

REFERENCE TITLE: behavior analysts; committee; licensure; regulation

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SB 1335

Introduced by
Senator Barto

AN ACT

AMENDING SECTIONS 32-2061, 32-2062, 32-2063, 32-2064, 32-2065, 32-2091, 32-2091.03, 32-2091.04, 32-2091.07, 32-2091.08, 32-2091.09, 32-2091.10, 32-2091.11 AND 32-2091.14, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 19.1, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2091.15; RELATING TO THE STATE BOARD OF PSYCHOLOGIST EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-2061, Arizona Revised Statutes, is amended to
3 read:

4 32-2061. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Active license" means a valid and existing license to practice
7 psychology.

8 2. "Adequate records" means records containing, at a minimum,
9 sufficient information to identify the client or patient, the dates of
10 service, the fee for service, the payments for service, the type of
11 service given and copies of any reports that may have been made.

12 3. "Board" means the state board of psychologist examiners.

13 4. "Client" means a person or an entity that receives psychological
14 services. A corporate entity, a governmental entity or any other
15 organization may be a client if there is a professional contract to
16 provide services or benefits primarily to an organization rather than to
17 an individual. If an individual has a legal guardian, the legal guardian
18 is the client for decision-making purposes, except that the individual
19 receiving services is the client or patient for:

20 (a) Issues that directly affect the physical or emotional safety of
21 the individual, such as sexual or other exploitative relationships.

22 (b) Issues that the guardian agrees to specifically reserve to the
23 individual.

24 5. "COMMITTEE" MEANS THE COMMITTEE ON BEHAVIOR ANALYSTS ESTABLISHED
25 BY SECTION 32-2091.15.

26 ~~5.~~ 6. "Exploit" means actions by a psychologist who takes undue
27 advantage of the professional association with a client or patient, a
28 student or a supervisee for the advantage or profit of the psychologist.

29 ~~6.~~ 7. "Health care institution" means a facility as defined in
30 section 36-401.

31 ~~7.~~ 8. "Letter of concern" means an advisory letter to notify a
32 psychologist that while there is insufficient evidence to support
33 disciplinary action the board believes the psychologist should modify or
34 eliminate certain practices and that continuation of the activities that
35 led to the information being submitted to the board may result in action
36 against the psychologist's license.

37 ~~8.~~ 9. "Patient" means a person who receives psychological
38 services. If an individual has a legal guardian, the legal guardian is
39 the client or patient for decision-making purposes, except that the
40 individual receiving services is the client or patient for:

41 (a) Issues that directly affect the physical or emotional safety of
42 the individual, such as sexual or other exploitative relationships.

43 (b) Issues that the guardian agrees to specifically reserve to the
44 individual.

1 ~~9.~~ 10. "Practice of psychology" means the psychological
2 assessment, diagnosis, treatment or correction of mental, emotional,
3 behavioral or psychological abilities, illnesses or disorders or
4 purporting or attempting to do this consistent with section 32-2076.
5 11. "Psychologically incompetent" means a person lacking in
6 sufficient psychological knowledge or skills to a degree likely to
7 endanger the health of clients or patients.
8 ~~10.~~ 12. "Psychological service" means all actions of the
9 psychologist in the practice of psychology.
10 ~~12.~~ 13. "Psychologist" means a natural person holding a license to
11 practice psychology pursuant to this chapter.
12 ~~13.~~ 14. "Supervisee" means any person who functions under the
13 extended authority of the psychologist to provide, or while in training to
14 provide, psychological services.
15 ~~14.~~ 15. "Telepractice" means providing psychological services
16 through interactive audio, video or electronic communication that occurs
17 between the psychologist and the patient or client, including any
18 electronic communication for diagnostic, treatment or consultation
19 purposes in a secure platform, and that meets the requirements of
20 telemedicine pursuant to section 36-3602. Telepractice includes
21 supervision.
22 ~~15.~~ 16. "Unprofessional conduct" includes the following activities
23 whether occurring in this state or elsewhere:
24 (a) Obtaining a fee by fraud or misrepresentation.
25 (b) Betraying professional confidences.
26 (c) Making or using statements of a character tending to deceive or
27 mislead.
28 (d) Aiding or abetting a person who is not licensed pursuant to
29 this chapter in representing that person as a psychologist.
30 (e) Gross negligence in the practice of a psychologist.
31 (f) Sexual intimacies or sexual intercourse with a current client
32 or patient or a supervisee or with a former client or patient within two
33 years after the cessation or termination of treatment. For the purposes
34 of this subdivision, "sexual intercourse" has the same meaning prescribed
35 in section 13-1401.
36 (g) Engaging or offering to engage as a psychologist in activities
37 THAT ARE not congruent with the psychologist's professional education,
38 training and experience.
39 (h) Failing or refusing to maintain and retain adequate business,
40 financial or professional records pertaining to the psychological services
41 provided to a client or patient.
42 (i) Commission of a felony, whether or not involving moral
43 turpitude, or a misdemeanor involving moral turpitude. In either case,
44 conviction by a court of competent jurisdiction or a plea of no contest is
45 conclusive evidence of the commission.

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

3 (k) Violating any federal or state laws or rules that relate to the
4 practice of psychology or to obtaining a license to practice psychology.

5 (l) Practicing psychology while impaired or incapacitated to the
6 extent and in a manner that jeopardizes the welfare of the client or
7 patient or renders the psychological services provided ineffective.

8 (m) Using fraud, misrepresentation or deception to obtain or
9 attempt to obtain a psychology license or to pass or attempt to pass a
10 psychology licensing examination or in assisting another person to do so.

11 (n) Unprofessional conduct in another jurisdiction that resulted in
12 censure, probation or a civil penalty or in the denial, suspension,
13 restriction or revocation of a certificate or license to practice as a
14 psychologist.

