



March 17, 2015

SB 1089: AN ACT CONCERNING MENTAL HEALTH SERVICES

Dear Senator Gerratana, Representative Ritter and Members of the Public Health Committee:

The Connecticut Psychological Association (CPA) both *supports in part* and *opposes in part*, **SB 1089: An Act Concerning Mental Health Services**.

CPA *supports Section 4 of SB 1089*, which establishes a behavioral health professional incentive program, and would create eligibility for reimbursement of state and federal educational loans for those mental health professionals who meet certain practice area and insurance reimbursement requirements, as well as practice in a geographic area designated as a “professional shortage area” by the United States Department of Health and Human Services. The incentive provided by this section is a creative approach towards increasing access to underserved areas and populations. Based on numerous conversations with graduates of Psy.D. programs, many psychologists who attend these programs graduate with debt between \$250,000 – 350,000.

CPA *opposes Sections 23 through 29 of SB 1089*. We ask you to delete the language in those sections and replace it with the language attached. CPA met with and collaborated with the behavioral analysts, and came to an agreement on the language which is attached.

Thank you for your time and consideration.

Traci Cipriano, JD, PhD
Director of Professional Affairs

Requested Replacement Language for SB 1089, Sections 23 through 29:

- (1) "Behavior Analysis" means the design, implementation and evaluation of environmental modifications, using behavior stimuli and consequences, including the use of direct observation, measurement and functional analysis of the relationship between the environment and behavior, to produce socially significant improvement in human behavior. The practice of applied behavior analysis expressly excludes psychological testing, neuropsychology, psychotherapy, including cognitive behavioral therapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and long term counseling as treatment modalities.
- (2) "Behavior Analyst" means a person licensed to practice behavior analysis as defined in this chapter and whose license is in good standing.
- (3) "Assistant Behavior Analyst" means a person licensed to assist in the practice of behavior analysis, under the supervision of or with the consultation of a licensed behavior analyst, and whose license is in good standing.
- (4) "Commissioner" means the Commissioner of Public Health.
- (5) "Department" means the Department of Public Health.

Requirements for licensure. Fee. (a) The Department of Public Health may issue a license to practice behavior analysis, upon receipt of a fee of three hundred and fifty dollars, to an applicant who (1) has passed the Board Certified Behavior Analyst examination and; (2)

holds and maintains current certification from the Behavior Analyst Certification Board or its successor. No license shall be issued under this section to any applicant against whom professional disciplinary action is pending or who is the subject of an unresolved complaint.

(b) The Department of Public Health may issue a license to practice assistant behavior analysis upon receipt of a fee of three hundred and fifty dollars to an applicant who (1) has passed the Board Certified Assistant Behavior Analyst examination and; (2) holds and maintains current certification from the Behavior Analyst Certification Board or its successor. No license shall be issued under this section to any applicant against whom professional disciplinary action is pending or who is the subject of an unresolved complaint. *CTABA Scope of Practice* July, 2014.

License by endorsement. Notwithstanding the provisions of section, the commissioner may grant a license by endorsement to a behavior analyst or assistant behavior analyst who presents evidence satisfactory to the commissioner that the applicant is licensed or certified as a behavior analyst or assistant behavior analyst or as a person entitled to perform similar services under a different designation, in another state or jurisdiction whose requirements for practicing in such capacity are substantially similar to those of this state. No license shall be issued under this section to any applicant against whom professional disciplinary action is pending or who is the subject of an unresolved complaint.

Use of title. A person licensed as a behavior analyst under this chapter shall be known as a "licensed behavior analyst" and no other person shall assume such title or use any other words, letters or figures which indicate that the person using the same is a licensed behavior analyst. A person licensed as an assistant behavior analyst under this chapter shall be known as a "licensed assistant behavior analyst" and no other person shall assume such title or use any other words, letters or figures which indicate that the person using the same is a licensed assistant behavior analyst.

Exempt activities. (a) Nothing in this chapter shall be construed as preventing or restricting the practice, services or activities of: (1) Any person licensed or certified in this state in an profession or occupation other than behavior analysis from practicing within the scope of such license or certification; 2) a matriculated graduate student or postdoctoral fellow whose activities are part of a defined behavior analysis program of study, practicum, or intensive practicum, provided that the practice under this exemption is directly supervised by a behavior analyst licensed by the department; 3) an instructor in a Behavior Analyst Certification Board approved course sequence; and (4) a person pursuing experience in behavior analysis consistent with the Behavior Analyst Certification Board's experience requirements, provided such experience is supervised by a licensed behavior analyst in this State.

