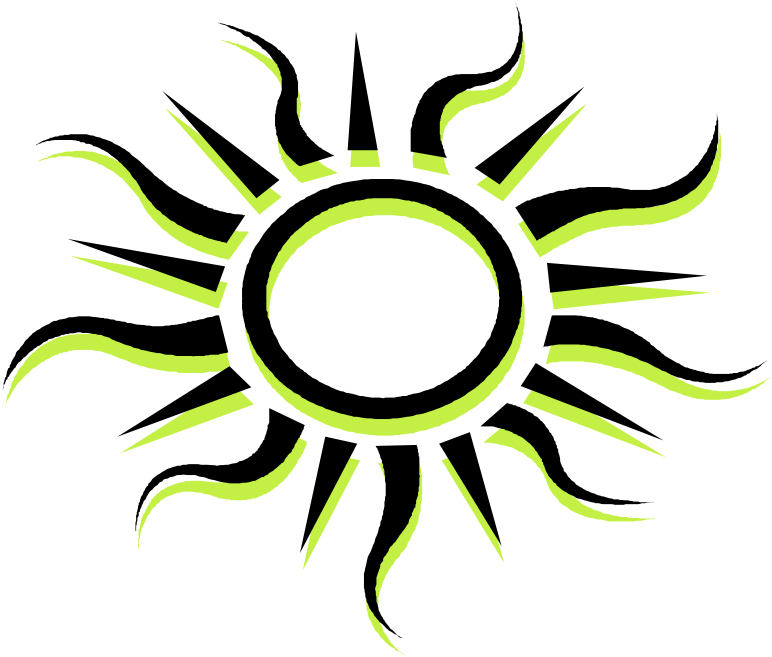
SUNRISE REPORT

LICENSURE OF BOARD CERTIFIED BEHAVIOR ANALYSTS

Proposed Statutory Change to Expand Licensure of Behavioral Health Professionals or Licensed Psychologists to Include Board Certified Behavior Analysts



Submitted by:

Southern Arizona Behavioral Health Coalition
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The Issue: There are 5 groups of professionals authorized to provide, supervise, and direct behavioral health services for individuals with behavioral health issues: Social Workers, Marriage and Family Therapists, Substance Abuse Counselors, Licensed Counselors, and Licensed Psychologists. These professions are trained to assist individuals with behavioral health issues via a variety of treatment approaches, one of which might be techniques from the science of behavior analysis. However, most of the training and experience for individuals in these professions is based upon the methodology of traditional office/insight therapy. Most otherwise competent providers of behavioral health do not hold expertise specific to the application of behavioral procedures. The training and experience of behavior analysts are specifically oriented towards addressing the most significant issues in a person's life within the context where the problem occurs. This profession, with training and experience requirements ideally suited for behavioral health issues, is excluded from full practice as behavioral health professionals within the behavioral health system in Arizona. This exclusion limits the availability to consumers of trained professionals and exposes consumers to increased risk. Furthermore, the current system takes on added redundancy and cost when a qualified behavior analyst must be supervised by a licensed behavioral health professional.

Executive Summary

The citizens of Arizona have the right to expect that the state will offer an appropriate level of regulation for all health care services. The vast majority of patients entering behavioral health treatment are vulnerable or impaired due to their disorders. Behavioral health professionals serve some of the most vulnerable of the state's residents, including children of all ages, adolescents, the elderly, the seriously mentally ill, the chronically mentally ill and the developmentally disabled.

Behavioral health services are typically provided to consumers in private, behind the closed doors of their therapist's/counselor's office. The consumers' lack of sophistication regarding therapeutic protocol leaves them particularly vulnerable to incompetent or unethical providers. Licensure of all behavioral health professionals has ensured that these consumers receive at least the same level of protection available to consumers of other health care services in Arizona; however, the categories of licensed professionals also has prohibited access to specially trained professionals (behavior analysts). When assisting an individual with behavior problems a thorough behavioral (functional) assessment and a well-designed and implemented behavioral intervention can mean the difference between receiving effective treatment or languishing in care, or worse.

The Behavioral health system in Arizona has advanced towards the goal of providing services according to the Arizona Vision: effective, strength based, community based, individualized and driven by the family. A majority of services, however, continue to occur through the out-patient clinic model. Services occur during brief office visits, separated by a number of days (usually no more than once a week). When providing in-home services practitioners need to have more than a passing familiarity with the skill-building strength-based model. The focus must be on developing replacement behaviors that effectively and efficiently alleviate problem situations. The system has implemented initiatives to move further toward this model as evidenced by the Child and Family Team (CFT) initiative and the current Meet Me Where I Am project under implementation across the state of Arizona. A best practice goal is therapeutic work in natural settings with treatment mediated by a professional and ultimately implemented through the caregivers (e.g. teachers, parents) resulting in functional outcomes. Perhaps not coincidentally, this is the model for interventions in the field of *Applied Behavior Analysis*. This field is currently recognized and regulated via a national organization, the Behavior Analysis Certification Board. Board Certified Behavior Analysts (BCBA) are mandated to provide empirical, best practice interventions based on thorough behavioral assessments of problem situations, that result in measurable progress. Yet BCBAs with this advanced training are not able to provide services within the Arizona system unless supervised by a professional, licensed in one of the 5 existing licensure categories, who likely does not have an equivalent level of expertise.

Few behavioral health professionals have had more than brief, general training in the application of behavioral techniques. Board Certified Behavior Analysts on the other hand are required to have extensive coursework and experience in the assessment of problem behaviors, and situations in which they occur, and in the development and implementation of effective intervention plans. As a matter of course these plans are implemented in the natural setting by the parents, teachers, friends or other caregivers who are part of the person's life. Typical settings in which behavior analysts receive formal training and supervised experience prior to certification include residential treatment settings, group care, family homes, schools and job sites. The addition of Board Certified Behavior Analysts as professionals licensed by the Board of Behavioral Health or the Board of Psychology will improve access to professionals trained to meet the needs of the behavioral health consumer. This new licensure category will help ensure that the goals of the behavioral health system are met, in a way that ensures cost effective services and improved outcomes.

1. A Definition of the Problem and the Extent to Which Consumers Need and Will Benefit from a Method of Regulation Identifying Competent Practitioners of Applied Behavior Analysis:

Definition of the Problem.