15 (o) Providing services that are unnecessary or unsafe or otherwise
16 engaging in activities as a psychologist that are unprofessional by
17 current standards of practice.

18 (p) Falsely or fraudulently claiming to have performed a
19 professional service, charging for a service or representing a service as
20 the licensee's own when the licensee has not rendered the service or
21 assumed supervisory responsibility for the service.

22 (q) Representing activities or services as being performed under
23 the licensee's supervision if the psychologist has not assumed
24 responsibility for them and has not exercised control, oversight and
25 review.

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

29 (s) Failing to make client or patient records in the psychologist's
30 possession promptly available to another psychologist WHO IS licensed
31 pursuant to this chapter on receipt of proper authorization to do so from
32 the client or patient, a minor client's or patient's parent, the client's
33 or patient's legal guardian or the client's or patient's authorized
34 representative or failing to comply with title 12, chapter 13, article
35 7.1.

36 (t) Failing to take reasonable steps to inform or protect a
37 client's or patient's intended victim and inform the proper law
38 enforcement officials in circumstances where IN WHICH the psychologist
39 becomes aware during the course of providing or supervising psychological
40 services that a client or patient intends or plans to inflict serious
41 bodily harm to ON another person.

42 (u) Failing to take reasonable steps to protect a client or patient
43 in circumstances where IN WHICH the psychologist becomes aware during the
44 course of providing or supervising psychological services that a client or
45 patient intends or plans to inflict serious bodily harm to ON self.

1 (v) Abandoning or neglecting a client or patient in need of
2 immediate care without making suitable arrangements for continuation of
3 the care.

4 (w) Engaging in direct or indirect personal solicitation of clients
5 or patients through the use of coercion, duress, undue influence,
6 compulsion or intimidation practices.

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

8 (y) Exploiting a client or patient, a student or a supervisee.

9 (z) Failing to report information to the board regarding a possible
10 act of unprofessional conduct committed by another psychologist WHO IS
11 licensed pursuant to this chapter unless this reporting violates the
12 psychologist's confidential relationship with the client or patient
13 pursuant to section 32-2085. Any psychologist who reports or provides
14 information to the board in good faith is not subject to an action for
15 civil damages. For the purposes of this subdivision, it is not an act of
16 unprofessional conduct if a licensee addresses an ethical conflict in a
17 manner that is consistent with the ethical standards contained in the
18 document entitled "ethical principles of psychologists and code of
19 conduct" as adopted by the American psychological association and in
20 effect at the time the licensee makes the report.

21 (aa) Violating a formal board order, consent agreement, term of
22 probation or stipulated agreement issued under this chapter.

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

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

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

31 Sec. 2. Section 32-2062, Arizona Revised Statutes, is amended to
32 read:

33 32-2062. Board; qualifications; appointments; terms;
34 compensation; immunity

35 A. The state board of psychologist examiners is established
36 consisting of ~~nine~~ TEN members appointed by the governor pursuant to
37 section 38-211.

38 B. Each member of the board shall be a citizen of the United States
39 and a resident of this state at the time of appointment. ~~Six~~ SEVEN
40 members shall be licensed pursuant to this chapter, and three shall be
41 public members who are not eligible for licensure. The board shall have
42 at all times, except for the period when a vacancy exists, at least two
43 members who are licensed as psychologists and who are full-time faculty
44 members from universities in this state with a doctoral program in
45 psychology that meets the requirements of section 32-2071, ~~and~~ at least

1 three members who are psychologists in professional practice AND AT LEAST
2 ONE MEMBER WHO IS A BEHAVIOR ANALYST IN PROFESSIONAL PRACTICE AND WHO IS A
3 MEMBER OF THE COMMITTEE. The public members shall not have a substantial
4 financial interest in the health care industry and shall not have a
5 household member who is eligible for licensure under this chapter.

6 C. Each member shall serve for a term of five years beginning and
7 ending on the third Monday in January.

8 D. A vacancy on the board occurring other than by the expiration of
9 term shall be filled by appointment by the governor for the unexpired term
10 as provided in subsection C of this section. The governor, after a
11 hearing, may remove any member of the board for misconduct, incompetency
12 or neglect of duty.

13 E. Board members shall receive compensation in the amount of one
14 hundred dollars for each cumulative eight hours of actual service in the
15 business of the board and reimbursement of all expenses pursuant to title
16 38, chapter 4, article 2.

17 F. Members of the board and its employees, consultants and test
18 examiners are personally immune from suit with respect to all acts done
19 and actions taken in good faith and in furtherance of the purposes of this
20 chapter.

21 Sec. 3. Section 32-2063, Arizona Revised Statutes, is amended to
22 read:

23 32-2063. Powers and duties

24 A. The board shall:

25 1. Administer and enforce this chapter and board rules.

26 2. Regulate disciplinary actions, the granting, denial, revocation,
27 renewal and suspension of licenses and the rehabilitation of licensees
28 pursuant to this chapter and board rules, EXCEPT THAT THE BOARD SHALL
29 DELEGATE ALL INVESTIGATIONS OF BEHAVIOR ANALYSTS TO THE COMMITTEE.

30 3. Prescribe the forms, content and manner of application for
31 licensure and renewal of licensure and set deadlines for the receipt of
32 materials required by the board.

33 4. Keep a record of all licensees, board actions taken on all
34 applicants and licensees and the receipt and disbursal of monies.

35 5. Adopt an official seal for attestation of licenses and other
36 official papers and documents.

37 6. Investigate charges of violations of this chapter and board
38 rules and orders, EXCEPT THAT THE BOARD SHALL DELEGATE ALL INVESTIGATIONS
39 OF BEHAVIOR ANALYSTS TO THE COMMITTEE.

