

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

1

HOUSE BILL 1157

Short Title: Behavior Analysis Practice Act. (Public)

Sponsors: Representatives Parfitt, Shepard, and Parmon (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Health and Human Services, if favorable, Finance.

May 30, 2012

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE BEHAVIOR ANALYSIS PRACTICE ACT.

3 Whereas, the House Select Committee on Military Affairs, in its report to the 2012
4 Regular Session of the 2011 General Assembly, recommended that board certified behavior
5 analysts and assistant behavior analysts should be allowed to offer applied behavior analysis
6 services within the scope of practice authorized by the Behavior Analyst Certification Board;
7 and

8 Whereas, the House Select Committee on Military Affairs recommended that there be a
9 supervisory agency or regulatory body that should oversee the provision of applied behavior
10 analysis services; Now, therefore,

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new
13 Article to read:

14 "Article 43.

15 "Behavior Analysis Practice Act.

16 **"§ 90-726.1. Title.**

17 (a) This Article shall be known and may be cited as the "Behavior Analysis Practice
18 Act," and its provisions shall be carried out by the North Carolina Psychology Board.

19 (b) The practice of behavior analysis in North Carolina is hereby declared to affect the
20 public health, safety, and welfare, and to be subject to regulation by the North Carolina
21 Psychology Board, to protect the public from the practice of behavior analysis by unqualified
22 persons and from unprofessional conduct by persons licensed to practice behavior analysis.

23 **"§ 90-726.2. Definitions.**

24 The following definitions apply in this Article:

25 (1) Applied health sciences degree. – A master's or doctoral degree in behavior
26 analysis, behavioral science, counseling, education, human services,
27 medicine, nursing, occupational therapy, psychology, rehabilitation, school
28 counseling, social work, special education, speech, and language.

29 (2) Behavior analysis. – The design, implementation, and evaluation of
30 systematic instructional and environmental modifications to produce
31 significant personal or interpersonal improvements in human behavior.

32 (3) Board. – The North Carolina Psychology Board.

33



- 1 (4) Examination. – Any and all examinations that are adopted by the Board and
2 administered to applicants for licensure, including, but not limited to, the
3 national Behavior Analyst Certification Board examination,
4 Board-developed examinations, and other examinations that assess the
5 competency and ethics of applicants for licensure.
- 6 (5) Institution of higher education. – A university, college, professional school,
7 or another institution of higher learning that meets one of the following
8 criteria:
- 9 a. In the United States, is regionally accredited by bodies approved by
10 the Commission on Recognition of Postsecondary Accreditation or
11 its successor.
- 12 b. In Canada, holds a membership in the Association of Universities
13 and Colleges of Canada.
- 14 c. In a country other than the United States or Canada, is accredited by
15 the comparable official organization having accreditation authority.
- 16 (6) Jurisdiction. – Any governmental authority, including, but not limited to, a
17 state, a territory, a commonwealth, a district of the United States, and a
18 country or local government authority thereof, that licenses or certifies
19 behavior analysts.
- 20 (7) Licensed behavior analyst. – An individual to whom a license has been
21 issued by the North Carolina Psychology Board pursuant to the provisions of
22 this Article, whose license is not suspended or revoked, and whose license
23 permits the individual to engage in the practice of behavior analysis as
24 defined in this Article.
- 25 (8) Practice of behavior analysis. – The application of the principles, methods,
26 and procedures of behavior and applied behavior analysis (including
27 principles of operant and respondent learning) to assess and improve socially
28 important human behaviors. It includes, but is not limited to, applications of
29 those principles, methods, and procedures to (i) the design, implementation,
30 evaluation, and modification of treatment programs to change behavior of
31 individuals or groups or both; and (ii) consultation to individuals and
32 organizations. The practice of behavior analysis expressly excludes
33 diagnosis, counseling, psychological testing, neuropsychology,
34 psychotherapy, cognitive therapy, sex therapy, psychoanalysis, and
35 hypnotherapy as treatment modalities.

36 **"§ 90-726.3. Practice of medicine and optometry not permitted.**

37 Nothing in this Article shall be construed as permitting a licensed behavior analyst to
38 engage in any manner in all or any of the parts of the practice of medicine or optometry
39 licensed under Articles 1 and 6 of Chapter 90 of the General Statutes, including, among others,
40 the diagnosis and correction of visual and muscular anomalies of the human eyes and visual
41 apparatus, eye exercises, orthoptics, vision training, visual training, and developmental vision.
42 A licensed behavior analyst shall assist his or her client or patient in obtaining professional help
43 for all aspects of the client's or patient's problems that fall outside the boundaries of the
44 licensed behavior analyst's own competence, including provision for the diagnosis and
45 treatment of relevant medical or optometric problems.