There is a wide and growing range of issues for which people seek behavioral health services. This list includes, but is not limited to, children and adults with autism, developmental disabilities and co-occurring mental health disorders, acute psychological distress, grief and loss, depression, suicide risk, child and adult abuse, school and workplace violence, eating disorders, substance abuse, aging issues and marriage or family distress and violence. Guided by the Arizona Vision, the Division of Behavioral Health Services (DBHS) strives to provide accessible and timely services in collaboration with children, families and others, tailored for the child and family with respect for individual cultural heritages, in connection with natural supports with functional outcomes and best practices promoting stability and independence. DBHS has developed and encouraged the use of 26 best practice treatment approaches. Eighteen of these best practice guidelines come from the field of Applied Behavior Analysis or include behavioral techniques as a major component. Please refer to Attachment 1 for descriptions of the DBHS best practice approaches.

Applied Behavior Analysis (ABA) is a specialized area within the field of psychology with the goal of utilizing the fundamental principles of human behavior (e.g., reinforcement, positive motivation, generalization and maintenance) to help these populations strengthen or acquire new skills and use these skills to effectively address the above issues and produce meaningful change (Baer, Wolf, & Risley, 1968 / 1987). The principles of *ABA* have been applied successfully across many socially important behavioral areas of interest or concern such as the treatment of autism, Attention-Deficit Hyperactivity Disorder, Attachment Disorder, Conduct Disorder, Oppositional Defiance, behavior problems, depression, alcohol and substance abuse, regular and special education, pediatric medicine and sports psychology. Dr. Lovaas, the developer of the most effective treatment approach for autism, and his co-authors describes the foundation of treatment by behavior analysts in The Me Book (1981). “Treatment should take place in the natural, everyday community, with the locus being teaching done by the parents, teachers and other care givers with emphasis on the development of functional skills to alleviate the problem rather than diagnostic categories. Additional intervention is required when treatment takes place more removed from the natural environment and is done solely by ‘professionals’ as the effects or skills must then transfer to the natural environment.” Board Certified Behavior Analysts help all persons within the client’s natural environments to become “therapists” or “teachers.” Behavior analysts strive to ensure that these “natural therapists” have a working knowledge of the processes and procedures studied and developed by behavior analysts for providing effective help or instruction. This specialized approach involves complex principles of human behavior and requires extensive study,

supervision and experience. However, the more thoroughly trained professionals in this paradigm of best practice are not recognized as licensable in the Arizona system.

Several academic and trade journals that represent specific medical disciplines have published articles indicating that treatments derived from ABA-based procedures for autism, developmental disabilities, depression, ADHD, and other problem areas are empirically supported treatments. An article reviewing literature on the assessment and treatment of individuals with mental retardation and psychiatric disorders concluded that: *"Interventions based on applied behavior analysis have the strongest empirical basis, although there is some evidence that other therapies have promise."* (Sturmey,2002). Also, Dr. Lilienfeld, in a volume of the 2005 **Pediatrics**, the official journal of the American Academy of Pediatrics, wrote an article offering guidelines on scientifically supported treatments for childhood psychiatric disorders concluded: *"The most efficacious psychosocial treatment for autism is applied behavior analysis. . ."*. Finally, multiple legislative rulings have supported the efficacy of ABA-based approaches for addressing both problem behaviors associated with developmental disabilities and autism, as well as for educational instruction. Landmark decisions have been made by the **Federal District Court of Philadelphia, U.S. District Court for the Northern District of Illinois, U.S. District Court for the Eastern District of Michigan, South Carolina Federal District Court, U.S. District Court for the Southern District of Indiana and the U.S. District Court for the Eastern District of Tennessee**; and when ruling on a case involving the use of ABA-based treatment for children with autism the Supreme Court of British Colombia concluded, *". . . It is beyond debate that the appropriate treatment is ABA or early intensive behavioral intervention."*

The successful implementation of a best practice requires several elements. First, the professional who assesses the problem, and designs and implements the intervention must be well trained and experienced in the approach. Second, the implementation of the intervention techniques must have the highest fidelity to demonstrated best practice techniques. Variations, including omissions, deviations or inclusion of unnecessary elements, are likely to significantly change the nature of the interventions and result in less effective or potentially harmful results. These less effective and harmful results affect the lives and well being of the consumers of the services, result in continued problems for the individual, longer durations of care within the behavioral health system, greater costs in resources and support, and the erroneous determination by the consumer, professional and system that a "best practice" approach is not effective.

The extent to which consumers need and will benefit from the regulation.
The Center for Disease Control (CDC) reports that "Mental disorders are common in the United States. One in two Americans could be diagnosed as having a mental disorder each year, including 44 million adults and 13.7 million children." The CDC concludes that "these disorders are as disabling as cancer or

heart disease in terms of premature death and lost productivity." It is further reported that "of those with a diagnosable mental disorder . . . fewer than half of the adults get help and only one third of children receive treatment." The CDC identified 5 barriers to care, one of which was health care providers unaware of effective treatments. (www.cdc.gov obtained 8/20/07). A United States Department of Health and Human Services Mental Health Report of the Surgeon General in1999 recommends that improving the system will require ensuring a supply of mental health services and providers. The Surgeon General found key personnel shortages in mental health professionals and "specialists with expertise in cognitive-behavioral therapy . . . shown to be effective for several severe mental disorders." If all one considers is the need for expert behavioral interventions from the perspective of the children in Arizona suffering from autism spectrum disorders the lack of qualified professionals in this discipline is devastating. The latest estimate of prevalence of autism indicates that one in every 150 children are diagnosed with an autism spectrum disorder. The CDC reports that 3,574 children between the ages of 3-21 years are classified as having autism by the Arizona Department of Education in the year 2005-06. That number is .33% of the 1,904,226 children enrolled in Arizona public schools in 2005. With 6.2 per 1,000 children diagnosed with autism each year, it can be anticipated that 280 additional children per year will be diagnosed with autism spectrum disorder. Early, intensive intervention involving the implementation of behavior analytic procedures to teach language, self care, compliance, social skills and academic skills is the most effective treatment for this disorder; however, the state of Arizona behavioral health system does not recognize or license those professionals trained in the implementation of these techniques. Therefore, parents must obtain treatment from professionals who do not have specialized training, or search outside the behavioral health system for this expertise.

Extent of autonomy of a practitioner.