40 7. Subject to title 41, chapter 4, article 4, employ an executive
41 director who serves at the pleasure of the board.

42 8. Annually elect from among its membership a chairman, a
43 vice-chairman and a secretary, who serve at the pleasure of the board.

44 9. Adopt rules pursuant to title 41, chapter 6 to carry out this
45 chapter and to define unprofessional conduct.

1 10. Engage in a full exchange of information with other regulatory
2 boards and psychological associations, national psychology organizations
3 and the Arizona psychological association and its components.

4 11. By rule, adopt a code of ethics relating to the practice of
5 psychology. The board shall base this code on the code of ethics adopted
6 and published by the American psychological association. The board shall
7 apply the code to all board enforcement policies and disciplinary case
8 evaluations and development of licensing examinations.

9 12. Adopt rules regarding the use of telepractice on or before June
10 30, 2016.

11 B. Subject to title 41, chapter 4, article 4, the board may employ
12 personnel it deems necessary to carry out this chapter. The board, in
13 investigating violations of this chapter, may employ investigators who may
14 be psychologists. The board or its executive director may take and hear
15 evidence, administer oaths and affirmations and compel by subpoena the
16 attendance of witnesses and the production of books, papers, records,
17 documents and other information relating to the investigation or hearing.

18 C. Subject to section 35-149, the board may accept, expend and
19 account for gifts, grants, devises and other contributions, money or
20 property from any public or private source, including the federal
21 government. The board shall deposit, pursuant to sections 35-146 and
22 35-147, monies received pursuant to this subsection in special funds for
23 the purpose specified, and monies in these funds are exempt from the
24 provisions of section 35-190 relating to lapsing of appropriations.

25 D. Compensation for all personnel shall be determined pursuant to
26 section 38-611.

27 Sec. 4. Section 32-2064, Arizona Revised Statutes, is amended to
28 read:

29 32-2064. Meetings; committees; quorum; behavior analyst
30 member

31 A. The board shall hold regular quarterly meetings at a time and
32 place determined by the chairman. The board shall hold special meetings
33 the chairman determines necessary to carry out the functions of the board.

34 B. The chairman may establish committees from the board membership
35 necessary to carry out the functions of the board. The board may
36 establish committees of licensed psychologists to act as consultants to
37 the board. Members of consultant committees are eligible for
38 reimbursement of expenses pursuant to title 38, chapter 4, article 2.

39 C. A majority of board members constitutes a quorum and a majority
40 vote of a quorum present is necessary for the board to take any action.

41 D. THE BEHAVIOR ANALYST WHO IS A MEMBER OF THE BOARD AND OF THE
42 COMMITTEE ON BEHAVIOR ANALYSTS SHALL BE PRESENT AT THE BOARD MEETING,
43 EITHER IN PERSON OR TELEPHONICALLY, WHEN THE BOARD VOTES ON AN ALTERNATE
44 DECISION TO THE COMMITTEE'S RECOMMENDATION PURSUANT TO SECTION 32-2091.15,
45 SUBSECTION F, UNLESS THE MEMBER HAS A CONFLICT OF INTEREST.

1 Sec. 5. Section 32-2065, Arizona Revised Statutes, is amended to
2 read:

3 32-2065. Board of psychologist examiners fund; separate
4 behavior analyst account

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~~ K, pursuant to sections 35-146 and 35-147, the board shall
8 deposit ten ~~per cent~~ PERCENT of all monies collected pursuant to this
9 chapter in the state general fund and deposit the remaining ninety ~~per~~
10 ~~cent~~ PERCENT in the 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
16 used only for the licensing and regulation of psychologists pursuant to
17 this article and articles 2 and 3 of this chapter and may not be used for
18 the licensing and regulation of behavior analysts pursuant to article 4 of
19 this 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
23 regulation must be used only for the licensing and regulation of behavior
24 analysts pursuant to article 4 of this chapter AND THE OPERATION OF THE
25 COMMITTEE and may not be used for the licensing and regulation of
26 psychologists pursuant to this article and articles 2 and 3 of this
27 chapter.

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

32 Sec. 6. Section 32-2091, Arizona Revised Statutes, is amended to
33 read:

34 32-2091. Definitions

35 In this article, unless the context otherwise requires:

36 1. "Active license" means a current license issued by the board to
37 a person WHO IS licensed pursuant to this article.

38 2. "Adequate records" means records that contain, at a minimum,
39 sufficient information to identify the client, the dates of service, the
40 fee for service, the payments for service and the type of service given
41 and copies of any reports that may have been made.

42 3. "Behavior analysis" means the design, implementation and
43 evaluation of systematic environmental modifications by a behavior analyst
44 to produce socially significant improvements in human behavior based on
45 the principles of behavior identified through the experimental analysis of

1 behavior. Behavior analysis does not include cognitive therapies or
2 psychological testing, neuropsychology, psychotherapy, sex therapy,
3 psychoanalysis, hypnotherapy and long-term counseling as treatment
4 modalities.

5 4. "Behavior analysis services" means the use of behavior analysis
6 to assist a person to learn new behavior, increase existing behavior,
7 reduce existing behavior and emit behavior under precise environmental
8 conditions. Behavior analysis ~~includes~~ SERVICES INCLUDE behavioral
9 programming and behavioral programs.

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

12 6. "Client" means:

13 (a) A person or entity that receives behavior analysis services.

14 (b) A corporate entity, a governmental entity or any other
15 organization that has a professional contract to provide services or
16 benefits primarily to an organization rather than to an individual.

