

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SENATE BILL 1443

AN ACT

AMENDING SECTIONS 32-2065 AND 32-3214, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 32-3221 AND 32-3222; AMENDING SECTIONS 32-3254 AND 32-3261, ARIZONA REVISED STATUTES; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTIONS 32-3331, 32-3334 AND 32-3338, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; APPROPRIATING MONIES; RELATING TO HEALTH PROFESSION REGULATORY BOARDS.

(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

5 A. The board of psychologist examiners fund is established.

6 B. Except as provided in section 32-2081 ~~and section 32-2091.09,~~
7 ~~subsection J~~, pursuant to sections 35-146 and 35-147, the board shall deposit
8 ten ~~per cent~~ PERCENT of all monies collected pursuant to this chapter in the
9 state general fund and deposit the remaining ninety ~~per cent~~ PERCENT in the
10 board of psychologist examiners fund.

11 C. All monies deposited in the board of psychologist examiners fund
12 are subject to section 35-143.01.

13 D. All monies deposited in the board of psychologist examiners fund
14 pursuant to SECTION 32-2067 and any monies received pursuant to section
15 32-2063, subsection C for psychologist licensing and regulation must be used
16 only for the licensing and regulation of psychologists pursuant to this
17 article and articles 2 and 3 of this chapter ~~and may not be used for the~~
18 ~~licensing and regulation of behavior analysts pursuant to article 4 of this~~
19 ~~chapter.~~

20 ~~E. All monies deposited in the board of psychologist examiners fund~~
21 ~~pursuant to article 4 of this chapter and any monies received pursuant to~~
22 ~~section 32-2063, subsection C for behavior analyst licensing and regulation~~
23 ~~must be used only for the licensing and regulation of behavior analysts~~
24 ~~pursuant to article 4 of this chapter and may not be used for the licensing~~
25 ~~and regulation of psychologists pursuant to this article and articles 2 and 3~~
26 ~~of this chapter.~~

27 ~~F. The board shall establish a separate account in the fund for monies~~
28 ~~transferred to the fund pursuant to article 4 of this chapter and any monies~~
29 ~~received pursuant to section 32-2063, subsection C for behavior analyst~~
30 ~~licensing and regulation.~~

31 Sec. 2. Section 32-3214, Arizona Revised Statutes, is amended to read:

32 32-3214. Board actions; records; website; compliance deadline

33 A. If a health profession regulatory board dismisses a complaint, the
34 record of that complaint is available to that regulatory board and the public
35 pursuant to section 39-121 but may not appear on the board's website. For
36 the purposes of this subsection, "dismisses a complaint" means that a board
37 does not issue a disciplinary or nondisciplinary order or action against a
38 licensee or certificate holder.

39 B. If a health profession regulatory board issues a nondisciplinary
40 order or action against a licensee or certificate holder, the record of the
41 nondisciplinary order or action ~~is available to that board and the public~~
42 ~~pursuant to section 39-121, but may not appear~~ SHALL BE AVAILABLE on the
43 board's website, ~~except that a practice limitation or restriction, and~~
44 ~~documentation relating to that action, may appear on the board's website~~ FOR
45 A PERIOD OF FIVE YEARS.

1 C. If a health profession regulatory board maintains a website, the
2 board must display on its website a statement that a person may obtain
3 additional public records related to any licensee or certificate holder,
4 including dismissed complaints ~~and nondisciplinary actions and orders~~, by
5 contacting the board directly.

6 D. This section does not prohibit a health profession regulatory board
7 from conducting its authorized duties in a public meeting.

8 E. Subsections A and B of this section do not apply to meeting minutes
9 and notices kept by the board in accordance with the public meeting
10 requirements of title 38, chapter 3, article 3.1.

11 F. A health profession regulatory board must comply with the
12 requirements of this section on or before January 1, ~~2012~~ 2017.

