CLASS 2 MISDEMEANOR FOR A PERSON WHO IS NOT LICENSED  
17 PURSUANT TO THIS CHAPTER TO USE ANY COMBINATION OF WORDS, INITIALS AND  
18 SYMBOLS THAT LEADS THE PUBLIC TO BELIEVE THE PERSON IS LICENSED TO PRACTICE  
19 BEHAVIOR ANALYSIS IN THIS STATE.

20 32-4355. Confidential communications

21 A. THE CONFIDENTIAL RELATIONS AND COMMUNICATIONS BETWEEN A CLIENT AND  
22 A LICENSEE, INCLUDING TEMPORARY LICENSEES, ARE PLACED ON THE SAME BASIS AS  
23 THOSE PROVIDED BY LAW BETWEEN AN ATTORNEY AND CLIENT. UNLESS THE CLIENT  
24 WAIVES THE BEHAVIOR ANALYST-CLIENT PRIVILEGE IN WRITING OR IN COURT  
25 TESTIMONY, A BEHAVIOR ANALYST SHALL NOT VOLUNTARILY OR INVOLUNTARILY DIVULGE  
26 INFORMATION THAT IS RECEIVED BY REASON OF THE CONFIDENTIAL NATURE OF THE  
27 BEHAVIOR ANALYST'S PRACTICE. THE BEHAVIOR ANALYST SHALL DIVULGE TO THE BOARD  
28 INFORMATION IT REQUIRES IN CONNECTION WITH ANY INVESTIGATION, PUBLIC HEARING  
29 OR OTHER PROCEEDING. THE BEHAVIOR ANALYST-CLIENT PRIVILEGE DOES NOT  
30 EXTEND TO CASES IN WHICH THE BEHAVIOR ANALYST HAS A DUTY TO REPORT  
31 INFORMATION AS REQUIRED BY LAW.

32 B. THE BEHAVIOR ANALYST SHALL ENSURE THAT CLIENT RECORDS AND  
33 COMMUNICATIONS ARE TREATED BY CLERICAL AND PARAPROFESSIONAL STAFF AT THE SAME  
34 LEVEL OF CONFIDENTIALITY AND PRIVILEGE REQUIRED OF THE BEHAVIOR ANALYST.

35 Sec. 3. Section 41-1092, Arizona Revised Statutes, is amended to read:

36 41-1092. Definitions

37 In this article, unless the context otherwise requires:

38 1. "Administrative law judge" means an individual or an agency head,  
39 board or commission that sits as an administrative law judge, that conducts  
40 administrative hearings in a contested case or an appealable agency action  
41 and that makes decisions regarding the contested case or appealable agency  
42 action.

43 2. "Administrative law judge decision" means the findings of fact,  
44 conclusions of law and recommendations or decisions issued by an  
45 administrative law judge.

1           3. "Appealable agency action" means an action that determines the  
2 legal rights, duties or privileges of a party and that is not a contested  
3 case. Appealable agency actions do not include interim orders by  
4 self-supporting regulatory boards or rules, orders, standards or statements  
5 of policy of general application issued by an administrative agency to  
6 implement, interpret or make specific the legislation enforced or  
7 administered by it, nor does it mean or include rules concerning the internal  
8 management of the agency that do not affect private rights or interests. For  
9 the purposes of this paragraph, administrative hearing does not include a  
10 public hearing held for the purpose of receiving public comment on a proposed  
11 agency action.

12           4. "Director" means the director of the office of administrative  
13 hearings.

14           5. "Final administrative decision" means a decision by an agency that  
15 is subject to judicial review pursuant to title 12, chapter 7, article 6.

16           6. "Office" means the office of administrative hearings.

17           7. "Self-supporting regulatory board" means any one of the following:

18           (a) The ARIZONA state board of accountancy.

19           (b) The state board of appraisal.

20           (c) The board of barbers.

21           (d) The board of behavioral health examiners.

22           (e) The Arizona state boxing commission.

23           (f) The state board of chiropractic examiners.

24           (g) The board of cosmetology.

25           (h) The state board of dental examiners.

26           (i) The state board of funeral directors and embalmers.

27           (j) The Arizona game and fish commission.

28           (k) The board of homeopathic medical examiners.

29           (l) The Arizona medical board.

30           (m) The naturopathic physicians board of medical examiners.

31           (n) The state board of nursing.

32           (o) The board of examiners of nursing care institution administrators  
33 and adult care home managers.

34           (p) The board of occupational therapy examiners.

35           (q) The state board of dispensing opticians.

36           (r) The state board of optometry.

37           (s) The Arizona board of osteopathic examiners in medicine and  
38 surgery.

39           (t) The Arizona peace officer standards and training board.

40           (u) The Arizona state board of pharmacy.

41           (v) The board of physical therapy examiners.

42           (w) The state board of podiatry examiners.

43           (x) The state board for private postsecondary education.

44           (y) The state board of psychologist examiners.

45           (z) The board of respiratory care examiners.

- 1 (aa) The structural pest control commission.
- 2 (bb) The state board of technical registration.
- 3 (cc) The Arizona state veterinary medical examining board.
- 4 (dd) The acupuncture board of examiners.
- 5 (ee) The Arizona regulatory board of physician assistants.
- 6 (ff) The board of athletic training.
- 7 (gg) The board of massage therapy.
- 8 (hh) THE BEHAVIOR ANALYST BOARD.

9 Sec. 4. Title 41, chapter 27, article 2, Arizona Revised Statutes, is  
10 amended by adding section 41-3018.01, to read:

11 41-3018.01. Behavior analyst board; termination July 1, 2018

12 A. THE BEHAVIOR ANALYST BOARD TERMINATES ON JULY 1, 2018.

13 B. TITLE 32, CHAPTER 43 IS REPEALED ON JANUARY 1, 2019.

14 Sec. 5. Initial terms of members of the behavioral analyst  
15 board

16 A. Notwithstanding section 32-4302, Arizona Revised Statutes, as added  
17 by this act, the initial terms of the behavior analyst board are:

18 1. One term ending January 31, 2010.

19 2. Two terms ending January 31, 2011.

20 3. Two terms ending January 31, 2012.

21 B. The governor shall make all subsequent appointments as prescribed  
22 by statute.

23 Sec. 6. Exemption from rule making

24 For the purposes of this act, the behavior analyst board is exempt from  
25 the rule making requirements of title 41, chapter 6, Arizona Revised  
26 Statutes, for two years after the effective date of this act.

27 Sec. 7. Purpose

28 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,  
29 the legislature establishes the behavior analyst board to promote the safe  
30 and professional practice of behavior analysis services.