46 **"§ 90-726.4. Practice of Psychology not permitted.**

47 Nothing in this Article shall be construed as permitting licensed behavior analysts to engage
48 in any manner in the practice of psychology, other than the practice of behavior analysis, as
49 defined in G.S. 90-726.2(8). A licensed behavior analyst shall assist his or her client or patient
50 in obtaining professional help for all aspects of the client's or patient's problems that fall outside
51 the boundaries of the licensed behavior analyst's own competence, including diagnosis,

1 counseling, psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex
2 therapy, psychoanalysis, or hypnotherapy as treatment modalities.

3 **"§ 90-726.5. Exemptions to this Article.**

4 (a) Nothing in this Article shall be construed to prevent the teaching of behavior
5 analysis, the conduct of behavior analysis research, or the provision of behavior analysis
6 consultation to organizations or institutions, provided that such teaching, research, service, or
7 consultation does not involve the delivery or supervision of direct behavior analysis services to
8 individuals or groups of individuals who are themselves, rather than a third party, the intended
9 beneficiaries of such services, without regard to the source or extent of payment for services
10 rendered. Nothing in this Article shall prevent the provision of expert testimony by behavior
11 analysts who are otherwise exempted by this act.

12 (b) Nothing in this Article shall be construed as limiting the activities, services, and use
13 of title designating training status of a student, intern, fellow, or other trainee preparing for the
14 practice of behavior analysis under the supervision and responsibility of qualified faculty in an
15 institution of higher education or service facility, provided that such activities and services
16 constitute a part of his or her course of study as a matriculated graduate student in pursuing an
17 applied health sciences degree. Further, nothing in this Article shall be construed as limiting the
18 activities, services, and use of title designating training status of individuals pursuing
19 postgraduate graduate training or experience in behavior analysis. The Board may develop
20 rules defining qualified supervision, disclosure of supervisory relationships, frequency of
21 supervision, settings to which trainees may be assigned, activities in which trainees may
22 engage, qualifications for trainee status, nature of responsibility assumed by the supervisor, and
23 the structure, content, and organization of postgraduate experience.

24 (c) Nothing in this Article shall be construed to prevent the practice of behavior
25 analysis by a North Carolina licensed psychologist or North Carolina licensed psychological
26 associate.

27 (d) Subject to subsection (e) of this section, nothing in this Article shall be construed to
28 prevent a qualified member of other professional groups licensed or certified under the laws of
29 this State from rendering services within the scope of practice, as defined in the statutes
30 regulating those professional practices, provided the person does not hold himself or herself out
31 to the public by any title or description stating or implying that the person is a licensed
32 behavior analyst.

33 (e) If a person who is otherwise exempt from the provisions of this Article and not
34 required to be licensed under this Article is or becomes licensed under this Article, he or she
35 shall comply with all Board rules and statutes applicable to all other licensed behavior analysts
36 under this Article. These requirements apply regardless of whether the person holds himself or
37 herself out to the public by any title or description stating or implying that the person is a
38 licensed behavior analyst.

39 (f) A licensed behavior analyst whose license is suspended or revoked pursuant to the
40 provisions of G.S. 90-726.12 must terminate the practice of behavior analysis, in accordance
41 with the duly adopted rules of the Board.

42 **"§ 90-726.6. Application; supervision.**

43 (a) Except as otherwise exempted by G.S. 90-726.5, persons who are qualified by
44 education to be licensed as behavior analysts in this State must make application for licensure
45 to the Board and be licensed before offering to work in North Carolina. Applications must then
46 be completed for review by the Board within the time period stipulated in the duly adopted
47 rules of the Board.

48 (b) A licensed behavior analyst shall receive face-to-face supervision by a qualified
49 licensed psychologist or licensed psychological associate. Face-to-face supervision means
50 supervision that is live, interactive, and visual. Video supervision is permitted as long as the

1 session is synchronous (real time) and involves verbal and visual interaction during the
2 supervision.