13 Sec. 3. Title 32, chapter 32, article 1, Arizona Revised Statutes, is
14 amended by adding sections 32-3221 and 32-3222, to read:

15 32-3221. Health profession regulatory boards; terms of members;
16 availability of board meeting recordings; websites

17 A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, A MEMBER OF A
18 HEALTH PROFESSION REGULATORY BOARD IS NOT ELIGIBLE FOR REAPPOINTMENT TO THAT
19 BOARD ONCE THE PERSON HAS BEEN APPOINTED FOR TWO FULL TERMS, IN ADDITION TO
20 ANY TIME SERVED ON THE BOARD TO FILL A VACANCY. A PERSON MAY BE REAPPOINTED
21 TO A HEALTH PROFESSION REGULATORY BOARD ONCE THE PERSON HAS NOT BEEN ON THE
22 BOARD FOR A TIME PERIOD OF AT LEAST ONE FULL TERM.

23 B. EACH HEALTH PROFESSION REGULATORY BOARD SHALL AUDIO OR VIDEO RECORD
24 ALL OPEN MEETINGS OF THE BOARD AND SHALL MAINTAIN THESE RECORDINGS FOR THREE
25 YEARS AFTER THE DATE OF THE RECORDING. THE HEALTH PROFESSION REGULATORY
26 BOARD, WITHIN FIVE BUSINESS DAYS AFTER THE BOARD MEETING THAT IS THE SUBJECT
27 OF THE RECORDING, SHALL EITHER:

- 28 1. POST THE AUDIO OR VIDEO RECORDING ON THE BOARD'S WEBSITE.
- 29 2. POST NOTICE ON THE BOARD'S WEBSITE OF THE AVAILABILITY OF THE AUDIO
30 OR VIDEO RECORDING.

31 C. EACH HEALTH PROFESSION REGULATORY BOARD SHALL PROVIDE ON THE
32 BOARD'S WEBSITE A LIST OF ALL BOARD-SPECIFIC CONTRACT EMPLOYMENT
33 OPPORTUNITIES AND A LINK TO THE STATE PROCUREMENT OFFICE TO APPLY FOR THOSE
34 POSITIONS.

35 32-3222. Health profession regulatory boards; nondisciplinary
36 confidential monitoring programs

37 A. EACH HEALTH PROFESSION REGULATORY BOARD MAY ESTABLISH A
38 NONDISCIPLINARY CONFIDENTIAL PROGRAM, INCLUDING ENROLLMENT CRITERIA FOR
39 PARTICIPATION IN THE PROGRAM, FOR THE MONITORING OF A LICENSEE OR CERTIFICATE
40 HOLDER WHO HAS BEEN REPORTED TO OR WHO VOLUNTARILY REPORTS TO THE LICENSEE'S
41 OR CERTIFICATE HOLDER'S REGULATORY BOARD AND WHO MAY BE CHEMICALLY DEPENDENT
42 OR WHO MAY HAVE A MEDICAL, PSYCHIATRIC, PSYCHOLOGICAL OR BEHAVIORAL HEALTH
43 DISORDER THAT MAY IMPACT THE LICENSEE'S OR CERTIFICATE HOLDER'S ABILITY TO
44 SAFELY PRACTICE OR PERFORM HEALTH CARE TASKS.

1 B. A PROGRAM ESTABLISHED PURSUANT TO SUBSECTION A OF THIS SECTION MAY
2 INCLUDE EDUCATION, INTERVENTION, THERAPEUTIC TREATMENT AND POSTTREATMENT
3 MONITORING AND SUPPORT. THE LICENSEE OR CERTIFICATE HOLDER IS RESPONSIBLE
4 FOR THE COSTS ASSOCIATED WITH ANY TREATMENT, REHABILITATION OR MONITORING
5 UNDER A PROGRAM ESTABLISHED PURSUANT TO SUBSECTION A OF THIS SECTION. THE
6 HEALTH PROFESSION REGULATORY BOARD AND THE LICENSEE OR CERTIFICATE HOLDER MAY
7 AGREE TO ENTER INTO A NONDISCIPLINARY CONFIDENTIAL STIPULATED AGREEMENT FOR
8 PARTICIPATION IN A PROGRAM ESTABLISHED PURSUANT TO SUBSECTION A OF THIS
9 SECTION.