As described by the Behavior Analysis Certification Board (BACB), "the Board Certified Behavior Analyst (BCBA) is an independent practitioner who also may work as an employee or independent contractor for an organization. The BACB requires that the BCBA conduct descriptive and systematic (e.g., analogue) behavioral assessments, including functional analyses, and provides behavior analytic interpretations of the results. The BCBA must design and supervise behavior analytic interventions implemented by others. The BCBA effectively develops and implements appropriate assessments and intervention methods for use in unfamiliar situations and for a range of cases. The BCBA must seek the consultation of more experienced practitioners when necessary. The BCBA teaches others to carry out ethical and effective behavior analytic interventions based on published research and designs and delivers instruction in behavior analysis" (www.BACB.com). The BACB strongly recommends that the Board Certified Behavior Analyst supervise the work of Board Certified *Associate* Behavior Analysts and others who implement behavior analytic interventions.

In Arizona the regulations guiding behavioral health have placed the system in the untenable position of mandating a treatment orientation and modality (evidence based practice, behavioral interventions and approaches) but not supporting and recognizing a discipline uniquely designed to provide such treatment. As a result, such services are unavailable to the behavioral health consumer or are received from professionals who often have little training or experience to provide such treatment.

2. The efforts made to address the problem include:

Voluntary efforts.

Given the vulnerability of consumers of behavioral health services, it is critically important that they have access to professionals with the highest levels of training and experience specific to the problems being addressed and that they are protected from incompetent or unethical providers. The current level of regulation of behavioral health professional is inadequate to provide an appropriate level of protection to these consumers. Of the over 20,000 licensed behavioral health providers, the experience and training in the area of behavior analysis is generally limited to training that has been obtained post degree or through limited coursework, usually optional, obtained while in school. Specific training and experience in providing behavioral interventions is not required for licensure. (See Attachment 2 for a comparison of the training requirements for behavioral health professionals and Board Certified Behavior Analysts). However, behavioral interventions have been identified as best practices for many issues including depression, ADHD, obsessive compulsive disorders, autism, and most childrens' behavioral health disorders. Dr. Scott O. Lilienfeld in The Scientific Review of Mental Health Practice (2004,) notes that many or most anxiety disorders and most childhood disorders respond better to behavioral and cognitive behavioral therapies than to supportive therapies or other therapies that do not rely on behavioral techniques. The lack of expertise in the application of behavioral interventions among the available licensed professionals, and the absence of licensure for Board Certified Behavior Analysts to practice or supervise the clinical practice of services in behavioral health, puts the burden on consumers to individually determine the competency of potential providers. This puts an additional duty on consumers of behavioral health services not required of consumers of other health services presently regulated by the state. Acknowledging the certification of behavior analysts and including this profession as a licensable profession would assure access to a wider variety of professionals.

Establish a code of ethics, and recourse to use amendment to existing applicable law.

The issue requires resolution via amendment of the applicable licensing laws either by including the BCBA as a profession regulated by the board of psychologists or the behavioral health board. The licensed behavior analyst would be required to meet training, supervision and experience standards as outlined by the BACB. (See Attachment 3 for the BACB requirements). Requiring adherence to these specific standards is one method that insures public safety in the implementation of the powerful techniques of Applied Behavior Analysis. In addition, requiring that behavior analysts licensed to practice under the proposed new law are certified through the BACB would increase protection for the public by requiring that licensed behavior analysts subscribe to the ethical and professional guidelines of the BACB.

Board Certified Behavior Analysts are required to abide by a set of practice guidelines and code of ethics, as are all of the licensed professionals currently recognized in the state of Arizona. BCBA guidelines are comparable to the guidelines of other professional organizations, including:

- American Anthropological Association
- American Educational Research Association
- American Psychological Association
- American Sociological Association
- California Association for Behavior Analysis
- Florida Association for Behavior Analysis
- National Association of Social Workers
- National Association of School Psychologists
- Texas Association for Behavior Analysis

These Guidelines address ethical concerns particular to Board Certified Behavior Analysts and Board Certified Associate Behavior Analysts, as well as concerns that are salient to the relationship between certified professionals, the people they serve, and society in general. In addition, the behavior analyst guidelines include requirements tailored to the unique services and technical interventions of a behavior analyst.

Specifically, the guidelines establish that a behavior analyst rely on scientific principles and provide services, teach, and conduct research within the boundaries of their competence, based on their education, training, supervised experience, or relevant professional experience. Behavior analysts' assessments, recommendations, reports, and evaluative statements are based on information and techniques sufficient to provide appropriate substantiation of their findings. A behavior analyst must conduct a functional assessment, as defined in applied behavior analysis best practice literature, to provide the necessary data to develop an effective behavior change program, and accept as clients only those individuals or entities (agencies, firms, etc.) whose behavior

problems, or requested services are commensurate with the behavior analyst's education, training, and experience. A behavior analyst 1) designs programs that are based on behavior analytic principles, 2) including assessments of the effects of other intervention methods, 3) involves the client or the client-surrogate in the planning of such programs, 4) obtains the consent of the client, and 5) respects the right of the client to terminate services at any time. The behavior analyst recommends reinforcement rather than punishment whenever possible. The behavior analyst minimizes the use of potential reinforcers that may be harmful to the long-term health of the client (e.g., cigarettes, or sugar or fat-laden food), or that may require undesirably marked deprivation procedures as establishing operations. The behavior analyst collects data, or asks the client, client-surrogate, or designated others to collect data needed to assess progress within the program. The behavior analyst modifies the program on the basis of data. The behavior analyst reviews and appraises the restrictiveness of alternative interventions and always recommends the least restrictive procedures likely to be effective in dealing with a behavior problem.

3. Alternatives including regulation of business employers or practitioners rather than employee practitioners, regulation of the program or service rather than the individual practitioners, registration of all practitioners and certification of practitioners, and why the use of alternatives would not be adequate to protect the public interest, why licensing would serve to protect the public interest:

Typical employers and extent of autonomy of behavior analysts.
Behavior Analysts provide services to meet diverse behavioral needs. Examples of these applications include: building the skills and achievements of children in school settings; enhancing the development, abilities, and choices of children and adults with different kinds of disabilities; and augmenting the performance and satisfaction of employees in organizations and businesses. Behavior Analysts work for both organizations of service providers and in an independent capacity as consultants or private practitioners.

Because of its prominent applications on behalf of people at-risk and historical concerns for the humane treatment of consumers, Applied Behavior Analysis has been the focus of many state regulations. In the course of defining the practice of behavior analysis and establishing certification for practitioners, some succinct regulatory definitions of the discipline have been developed in Florida, California and New York. Massachusetts is currently proposing legislation to license behavior analysts under the same state law as psychologists. (See Attachment 4 for the Massachusetts legislation).