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

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

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

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

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

37 11. "Supervisee" means a person who acts under the extended
38 authority of a behavior analyst to provide ~~behavioral~~ BEHAVIOR ANALYSIS
39 services and includes a person who is in training to provide these
40 services.

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

43 (a) Obtaining a fee by fraud or misrepresentation.

44 (b) Betraying professional confidences.

- 1 (c) Making or using statements of a character tending to deceive or
2 mislead.
- 3 (d) Aiding or abetting a person who is not licensed pursuant to
4 this article in representing that person as a behavior analyst.
- 5 (e) Gross negligence in the practice of a behavior analyst.
- 6 (f) Sexual intimacies or sexual intercourse with a current client
7 or a supervisee or with a former client within two years after the
8 cessation or termination of treatment. For the purposes of this
9 subdivision, "sexual intercourse" has the same meaning prescribed in
10 section 13-1401.
- 11 (g) Engaging or offering to engage as a behavior analyst in
12 activities that are not congruent with the behavior analyst's professional
13 education, training and experience.
- 14 (h) Failing or refusing to maintain and retain adequate business,
15 financial or professional records pertaining to the behavior analysis
16 services provided to a client.
- 17 (i) Committing a felony, whether or not involving moral turpitude,
18 or a misdemeanor involving moral turpitude. In either case, conviction by
19 a court of competent jurisdiction or a plea of no contest is conclusive
20 evidence of the commission.
- 21 (j) Making a fraudulent or untrue statement to the board or its
22 investigators, staff or consultants.
- 23 (k) Violating any federal or state law that relates to the practice
24 of behavior analysis or to obtain a license to practice behavior analysis.
- 25 (l) Practicing behavior analysis while impaired or incapacitated to
26 the extent and in a manner that jeopardizes the welfare of a client or
27 renders the services provided ineffective.
- 28 (m) Using fraud, misrepresentation or deception to obtain or
29 attempt to obtain a behavior analysis license or to pass or attempt to
30 pass a behavior analysis licensing examination or in assisting another
31 person to do so.
- 32 (n) Unprofessional conduct in another jurisdiction that resulted in
33 censure, probation or a civil penalty or in the denial, suspension,
34 restriction or revocation of a certificate or license to practice as a
35 behavior analyst.
- 36 (o) Providing services that are unnecessary or unsafe or otherwise
37 engaging in activities as a behavior analyst that are unprofessional by
38 current standards of practice.
- 39 (p) Falsely or fraudulently claiming to have performed a
40 professional service, charging for a service or representing a service as
41 the licensee's own if the licensee has not rendered the service or assumed
42 supervisory responsibility for the service.

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

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

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

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

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

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

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

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

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

29 (z) Failing to report information to the board **OR THE COMMITTEE**
30 regarding a possible act of unprofessional conduct committed by another
31 behavior analyst who is licensed pursuant to this article unless this
32 reporting violates the behavior analyst's confidential relationship with a
33 client pursuant to this article. A behavior analyst who reports or
34 provides information to the board **OR THE COMMITTEE** in good faith is not
35 subject to an action for civil damages.

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

38 (bb) Failing to furnish information in a timely manner to the board
39 **OR THE COMMITTEE** or ~~its~~ **THEIR** investigators or representatives if
40 requested or subpoenaed by the board as prescribed by this article.

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

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

1 (ee) Representing oneself as a psychologist or permitting others to
2 do so if the behavior analyst is not also licensed as a psychologist
3 pursuant to this chapter.

4 Sec. 7. Section 32-2091.03, Arizona Revised Statutes, is amended to
5 read:

6 32-2091.03. Educational and training standards for
7 licensure

8 An applicant for licensure as a behavior analyst must meet standards
9 adopted by the state board of psychologist examiners, including meeting
10 ~~graduate-level~~ GRADUATE-LEVEL education and supervised experience
11 requirements and passing a national examination. The state board of
12 psychologist examiners, ON THE COMMITTEE'S RECOMMENDATION, shall adopt
13 standards consistent with the standards set by a nationally recognized
14 behavior analyst certification board, except that the number of hours
15 required for supervised experience must be at least one thousand five
16 hundred hours of supervised work experience or independent fieldwork,
17 university practicum or intensive university practicum. The standards
18 adopted for supervised experience must also be consistent with the
19 standards set by a nationally recognized behavior analyst certification
20 board. If the state board of psychologist examiners, ON THE COMMITTEE'S
21 RECOMMENDATION, does not agree with a standard set by a nationally
22 recognized behavior analyst certification board, the state board, ON THE
23 COMMITTEE'S RECOMMENDATION, may adopt an alternate standard.

24 Sec. 8. Section 32-2091.04, Arizona Revised Statutes, is amended to
25 read:

26 32-2091.04. Reciprocity

27 The board, ON THE COMMITTEE'S RECOMMENDATION, may issue a license to
28 a person as a behavior analyst if the person is licensed or certified by a
29 regulatory agency of another state that imposes requirements that are
30 substantially equivalent to those imposed by this article at an equivalent
31 or higher practice level as determined by the ~~board~~ COMMITTEE, pays the
32 fee prescribed by the board and meets all of the following requirements:

- 33 1. Submits a written application prescribed by the board.
- 34 2. Is of good moral character. The board's standard to determine
35 good moral character shall not violate federal discrimination laws.
- 36 3. Documents to the ~~board's~~ COMMITTEE'S satisfaction proof of
37 initial licensure or certification at an equivalent designation for which
38 the applicant is seeking licensure in this state and proof that the
39 license or certificate is current and in good standing.
- 40 4. Documents to the ~~board's~~ COMMITTEE'S satisfaction proof that any
41 other license or certificate issued to the applicant by another state has
42 not been suspended or revoked. If a licensee or certificate holder has
43 been subjected to any other disciplinary action, the ~~board~~ COMMITTEE may
44 assess the magnitude of that action and make a decision regarding
45 reciprocity based on this assessment.