10 C. THE BOARD MAY TAKE FURTHER ACTION IF THE LICENSEE OR CERTIFICATE
11 HOLDER REFUSES TO ENTER INTO A NONDISCIPLINARY CONFIDENTIAL STIPULATED
12 AGREEMENT WITH THE BOARD OR FAILS TO COMPLY WITH THE AGREEMENT'S TERMS. THE
13 CONFIDENTIALITY REQUIREMENTS OF THIS SECTION DO NOT APPLY IF THE LICENSEE OR
14 CERTIFICATE HOLDER DOES NOT COMPLY WITH THE STIPULATED AGREEMENT.

15 Sec. 4. Section 32-3254, Arizona Revised Statutes, is amended to read:

16 32-3254. Board of behavioral health examiners fund

17 A. ~~A~~ THE board of behavioral health examiners fund is
18 established. Pursuant to sections 35-146 and 35-147, the board shall deposit
19 ten ~~per-cent~~ PERCENT of all monies received by the board in the state general
20 fund and deposit the remaining ninety ~~per-cent~~ PERCENT in the board of
21 behavioral health examiners fund.

22 B. ALL MONIES DEPOSITED IN THE BOARD OF BEHAVIORAL HEALTH EXAMINERS
23 FUND PURSUANT TO ARTICLE 9 OF THIS CHAPTER MAY BE USED ONLY FOR THE LICENSING
24 AND REGULATION OF BEHAVIOR ANALYSTS PURSUANT TO ARTICLE 9 OF THIS CHAPTER.

25 ~~B~~ C. All monies deposited in the board of behavioral health
26 examiners fund are subject to section 35-143.01.

27 Sec. 5. Section 32-3261, Arizona Revised Statutes, is amended to read:

28 32-3261. Academic review committees; members; appointment;
29 qualifications; terms; compensation; immunity;
30 training

31 A. The board shall establish an academic review committee for each
32 professional area licensed pursuant to this chapter to do the following:

33 1. Review applications referred to the committee by the board or the
34 executive director to determine whether an applicant, ~~whose curriculum has~~
35 not been approved pursuant to section 32-3253, subsection A, paragraph 14 or
36 whose program is not accredited by an organization or entity approved by the
37 board, ~~has met the educational requirements of this chapter or board rules.~~

38 2. On referral by the executive director, make recommendations to the
39 board regarding whether an applicant has met the requirements of supervised
40 work experience **OR INDEPENDENT FIELDWORK** required for licensure pursuant to
41 this chapter or board rules.

42 3. Make specific findings concerning an application's deficiencies.

43 4. Review applications and make recommendations to the board for
44 curriculum approval applications made pursuant to section 32-3253, subsection
45 A, paragraph 14.

1 5. At the request of the board, make recommendations regarding
2 examinations required pursuant to this chapter.

3 6. Review applications for and make determinations regarding
4 exemptions related to clinical supervision requirements.

5 B. An academic review committee shall be composed of three members who
6 have been residents of this state for at least one year before appointment,
7 at least one but not more than two of whom are licensed in the professional
8 area pursuant to this chapter and have five years of experience in the
9 applicable profession. At least one but not more than two members must have
10 served within the previous ten years as core or full-time faculty at a
11 regionally accredited college or university in a program related to the
12 applicable profession and have experience in the design and development of
13 the curriculum of a related program. If qualified, a faculty member may
14 serve on more than one academic review committee. A board member may not be
15 appointed to serve on an academic review committee.

16 C. Committee members shall initially be appointed by the board. From
17 and after January 1, 2016, the governor shall appoint the committee members.
18 A committee member who is initially appointed by the board may be reappointed
19 by the governor. A committee member who is initially appointed by the board
20 shall continue to serve until appointed or replaced by the governor.

21 D. COMMITTEE MEMBERS FOR THE ACADEMIC REVIEW COMMITTEE FOR BEHAVIORAL
22 ANALYSTS SHALL INITIALLY BE APPOINTED BY THE BOARD. BEGINNING JANUARY 1,
23 2017, THE GOVERNOR SHALL APPOINT THE COMMITTEE MEMBERS. A COMMITTEE MEMBER
24 WHO IS INITIALLY APPOINTED BY THE BOARD MAY BE REAPPOINTED BY THE GOVERNOR.
25 A COMMITTEE MEMBER WHO IS INITIALLY APPOINTED BY THE BOARD SHALL CONTINUE TO
26 SERVE UNTIL APPOINTED OR REPLACED BY THE GOVERNOR.