3 (c) Supervision shall be conducted in accordance with Board rules specifying the
4 format, setting, content, time frame, amounts of supervision, qualifications of supervisors,
5 disclosure of supervisory relationships, the organization of the supervised experience, and the
6 nature of the responsibility assumed by the supervisor. A licensed behavior analyst shall be
7 supervised for all activities. A currently licensed psychologist or licensed psychological
8 associate who is also a licensed behavior analyst is exempt from the supervision requirements
9 of this section, so long as the individual is in receipt of any required supervision under the
10 Psychology Practice Act. The Board shall adopt rules implementing and defining this provision
11 in order to maintain acceptable standards of practice.

12 (d) An applicant for reinstatement of a license, whose license was suspended or
13 relinquished under G.S. 90-726.12(f) or (h), may be issued a temporary license in accordance
14 with the duly adopted rules of the Board.

15 **"§ 90-726.7. Psychology Board.**

16 The North Carolina Psychology Board, as created and defined in G.S. 90-270.6 through
17 G.S. 90-270.10, shall carry out the provisions of this Article.

18 **"§ 90-726.8. Powers of the Board.**

19 In addition to the powers of the Board under G.S. 90-270.9, the Board may also empower
20 any member to conduct any proceeding or investigation necessary to its purposes and may
21 empower its agent or counsel to conduct any investigation necessary to its purposes, but any
22 final action requires a quorum of the Board. The Board may order that any records concerning
23 the practice of behavior analysis relevant to a complaint received by the Board or an inquiry or
24 investigation conducted by or on behalf of the Board be produced before the Board or for
25 inspection and copying by representatives of or counsel to the Board by the custodian of such
26 records. The Board shall adopt an official seal that shall be affixed to all licenses issued by it.
27 The Board shall make such rules and regulations not inconsistent with law, as may be necessary
28 to regulate its proceedings and otherwise to implement the provisions of this Article.

29 **"§ 90-726.9. Annual report.**

30 In addition to the required information in the annual report of the North Carolina
31 Psychology Board, as set forth in G.S. 90-270.10, the annual report shall also include the names
32 of all licensed behavior analysts to whom licenses have been granted under this Article, any
33 cases heard and decisions rendered in matters before the Board involving licensed behavior
34 analysts, and the recommendation of the Board as to future actions and policies involving this
35 Article.

36 **"§ 90-726.10. Licensure of Behavior Analysts.**

37 (a) The Board shall issue a license to an applicant who pays an application fee and any
38 applicable examination fee as specified in G.S. 90-726.15, who passes an examination as
39 prescribed by the Board, and who submits evidence verified by oath and satisfactory to the
40 Board that the applicant has met all of the following:

41 (1) Is at least 18 years of age.

42 (2) Has received an applied health sciences degree as defined in G.S. 90-726.2
43 from an institution of higher education.

44 (3) Is certified by the national Behavior Analyst Certification Board.

45 (b) The Board shall adopt additional educational/training requirements as necessary to
46 assure that applicants are properly prepared by education to practice.

47 (c) The Board shall adopt rules defining and implementing these provisions, including,
48 but not limited to, such factors as number of course credits, course content, and qualifications
49 of faculty.

50 (d) The Board may deny licensure to any person otherwise eligible for licensure under
51 this section upon documentation of conduct specified in G.S. 90-726.12.

"§ 90-726.11. Renewal of license; duplicate or replacement license.

(a) A license issued under this Article must be renewed biennially on or before the first day of October in each even-numbered year, the requirements for such renewal being the following:

(1) Each application for renewal must be made on a form prescribed by the Board and accompanied by a fee as specified in G.S. 90-726.15. If a license is not renewed on or before the renewal date, an additional fee shall be charged for late renewal as specified in G.S. 90-726.15.

(2) The Board may establish continuing education requirements as a condition for license renewal.

(b) A licensed behavior analyst may request the Board to issue a duplicate or replacement license for a fee as specified in G.S. 90-726.15. Upon receipt of the request and a showing of good cause for the issuance of a duplicate or replacement license, and the payment of the fee, the Board shall issue a duplicate or replacement license.

"§ 90-726.12. Denial, suspension, or revocation of license, and other disciplinary and remedial actions for violations of the Code of Conduct; relinquishing of license.