The states of Florida, California, New York, Oklahoma, Pennsylvania, and Texas previously had state certification and credentialing programs for the behavior

analysts, but have transferred all of their credentialing of behavior analysts to the Behavior Analyst Certification Board.

As is true of other behavioral health professions, the clients of behavior analysts are diverse socially, economically, culturally and ethnically. Behavior Analysts help individuals of widely varying functional abilities in a variety of settings including, predominantly, the settings in which the problem exits. These settings include private homes, schools, licensed residential settings, private practices, mental health centers, rehabilitation agencies, private nursing homes, licensed health facilities, schools and businesses. In Arizona the regulated employers, such as licensed behavioral health facilities, require licensure for employees providing behavioral health counseling services, and are unable to recognize the BCBA as a qualified professional unless he/she holds licensure under the board of psychology or board of behavioral health. The risk of harm to the public created by this restriction of practitioners is serious because behavioral health services are generally provided by individuals one-on-one behind closed doors to vulnerable patients. In these situations the public relies on the oversight of supervisors to ensure that practice meets standards. If the supervisor is unfamiliar with the specific procedures and techniques of behavior analysis, effective supervision is not possible and the public risk is increased.

Dangers of misuse of techniques by less well trained people or paraprofessionals under the direction of less well trained professionals. Problems with the unethical and harmful application of “behavioral – like” techniques prompted the Florida Legislature in the early 1970’s to form a blue ribbon panel to study the issue. The recommendations of this blue ribbon panel resulted in the development of the Florida certification of behavior analysts and the legislative requirement that individuals developing and applying behavioral procedures with developmentally delayed individuals become certified. This process and its inherent protection is recognized as valuable for other populations and the Board Certified Behavior Analyst has been in demand with many services for other populations.

Licensed behavioral health professionals and psychologists are uniquely situated to have an enormous impact on their patients. Appropriately trained and regulated professionals provide invaluable assistance to help their patients achieve the highest possible level of functioning and well-being. Untrained or unregulated individuals, however, have the potential to inflict irreparable harm. If the system were to provide for behavior analysts the requirements regarding qualifications for licensure and oversight it could prevent misuse of procedures, improve fidelity of interventions to the behavioral approach, increase positive outcomes and reduce cost.

Given the vulnerability of consumers of behavioral health services, it is critical that they be protected from incompetent or unethical providers. This petition seeks licensure for Board Certified Behavior Analysts equivalent with behavioral

health professionals or psychologists to ensure that consumers of behavioral health services receive the same level of protection provided to consumers of other health care services. Individuals are allowed to practice if they could demonstrate appropriate levels of education, experience and competence. The licensing Board is able to provide informed investigations and take action on complaints against all behavioral health providers.

Efforts made to address the problem.
Voluntary certification of behavior analysts has been instituted to help consumers identify competent practitioners and to provide them with an avenue of redress against incompetent or unprofessional practitioners. As previously decided by the State of Arizona with the Board of Behavioral Health, voluntary certification of practitioners fails to adequately protect the public. Consumers of behavioral health services are among the most vulnerable and often the least sophisticated of the state's residents. It is not reasonable to put the burden on patients to understand the system and seek out providers and professionals sufficiently trained and credentialed in behavioral principles and techniques.

The Behavior Analysis Certification Board is a national professional association that regulates certified practitioners who must adhere to published codes of ethics, and offers a review process for consumer complaints alleging ethical violations by practitioners. While admirable, these review processes may be inadequate to protect the public. First, a professional association offers voluntary membership to professionals. The association has no authority to review complaints against non-members. Second, even if a consumer complaint results in discipline against a member, the association has no power to enforce the discipline imposed. If a member fails to comply with a disciplinary decision by an association, the association's only recourse is to eject the member from the association. Finally, disciplinary reviews by professional associations are conducted by other professionals in the discipline. The lack of public input into these reviews compromises the fairness necessary for the public to be assured that their interests are being adequately protected.

Alternatives considered - regulation of business employers or practitioners.
The Department of Health Services (DHS) licenses behavioral health facilities receiving state funds. DHS requires behavioral health professionals working in licensed facilities to be licensed or clinically supervised by license holders. A large percentage of behavioral health practitioners in Arizona, however, do not have expertise in behavior analysis, and while a Board Certified Behavior Analyst might work for a licensed behavioral health facility, they may not provide clinical supervision of others (wherein the expertise of that professional might be extended to others practicing for the agency). Currently a BCBA must be supervised by a licensed professional who may not have gained the knowledge and expertise to adequately provide the oversight for behavioral services. Inclusion of the Board Certified Behavior Analyst as a licensed professional in the

State of Arizona would provide for supervision of behaviorally based services by the appropriately trained professional, and provide the public with the protection inherent in this system.

4. The benefits to the Public Achieved By Licensing Board Certified Behavior Analysts include:

The benefits to the public achieved by licensing behavioral health professionals are increased access to services and increased safety. First, recognition and inclusion of Board Certified Behavior Analysts in the licensing regulation would insure that the public would have access to professionals with specialization in the application of behavioral procedures to promote positive behavior change. Second, all behavioral health professionals providing behavior analysis services in Arizona would be subject to the Board's jurisdiction or the jurisdiction of the Board of Psychology. This oversight function would prevent incompetent and unprofessional practitioners from providing services outside the scope of any state regulation and would provide a forum for review of all consumer complaints against behavioral health professionals. Also of importance, the licensure of Board Certified Behavior Analysts would allow cost effective behavior analysis services without redundant supervision from other (less behaviorally skilled) licensed behavioral health professionals.

The inclusion of Board Certified Behavior Analysts as licensed professionals would ensure the public has access to relevant information for making informed decisions with respect to choosing a professional treatment provider. Currently, the public is largely unaware that such a specialization exists, or that many otherwise competent providers of behavioral health do not hold expertise specific to the application of behavioral procedures.

It is proposed for the licensure of Board Certified Behavior Analysts to be subsumed under the Board of Behavioral Health or the Board of Psychology. The designated board would be arranged to include at least one licensed BCBA so that specific expertise could be represented when making oversight decisions. The Board's workload and efficiency could be maximized by requiring that applicants first become certified by the Behavior Analysis Certification Board (BACB) before applying for licensure with the state of Arizona. The designated Arizona Board would have the authority to revoke, suspend or not renew licenses for cause. It would adopt the ethics and practice guidelines established by the BACB and require adherence to these guidelines. In addition the board would receive complaints and take disciplinary action against practitioners, and levy the same fees as other disciplines regulated by the board.

