

Final Legislative Report
2013 Regular Session
of the Louisiana Legislature

Louisiana Counseling Association



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Introduction

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2013 Regular Session

The 2013 Regular Session of the Louisiana Legislature was referred to as a “fiscal” legislative session. Legislators are allowed to pre-file an unlimited number of fiscal bills during odd numbered years. This limitation creates a focus on state fiscal matters every other year. In addition, legislators are allowed to file up to five bills of general jurisdiction (non-fiscal bills).

The 2013 Regular Session of the Louisiana Legislature convened on April 8, 2013 at noon at the Louisiana State Capitol. The legislative session began with a joint session of the House and Senate and a State-of-the-State address by Governor Bobby Jindal. The governor’s address focused on his administration’s agenda to eliminate personal and corporate income taxes as well as corporate franchise taxes. The address highlighted the administration’s efforts for most of the first quarter of 2013. The plan would have eliminated income and franchise taxes in exchange for an increase in sales tax on goods and the implementation of a service tax on services.

The governor met with many companies and associations prior to the legislative session to discuss his “Tax Reform” agenda. During that period, there was much concern and resistance to the package. It was immediately apparent the legislature was not supportive of a sales tax increase or the implementation of a service tax. The governor’s tax reform package was dead on arrival in the House Ways and Means Committee. The demise of the governor’s Tax Reform agenda created a vacuum in the legislative process and paved the way for several alternative plans that were promoted in the House of Representatives.

A group of conservative legislators who labeled themselves the “Fiscal Hawks” formed a coalition to offer an alternative to the governor’s plan. The group attacked the governor’s budget for the use of what is referred to as “one-time” money used in the budget to pay recurring expenses. This coalition was made up of a variety of interests including the House Democratic Caucus, the House Republican Caucus, the Legislative Black Caucus and the Rural Caucus. This group worked to develop a budget and a plan to fund state government without the use of one-time money. They were successful in amending the governor’s budget and inserting their provision, and they passed the budget to the Senate.

In the end, the legislature agreed on a budget that used some one-time money in combination with cuts and a tax amnesty program to balance the budget. It is very likely that we will continue to see battles over the use of one-time money and over state spending. It is also likely that tax incentives will be a major element in the budget debate in 2014.

The 2013 Regular Session of the Louisiana Legislature adjourned Sine Die on June 6, 2013 at 5:11 p.m. During the 60-day session, legislators considered over 991 bills; 729 House Bills and 262 Senate Bills. This was considered a low bill count compared to previous fiscal sessions.

Louisiana Counseling Association and the Louisiana Legislature

The 2013 Regular Session of the Louisiana Legislature was a quiet one for the Louisiana Counseling Association. After several years of very active legislative sessions, the 2013 Regular Session seemed a more normal for our industry. While there were issues related to mental health counselors, most issues were worked out before things became too controversial.

The Louisiana Counseling Association tracked nine bills during the 2013 Regular Session of the Louisiana Legislature. The following narrative highlights the bills we were most involved with throughout the legislative process during the 2013 Regular Legislative Session.

HB 226 by Rep. Richard

House Bill 226 by Representative Jerome “Dee” Richard would create the crime of prohibited sexual contact between a psychotherapist and a client or patient. This legislation was filed at the request of a constituent of Rep. Dee Richard. The legislation would have provided that violation of this statute would be punishable by ten years in prison and \$10,000 fine. We met with the proponents of the legislation prior to the bill being scheduled in committee and expressed concerns related to the unintended consequences of the legislation. The proponents accepted no amendments and the legislation was defeated in committee. The proponents of this legislation seemed personally motivated and we expect to see this legislation again in future sessions.

HB 281 by Rep. Simon

House Bill 281 by Representative Scott Simon created a single license for behavioral health services providers. The legislation authorizes the Department of Health and Hospitals to promulgate and publish rules and regulations to provide for integrated behavioral health service under one license. The legislation was heavily amended to address the concerns of the mental health community and was finally passed. HB 281 became Act 308 of the 2013 Regular Session of the Louisiana Legislature and is effective as of June 17, 2013.

SB 86 by Sen. Morrell

Senate Bill 86 by Senator J.P. Morrell provided relative to the Louisiana Mental Health Counselor Licensing Act. The legislation raised the ceiling for fees under the Mental Health Counselor Licensing Act. It further provides that any increase in fees may be increased by the board by rule up to the maximum amount but no more than a total of fifteen percent over a consecutive three-year period. The legislation also increased fines and provided for the recovery of court costs associated with disciplinary actions. SB 86 passed and became Act 173 of the 2013 Regular Session of the Louisiana Legislature and is effective as of January 1, 2014

SB 134 by Sen. Morrell

Senate Bill 134 by Senator J.P. Morrell provided for licensure of behavioral analysts. The legislation created the Louisiana Behavior Analyst Practice Act. The legislation created the Louisiana Behavior Analyst Board and established definitions and makeup of the board. SB 134 was passed and became Act 351 of the 2013 Regular Session of the Louisiana Legislature and is effective as of August 1, 2013.