Disciplinary action against a licensee. Grounds. The commissioner may refuse to renew, suspend or revoke a license, or may impose probationary conditions, where the licensee or applicant for a license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Such unprofessional conduct shall include: Obtaining a license by means of fraud, misrepresentation or concealment of material facts; being guilty of unprofessional conduct as defined by the rules established by the commissioner, or violating the code of ethics adopted and published by the commissioner; being convicted of a crime other than minor offenses defined as "infractions", "violations", or "offenses" in any court if, in accordance with the provisions of section 46a-80, the acts for which the applicant or licensee was convicted are found by the commissioner to have a direct bearing on whether he should be entrusted to serve the public in the capacity of a behavior analyst or assistant behavior analyst. The clerk of any court in this state in which a person practicing behavior analysis has been convicted of any crime as described in this section shall, immediately after such conviction, transmit a certified copy, in duplicate, of the information *CTABA Scope of Practice* July, 2014 and judgment, without charge, to the department containing the name and address of the behavior analyst, the crime of which he has been convicted and the date of conviction. The hearing on such charges shall be conducted in accordance with regulations adopted by the commissioner pursuant to section 20-74i. If any registration is revoked or suspended, notification of such action shall be sent to the department. Any person aggrieved by a final decision of the commissioner may appeal therefrom in accordance with the provisions of section 4-183.



Such appeal shall have precedence over nonprivileged cases in respect to order of trial. The Attorney General shall act as attorney in the public interest in defending against such an appeal. One year from the date of the revocation of a license, application for reinstatement may be made to the commissioner. The commissioner may accept or reject an application for reinstatement and may, but shall not be required to, hold a hearing to consider such reinstatement.

License renewed. Licenses issued under this chapter shall be subject to renewal once every two years and shall expire unless renewed. The fee for renewal shall be one hundred and seventy-five dollars. The department shall notify any person or entity that fails to comply with the provisions of this section that his license shall become void ninety days after the time for its renewal unless it is so renewed. Any such license shall become void upon the expiration of such ninety-day period. The commissioner shall establish additional requirements for licensure renewal which provide evidence of continued competency. The holder of an expired license may apply for and obtain a valid license only upon compliance with all relevant requirements for issuance of a new license. A suspended license is subject to expiration and may be renewed as provided in this section, but such renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended. If a license revoked on disciplinary grounds is reinstated, the licensee, as a condition of reinstatement, shall pay the renewal fee.

Proposed Revision to Section 19a-14

Sec. 19a-14 of the general statutes is repealed and the following is substituted in lieu thereof: Powers of department concerning regulated professions. (a) The Department of Public Health shall have the following powers and duties with regard to the boards and commissions listed in subsection (b) of this section which are within the Department of Public Health. The department shall:

- (1) Control the allocation, disbursement and budgeting of funds appropriated to the department for the operation of the boards and commissions;
- (2) Employ and assign such personnel as the commissioner deems necessary for the performance of the functions of the boards and commissions; *CTABA Scope of Practice July, 2014*
- (3) Perform all management functions including purchasing, bookkeeping, accounting, payroll, secretarial, clerical and routine housekeeping functions;
- (4) Adopt, with the advice and assistance of the appropriate board or commission, and in accordance with chapter 54, any regulations which are consistent with protecting the public health and safety and which are necessary to implement the purposes of section 2c-2h, this chapter, and chapters 368v, 369 to 375, inclusive, 378 to 381, inclusive, 383 to 388, inclusive, 398 and 399;
- (5) Develop and perform all administrative functions necessary to process applications for licenses and certificates;

(6) Determine the eligibility of all applicants for permits, licensure, certification or registration, based upon compliance with the general statutes and administrative regulations. The department may deny the eligibility of an applicant for a permit or for licensure by examination, endorsement, reciprocity or for reinstatement of a license voided pursuant to subsection (f) of section 19a-88, or may issue a license pursuant to a consent order containing conditions that must be met by the applicant if the department determines that the applicant:

(A) Has failed to comply with the general statutes and administrative regulations governing the applicant's profession;

(B) Has been found guilty or convicted as a result of an act which constitutes a felony under (i) the laws of this state, (ii) federal law or (iii) the laws of another jurisdiction and which, if committed within this state, would have constituted a felony under the laws of this state;

(C) Is subject to a pending disciplinary action or unresolved complaint before the duly authorized professional disciplinary agency of any state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction;

(D) Has been subject to disciplinary action similar to an action specified in subsection (a) of section 19a-17 by a duly authorized professional disciplinary agency of any state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction;