No grandfather clause is proposed or necessary as this does not change or affect the practice of currently licensed individuals.

It is proposed that the same reciprocity agreements with other jurisdictions are applied for Board Certified Behavior Analysts who become licensed, as are in

place with other licensed practitioners. The BACB has established training and supervision guidelines in line with the standards for other licensed behavioral health providers including Social Work, Psychology and Counseling. Attachment 2 provides detailed information comparing the requirements for Board Certified Behavior Analysts with other disciplines.

5. **The extent to which regulation might harm the public and restrict entry into the health profession, whether there are similar professions which should be included or excluded:**

The inclusion of Board Certified Behavior Analysts into the current licensure for Behavioral Health Providers or Psychologists would not restrict access to qualified providers. Inclusion would expand the available pool of providers to include these additional, highly trained professionals. The standards proposed are those currently in place for licensed providers and have not been deemed unduly restrictive. As the BACB is the national entity governing the recognition and practice of behavior analysis, the question of recognition and reciprocity of professionals that migrate from other jurisdiction is simplified. Those BCBAs who migrate to Arizona would be required to have the same qualifications as the current Board Certified Behavior Analysts residing in Arizona. The Behavior Analysis Certification Board certifies a level of behavior analyst below the BCBA as an associate or assistant behavior analyst. This level requires a bachelor's degree with specific course work and supervised experience, and minimum score on a national examination. This level of training and experience corresponds with the behavior health technician and should not be included in the proposed legislation.

6. The maintenance of standards including: whether effective quality assurance standards exist in the health profession and how the proposed legislation will assure quality:

The existing quality assurance standards for licensed professions (Behavior Health Professionals and Psychologists) and the standards of the Behavior Analysis Certification Board for the BCBA should be combined and applied to the new category of licensed behavior analyst. The standards for the BCBA would be strengthened through the inclusion in the licensing regulations. The current code of ethics for Board Certified Behavior Analysts are practice guidelines, are not written as enforcement codes, and do not have the strength of law behind them. Including the BCBA under licensure will allow enforcement of the current high standards for professional practices already enforced for Behavior Health Professionals and Psychologists. Standards for suspension and revocation of

licensure that exist for currently licensed professions will be adopted for the new category of BCBA.

7. A Description of the Groups proposed for regulation:

Currently there are approximately 30 Board Certified Behavior Analysts in the state. It is estimated that the field will expand as Board Certified Behavior Analysts are licensed, able to practice independently, and are valuable to behavioral health service providers as Behavioral Health Professionals. States that have promoted the recognition of behavior analysts such as Florida, California and Massachusetts have over 600, over 350 and over 360 Board Certified Behavior Analysts listed on the Behavior Analyst Certification Board, respectively. Currently the University of Northern Arizona has a graduate program to prepare students to become Board Certified Behavior Analysts and these new practitioners will have an avenue to practice within the Arizona system rather than migrating to other states that recognize the profession.

Licensure includes those individuals currently certified by the Behavior Analysis Certification Board. There is no way to determine if non – registered BCBAs reside in Arizona. Neither is there a way to determine if there are qualified individuals residing in Arizona who are not certified.

8. Expected cost of regulation:

Both the Behavioral Health Examination Board and the Board of Psychology are funded through the fees generated by licensing. The national Behavior Analysis Certification Board is funded through the fees generated by examination and certification of behavior analysts. It is not anticipated that the expenses will increase with the addition of this category of professional, as the fees charged to a BCBA applying for licensure will cover the cost of administering the program. It is anticipated that the direct impact from licensure on the costs of behavioral services for the state will be a decrease in the cost of services for individuals served by licensed BCBAs. This cost reduction would result from the typical behavior analytic service structure that provides training and support to the persons directly involved with the client/patient including parents, teachers, babysitters, etc. As the persons who are most involved with the client are trained to teach, intervene, and respond using therapeutic techniques there is a parametrically increased impact of the professional who provides more therapeutic hours per dollar for the system.

For consumers who would directly pay for behavioral health professionals as private pay clients, the recognition and regulation of an additional service specialty may increase access to available services within the current cost

structure as the numbers of licensed behavior analysts and, therefore, licensed professionals providing services increase. Requiring licensure for individuals currently practicing without a license would increase their costs and this might be passed on to the consumers.

Attachment 1

Descriptions of Best Practice Treatment Approaches Utilizing Applied Behavior Analysis Techniques

There are 26 Best Practices identified by Arizona DBHS. These are:

- Assertive Community Treatment *
- **Multi-systemic Therapy**
- **Functional Family Therapy**
- **Dialectical Behavior Therapy**
- **Motivational Interviewing**
- **Cognitive Behavioral Therapy**
- Supported Employment *
- **Wrap Around Service**
- Family Psychoeducation
- Supportive Housing
- Therapeutic Foster Care *
- Relapse Prevention*
- Family Systems *
- Solution Focused Brief Therapy *
- **Community Reinforcement Approach**
- **Behavioral Marital Therapy**
- **Motivational Enhancement Therapy**
- Social Skills Training*
- Naltrexone
- Opiate Replacement Therapies
- **Behavior Contracting**
- Texas Medication Algorithm
- Independent Housing with Supports
- Brief Intervention for Alcohol Abuse/Dependence *
- Multi-dimensional Family Therapy for Adolescents *
- Emotionally Focused Therapy for Couples

At least 10 (noted in bold) of these are best practices and are based on, incorporate or rely on methods of applied behavior analysis. An additional 8 (noted with an asterisk) often utilize behavior management (procedures developed from the science of behavior analysis).

Descriptions retrieved 8/24/07 from the respective websites.

Multisytemic treatment or MST programs include cognitive behavioral approaches, the behavior therapies, behavioral parent training, pragmatic family therapies, and certain pharmacological interventions that have a reasonable evidence base (U.S. Department of Health and Human Services [DHHS], 1999). As these treatments are delivered in a considerably different context than usual. For example, consistent with the view that the caregiver is key to achieving long-term outcomes, a MST cognitive behavioral intervention would ideally be delivered by the caregiver under the consultation of the (behavior) therapist.