(a) Any applicant for license and any person licensed under this Article shall have behaved in conformity with the ethical and professional standards specified in this Code of Conduct and in the rules of the Board. The Board may deny, suspend, or revoke a license, and may discipline, place on probation, limit practice, and require examination, remediation, and rehabilitation, or any combination thereof, all as provided for in subsection (b) of this section. The Board shall act upon proof that the applicant or licensed behavior analyst has engaged in illegal, immoral, dishonorable, unprofessional, or unethical conduct by violating any one of the following provisions of the Code of Conduct:

(1) Has been convicted of a felony or entered a plea of guilty or nolo contendere to any felony charge.

(2) Has been convicted of or entered a plea of guilty or nolo contendere to any misdemeanor involving moral turpitude, misrepresentation, or fraud in dealing with the public, or conduct otherwise relevant to fitness to practice, or a misdemeanor charge reflecting the inability to practice behavior analysis with due regard to the health and safety of clients or patients.

(3) Has engaged in fraud or deceit in securing or attempting to secure or renew a license under this Article or has willfully concealed from the Board material information in connection with application for a license, or for renewal of a license under this Article.

(4) Has practiced any fraud, deceit, or misrepresentation upon the public, the Board, or any individual in connection with the practice of behavior analysis, the offer of behavior analysis services, the filing of Medicare, Medicaid, or other claims to any third-party payor, or in any manner otherwise relevant to fitness for the practice of behavior analysis.

(5) Has made fraudulent, misleading, or intentionally or materially false statements pertaining to education, licensure, licensure renewal, supervision, continuing education, any disciplinary actions or sanctions pending or occurring in any other jurisdiction, professional credentials, or qualifications or fitness for the practice of behavior analysis to the public, any individual, the Board, or any other organization.

(6) Has had a license for the practice of behavior analysis in any other jurisdiction suspended or revoked, or has been disciplined by the licensing or certification board in any other jurisdiction of the national Behavior Analysis Certification Board for conduct that would subject him or her to discipline under this Article.

- 1 (7) Has violated any provision of this Article or of the duly adopted rules of the
2 Board.
- 3 (8) Has aided or abetted the unlawful practice of behavior analysis by any
4 person not licensed by the Board.
- 5 (9) Has been guilty of immoral, dishonorable, unprofessional, or unethical
6 conduct as defined in this subsection, or in the then-current professional
7 disciplinary standards and guidelines for responsible conduct for behavior
8 analysts of the national Behavior Analyst Certification Board, except as the
9 provisions of such professional disciplinary standards and guidelines for
10 responsible conduct for behavior analysts of the national Behavioral Analyst
11 Certification Board may be inconsistent and in conflict with the provisions
12 of this Article, in which case the provisions of this Article control.
- 13 (10) Has practiced behavior analysis in such a manner as to endanger the welfare
14 of clients or patients.
- 15 (11) Has demonstrated an inability to practice behavior analysis with reasonable
16 skill and safety by reason of illness, inebriation, misuse of drugs, narcotics,
17 alcohol, chemicals, or any other substance affecting mental or physical
18 functioning, or as a result of any mental or physical condition.
- 19 (12) Has practiced behavior analysis or conducted research outside the
20 boundaries of demonstrated competence or the limitations of education,
21 training, or supervised experience.
- 22 (13) Has failed to use or administer behavior analytic assessment techniques,
23 including interviewing and observation, in a competent manner, or has
24 provided findings or recommendations that do not accurately reflect the
25 assessment data, or exceed what can reasonably be inferred, predicted, or
26 determined from interview or observational data.
- 27 (14) Has failed to provide competent treatment or consultation, in keeping with
28 standards of usual and customary practice in this State.
- 29 (15) Has failed to recognize or refer for appropriate treatment clients with
30 psychological conditions that become apparent during the course of the
31 licensed behavior analyst's treatment requiring treatment outside of the scope
32 of practice of the licensed behavior analyst.
- 33 (16) In the absence of established standards, has failed to take all reasonable steps
34 to ensure the competence of services.
- 35 (17) Has failed to maintain a clear and accurate case record that documents all of
36 the following for each patient or client:
- 37 a. Presenting problems, assessment, treatment, or other services
38 provided.
- 39 b. Diagnosis by a licensed mental health or medical professional upon
40 which treatment by the licensed behavior analyst is based.
- 41 c. Fees, dates of services, and itemized charges.
- 42 d. Summary content of each session of assessment, treatment, or other
43 services, except that summary content need not include specific
44 information that may cause significant harm to any person if the
45 information were released.
- 46 e. Copies of all reports prepared.
- 47 (18) Except when prevented from doing so by circumstances beyond the licensed
48 behavior analyst's control, has failed to retain securely and confidentially the
49 complete case record for at least seven years from the date of the last
50 provision of behavior analysis services; or, except when prevented from
51 doing so by circumstances beyond the behavior analyst's control, has failed

1 to retain securely and confidentially the complete case record for three years
2 from the date of the attainment of majority age by the patient or client or for
3 at least seven years from the date of the last provision of behavior analysis
4 services, whichever is longer; or, except when prevented from doing so by
5 circumstances beyond the behavior analyst's control, has failed to retain
6 securely and confidentially the complete case record indefinitely if there are
7 pending legal or ethical matters or if there is any other compelling
8 circumstance.

