

HOUSE BILL NO. 361

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE SADDLER

Introduced: 2/26/14

Referred: Health and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to licensing of behavior analysts."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1.** AS 08.01.010 is amended by adding a new paragraph to read:

4 (39) regulation of behavior analysts under AS 08.15.

5 *** Sec. 2.** AS 08.02.010(a) is amended to read:

6 (a) An acupuncturist licensed under AS 08.06, an audiologist or speech-
7 language pathologist licensed under AS 08.11, **a behavior analyst licensed under**
8 **AS 08.15**, a person licensed in the state as a chiropractor under AS 08.20, a
9 professional counselor licensed under AS 08.29, a dentist under AS 08.36, a dietitian
10 or nutritionist licensed under AS 08.38, a marital and family therapist licensed under
11 AS 08.63, a medical practitioner or osteopath under AS 08.64, a direct-entry midwife
12 certified under AS 08.65, a registered nurse under AS 08.68, an optometrist under
13 AS 08.72, a licensed pharmacist under AS 08.80, a physical therapist or occupational
14 therapist licensed under AS 08.84, a psychologist under AS 08.86, or a clinical social
15 worker licensed under AS 08.95, shall use as professional identification appropriate

letters or a title after that person's name that represents the person's specific field of practice. The letters or title shall appear on all signs, stationery, or other advertising in which the person offers or displays personal professional services to the public. In addition, a person engaged in the practice of medicine or osteopathy as defined in AS 08.64.380, or a person engaged in any manner in the healing arts who diagnoses, treats, tests, or counsels other persons in relation to human health or disease and uses the letters "M.D." or the title "doctor" or "physician" or another title that tends to show that the person is willing or qualified to diagnose, treat, test, or counsel another person, shall clarify the letters or title by adding the appropriate specialist designation, if any, such as "dermatologist,"[,] "radiologist,"[,] "audiologist,"[,] "naturopath,"[,] or the like.

* **Sec. 3.** AS 08 is amended by adding a new chapter to read:

Chapter 15. Behavior Analysts.

Sec. 08.15.010. Practice of behavior analysis without license prohibited. (a)

A person may not practice behavior analysis in this state without a license.

(b) A person who practices behavior analysis in this state without a license is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both.

Sec. 08.15.020. Qualifications for license. (a) The department shall issue a

license to practice behavior analysis to a person who

- (1) applies to the department on a form provided by the department;
- (2) pays the fees established by the department;
- (3) has passed the Board Certified Behavior Analyst Examination offered by the Behavior Analyst Certification Board, Inc., or another examination approved by the department;
- (4) is currently certified by the Behavior Analyst Certification Board, Inc., or another certifying entity approved by the department;
- (5) furnishes evidence satisfactory to the department that the person has not engaged in conduct that is a ground for imposing disciplinary sanctions under AS 08.15.060; and
- (6) has been fingerprinted and has provided the fees required by the

1 Department of Public Safety under AS 12.62.160 for criminal justice information and
 2 a national criminal history record check; the fingerprints and fees shall be forwarded
 3 to the Department of Public Safety to obtain a report of criminal justice information
 4 under AS 12.62 and a national criminal history record check under AS 12.62.400.

5 (b) The department shall issue a license to practice as an assistant behavior
 6 analyst to a person who

7 (1) applies to the department on a form provided by the department;

8 (2) pays the fees established by the department;

9 (3) has passed the Board Certified Assistant Behavior Analyst
 10 Examination offered by the Behavior Analyst Certification Board, Inc., or another
 11 examination approved by the department;

12 (4) is currently certified by the Behavior Analyst Certification Board,
 13 Inc., or another certifying entity approved by the department;

14 (5) furnishes evidence satisfactory to the department that the person
 15 has not engaged in conduct that is a ground for imposing disciplinary sanctions under
 16 AS 08.15.060;

17 (6) has been fingerprinted and has provided the fees required by the
 18 Department of Public Safety under AS 12.62.160 for criminal justice information and
 19 a national criminal history record check; the fingerprints and fees shall be forwarded
 20 to the Department of Public Safety to obtain a report of criminal justice information
 21 under AS 12.62 and a national criminal history record check under AS 12.62.400; and

22 (7) provides proof acceptable to the department that the person is
 23 directly supervised by a licensed behavior analyst.

24 **Sec. 08.15.030. Temporary license.** The department may issue a temporary
 25 license to practice behavior analysis in this state for 30 days or less in a calendar year
 26 if the person is licensed to practice behavior analysis in another state whose
 27 requirements to practice behavior analysis are substantially equivalent to the
 28 requirements of AS 08.15.020.

29 **Sec. 08.15.040. Renewal of license.** The department may renew a license upon
 30 proof of continued certification by the Behavior Analyst Certification Board, Inc., or
 31 another certifying entity approved by the department.