Functional Family Therapy (FFT) clinicians develop and implement intermediate and, ultimately, long-term behavior change plans that are culturally appropriate, context sensitive, and tailored to the unique characteristics of each family member. The assessment focus in this phase includes cognitive (e.g., attributional processes and coping strategies), interactive (e.g., reciprocity of positive rather than negative behaviors, competent parenting, and understanding of behavior sequences involved in delinquency), and emotional components (e.g., blaming and negativity). Clinicians provide concrete behavioral intervention to guide and model specific behavior changes (e.g., parenting, communication, and conflict management). Particular emphasis is placed on using individualized and developmentally appropriate techniques that fit the family relational system.

Community Reinforcement Approach
The Community Reinforcement Approach (CRA) is a broad-spectrum behavioral Program for treating substance abuse problems that has been empirically supported within patients (Azrin, 1976; Hunt & Azrin, 1973), outpatients (Azrin, Sisson, Meyers, & Godley, 1982; Mallams, Godley, Hall, & Meyers, 1982; Meyers & Miller, 2001), and homeless populations (Smith, Meyers, & Delaney, 1998). In addition, three recent meta-analytic reviews cited it as one of the most cost-effective alcohol treatment programs currently available (Finney & Monahan, 1996; Holder, Longbaugh, Miller, & Rubonis, 1991; Miller etal., 1995).The first study to demonstrate the effectiveness of CRA was conducted more than 25years ago (Hunt & Azrin, 1973). (It must be explained that Dr. Azrin is a founding practitioner of Applied Behavior Analysis, and continues as a prominent leader in the field). References are available in the CRA manual.

Best practice guidelines promulgated by the Division of Health that require the use of procedures based on Applied Behavior Analysis.

DBHS Best practice guidelines for disorders of attachment:
Through family centered approaches, primary caregivers should be taught how to nurture, how to understand the reasons for their child's behaviors before disciplinary consequences are considered, how to interact with children based on emotional, as well as chronological age, how to be consistent and predictable, how to listen and talk with their children, how to develop and maintain realistic expectations and how to teach and role model appropriate social behavior. Individual treatment of the child must be provided in the least restrictive, effective setting that sustains proximity to home and natural supports. All service settings, a full array of covered services, and specialty providers as indicated must be considered. The treatment continuum must include community-based in-home services, respite, outpatient services and psychotropic medication prescribing and monitoring. Counseling interventions can include individual, group and play therapies that promote social skills, anger control, and behavioral change and Management. It is understood that the majority of therapeutic interventions used for attachment disordered children are taken from various therapeutic frameworks such as Psychodynamics, Gestalt, Cognitive-Behavioral, Family Systems, Ericksonian, Object Relations, Attachment Theory and Therapy.

DBHS Best practice guidelines for ADHD best practice protocol:
The focus of treatment should be on functional improvement such that the child/adolescent will be able to maintain behavior appropriate to his/her developmental level in multiple settings, including

home, school, work or social settings. Environmental Support should be provided to parent(s), family members, teachers, and other members of the child's community. Each of these individuals should be active members of the child's service plan. Each team member must have an understanding of the child's condition, realistic behavioral expectations, and learned and demonstrated successful behavior techniques, communication and parenting skills. The team member will use these techniques and skills during and after termination of therapy in managing ADHD at home, in school and in social situations. The home environment will be modified to accommodate the clinical needs of the child. A thorough and comprehensive assessment of all domains of a child's life must be made before a diagnosis is given. The core of the assessment should be the parental interview, as the diagnosis rests primarily on observations of those closest to the child and resulting clinical judgment. The child's behavior in home, school, and community settings is evaluated with respect to the features of ADHD, and co-morbid conditions common to this diagnosis are reviewed. Family functioning and its potential effect on symptoms are reviewed. Information from the school, regarding the child's behavior and the appropriateness of the learning environment, is obtained. The use of the Conners Scale or other behavioral rating scales is particularly helpful in measuring baseline functioning and subsequent improvement. Therapeutic strategies generally should utilize a broad-based range of interventions that may include:

- Psycho-Educational approaches
- **Parent training in behavioral management skills**
- Classroom interventions
- **Cognitive behavioral therapy**
- Social skills training
- Individual psychotherapy of the child
- Family therapy
- Living skills training
- Health promotion with a focus on medication education and compliance and health-promoting activities
- Peer and family support
- Respite
- Other methods of intervention and treatment to address the specific identified needs of the child and family.

All services provided should be consistent with the Arizona Principles and should rest, to the extent possible, on community-based, natural supports, and respect for the child and family's unique cultural heritage and needs.

DBHS Best Practice Protocol for Services for individuals with Developmental Disabilities:
(Pertinent to the individuals in the DBHS system with DD)

Individual Counseling:
Cognitive-behavioral strategies may be used, with increased weight on the **behavioral component**, for lower functioning individuals. Achievable and relevant goals and objectives should be identified, and realistic expectations of progress established, as **chaining and generalization** of goals may occur slowly.

Behavioral Assessment/Functional Analysis:
Challenging behaviors, like appropriate behaviors, are maintained by environmental, social and physical reinforcers. The clinicians' task is to determine the function that the challenging behaviors play in the individual's daily routine. This task is usually accomplished by conducting a "Functional Analysis." A functional analysis includes an examination of the following:

- Antecedents and/or consequences that affect or control a behavior;

- Whether the behavior represents a deficit or an excess, or is situationally appropriate;

- Whether different behavior patterns occur with different situations;

- Possible schedules of reinforcements that maintain the behavior;
- An examination of environmental aspects and potential physical health issues that may relate to the challenging behaviors; and

- Potential reinforcers and potential alternative behaviors that may be used in the treatment plan to strengthen alternative behaviors.

Behaviors must be viewed in the situational and environmental context in which they occur and in relation to the influences that manifest before, during and after the behaviors. Antecedents may provoke behaviors naturally (like a loud noise causing an individual to jump) or through learning (recognizing, over time, that self-injurious behavior lead to increased attention). Events following a behavior can alter the likelihood of it recurring if it is positively or negatively reinforced. Thus, knowing antecedents and consequent events can be critical to understanding the reasons for challenging behaviors and to developing therapeutic interventions.
Behavioral assessments must also explore the effects that challenging behaviors have on caregivers, and who is most challenged by the behaviors. This allows service providers the opportunity to support and promote the most effective caregiver responses and an opportunity not only to change behaviors but also to shape and enhance the interpersonal environment in which they occur.
In order to conduct a functional analysis the clinician will be required to interview family members, other observers of the behaviors, and the individual as well as directly observe the individual while he/she is engaged in target behaviors.
The results of the functional analysis lead directly to the formulation of a treatment intervention by the CFT or ACT. Since interventions will need to occur throughout the day, family members, teachers or other direct care staff must understand the rationale for the method, the exact procedures to follow and the documentation that is required to measure the effectiveness of the interventions.