1 5. Meets any other requirements prescribed by the board by rule.
2 Sec. 9. Section 32-2091.07, Arizona Revised Statutes, is amended to
3 read:

4 32-2091.07. Active license; issuance; renewal; expiration;
5 continuing education

6 A. Beginning May 1, 2017, if the applicant satisfies all of the
7 requirements for licensure pursuant to this article, the board, **ON THE**
8 **COMMITTEE'S RECOMMENDATION**, shall issue an active license and shall
9 prorate the fee for issuing that license for the period remaining until
10 the last day of the birth month of the applicant of the next odd-numbered
11 year or even-numbered year pursuant to subsection B, paragraph 1 or 2 of
12 this section.

13 B. Beginning May 1, 2017, a person holding an active or inactive
14 license shall apply to renew the license on or before the last day of the
15 birth month of the licensee every other year as follows:

16 1. In each odd-numbered year, if the licensee holds an odd-numbered
17 license.

18 2. In each even-numbered year, if the licensee holds an
19 even-numbered license.

20 C. The application shall include any applicable renewal fee as
21 prescribed by the board by rule. Except as provided in section 32-4301 or
22 41-1092.11, a license expires if the licensee fails to renew the license
23 on or before the last day of the licensee's birth month of the licensee's
24 renewal year pursuant to subsection B of this section. A licensee may
25 reinstate an expired license by paying a reinstatement fee as prescribed
26 by the board by rule within two months after the last day of the
27 licensee's birth month of that year. Beginning two months after the last
28 day of the licensee's birth month during the licensee's renewal year until
29 the last day of the licensee's birth month the following year, a licensee
30 may reinstate the license by paying a reinstatement fee as prescribed by
31 the board by rule and providing proof of competency and qualifications to
32 the **board COMMITTEE**. This proof may include continuing education, an oral
33 examination, a written examination or an interview with the **board**
34 **COMMITTEE**. A licensee whose license is not reinstated within a year after
35 the last day of the licensee's birth month of the licensee's renewal year
36 may reapply for licensure as prescribed by this article. A notice to
37 renew is fully effective by mailing or electronically providing the notice
38 to the licensee's last known address of record or last known e-mail
39 address of record in the board's file. Notice is complete at the time of
40 deposit in the mail or when the e-mail is sent.

41 D. A person renewing a license shall attach to the completed
42 renewal form a report of disciplinary actions or restrictions placed
43 against the license by another state licensing or disciplinary board or
44 disciplinary actions or sanctions imposed by a state or national behavior
45 analysis ethics committee or health care institution. The report shall

1 include the name and address of the sanctioning agency or health care
2 institution, the nature of the action taken and a general statement of the
3 charges leading to the action.

4 E. A person who renews an active license to practice behavior
5 analysis in this state shall satisfy a continuing education requirement
6 designed to provide the necessary understanding of current developments,
7 skills, procedures or treatment related to the practice of behavior
8 analysis in the amount and during the period the board prescribes, **AS**
9 **RECOMMENDED BY THE COMMITTEE**. The board shall prescribe documentation
10 requirements.

11 Sec. 10. Section 32-2091.08, Arizona Revised Statutes, is amended
12 to read:

13 32-2091.08. Exemptions from licensure

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

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

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

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

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

42 5. A person in the employ of Arizona state university, northern
43 Arizona university, the university of Arizona or another regionally
44 accredited university in this state if the services are a part of the

1 faculty duties of that person's salaried position and the person is
2 participating in a graduate program.

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

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

13 Sec. 11. Section 32-2091.09, Arizona Revised Statutes, is amended
14 to read:

15 32-2091.09. Grounds for disciplinary action; duty to report;
16 immunity; proceedings; board action; notice
17 requirements; civil penalty

18 A. The ~~board~~ COMMITTEE on its own motion may investigate evidence
19 that appears to show that a behavior analyst is incompetent as a behavior
20 analyst, guilty of unprofessional conduct or mentally or physically unable
21 to safely engage in the practice of behavior analysis. A health care
22 institution shall, and any other person may, report to the ~~board~~ COMMITTEE
23 information that appears to show that a behavior analyst is incompetent as
24 a behavior analyst, guilty of unprofessional conduct or mentally or
25 physically unable to safely engage in the practice of behavior analysis.
26 The ~~board~~ COMMITTEE shall notify the licensee about whom information has
27 been received as to the content of the information within one hundred
28 twenty days after receiving the information. A person who reports or
29 provides information to the ~~board~~ COMMITTEE in good faith is not subject
30 to an action for civil damages. The ~~board~~ COMMITTEE, if requested, shall
31 not disclose the name of the person providing information unless this
32 information is essential to proceedings conducted pursuant to this
33 section. The ~~board~~ COMMITTEE shall report a health care institution that
34 fails to report as required by this section to the institution's licensing
35 agency.

