

Behavior Analyst Leadership Council

March 1, 2016

Testimony in Support of SB 292: An Act Concerning Behavior Analysts

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

I am writing to request your support of SB 292. This important legislation is much needed to protect consumers of behavior analytic services throughout the state, regardless of whether the recipient has a diagnosis of autism or not.

In addition to asking for your support of this bill, I am requesting that the attached bill modification be substituted for the current bill language to remove licensure of Board Certified Assistant Behavior Analysts (BCaBA's) from the proposal. I am requesting this for several reasons, but most importantly due to the Department of Public Health's concerns related to the higher cost of including this subset of professionals. We are in agreement in with DPH that this modification provides scope practice protection for these professionals by delineating their role and linking their supervision and practice to a licensed behavior analyst without increasing the cost of implementation.

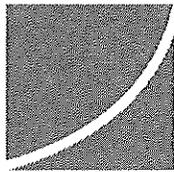
Additionally, I am requesting that exemptions be added to the bill to ensure that caregivers and others implementing behavior analytic strategies under the supervision of a licensed behavior analyst is not an infringement on this scope of practice. I have included proposed language regarding these exemptions as well.

Not only will this legislation protect vulnerable people in our community, but at a time when the financial health of our state is a concern, will generate revenue for the state well in excess of the costs of implementing this program. I know a roughly \$900,000 net gain over a 4 to 5-year period is not going to solve all of our financial woes, but every little bit helps. I have also attached a summary of projected income and expenses to operate this licensure program.

Thank you considering my testimony and the proposed revisions.

Yours truly,

Suzanne Letso, M.A., BCBA
MA Licensed Behavior Analyst
NY Licensed Behavior Analyst
President, Behavior Analyst Leadership Council
Parent of a son with autism and resident of Newtown, CT



Behavior Analyst Leadership Council

Estimated Income & Expenses for Licensure of Behavior Analysts

It is estimated that the projected 893 Licensed Behavior Analysts would pay an initial licensing fee of \$350.00 per year, and a bi-annual renewal fee of \$175 for each subsequent 2-year period.

Income derived from licensure of BCBA's is estimated as follows:

2017: 935 BCBA's X \$350.00 initial fee = **\$327,250**

2018: 243 BCBA's X \$350.00 initial fee = **\$85,050** (no renewals for the first 2 year cycle)

2019: 298 BCBA's X \$350.00 initial fee = \$104,300 and
935 BCBA renewals X \$175.00 fee = \$163,625

Total 2019 fees = **\$267,925**

2020: 376 BCBA's X \$350.00 initial fee = \$131,250 and
243 BCBA renewals X \$175.00 fee = \$42,525

Total 2020 fees = **\$173,775**

2021: 473 BCBA's X \$350.00 initial fee = \$165,550 and
1,233 BCBA's renewals X \$175.00 = \$215,775

Total 2021 fees = **\$381,325**

Five year total state income: **\$1,233,325**

Based upon the fiscal note prepared by the Department of Health in response to 2014-15 proposed licensure legislation, e.g. HB 5528, and assuming a 6% increase in costs for each subsequent year the estimated cost of operating a licensure program for behavior analysts and net income is as follows:

2017: cost to implement \$54,843; net income **\$272,407**

2018: cost to implement \$82,477; net income **\$2,573**

2019: estimated cost to implement \$87,425; net income **\$180,500**

2020: estimated cost to implement \$92,671; net income **\$81,104**

2021: estimated cost to implement \$98,231; net income **\$283,094**

Total five-year net income: **\$819,678**

As of January 22, 2016 there are 489 BCBA certificants that are Connecticut residents who would qualify for licensure in Connecticut. It is not known exactly how many BCBA's who reside in other states regularly practice here, but we estimate that this would add approximately another 100 people, increasing the total number of BCBA's working in Connecticut to approximately 600 certificants at the present time.

The number of BCBA certificants worldwide has been growing at the annual rate 20-25% per year, and in Connecticut has been approximately 25% year-to-year, with growth rate of 26% over the last 12 months. Based on this rate of growth it is anticipated that by January 2017 there will approximately 893 BCBA's working in Connecticut, including those that reside out of state but are regularly employed in Connecticut.

Utilization of the BACB credential, testing, and administrative support could substantially reduce the overall cost of administering a state license, but no cost savings has been included in these estimates as the DOH calculation alone was utilized.

For additional information please contact:

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Revised 1/22/16

[Proposed deletions are enclosed in brackets.]

Proposed additions are indicated by underline.

AN ACT CONCERNING BEHAVIOR ANALYSTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective January 1, 2017*) As used in this section, sections 2 to 6, inclusive, of this act and section 19a-14 of the general statutes, as amended by this act:

(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 but does not include: (A) Psychological testing, (B) neuropsychology, (C) cognitive therapy, (D) sex therapy, (E) psychoanalysis, (F) hypnotherapy, (G) cognitive behavioral therapy, (H) psychotherapy, or (I) long-term counseling as treatment modalities;

(2) "Behavior analyst" means a person who is licensed to practice behavior analysis under the provisions of section 3 or 5 of this act;

(3) "Assistant behavior analyst" means a person who is [licensed] certified by the Behavior Analyst Certification Board to assist in the practice of behavior analysis under the supervision of, or in consultation with, a licensed behavior analyst under the provisions of section 4 or 5 of this act; and

(4) "Behavior Analyst Certification Board" has the same meaning as provided in section 20-185i of the general statutes, or a successor of said board.