27 ~~D.~~ E. Committee members serve at the pleasure of the governor for
28 terms of three years. A member shall not serve more than two full
29 consecutive terms.

30 ~~E.~~ F. Committee members are eligible to receive compensation of not
31 more than eighty-five dollars for each day actually and necessarily spent in
32 the performance of their duties.

33 ~~F.~~ G. An academic review committee shall annually elect a chairman
34 and secretary from its membership.

35 ~~G.~~ H. Committee members are personally immune from suit with respect
36 to all acts done and actions taken in good faith and in furtherance of the
37 purposes of this chapter.

38 ~~H.~~ I. Committee members shall receive at least five hours of training
39 as prescribed by the board within one year after the member is initially
40 appointed ~~and~~ that includes instruction in ethics and open meeting
41 requirements.

1 Sec. 6. Transfer and renumber
 2 Title 32, chapter 19.1, article 4, Arizona Revised Statutes, is
 3 transferred and renumbered for placement in title 32, chapter 33, Arizona
 4 Revised Statutes, as article 9. The following sections are transferred and
 5 renumbered for placement in title 32, chapter 33, article 9:

	<u>Former Sections</u>	<u>New Sections</u>
6	32-2091	32-3331
7	32-2091.01	32-3332
8	32-2091.02	32-3333
9	32-2091.03	32-3334
10	32-2091.04	32-3335
11	32-2091.06	32-3336
12	32-2091.08	32-3338
13	32-2091.09	32-3339
14	32-2091.10	32-3340
15	32-2091.11	32-3341
16	32-2091.12	32-3342
17	32-2091.13	32-3343
18	32-2091.14	32-3344

19
 20 Section 32-2091.07, Arizona Revised Statutes, as amended by Laws 2014,
 21 chapter 166, section 3, is transferred and renumbered for placement in title
 22 32, chapter 33, article 9, Arizona Revised Statutes, as section 32-3337.
 23 Section 32-2091.07, Arizona Revised Statutes, as amended by Laws 2014,
 24 chapter 166, section 4, is transferred and renumbered for placement in title
 25 32, chapter 33, article 9, Arizona Revised Statutes, as section 32-3337.

26 Sec. 7. Section 32-3331, Arizona Revised Statutes, as transferred and
 27 renumbered, is amended to read:

28 32-3331. Definitions

29 In this article, unless the context otherwise requires:

- 30 1. "Active license" means a current license issued by the board to a
 31 person WHO IS licensed pursuant to this article.
- 32 2. "Adequate records" means records that contain, at a minimum,
 33 sufficient information to identify the client, the dates of service, the fee
 34 for service, the payments for service and the type of service given and
 35 copies of any reports that may have been made.
- 36 3. "Behavior analysis" means the design, implementation and evaluation
 37 of systematic environmental modifications by a behavior analyst to produce
 38 socially significant improvements in human behavior based on the principles
 39 of behavior identified through the experimental analysis of behavior.
 40 Behavior analysis does not include cognitive therapies or psychological
 41 testing, neuropsychology, psychotherapy, sex therapy, psychoanalysis,
 42 hypnotherapy and long-term counseling as treatment modalities.
- 43 4. "Behavior analysis services" means the use of behavior analysis to
 44 assist a person to learn new behavior, increase existing behavior, reduce
 45 existing behavior and emit behavior under precise environmental conditions.

1 Behavior analysis ~~includes~~ SERVICES INCLUDE behavioral programming and
2 behavioral programs.

3 5. "Behavior analyst" means a person who is licensed pursuant to this
4 article to practice behavior analysis.

5 6. "Client" means:

6 (a) A person or entity that receives behavior analysis services.
7 (b) A corporate entity, a governmental entity or any other
8 organization that has a professional contract to provide services or benefits
9 primarily to an organization rather than to an individual.