9 (19) Has failed to cooperate with other behavior analysts or other professionals to
10 the potential or actual detriment of clients, patients, or other recipients of
11 service, or has behaved in ways which substantially impede or impair other
12 behavior analysts' or other professionals' abilities to perform professional
13 duties.

14 (20) Has exercised undue influence in such a manner as to exploit the client,
15 patient, student, supervisee, or trainee for the financial or other personal
16 advantage or gratification of the behavior analyst or a third party.

17 (21) Has harassed or abused, sexually or otherwise, a client, patient, student,
18 supervisee, or trainee.

19 (22) Has failed to cooperate with or to respond promptly, completely, and
20 honestly to the Board, to credentials committees, or to ethics committees of
21 behavior analytical associations, hospitals, or other health care organizations
22 or educational institutions, when those organizations or entities have
23 jurisdiction; or has failed to cooperate with institutional review boards or
24 professional standards review organizations, when those organizations or
25 entities have jurisdiction.

26 (23) Has refused to appear before the Board after having been ordered to do so in
27 writing by the chair.

28 (b) Upon proof that an applicant or licensed behavior analyst under this Article has
29 engaged in any of the prohibited actions specified in subsection (a) of this section, the Board
30 may, in lieu of denial, suspension, or revocation, issue a formal reprimand or formally censure
31 the applicant or licensed behavior analyst; may place the applicant or licensed behavior analyst
32 on probation with such appropriate conditions upon the continued practice as the Board may
33 deem advisable; may require examination, remediation, or rehabilitation for the applicant or
34 licensed behavior analyst, including care, counseling, or treatment by a professional or
35 professionals designated or approved by the Board, the expense to be borne by the applicant or
36 licensed behavior analyst; may require supervision for the services provided by the applicant or
37 licensed behavior analyst by a licensed psychologist or licensed psychological associate
38 designated or approved by the Board, the expense to be borne by the applicant or licensed
39 behavior analyst; may limit or circumscribe the practice of behavior analysis provided by the
40 licensed behavior analyst with respect to the extent, nature, or location of the services provided,
41 as the Board deems advisable; or may discipline and impose any appropriate combination of
42 the foregoing. In addition, the Board may impose such conditions of probation or restrictions
43 upon continued practice at the conclusion of a period of suspension or as requirements for the
44 restoration of a revoked or suspended license. In lieu of or in connection with any disciplinary
45 proceedings or investigation, the Board may enter into a consent order relative to the discipline,
46 supervision, probation, remediation, rehabilitation, or practice limitation of a licensed behavior
47 analyst or applicant for a license.

48 (c) The Board may assess costs of disciplinary action against an applicant or licensed
49 behavior analyst found to be in violation of this Article.

50 (d) When considering the issue of whether or not an applicant or licensed behavior
51 analyst is physically or mentally capable of practicing behavior analysis with reasonable skill

1 and safety with patients or clients, then, upon a showing of probable cause to the Board that the
2 applicant or licensed behavior analyst is not capable of practicing behavior analysis with
3 reasonable skill and safety with patients or clients, the Board may petition a court of competent
4 jurisdiction to order the applicant or licensed behavior analyst in question to submit to a
5 psychological evaluation by a psychologist to determine psychological status or a physical
6 evaluation by a physician to determine physical condition, or both. Such psychologist or
7 physician shall be designated by the court. The expenses of such evaluations shall be borne by
8 the Board. Where the applicant or licensed behavior analyst raises the issue of mental or
9 physical competence or appeals a decision regarding mental or physical competence, the
10 applicant or licensed behavior analyst shall be permitted to obtain an evaluation at the
11 applicant's or licensed behavior analyst's expense. If the Board suspects the objectivity or
12 adequacy of the evaluation, the Board may compel an evaluation by its designated practitioners
13 at its own expense.