Behavior Management:
The overall treatment strategy for behavioral interventions should emphasize the teaching of social, communication and cognitive skills to the individual and effective behavior shaping techniques to parents, to be used both during and after termination of therapy. Applied Behavioral Analysis Techniques and other behavioral management approaches should emphasize:

- The development and encouragement of constructive and effective ways for individuals to seek the attention they desire.

- Positive reinforcement for appropriate behavior and acknowledgment and reward of the individual's ability to establish age-appropriate autonomy to the extent possible.

- Identification and minimization of the antecedents to behavioral disruptions, agitation or self-injury by defining and utilizing positive or negative reinforcers.

- The enhancement of the individual's repertoire of social and communicative behaviors through social-pragmatic teaching.

- The careful documentation in the service plan of desired outcomes and measurable goals consistent with the individual's behavioral health needs.

Behavioral interventions must be coordinated with other agencies like DDD, which may be providing similar interventions as part of habilitation. Habilitation services use a variety of methods designed to maximize the person's abilities. Services typically are offered in the person's home or community and include activities specific to learning to become more independent.

Caregivers, family members and other providers in the individual's environment should be actively engaged, including involvement with "homework" assignments. Strategies must be integrated with other services and must be based on a thorough familiarity of the individual's environment, routine, strengths and limitations and the assured cooperation of the individual's caretakers, guardians, educators and other staff. As for all other service strategies, signs/symptoms of relapse or recurrence and exacerbating factors for co-occurring behavioral health disorders should be identified and strategies developed for coping with exacerbating factors.

Other governmental agencies promote the use of Applied Behavior Analysis as a best practice.

The **American Association on Mental Retardation**, the oldest and largest interdisciplinary organization of professionals concerned with mental retardation and related disabilities, designated ABA-based procedures for the treatment of behavioral problems with individuals with mental retardation and related disorders as *"highly recommended"* (their highest rating). Based on the scientific evidence supporting the efficacy of ABA-based procedures for treating problems associated with mental retardation and autism, various scientific organizations have concluded that ABA-based procedures are highly effective, including:

- **National Institute of Mental Health**
- **National Institute of Child Health and Human Development**
- **The National Academies Press ("Educating Children with Autism (2001) Commission on Behavioral And Social Sciences and Education")**)
- **American Association on Mental Retardation)** ("Guidelines for the Treatment of Psychiatric and Behavioral Problems in Mental Retardation"
- **American Psychological Association** (Division 33; "Guidelines on Effective Behavioral Treatment for Persons with Mental Retardation and Developmental Disabilities")
- **Association for Science in the Treatment of Autism**

Surgeon General of the United States 1999 report on mental health stated in reference to the treatment of autism: *"Thirty years of research demonstrated the efficacy of applied behavioral methods in reducing inappropriate behavior and in increasing communication, learning, and appropriate social behavior."*

- **New York State Department of Health** ("Guidelines: Autism/Pervasive Development Disorders, Assessment and Intervention for Young Children (0-3), Chapter IV - Behavioral and Educational Approaches")
- **California State Department of Developmental Services** ("Autistic Spectrum Disorders: Best Practice Guidelines for Screening, Diagnosis and Assessment")
- **Maine Administrators of Services for Children with Disabilities** ("Report of the MADSEC Autism Task Force")

Attachment 2 - Requirements of Licenses for Arizona Compared with BCBA Certification Requirements

Licenses and Certification Requirements	Education Requirement	Hours of Supervised Independent Fieldwork	Supervision Hours	Exam Required	Ethics Training Required	Specific Behavior Analysis Training Required
BCBA **(Board Certified Behavior Analyst)**	Master's degree from an institution of higher education.	1500 hours of Supervised Independent Fieldwork in behavior analysis. The distribution of Supervised Independent Fieldwork hours must be at least 10 hours per week, but not more than 30 hours per week, for a minimum of 3 weeks per month	75 total hours and 5% of total supervised hours, with at least biweekly contact, during supervision period	**YES**	**YES**	**255 class room hours in specific core content areas approved by the Behavior Analyst Certification Board**
Psychologist	Doctoral program in clinical, counseling or school psychology from an accredited university which offers a full-time course of study.	3000 (may include APA approved internship)	46 per year with at least weekly contact	**YES**	**YES**	**Not specified**
LCSW	Master's degree in social work from a graduate program of social work accredited by the Council on Social Work Education.	3200 hours over no more than a 24 month period, min. 1600 with direct client contact	100 hours total, 1 hour for every 40 hours worked, no more than 25% telephonically, more individual than group hours, 10 hours direct contact	**YES by A.S. W. B.**	**YES**	**Not specified**
LPC	Master's degree or higher in counseling or counseling-related field from an accredited institution including 48 hours in core curriculum.	1000 (includes pre-degree internships) & 3200 supervised work experience in 24 months	100 hours in no less than 24 months	**YES By N.B.C.C. or C.R.C.C.**	**YES**	**Possible in the 3 hour survey of theories course**
LMFT	Master's degree from an accredited institution including 33 hours in the marriage and family therapy core curriculum.	300 pre-degree practicum & 3.200 hrs of postgraduate, 1600 direct client contact, 1000 with couples & families	200 total hours with at least 1200 focused on couples and families	**Yes by Professional Examination Service**	**YES**	**Not specified**

Attachment 3- Behavior Analysis Certification Board Requirements

Coursework: College or university courses in behavior analysis, that are taken from an institution that meets the requirements specified**.**

The applicant must complete 225 classroom hours of graduate level instruction (see Acceptable Coursework below) in the following content areas and for the number of hours specified:

a. Ethical considerations – 15 hours
b. Definition & characteristics and Principles, processes & concepts - 45 hours
c. Behavioral assessment and Selecting intervention outcomes & strategies - 35 hours
d. Experimental evaluation of interventions - 20 hours
e. Measurement of behavior and Displaying & interpreting behavioral data - 20 hours
f. Behavioral change procedures and Systems support 45 hours
g. Discretionary – 45 hours

Acceptable Coursework: Instruction of the type(s) specified in either a, b, or c, below, will be accepted toward the coursework requirement.