10 (c) An individual's legal guardian for ~~decision-making~~ DECISION-MAKING
11 purposes, except that the individual is the client for issues that directly
12 affect the individual's physical or emotional safety and issues that the
13 legal guardian agrees to specifically reserve to the individual.

14 7. "Exploit" means an action by a behavior analyst who takes undue
15 advantage of the professional association with a client, student or
16 supervisee for the advantage or profit of the behavior analyst.

17 8. "Health care institution" means a facility that is licensed
18 pursuant to title 36, chapter 4, article 1.

19 9. "Incompetent as a behavior analyst" means that a person who is
20 licensed pursuant to THIS article ~~4 of this chapter~~ lacks the knowledge or
21 skills of a behavior analyst to a degree that is likely to endanger the
22 health of a client.

23 10. "Letter of concern" means an advisory letter to notify a licensee
24 that while there is insufficient evidence to support disciplinary action the
25 board believes the licensee should modify or eliminate certain practices and
26 that continuation of the activities that led to the information being
27 submitted to the board may result in action against the license.

28 11. "Supervisee" means a person who acts under the extended authority
29 of a behavior analyst to provide behavioral services and includes a person
30 who is in training to provide these services.

31 12. "Unprofessional conduct" includes the following activities, whether
32 occurring in this state or elsewhere:

33 (a) Obtaining a fee by fraud or misrepresentation.
34 (b) Betraying professional confidences.
35 (c) Making or using statements of a character tending to deceive or
36 mislead.
37 (d) Aiding or abetting a person who is not licensed pursuant to this
38 article in representing that person as a behavior analyst.
39 (e) Gross negligence in the practice of a behavior analyst.
40 (f) Sexual intimacies or sexual intercourse with a current client or a
41 supervisee or with a former client within two years after the cessation or
42 termination of treatment. For the purposes of this subdivision, "sexual
43 intercourse" has the same meaning prescribed in section 13-1401.

1 (g) Engaging or offering to engage as a behavior analyst in activities
2 that are not congruent with the behavior analyst's professional education,
3 training and experience.

4 (h) Failing or refusing to maintain and retain adequate business,
5 financial or professional records pertaining to the behavior analysis
6 services provided to a client.

7 (i) Committing a felony, whether or not involving moral turpitude, or
8 a misdemeanor involving moral turpitude. In either case, conviction by a
9 court of competent jurisdiction or a plea of no contest is conclusive
10 evidence of the commission.

11 (j) Making a fraudulent or untrue statement to the board or its
12 investigators, staff or consultants.

13 (k) Violating any federal or state law that relates to the practice of
14 behavior analysis or to obtain a license to practice behavior analysis.

15 (l) Practicing behavior analysis while impaired or incapacitated to
16 the extent and in a manner that jeopardizes the welfare of a client or
17 renders the services provided ineffective.

18 (m) Using fraud, misrepresentation or deception to obtain or attempt
19 to obtain a behavior analysis license or to pass or attempt to pass a
20 behavior analysis licensing examination or in assisting another person to do
21 so.

22 (n) Unprofessional conduct in another jurisdiction that resulted in
23 censure, probation or a civil penalty or in the denial, suspension,
24 restriction or revocation of a certificate or license to practice as a
25 behavior analyst.

26 (o) Providing services that are unnecessary or unsafe or otherwise
27 engaging in activities as a behavior analyst that are unprofessional by
28 current standards of practice.

29 (p) Falsely or fraudulently claiming to have performed a professional
30 service, charging for a service or representing a service as the licensee's
31 own if the licensee has not rendered the service or assumed supervisory
32 responsibility for the service.

33 (q) Representing activities or services as being performed under the
34 licensee's supervision if the behavior analyst has not assumed responsibility
35 for them and has not exercised control, oversight and review.

36 (r) Failing to obtain a client's informed and written consent to
37 release personal or otherwise confidential information to another party
38 unless the release is otherwise authorized by law.

39 (s) Failing to make client records in the behavior analyst's
40 possession promptly available to another behavior analyst on receipt of
41 proper authorization to do so from the client, a minor client's parent, the
42 client's legal guardian or the client's authorized representative or failing
43 to comply with title 12, chapter 13, article 7.1.