14 (e) Except as provided otherwise in this Article, the procedure for revocation,
15 suspension, denial, limitations of licensure, or other disciplinary, remedial, or rehabilitative
16 actions, shall be in accordance with the provisions of Chapter 150B of the General Statutes.
17 The Board is required to provide the opportunity for a hearing under Chapter 150B to any
18 applicant whose license is denied or to whom licensure is offered subject to any restrictions,
19 probation, disciplinary action, remediation, or other conditions or limitations, or to any licensed
20 behavior analyst before revoking, suspending, or restricting a license or imposing any other
21 disciplinary action or remediation. Notwithstanding the foregoing, no applicant or licensed
22 behavior analyst is entitled to a hearing for failure to pass an examination. In any proceeding
23 before the Board, in any record of any hearing before the Board, in any complaint or notice of
24 charges against any licensed behavior analyst or applicant, and in any decision rendered by the
25 Board, the Board may withhold from public disclosure the identity of any clients or patients
26 who have not consented to the public disclosure of behavior analysis services having been
27 provided by the licensed behavior analyst or applicant. The Board may close a hearing to the
28 public and receive in executive session evidence involving or concerning the treatment of or
29 delivery of behavior analysis services to a client or a patient who has not consented to the
30 public disclosure of such treatment or services as may be necessary for the protection and rights
31 of such patient or client of the accused applicant or licensed behavior analyst and the full
32 presentation of relevant evidence. All records, papers, and other documents containing
33 information collected and compiled by or on behalf of the Board as a result of investigations,
34 inquiries, or interviews conducted in connection with licensure or disciplinary matters will not
35 be considered public records within the meaning of Chapter 132 of the General Statutes;
36 provided, however, that any notice or statement of charges against any licensed behavior
37 analyst or applicant, or any notice to any licensed behavior analyst or applicant of a hearing in
38 any proceeding, or any decision rendered in connection with a hearing in any proceeding shall
39 be a public record within the meaning of Chapter 132 of the General Statutes, notwithstanding
40 that it may contain information collected and compiled as a result of such investigation,
41 inquiry, or hearing, except that identifying information concerning the treatment of or delivery
42 of services to a patient or client who has not consented to the public disclosure of such
43 treatment or services may be deleted; and provided, further, that if any such record, paper, or
44 other document containing information theretofore collected and compiled by or on behalf of
45 the Board, as hereinbefore provided, is received and admitted in evidence in any hearing before
46 the Board, it shall thereupon be a public record within the meaning of Chapter 132 of the
47 General Statutes, subject to any deletions of identifying information concerning the treatment
48 of or delivery of behavior analysis services to a patient or client who has not consented to the
49 public disclosure of such treatment or services.

50 (f) A license issued under this Article is suspended automatically by operation of law
51 after failure to renew a license for a period of more than 60 days after the renewal date. The

1 Board may reinstate a license suspended under this subsection upon payment of a fee as
2 specified in G.S. 90-726.15, and may require that the applicant file a new application, furnish
3 new supervisory reports or references or otherwise update his or her credentials, or submit to
4 examination for reinstatement. Notwithstanding any provision to the contrary, the Board retains
5 full jurisdiction to investigate alleged violations of this Article by any person whose license is
6 suspended under this subsection and, upon proof of any violation of this Article by any such
7 person, the Board may take disciplinary action as authorized by this section.

8 (g) A person whose license has been denied or revoked may reapply to the Board for
9 licensure after the passage of one calendar year from the date of such denial or revocation.

10 (h) A licensed behavior analyst may, with the consent of the Board, voluntarily
11 relinquish his or her license at any time. The Board may delay or refuse the granting of its
12 consent as it may deem necessary in order to investigate any pending complaint, allegation, or
13 issue regarding violation of any provision of this Article by the licensed behavior analyst.
14 Notwithstanding any provision to the contrary, the Board retains full jurisdiction to investigate
15 alleged violations of this Article by any person whose license is relinquished under this
16 subsection and, upon proof of any violation of this Article by any such person, the Board may
17 take disciplinary action as authorized by this section.

18 (i) The Board may adopt such rules as it deems reasonable and appropriate to interpret
19 and implement the provisions of this section.

20 **"§ 90-726.13. Prohibited acts.**

21 (a) Except as provided in G.S. 90-726.5, it shall be a violation of this Article for any
22 person not licensed in accordance with the provisions of this Article to practice or offer to
23 practice behavior analysis as defined in this Article, whether as an individual, firm, partnership,
24 corporation, agency, or other entity.