36 B. The board ~~AND COMMITTEE~~ shall not consider a complaint against a
37 behavior analyst arising out of a judicially ordered evaluation of a
38 person charged with violating any provision of title 13, chapter 14 to
39 present a charge of unprofessional conduct unless the court ordering the
40 evaluation has found a substantial basis to refer the complaint for
41 consideration by the ~~board~~ COMMITTEE. ~~The board shall not consider a~~
42 ~~complaint against a judicially appointed behavior analyst arising out of a~~
43 ~~court ordered evaluation of a person to present a charge of unprofessional~~
44 ~~conduct unless the court ordering the evaluation has found a substantial~~
45 ~~basis to refer the complaint for consideration by the board.~~

1 C. A CLAIM OF UNPROFESSIONAL CONDUCT THAT IS BROUGHT AGAINST A
 2 BEHAVIOR ANALYST ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
 3 SECTION AND THAT ARISES OUT OF COURT-ORDERED SERVICES SHALL BE
 4 INDEPENDENTLY REVIEWED BY THREE MEMBERS OF THE COMMITTEE, INCLUDING A
 5 PUBLIC MEMBER. EACH OF THE THREE COMMITTEE MEMBERS WHO REVIEW THE CLAIM
 6 SHALL INDEPENDENTLY PROVIDE TO THE BOARD'S EXECUTIVE DIRECTOR A
 7 RECOMMENDATION INDICATING WHETHER THE MEMBER BELIEVES THERE IS MERIT TO
 8 OPEN AN INVESTIGATION. IF ONE OR MORE OF THE COMMITTEE MEMBERS DETERMINE
 9 THAT THERE IS MERIT TO OPEN AN INVESTIGATION AS A COMPLAINT, AN
 10 INVESTIGATION SHALL BE OPENED AND SHALL FOLLOW THE COMPLAINT PROCESS
 11 PURSUANT TO THIS ARTICLE.

12 ~~C.~~ D. A health care institution shall inform the ~~board~~ COMMITTEE
 13 if the privileges of a licensee to practice in that institution are
 14 denied, revoked, suspended or limited because of actions by the licensee
 15 that appear to show that the person is incompetent as a behavior analyst,
 16 guilty of unprofessional conduct or mentally or physically unable to
 17 safely engage in the practice of behavior analysis, along with a general
 18 statement of the reasons that led the health care institution to take this
 19 action. A health care institution shall inform the ~~board~~ COMMITTEE if a
 20 licensee under investigation resigns the licensee's privileges or if a
 21 licensee resigns in lieu of disciplinary action by the health care
 22 institution. Notification must include a general statement of the reasons
 23 for the resignation.

24 ~~D.~~ E. The board, ON THE COMMITTEE'S RECOMMENDATION, may require
 25 the licensee to undergo any combination of mental, physical or
 26 psychological competence examinations at the licensee's expense, and THE
 27 COMMITTEE shall conduct investigations necessary to determine the
 28 competence and conduct of the licensee.

29 ~~E.~~ F. ~~The chairperson of the board shall appoint a complaint~~
 30 ~~screening committee of at least three members of the board, including a~~
 31 ~~public member. The complaint screening committee is subject to open~~
 32 ~~meeting requirements pursuant to title 38, chapter 3, article 3.1. The~~
 33 ~~complaint screening~~ committee shall review all complaints and, based on
 34 the information provided pursuant to subsection A or ~~B~~ D of this section,
 35 may take either of the following actions:

36 1. Dismiss the complaint if the committee determines that the
 37 complaint is without merit. Complaints dismissed by the ~~complaint~~
 38 ~~screening~~ committee shall not be disclosed in response to a telephone
 39 inquiry or placed on the board's website.

40 2. ~~Refer~~ REVIEW AND INVESTIGATE the complaint AND MAKE A
 41 RECOMMENDATION to the full board for ~~further review and~~ FORMAL action.

42 ~~F.~~ G. If the board finds, ON THE COMMITTEE'S RECOMMENDATION AND
 43 based on the information ~~it~~ THE COMMITTEE receives under subsection A or
 44 ~~B~~ D of this section, that the public health, safety or welfare requires
 45 emergency action, the board, ON THE COMMITTEE'S RECOMMENDATION, may order

1 a summary suspension of a license pending proceedings for revocation or
2 other action. If the board issues this order, it shall serve the licensee
3 with a written notice of complaint and formal hearing pursuant to title
4 41, chapter 6, article 10, setting forth the charges made against the
5 licensee and the licensee's right to a formal hearing before the board or
6 an administrative law judge within sixty days.

7 ~~G.~~ H. If the board finds, **ON THE COMMITTEE'S RECOMMENDATION**, that
8 the information provided pursuant to subsection A or ~~B~~ D of this section
9 is not of sufficient seriousness to merit direct action against the
10 licensee, ~~††~~ **THE BOARD, ON THE COMMITTEE'S RECOMMENDATION**, may take any of
11 the following actions:

- 12 1. Dismiss if the board believes the information is without merit.
- 13 2. File a letter of concern.
- 14 3. Issue a nondisciplinary order requiring the licensee to complete
15 a prescribed number of hours of continuing education in an area or areas
16 prescribed by the board, **ON THE COMMITTEE'S RECOMMENDATION**, to provide the
17 licensee with the necessary understanding of current developments, skills,
18 procedures or treatment.

19 ~~H.~~ I. If the ~~board~~ **COMMITTEE** believes the information provided
20 pursuant to subsection A or ~~C~~ D of this section is or may be true, ~~††~~ **THE**
21 **COMMITTEE** may request an informal interview with the licensee. If the
22 licensee refuses to be interviewed or if pursuant to an interview the
23 ~~board~~ **COMMITTEE** determines that cause may exist to revoke or suspend the
24 license, ~~††~~ **THE COMMITTEE SHALL RECOMMEND TO THE BOARD AND THE BOARD** shall
25 issue a formal complaint and hold a hearing pursuant to title 41, chapter
26 6, article 10. If as a result of an informal interview or a hearing the
27 board, **ON THE COMMITTEE'S RECOMMENDATION**, determines that the facts do not
28 warrant revocation or suspension of the license, ~~††~~ **THE BOARD** may take any
29 of the following actions **ON THE COMMITTEE'S RECOMMENDATION**:

- 30 1. Dismiss if the board believes the information is without merit.
- 31 2. File a letter of concern.
- 32 3. Issue a decree of censure.
- 33 4. Fix a period and terms of probation best adapted to protect the
34 public health and safety and to rehabilitate or educate the licensee.
35 Probation may include temporary suspension for not more than twelve
36 months, restriction of the license or restitution of fees to a client
37 resulting from violations of this article. If a licensee fails to comply
38 with a term of probation, the board, **ON THE COMMITTEE'S RECOMMENDATION**,
39 may file a complaint and notice of hearing pursuant to title 41, chapter
40 6, article 10 and take further disciplinary action.
- 41 5. Enter into an agreement with the licensee to restrict or limit
42 the licensee's practice or activities in order to rehabilitate the
43 licensee, protect the public and ensure the licensee's ability to safely
44 engage in the practice of behavior analysis.