1 (t) Failing to take reasonable steps to inform or protect a client's
2 intended victim and inform the proper law enforcement officials if the
3 behavior analyst becomes aware during the course of providing or supervising
4 behavior analysis services that a client intends or plans to inflict serious
5 bodily harm on another person.

6 (u) Failing to take reasonable steps to protect a client if the
7 behavior analyst becomes aware during the course of providing or supervising
8 behavior analysis services that a client intends or plans to inflict serious
9 bodily harm on self.

10 (v) Abandoning or neglecting a client in need of immediate care
11 without making suitable arrangements for continuation of the care.

12 (w) Engaging in direct or indirect personal solicitation of clients
13 through the use of coercion, duress, undue influence, compulsion or
14 intimidation practices.

15 (x) Engaging in false, deceptive or misleading advertising.

16 (y) Exploiting a client, student or supervisee.

17 (z) Failing to report information to the board regarding a possible
18 act of unprofessional conduct committed by another behavior analyst who is
19 licensed pursuant to this article unless this reporting violates the behavior
20 analyst's confidential relationship with a client pursuant to this article.
21 A behavior analyst who reports or provides information to the board in good
22 faith is not subject to an action for civil damages.

23 (aa) Violating a formal board order, consent agreement, term of
24 probation or stipulated agreement issued under this article.

25 (bb) Failing to furnish information in a timely manner to the board or
26 its investigators or representatives if requested or subpoenaed by the board
27 as prescribed by this article.

28 (cc) Failing to make available to a client or to the client's
29 designated representative, on written request, a copy of the client's record,
30 excluding raw test data, psychometric testing materials and other information
31 as provided by law.

32 (dd) Violating an ethical standard adopted by the board.

33 (ee) Representing oneself as a psychologist or permitting others to do
34 so if the behavior analyst is not also licensed as a psychologist pursuant to
35 ~~this~~ chapter 19.1 OF THIS TITLE.

36 Sec. 8. Section 32-3334, Arizona Revised Statutes, as transferred and
37 renumbered, is amended to read:

38 32-3334. Educational and training standards for licensure

39 An applicant for licensure as a behavior analyst must meet standards
40 adopted by the ~~state~~ board of ~~psychologist~~ BEHAVIORAL HEALTH examiners,
41 including meeting ~~graduate-level~~ GRADUATE-LEVEL education and supervised
42 experience requirements and passing a national examination. The ~~state~~ board
43 of ~~psychologist~~ BEHAVIORAL HEALTH examiners shall adopt standards consistent
44 with the standards set by a nationally recognized behavior analyst
45 certification board, except that the number of hours required for supervised

1 experience must be at least one thousand five hundred hours of supervised
2 work experience or independent fieldwork, university practicum or intensive
3 university practicum. The standards adopted for supervised experience must
4 also be consistent with the standards set by a nationally recognized behavior
5 analyst certification board. If the ~~state~~ board of ~~psychologist~~ BEHAVIORAL
6 HEALTH examiners does not agree with a standard set by a nationally
7 recognized behavior analyst certification board, the ~~state~~ board OF
8 BEHAVIORAL HEALTH EXAMINERS may adopt an alternate standard.

9 Sec. 9. Section 32-3338, Arizona Revised Statutes, as transferred and
10 renumbered, is amended to read:

11 32-3338. Exemptions from licensure

12 A. This article does not limit the activities, services and use of a
13 title by the following:

14 1. A behavior analyst who is employed in a common school, high school
15 or charter school setting and who is certified to use that title by the
16 department of education if the services or activities are a part of the
17 duties of that person's common school, high school or charter school
18 employment.

19 2. An employee of a government agency in a subdoctorate position who
20 uses the word "assistant" or "associate" after the title and who is
21 supervised by a doctorate position employee who is licensed as a behavior
22 analyst, including a temporary licensee.