25 (b) It shall be a violation of this Article for any person not licensed in accordance with
26 the provisions of this Article to use the title "licensed behavior analyst."

27 **"§ 90-726.14. Violations and penalties.**

28 Any person who violates G.S. 90-726.13 is guilty of a Class 2 misdemeanor. Each violation
29 shall constitute a separate offense.

30 **"§ 90-726.15. Disposition and schedule of fees.**

31 (a) Except for fees paid directly to the vendor as provided in subdivision (2) of
32 subsection (b) of this section, all fees derived from the operation of this Article shall be
33 deposited with the State Treasurer to the credit of a revolving fund for the use of the Board in
34 carrying out its functions. All fees derived from the operation of this Article shall be
35 nonrefundable.

36 (b) Fees for activities specified by this Article are as follows:

37 (1) Application fees for licensed behavior analyst, pursuant to G.S. 90-726.6,
38 shall be two hundred fifty dollars (\$250.00).

39 (2) Fees for the national behavior analyst certification board written
40 examination shall be the cost of the examination as set by the vendor. The
41 Board shall require applicants to pay the fee directly to the vendor.

42 (3) Fees for additional examinations shall be as prescribed by the Board.

43 (4) Fees for the renewal of licenses, pursuant to G.S. 90-726.11, shall be four
44 hundred dollars (\$400.00) per biennium. This fee may not be prorated.

45 (5) Late fees for license renewal, pursuant to G.S. 90-726.11, shall be
46 seventy-five dollars (\$75.00).

47 (6) Fees for the reinstatement of a license, pursuant to G.S. 90-726.6, shall be
48 two hundred dollars (\$200.00).

49 (7) Fees for a duplicate license, pursuant to G.S. 90-726.11, shall be
50 seventy-five dollars (\$75.00).

1 (8) Fees for a temporary license, pursuant to G.S. 90-726.6, shall be fifty dollars
2 (\$50.00).

3 (c) The Board may specify reasonable charges for duplication services, materials, and
4 returned bank items in its rules.

5 **"§ 90-726.16. Injunctive authority.**

6 The Board may apply to the superior court for an injunction to prevent violations of this
7 Article or of any rules enacted pursuant thereto. The court is empowered to grant such
8 injunctions regardless of whether criminal prosecution or other action has been or may be
9 instituted as a result of such violation.

10 **"§ 90-726.17. Ancillary services.**

11 A licensed behavioral analyst may employ or supervise unlicensed individuals who assist in
12 the provision of behavior analysis services to clients, patients, and their families. The Board
13 may adopt rules specifying the titles used by such individuals, the numbers employed or
14 supervised by any particular licensed behavior analyst, the activities in which they may engage,
15 the nature and extent of supervision that must be provided, the qualifications of such
16 individuals, and the nature of the responsibility assumed by the employing or supervising
17 licensed behavior analyst.

18 **"§ 90-726.18. Criminal history record checks of applicants and licensed behavior**
19 **analysts.**

20 (a) The Board may request that an applicant for licensure or reinstatement of a license
21 or that licensed behavior analyst currently under investigation by the Board for allegedly
22 violating this Article consent to a criminal history record check. Refusal to consent to a
23 criminal history record check may constitute grounds for the Board to deny licensure or
24 reinstatement of a license to an applicant or take disciplinary action against a licensed behavior
25 analyst, including revocation of a license. The Board shall be responsible for providing to the
26 North Carolina Department of Justice the fingerprints of the applicant or licensed behavior
27 analyst to be checked, a form signed by the applicant or licensed behavior analyst consenting to
28 the criminal history record check and the use of fingerprints and other identifying information
29 required by the State or National Repositories, and any additional information required by the
30 Department of Justice. The Board shall keep all information obtained pursuant to this section
31 confidential. The Board shall collect any fees required by the North Carolina Department of
32 Justice and shall remit the fees to the North Carolina Department of Justice for the cost of
33 conducting the criminal history record check.

34 (b) The Board, its officers and employees, acting reasonably and in compliance with
35 this section, shall be immune from civil liability for denying licensure or reinstatement of a
36 license to an applicant or the revocation of a license or other discipline of a licensed behavior
37 analyst based on information provided in the applicant's or licensed behavior analyst's criminal
38 history record check."

39 **SECTION 2.** This act becomes effective October 1, 2012.