1 6. Issue a nondisciplinary order requiring the licensee to complete
2 a prescribed number of hours of continuing education in an area or areas
3 prescribed by the board, **ON THE COMMITTEE'S RECOMMENDATION**, to provide the
4 licensee with the necessary understanding of current developments, skills,
5 procedures or treatment.

6 ~~I.~~ **J.** If the board, **ON THE COMMITTEE'S RECOMMENDATION**, finds that
7 the information provided pursuant to subsection A or ~~B~~ **D** of this section
8 warrants suspension or revocation of a license, ~~the~~ **THE BOARD** shall hold a
9 hearing pursuant to title 41, chapter 6, article 10. Notice of a complaint
10 and hearing is fully effective by mailing a true copy to the licensee's
11 last known address of record in the board's files. Notice is complete at
12 the time of its deposit in the mail.

13 ~~J.~~ **K.** The board, **ON THE COMMITTEE'S RECOMMENDATION**, may impose a
14 civil penalty of at least three hundred dollars but not more than three
15 thousand dollars for each violation of this article or a rule adopted
16 under this article. The board shall deposit, pursuant to sections 35-146
17 and 35-147, all monies it collects from civil penalties pursuant to this
18 subsection in the state general fund.

19 ~~K.~~ **L.** If the board determines, **ON THE COMMITTEE'S RECOMMENDATION**
20 **AND** after **THE COMMITTEE HAS HELD** a hearing, that a licensee has committed
21 an act of unprofessional conduct, is mentally or physically unable to
22 safely engage in the practice of behavior analysis or is incompetent as a
23 behavior analyst, ~~the~~ **THE BOARD** may do any of the following in any
24 combination and for any period of time ~~the~~ **THE BOARD** determines necessary,
25 **ON THE COMMITTEE'S RECOMMENDATION**:

- 26 1. Suspend or revoke the license.
- 27 2. Censure the licensee.
- 28 3. Place the licensee on probation.

29 ~~L.~~ **M.** A licensee may submit a written response to the board within
30 thirty days after receiving a letter of concern. The response is a public
31 document and shall be placed in the licensee's file.

32 ~~M.~~ **N.** A letter of concern is a public document and may be used in
33 future disciplinary actions against a licensee. A decree of censure is an
34 official action against the behavior analyst's license and may include a
35 requirement that the licensee return fees to a client.

36 ~~N.~~ **O.** Except as provided in section 41-1092.08, subsection H, a
37 person may appeal a final decision made pursuant to this section to the
38 superior court pursuant to title 12, chapter 7, article 6.

39 ~~O.~~ **P.** If during the course of an investigation the board **OR**
40 **COMMITTEE** determines that a criminal violation may have occurred involving
41 the delivery of behavior analysis services, ~~the~~ **THE BOARD OR COMMITTEE**
42 shall inform the appropriate criminal justice agency.

1 Sec. 12. Section 32-2091.10, Arizona Revised Statutes, is amended
2 to read:

3 32-2091.10. Right to examine and copy evidence; subpoenas;
4 right to counsel; confidentiality

5 A. In connection with an investigation conducted pursuant to this
6 article, at all reasonable times the board AND COMMITTEE and ~~its~~ THEIR
7 authorized agents may examine and copy documents, reports, records and
8 other physical evidence wherever located relating to the licensee's
9 professional competence, unprofessional conduct or mental or physical
10 ability to safely practice behavior analysis.

11 B. The board, ON THE COMMITTEE'S RECOMMENDATION, and its authorized
12 agents may issue subpoenas to compel the attendance and testimony of
13 witnesses and the production of documents and other physical evidence as
14 prescribed in subsection A OF THIS SECTION. The board may petition the
15 superior court to enforce a subpoena.

16 C. Within five days ~~of~~ AFTER receiving a subpoena, a person may
17 petition the board to revoke, limit or modify the subpoena. The board
18 shall take this action if it determines, ON THE COMMITTEE'S
19 RECOMMENDATION, that the evidence demanded is not relevant to the
20 investigation. The person may petition the superior court for this relief
21 without first petitioning the board.

22 D. A person appearing before the board OR COMMITTEE or its
23 authorized agents may be represented by an attorney.

24 E. Documents associated with an investigation are not open to the
25 public and shall remain confidential. Documents may not be released
26 without a court order compelling their production.

27 F. This section or any other provision of law making communications
28 between a behavior analyst and client privileged does not apply to an
29 investigation conducted pursuant to this article. The board, ~~its~~ AND
30 COMMITTEE AND THEIR employees and ~~its~~ agents shall keep in confidence the
31 names of clients whose records are reviewed during an investigation.

32 Sec. 13. Section 32-2091.11, Arizona Revised Statutes, is amended
33 to read:

34 32-2091.11. Injunction

35 A. The board, ON THE COMMITTEE'S RECOMMENDATION, may petition the
36 superior court for an order to enjoin the following:

37 1. A person who is not licensed pursuant to this article from
38 practicing behavior analysis.