23 3. A matriculated graduate student, or a trainee whose activities are
24 part of a defined behavior analysis program of study, practicum, intensive
25 practicum or supervised independent fieldwork. The practice under this
26 paragraph requires direct supervision consistent with the standards set by a
27 nationally recognized behavior analyst certification board, as determined by
28 the ~~state~~ board of ~~psychologist~~ BEHAVIORAL HEALTH examiners. A student or
29 trainee may not claim to be a behavior analyst and must use a title that
30 clearly indicates the person's training status, such as "behavior analysis
31 student" or "behavior analysis trainee".

32 4. A person who resides outside of this state and who is currently
33 licensed or certified as a behavior analyst in that state if the activities
34 and services conducted in this state are within the behavior analyst's
35 customary area of practice, do not exceed twenty days per year and are not
36 otherwise in violation of this article and the client, public or consumer is
37 informed of the limited nature of these activities and services and that the
38 behavior analyst is not licensed in this state.

39 5. A person in the employ of Arizona state university, northern
40 Arizona university, the university of Arizona or another regionally
41 accredited university in this state if the services are a part of the faculty
42 duties of that person's salaried position and the person is participating in
43 a graduate program.

1 6. A noncredentialed individual who delivers applied behavior analysis
2 services under the extended authority and direction of a licensed behavior
3 analyst. The individual may not claim to be a professional behavior analyst
4 and must use a title indicating the person's nonprofessional status, such as
5 "ABA technician", "behavior technician" or "tutor".

6 B. This article does not prevent a member of other recognized
7 professions who is licensed, certified or regulated under the laws of this
8 state from rendering services within that person's scope of practice and code
9 of ethics if that person does not claim to be a behavior analyst.

10 Sec. 10. Transfer of monies

11 All monies in the board of psychologist examiners fund established by
12 section 32-2065, Arizona Revised Statutes, as amended by this act, that were
13 deposited pursuant to title 32, chapter 19.1, article 4, Arizona Revised
14 Statutes, as transferred and renumbered by this act, or received pursuant to
15 section 32-2063, subsection C, Arizona Revised Statutes, for behavior analyst
16 licensing and regulation are transferred to the board of behavioral health
17 examiners fund established by section 32-3254, Arizona Revised Statutes, as
18 amended by this act, on September 1, 2016.

19 Sec. 11. Transfer of powers; effect

20 Beginning September 1, 2016:

21 1. All matters relating to behavior analysts, including contracts,
22 orders and judicial and quasi-judicial actions, whether completed or pending,
23 of the state board of psychologist examiners are transferred, on the
24 effective date of this act, and maintain the same status with the board of
25 behavioral health examiners.

26 2. Rules adopted by the state board of psychologist examiners relating
27 to behavior analysts are effective until superseded by rules adopted by the
28 board of behavioral health examiners.

29 3. All personnel, property and records, all data and investigative
30 findings, all obligations and all appropriated monies that remain unspent and
31 unencumbered of the state board of psychologist examiners relating to
32 behavior analysts are transferred to the board of behavioral health examiners
33 and may be used for the licensing and regulation of behavior analysts.

34 Sec. 12. Board of behavioral health examiners; report

35 On or before December 15, 2016, the board of behavioral health
36 examiners shall report to the committees of reference of the health and human
37 services committee of the senate and the health committee of the house of
38 representatives regarding the implementation of the transfer of the licensing
39 and regulation of the behavior analysts to the board of behavioral health
40 examiners.

41 Sec. 13. Rulemaking exemption

42 For the purposes of implementing the transfer of the licensing and
43 regulation of behavior analysts to the board of behavioral health examiners,
44 the board of behavioral health examiners is exempt from the rulemaking

1 requirements of title 41, chapter 6, Arizona Revised Statutes, until
2 September 1, 2017.

3 Sec. 14. Effective date

4 A. The following sections are effective from and after August 31,
5 2016:

6 1. Sections 32-2065, 32-3254 and 32-3261, Arizona Revised Statutes, as
7 amended by this act.

8 2. Sections 32-3331, 32-3334 and 32-3338, Arizona Revised Statutes, as
9 transferred, renumbered and amended by this act.

10 3. Section 6 of this act.

11 B. Section 32-3214, Arizona Revised Statutes, as amended by this act,
12 and sections 32-3221 and 32-3222, Arizona Revised Statutes, as added by this
13 act, are effective from and after December 31, 2016.