(E) Has committed an act which, if the applicant were licensed, would not conform to the accepted standards of practice of the profession, including, but not limited to, incompetence, negligence, fraud or deceit; illegal conduct; procuring or attempting to procure a license, certificate or registration by fraud or deceit; or engaging in, aiding or abetting unlicensed practice of a regulated profession, provided the commissioner, or the

commissioner's designee, gives notice and holds a hearing, in accordance with the provisions of chapter 54, prior to denying an application for a permit or a license based on this subparagraph; or *CTABA Scope of Practice* July, 2014 (F) Has a condition which would interfere with the practice of the applicant's profession, including, but not limited to, physical illness or loss of skill or deterioration due to the aging process, emotional disorder or mental illness, abuse or excessive use of drugs or alcohol, provided the commissioner, or the commissioner's designee, gives notice and holds a hearing in accordance with the provisions of chapter 54, prior to denying an application for a permit or a license based on this subparagraph;

(7) Administer licensing examinations under the supervision of the appropriate board or commission;

(8) Develop and perform all administrative functions necessary to process complaints against persons licensed by the department;

(9) Consent to the approval or disapproval by the appropriate boards or commissions of schools at which educational requirements shall be met;

(10) Conduct any necessary review, inspection or investigation regarding qualifications of applicants for licenses or certificates, possible violations of statutes or regulations, and disciplinary matters.

In connection with any investigation, the Commissioner of Public Health or the commissioner's authorized agent may administer oaths, issue subpoenas, compel testimony and order the production of books, records and documents. If any person refuses to appear, to testify or to produce any book, record or document when so ordered, a judge of the Superior Court may make such order as may be appropriate to aid in the enforcement of this section;

(11) Conduct any necessary investigation and follow-up in connection with complaints regarding persons subject to regulation or licensing by the department. In connection with any such investigation, the department may restrict, suspend or otherwise limit the license or permit of any person subject to regulation or licensing by the department pursuant to an interim consent order entered during the pendency of such investigation;

(12) With respect to any complaint filed with the department on or after October 1, 2010, alleging incompetence, negligence, fraud or deceit by a person subject to regulation or licensing by any board or commission described in subdivision (1) to (5), inclusive, (7), (8), (12) to (14), inclusive, or (16) of subsection (b) of this section:

(A) Upon request of the person who filed the complaint, provide such person with information on the status of the complaint;

(B) Upon request of the person who filed the complaint, provide such person with an opportunity to review, at the department, records compiled as of the date of the request pursuant to any investigation of the complaint, including, but not limited to, the respondent's written response to the complaint, except that such person shall not be entitled to copy such *CTABA Scope of Practice* July, 2014 records and the department (i) shall not disclose (I) information concerning a health care professional's referral to, participation in or completion of an assistance program in accordance with sections 19a-12a and 19a-12b, that is confidential pursuant to section 19a-12a, (II) information not related to such person's specific complaint, including, but not limited to, information

concerning patients other than such person, or (III) personnel or medical records and similar files the disclosure of which would constitute an invasion of personal privacy pursuant to section 1-210, except for such records or similar files solely related to such person; (ii) shall not be required to disclose any other information that is otherwise confidential pursuant to federal law or state statute, except for information solely related to such person; and (iii) may require up to ten business days written notice prior to providing such opportunity for review;

(C) Prior to resolving the complaint with a consent order, provide the person who filed the complaint with not less than ten business days to submit a written statement as to whether such person objects to resolving the complaint with a consent order;

(D) If a hearing is held with respect to such complaint after a finding of probable cause, provide the person who filed the complaint with a copy of the notice of hearing issued pursuant to section 4-177, which shall include information concerning the opportunity to present oral or written statements pursuant to subsection (b) of section 4-177c; and

(E) Notify the person who filed the complaint of the final disposition of such complaint not later than seven business days after such final disposition;

(13) Perform any other function necessary to the effective operation of a board or commission and not specifically vested by statute in the board or commission;

(14) Contract with a third party, if the commissioner deems necessary, to administer licensing examinations and perform all attendant administrative functions in connection with such examination; and

(15) With respect to any investigation of a person subject to regulation, licensing or certification by the department and in any disciplinary proceeding regarding such person, except as required by federal law:

(A) Not be denied access to or use of copies of patient medical records on the grounds that privilege or confidentiality applies to such records; and

(B) Not further disclose patient medical records received pursuant to the provisions of this subdivision. Patient records received pursuant to this subdivision shall not be subject to disclosure under section 1-210.