Amount of Supervised Experience Required:

Supervised Independent Fieldwork: Applicants must complete 1500 hours of Supervised Independent Fieldwork in behavior analysis. The distribution of Supervised Independent Fieldwork hours must be at least 10 hours per week, but not more than 30 hours per week, for a minimum of 3 weeks per month.

Amount of Supervision Required:

Supervised Independent Fieldwork: Applicants must be supervised at least once every 2 weeks for 5% of the total hours they spend in Supervised Independent Fieldwork. Total supervision must be at least 75 hours. A supervisory period is two weeks.

	Supervised Independent Fieldwork
Total hours required	1500
Supervised hours: % of total hours	5%
Total number of supervised hours	75
Frequency of supervisor contacts	1 every 2 weeks

The applicant's primary focus should be on learning new behavior analytic skills related to the BACB Third Edition Task List. Activities must adhere to the dimensions of applied behavior analysis identified by Baer, Wolf, and Risley (1968) in the article *Some Current Dimensions of Applied Behavior Analysis* published in the *Journal of Applied Behavior Analysis*. Applicants are encouraged to have experiences in multiple sites and with multiple supervisors.

Appropriate experience activities include:

5. Conducting assessment activities related to the need for behavioral interventions,

6. Designing, implementing, and monitoring behavior analysis programs for clients,

7. Overseeing the implementation of behavior analysis programs by others,

8. Other activities normally performed by a behavior analyst that are directly related to behavior analysis such as attending planning meetings regarding the behavior analysis program, researching the literature related to the program, talking to individuals about the program; plus any additional activities related to oversight of behavioral programming such as behavior analyst supervision issues, or evaluation of behavior analysts' performance. The supervisor will determine if activities qualify.

Examples of activities that are <u>not</u> appropriate as experience activities include: attending meetings with little or no behavior analytic content, providing interventions that are not based in behavior analysis, doing non-behavior analytic administrative activities, or any other activities that are not directly related to behavior analysis.

A. In order to provide the public assurance that practitioners will maintain their competence in the field it is proposed that the standards for continuing education from the BACB be adopted as well as the requirements for renewing licensure. The renewal would require proof of continuing education and a fee. For BCBA recertification in the 3rd year of the certification cycle requires the following:
    1. For BCBA certificants, proof of completion of 36 hours of acceptable continuing education as described in Section II.

Type 1
Completion of graduate level college or university courses, for BCBAs, or undergraduate or graduate, college or university courses, for BCABAs. Course content must be entirely behavior analytic.

Type 2
Completion of events sponsored by providers approved by the Behavior Analyst Certification Board. Any portion or all of the total required number of hours of continuing education may be applied from this category during any three-year certification period.

Type 3
Completion of a seminar, colloquium, presentation, conference event, workshop or symposium not approved by the BACB, only if they relate directly to the practice of behavior analysis. A maximum of 25 percent of the total required number of hours of continuing education may be applied from this category during any three-year certification period.

Type 4
Instruction by the applicant of a category 1 or 2 continuing education events, on a one-time basis for each event, provided that the applicant was present for the complete event. A maximum of 25 percent of the total required number of hours of

continuing education may come from this category during any three-year certification period.

Type 5
Credentialing events or activities initiated and pre-approved for CEU by the BACB. A maximum of 25 percent of the total required number of hours of continuing education may come from this category during any three-year certification period.

Type 6
Passing, during the third year of the applicant's certification period, the BACB certification examination appropriate to the type of certification being renewed.

Attachment 4 Massachusetts Legislation for Licensure of Behavior Analysts

H2244, SD2039 - An Act relative to behavior analysts

SECTION 1. Section 118 of chapter 112 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word “meanings” in line 3, the following words:-

“Associate behavior analyst”, an individual who by training and experience meets the requirements of the national Behavior Analyst Certification Board© and has passed the examination and received certification as a Board Certified Associate Behavior Analyst ©.

“Behavior analysis”, the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior through skill acquisition and the reduction of problematic behavior. A behavior analysis program shall be based on empirical research, include the direct observation and measurement of behavior as well as a functional behavioral assessment; and utilize antecedent stimuli, positive reinforcement and other consequences to produce behavior change.

“Behavior analyst”, an individual who by training and experience meets the requirements of the national Behavior Analyst Certification Board © and has passed the examination and received certification as a Board Certified Behavior Analyst ©.

SECTION 2. Section 79 of chapter 13 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word “psychology”, in line 10, the following words:- “or behavior analysis”.

SECTION 3. Chapter 112 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after section 119 the following section:-

Section 119A. Each person desiring to obtain a license as an associate behavior analyst shall make application to the board upon such form and in such manner as the board shall prescribe and shall furnish evidence satisfactory to the board that such person:

(a) is of good moral character;

(b) has passed the examination and received certification as a Board Certified Associate Behavior Analyst©;

(c) has maintained active status and has fulfilled all requirements for renewal and recertification as a Board Certified Associate Behavior Analyst©; and

(d) conducts his professional activities in accordance with accepted standards such as the Ethical Standards of Psychologists of the American Psychological Association and the Guidelines for Responsible Conduct of the Behavior Analyst Certification Board©.

Each person desiring to obtain a license as a behavior analyst shall make application to the board upon such form and in such manner as the board shall prescribe and shall furnish evidence satisfactory to the board that such person:

(a) is of good moral character;

(b) has passed the examination and received certification as a Board Certified Behavior Analyst©;

(c) has maintained active status and has fulfilled all requirements for renewal and recertification as a Board Certified Associate Behavior Analyst.©; and

(d) conducts his professional activities in accordance with accepted standards such as the Ethical Standards of Psychologists of the American Psychological Association and the Guidelines for Responsible Conduct of the Behavior Analyst Certification Board©.

SECTION 4. No person shall hold himself out to be an associate behavior analyst or a behavior analyst unless he has met the applicable requirements set forth in section one hundred and eighteen.

Violation of this section shall be punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than three months, or by the suspension or loss of a license as a psychologist, or any combination thereof.

SECTION 5. Section 128 of chapter 112 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The board shall investigate all complaints relating to the proper practice of behavior analysis by any person licensed or certified as a behavior analyst or associate behavior analyst under sections one hundred and eighteen to one hundred and twenty-nine A, inclusive.

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