39 2. The activities of a licensee that are an immediate threat to the
40 public.

41 3. Criminal activities.

42 B. If the board seeks an injunction to stop the unlicensed practice
43 of behavior analysis, it is sufficient to charge that the respondent on a
44 certain day in a specific county engaged in the practice of behavior
45 analysis without a license and without being exempt from the licensure

1 requirements of this article. It is not necessary to show specific
2 damages or injury.

3 C. The issuance of an injunction does not limit the board's OR
4 COMMITTEE'S authority to take other action against a licensee pursuant to
5 this article.

6 Sec. 14. Section 32-2091.14, Arizona Revised Statutes, is amended
7 to read:

8 32-2091.14. Status as behavioral health professional

9 Notwithstanding any law to the contrary, the ~~department of health~~
10 ~~services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall
11 recognize a behavior analyst who is licensed pursuant to this article as a
12 behavioral health professional who is eligible for reimbursement of
13 services.

14 Sec. 15. Title 32, chapter 19.1, article 4, Arizona Revised
15 Statutes, is amended by adding section 32-2091.15, to read:

16 32-2091.15. Committee on behavior analysts; membership;
17 duties; board responsibilities

18 A. THE COMMITTEE ON BEHAVIOR ANALYSTS IS ESTABLISHED WITHIN THE
19 STATE BOARD OF PSYCHOLOGIST EXAMINERS CONSISTING OF FIVE MEMBERS WHO ARE
20 APPOINTED BY THE GOVERNOR AND WHO SERVE AT THE PLEASURE OF THE GOVERNOR.
21 EACH MEMBER SHALL SERVE FOR A TERM OF FIVE YEARS BEGINNING AND ENDING ON
22 THE THIRD MONDAY IN JANUARY. A COMMITTEE MEMBER MAY NOT SERVE MORE THAN
23 TWO FULL CONSECUTIVE TERMS.

24 B. FOUR MEMBERS OF THE COMMITTEE SHALL BE LICENSED BEHAVIOR
25 ANALYSTS IN PROFESSIONAL PRACTICE AND ONE MEMBER SHALL REPRESENT THE
26 PUBLIC. THE PUBLIC MEMBER MAY NOT BE A CURRENT OR FORMER LICENSEE OF ANY
27 BEHAVIORAL HEALTH-RELATED PROFESSION. THE PUBLIC MEMBER MAY NOT HAVE A
28 FINANCIAL INTEREST IN ANY ENTITY THAT PROVIDES BEHAVIORAL HEALTH-RELATED
29 SERVICES. THE COMMITTEE SHALL ANNUALLY ELECT A CHAIRPERSON FROM AMONG ITS
30 MEMBERSHIP.

31 C. WITHIN ONE YEAR AFTER THEIR INITIAL APPOINTMENT TO THE
32 COMMITTEE, MEMBERS SHALL RECEIVE AT LEAST FIVE HOURS OF TRAINING
33 PRESCRIBED BY THE BOARD THAT INCLUDES INSTRUCTION IN ETHICS AND OPEN
34 MEETING REQUIREMENTS.

35 D. COMMITTEE MEMBERS SHALL RECEIVE REIMBURSEMENT OF ALL EXPENSES
36 PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

37 E. THE COMMITTEE SHALL MAKE RECOMMENDATIONS TO THE BOARD ON ALL
38 MATTERS RELATING TO THE LICENSING AND REGULATION OF BEHAVIOR
39 ANALYSTS. THE COMMITTEE MAY RECOMMEND REGULATORY CHANGES TO THE BOARD
40 THAT ARE NOT SPECIFIC TO AN INDIVIDUAL LICENSEE, BUT THE COMMITTEE SHALL
41 OBTAIN PUBLIC INPUT FROM BEHAVIOR ANALYST LICENSEES OR THEIR DESIGNATED
42 REPRESENTATIVES BEFORE MAKING ANY FINAL RECOMMENDATION TO THE BOARD.

43 F. THE BOARD SHALL RATIFY OR REJECT THE COMMITTEE'S
44 RECOMMENDATIONS. THE BOARD MAY REJECT THE COMMITTEE'S RECOMMENDATION AND
45 RENDER AN ALTERNATE DECISION ONLY IF EITHER:

1 1. THE BOARD RECEIVES ADVICE FROM THE ATTORNEY GENERAL THAT THE
2 COMMITTEE'S RECOMMENDATION CONTRADICTS THE REQUIREMENTS OF A STATE OR
3 FEDERAL LAW OR RULE.

4 2. THE COMMITTEE'S RECOMMENDATION WOULD REQUIRE THE BOARD TO EXCEED
5 THE BOARD'S FISCAL YEAR APPROPRIATION.

6 G. THE BEHAVIOR ANALYST WHO IS A MEMBER OF THE BOARD AND OF THE
7 COMMITTEE SHALL BE PRESENT AT THE BOARD MEETING, EITHER IN PERSON OR
8 TELEPHONICALLY, WHEN THE BOARD VOTES ON AN ALTERNATE DECISION TO THE
9 COMMITTEE'S RECOMMENDATION PURSUANT TO SUBSECTION F OF THIS SECTION,
10 UNLESS THE MEMBER HAS A CONFLICT OF INTEREST.

11 Sec. 16. Initial terms of the committee on behavior analysts

12 A. Notwithstanding section 32-2091.15, Arizona Revised Statutes, as
13 added by this act, the initial terms of the members of the committee on
14 behavior analysts are:

- 15 1. One term ending January 1, 2021.
- 16 2. Two terms ending January 1, 2022.
- 17 3. Two terms ending January 1, 2023.

18 B. The governor shall make all subsequent appointments as
19 prescribed by statute.