Sec. 2. (NEW) (*Effective January 1, 2017*) (a) No person may practice behavior analysis or assist in the practice of behavior analysis unless licensed pursuant to section 3, 4 or 5 of this act.

(b) No person may use the title "behavior analyst" [, "assistant behavior analyst"] or make use of any title, words, letters or abbreviations that may reasonably be confused with licensure as a behavior analyst [or assistant behavior analyst] unless such person is licensed pursuant to section 3, 4 or 5 of this act.

(c) The provisions of this section shall not apply to a person who (1) provides behavior analysis or assists in the practice of behavior analysis while acting within the scope of practice of the person's license and training, provided the person does not hold himself or herself out to the public as a behavior analyst [or assistant behavior analyst], (2) is a student enrolled in a behavior analysis educational program accredited by the Behavior Analyst Certification Board, or a graduate education program in which behavior analysis is an integral part of the student's course of study and such student is performing such behavior analysis or assisting in behavior analysis under the direct supervision of a licensed behavior analyst, [or] (3) is an instructor in a course approved by the Behavior Analyst Certification Board, (4) is a board certified assistant behavior analyst working under the supervision of a licensed behavior analyst in accordance with the standards established by the Behavior Analyst Certification Board, (5) is a person implementing an intervention based on behavior

analysis under the direction of a licensed behavior analyst, or (6) is a family member, guardian, or other caretaker implementing a behavior analysis treatment plan under the direction of a licensed behavior analyst.

Sec. 3. (NEW) (*Effective January 1, 2017*) (a) The Commissioner of Public Health shall grant a license as a behavior analyst to any applicant who furnishes evidence satisfactory to the commissioner that such applicant is certified as a behavior analyst by the Behavior Analyst Certification Board. The commissioner shall develop and provide application forms. The application fee shall be three hundred fifty dollars.

(b) Licenses issued under this section may be renewed biennially. The fee for such renewal shall be one hundred seventy-five dollars. Each behavior analyst applying for license renewal shall furnish evidence satisfactory to the commissioner of having current certification with the Behavior Analyst Certification Board.

[Sec. 4. (NEW) (*Effective January 1, 2017*) (a) The Commissioner of Public Health shall grant a license as an assistant behavior analyst to any applicant who furnishes evidence satisfactory to the commissioner that such applicant is certified as an assistant behavior analyst by the Behavior Analyst Certification Board. The commissioner shall develop and provide application forms. The application fee shall be three hundred fifty dollars.]

[(b) Licenses issued under this section may be renewed biennially. The fee for such renewal shall be one hundred seventy-five dollars. Each assistant behavior analyst applying for license renewal shall furnish evidence satisfactory to the commissioner of

having current certification with the Behavior Analyst Certification Board.]

Sec. 5. (NEW) (*Effective January 1, 2017*) A person may apply for licensure by endorsement as a behavior analyst [or assistant behavior analyst]. Such applicant shall present 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 that has requirements for practicing in such capacity that are substantially similar to, or higher than, those of this state and that there are no disciplinary actions or unresolved complaints pending.

Sec. 6. (NEW) (*Effective January 1, 2017*) The Commissioner of Public Health may take any disciplinary action set forth in section 19a-17 of the general statutes against a behavior analyst [or assistant behavior analyst] for any of the following reasons: (1) Failure to conform to the accepted standards of the profession; (2) conviction of a felony; (3) fraud or deceit in obtaining or seeking reinstatement of a license to practice behavior analysis; (4) fraud or deceit in the practice of behavior analysis; (5) negligent, incompetent or wrongful conduct in professional activities; (6) physical, mental or emotional illness or disorder resulting in an inability to conform to the accepted standards of the profession; (7) alcohol or substance abuse; or (8) wilful falsification of entries in any hospital, patient or other record pertaining to behavior analysis. The commissioner may order a license holder to submit to a reasonable physical or mental examination if his or her physical or mental capacity to practice safely is the subject of an investigation. The commissioner may petition the superior court for the judicial district of Hartford to enforce such order or any

action taken pursuant to section 19a-17 of the general statutes. The commissioner shall give notice and an opportunity to be heard on any contemplated action under section 19a-17 of the general statutes.

Sec. 7. Subsection (c) of section 19a-14 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2017*):

(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;
- (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;
- (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;
- (31) Tattoo technician; [and]
- (32) Genetic counselor;
- (33) Behavior analyst [; and]
- [(34) 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.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2017</i>	New section
Sec. 2	<i>January 1, 2017</i>	New section
Sec. 3	<i>January 1, 2017</i>	New section
Sec. 4	<i>January 1, 2017</i>	New section
Sec. 5	<i>January 1, 2017</i>	New section
Sec. 6	<i>January 1, 2017</i>	[New section] <u>19a-14(c)</u>
[Sec. 7]	[<i>January 1, 2017</i>]	[19a-14(c)]

Statement of Purpose:

To require the licensure of behavior analysts [and assistant behavior analysts].