(b) The department shall have the powers and duties indicated in subsection (a) of this section with regard to the following professional boards and commissions: *CTABA Scope of Practice July, 2014*

(1) The Connecticut Medical Examining Board, established under section 20-8a;

(2) The Connecticut State Board of Examiners for Optometrists, established under subsections (a) to (c), inclusive, of section 20-128a;

(3) The Connecticut State Board of Examiners for Nursing, established under section 20-88;

(4) The Dental Commission, established under section 20-103a;

(5) The Board of Examiners of Psychologists, established under section 20-186;

(6) The Connecticut Board of Veterinary Medicine, established under section 20-196;

(7) Repealed by P.A. 13-208, S. 79;

(8) The Connecticut State Board of Examiners for Opticians, established under subsections (a) to (c), inclusive, of section 20-139a;

(9) The Connecticut State Board of Examiners for Barbers and Hairdressers and Cosmeticians, established under section 20-235a;

(10) The Connecticut Board of Examiners of Embalmers and Funeral Directors established under section 20-208;

(11) Repealed by P.A. 99-102, S. 51;

(12) The State Board of Natureopathic Examiners, established under section 20-35;

(13) The State Board of Chiropractic Examiners, established under section 20-25;

(14) The Connecticut Board of Examiners in Podiatry, established under section 20-51;

(15) The Board of Examiners of Electrologists, established under section 20-268; and

(16) The Connecticut State Board of Examiners for Physical Therapists.

(c) No board shall exist for the following professions that are licensed or otherwise regulated by the Department of Public Health:

(1) Speech and language pathologist and audiologist;

(2) Hearing instrument specialist; *CTABA Scope of Practice July, 2014*

(3) Nursing home administrator;

(4) Sanitarian;

(5) Subsurface sewage system installer or cleaner;

- (6) Marital and family therapist;
- (7) Nurse-midwife;
- (8) Licensed clinical social worker;
- (9) Respiratory care practitioner;
- (10) Asbestos contractor and asbestos consultant;
- (11) Massage therapist;
- (12) Registered nurse's aide;
- (13) Radiographer;
- (14) Dental hygienist;
- (15) Dietitian-Nutritionist;
- (16) Asbestos abatement worker;
- (17) Asbestos abatement site supervisor;
- (18) Licensed or certified alcohol and drug counselor;
- (19) Professional counselor;
- (20) Acupuncturist;
- (21) Occupational therapist and occupational therapist assistant;
- (22) Lead abatement contractor, lead consultant contractor, lead consultant, lead abatement supervisor, lead abatement worker, inspector and planner-project designer;
- (23) Emergency medical technician, advanced emergency medical technician, emergency medical responder and emergency medical services instructor;
- (24) Paramedic; *CTABA Scope of Practice July, 2014*
- (25) Athletic trainer;
- (26) Perfusionist;
- (27) Master social worker subject to the provisions of section 20-195v;
- (28) Radiologist assistant, subject to the provisions of section 20-74tt;
- (29) Homeopathic physician;
- (30) Certified water treatment plant operator, certified distribution system operator, certified small water system operator, certified backflow prevention device tester and certified cross connection survey inspector, including certified limited operators, certified conditional operators and certified operators in training; and
- (31) Tattoo technician.
- (32) *Behavior Analyst*
- (33) *Assistant Behavior Analyst*

The department shall assume all powers and duties normally vested with a board in administering regulatory jurisdiction over such professions. The uniform provisions of this chapter and chapters 368v, 369 to 381a, inclusive, 383 to 388, inclusive, 393a, 395, 398, 399, 400a and 400c, including, but not limited to, standards for entry and renewal; grounds for professional discipline; receiving and processing complaints; and disciplinary sanctions, shall apply, except as otherwise provided by law, to the professions listed in this subsection.



(d) Except as provided in subdivision (15) of subsection (a) of this section and section 20-13e, all records obtained by the department in connection with any investigation of a person or facility over which the department has jurisdiction under this chapter, other than a physician as defined in subdivision (5) of section 20-13a, shall not be subject to disclosure under section 1-210 for a period of one year from the date of the petition or other event initiating such investigation, or until such time as the investigation is terminated pursuant to a withdrawal or other informal disposition or until a hearing is convened pursuant to chapter 54, whichever is earlier. A complaint, as defined in subdivision (6) of section 19a-13, shall be subject to the provisions of section 1-210 from the time that it is served or mailed to the respondent. Records that are otherwise public records shall not be deemed confidential merely because they have been obtained in connection with an investigation under this chapter. Records disclosed to a person who files a complaint pursuant to subdivision (12) of subsection (a) of this section that are otherwise confidential shall not be deemed public records merely because they have been disclosed pursuant to said subdivision (12). *CTABA Scope of Practice* July, 2014

(e) The department shall not issue a license to any applicant against whom professional disciplinary action is pending or who is the subject of an unresolved complaint with the professional licensing authority in another jurisdiction.