1 **Sec. 08.15.050. Grounds for suspension, revocation, or refusal to issue a**
 2 **license.** The department may, after a hearing, impose a disciplinary sanction on a
 3 person licensed under this chapter when the department finds that the licensee

4 (1) secured a license through deceit, fraud, or intentional
 5 misrepresentation;

6 (2) engaged in deceit, fraud, or intentional misrepresentation in the
 7 course of providing professional services or engaging in professional activities;

8 (3) advertised professional services in a false or misleading manner;

9 (4) has been convicted of a felony or other crime that affects the
 10 licensee's ability to continue to practice competently and safely;

11 (5) failed to comply with this chapter, with a regulation adopted under
 12 this chapter, or with an order of the department;

13 (6) continued to practice after becoming unfit because of

14 (A) professional incompetence;

15 (B) addiction or severe dependency on alcohol or a drug that
 16 impairs the licensee's ability to practice safely;

17 (C) physical or mental disability;

18 (7) engaged in lewd or immoral conduct in connection with the
 19 delivery of professional service to patients.

20 **Sec. 08.15.060. Disciplinary sanctions.** (a) When the department finds that a
 21 licensee is guilty of an offense under AS 08.45.060, the department may impose the
 22 following sanctions singly or in combination:

23 (1) permanently revoke the license to practice;

24 (2) suspend the license for a determinate period of time;

25 (3) censure the licensee;

26 (4) issue a letter of reprimand to the licensee;

27 (5) place the licensee on probationary status and require the licensee to

28 (A) report regularly to the department on matters involving the
 29 basis of probation;

30 (B) limit practice to those areas prescribed;

31 (C) continue professional education until a satisfactory degree

1 of skill has been reached in areas determined by the department to need
2 improvement;

3 (6) impose limitations or conditions on the practice of the licensee.

4 (b) The department may withdraw probationary status of a licensee if it finds
5 that the deficiencies that required the sanction have been remedied.

6 (c) The department may summarily suspend a license before final hearing or
7 during the appeals process if the department finds that the licensee poses a clear and
8 immediate danger to the public health and safety if the licensee continues to practice.
9 A licensee whose license is suspended under this section is entitled to a hearing
10 conducted by the office of administrative hearings not later than seven days after the
11 effective date of the order. The licensee may appeal the suspension after a hearing to a
12 court of competent jurisdiction.

13 **Sec. 08.15.070. Exemptions.** This chapter does not apply to

14 (1) a person licensed in this state performing behavior analysis within
15 the scope of practice for which the person's license was issued;

16 (2) a student or trainee who is enrolled in a behavior analysis program
17 approved by the department while performing duties under the program under the
18 direct supervision of a person licensed under this chapter;

19 (3) an individual who directly implements applied behavior analysis
20 services, or family member implementing a behavior analysis plan within the home,
21 who acts under the direction of a licensed behavior analyst or licensed assistant
22 behavior analyst;

23 (4) an applied animal behaviorist who practices exclusively with
24 nonhumans;

25 (5) a person who works in organizational behavior management;

26 (6) a person supervised by a licensed behavior analyst who is gaining
27 experience for certification by the Behavior Analyst Certification Board, Inc., or
28 another certifying entity approved by the department.

29 **Sec. 08.15.080. Regulations.** The department shall adopt regulations to
30 implement this chapter, including

31 (1) continuing education requirements; and

(2) standards for licensure by credentials.

Sec. 08.15.090. Definitions. In this chapter,

(1) "behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior, the empirical identification of functional relations between behavior and environmental factors, and the utilization of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and engage in behaviors under specific environmental conditions; "behavior analysis" does not include psychological testing, diagnosis of a mental or physical disorder, or the practice of neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or long-term counseling;

(2) "department" means the Department of Commerce, Community, and Economic Development.

* **Sec. 4.** AS 09.65.300(c)(1) is amended to read:

(1) "health care provider" means a state licensed physician, physician assistant, dentist, dental hygienist, osteopath, optometrist, chiropractor, registered nurse, practical nurse, nurse midwife, advanced nurse practitioner, naturopath, physical therapist, occupational therapist, marital and family therapist, psychologist, psychological associate, **behavior analyst, assistant behavior analyst,** licensed clinical social worker, or certified direct-entry midwife;

* **Sec. 5.** AS 47.17.290(14) is amended to read:

(14) "practitioner of the healing arts" includes chiropractors, mental health counselors, social workers, dental hygienists, dentists, health aides, nurses, nurse practitioners, certified nurse aides, occupational therapists, occupational therapy assistants, optometrists, osteopaths, naturopaths, physical therapists, physical therapy assistants, physicians, physician's assistants, psychiatrists, psychologists, psychological associates, audiologists and speech-language pathologists licensed under AS 08.11, hearing aid dealers licensed under AS 08.55, marital and family therapists licensed under AS 08.63, **behavior analysts, assistant behavior analysts,** religious healing practitioners, acupuncturists, and surgeons;

1 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 APPLICABILITY. The license requirement of AS 08.15.010, added by sec. 3 of this
4 Act,

5 (1) applies immediately to a person who has

6 (A) never practiced behavior analysis, as defined in AS 08.15.090,
7 added by sec. 3 of this Act, before the effective date of this Act; or

8 (B) practiced behavior analysis in the state, but does not meet the
9 requirements of (2) of this section; and

10 (2) does not apply until two years after the effective date of this Act to a
11 person who has been practicing behavior analysis in this state for at least three of the five
12 years immediately preceding the effective date of this Act, is certified by the Behavior
13 Analyst Certification Board, Inc., and is practicing behavior analysis within the scope of that
14 certification.