Legislation Affecting

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[HB 21](#), Burns, H

Provides with respect to reporting of mental health information regarding the purchase of firearms

4/18/2013 Substitute bill adopted: HB 717

[HB 226](#), Richard

Creates the crime of prohibited sexual contact between a psychotherapist and a client or patient

5/14/2013 Involuntarily deferred

[HB 281](#), Simon

Creates a single license for behavioral health services providers

6/17/2013 Becomes Act 308; See Act for Effective Date

[HB 646](#), Smith

Provides relative to student discipline, including suspensions and expulsions, codes of conduct, and bullying

5/28/2013 Killed on final passage by vote of 47 to 37

[HB 653](#), Robideaux

Changes the state sales and use tax rate and provides for the taxability of sale and services

6/21/2013 Becomes Act 425; Effective July 1, 2013

[SB 71](#), Broome

Authorizes and provides for mental health courts

6/17/2013 Becomes Act 346; Effective August 1, 2013

[SB 86](#), Morrell

Provides relative to the Louisiana Mental Health Counselor Licensing Act

6/7/2013 Becomes Act 173; Effective January 1, 2014

[SB 134](#), Morrell

Provides for licensure of behavior analysts

6/17/2013 Becomes Act 351; Effective August 1, 2013

[SB 135](#), Riser

Provides relative to possession of weapons and certain judicial proceedings and reports

6/19/2013 Becomes Act 404; Effective January 1, 2014

Acts

2013 Regular Session of the Louisiana Legislature



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Regular Session, 2013

ACT No. 308

HOUSE BILL NO. 281

BY REPRESENTATIVE SIMON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 40:2006(A)(2)(b), (B)(2)(e), and (E)(2)(b), to enact Part IV-A of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:2151 through 2161, and to repeal R.S. 28:567 through 573 and Part XIII of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1058.1 through 1058.10, relative to behavioral health services providers; to provide for definitions; to provide for applicability; to establish a behavioral health services providers license; to provide rulemaking authority; to provide for license issuance and renewal; to require a licensing fee; to prohibit operating without a license; to provide for penalties and remedies; to provide for opioid treatment programs; to provide for right of inspection; to provide for drug-free zones; to repeal provisions relative to the licensing of mental health clinics; to repeal provisions relative to the licensing of substance abuse/addiction treatment facilities; to provide for effective dates; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:2006(A)(2)(b), (B)(2)(e), and (E)(2)(b) are hereby amended and reenacted and Part IV-A of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:2151 through 2161, is hereby enacted to read as follows:

§2006. Fees; licenses; penalties

A.

* * *

(2) This Subsection shall apply to any licensed:

* * *

1 (b) ~~Substance abuse/addiction treatment facility.~~ Behavioral health services
2 provider.

3 * * *

4 B.

5 * * *

6 (2) This Subsection shall apply to any licensed:

7 * * *

8 (e) ~~Substance abuse/addiction treatment facility.~~ Behavioral health services
9 provider.

10 * * *

11 E.

12 * * *

13 (2) This Subsection shall apply to any licensed:

14 * * *

15 (b) ~~Substance abuse/addiction treatment facility.~~ Behavioral health services
16 provider.

17 * * *

18 PART IV-A. LICENSING OF BEHAVIORAL HEALTH SERVICES PROVIDERS

19 §2151. Short title

20 This Part may be cited as the "Behavioral Health Services Provider Licensing
21 Law".

22 §2152. Purpose

23 The purpose of this Part is to authorize the Department of Health and
24 Hospitals to promulgate and publish rules and regulations to provide for integrated
25 behavioral health services under one license, to provide for the health, safety, and
26 welfare of persons receiving behavioral health services, and to provide for the safe
27 operation and maintenance of providers and facilities providing such care.

1 §2153. Definitions

2 For the purposes of this Part, and subject to the provisions of R.S. 40:2154,
 3 unless the context otherwise clearly indicates, the following terms shall have the
 4 following meanings:

5 (1) "Behavioral health services" means mental health services, substance
 6 abuse/addiction treatment services, or a combination of such services, for adults and
 7 children. Behavioral health services may be provided in a residential setting, in a
 8 clinic setting on an outpatient basis, or in a home or community setting.

9 (2) "Behavioral health services provider" means a facility, agency,
 10 institution, person, society, corporation, partnership, unincorporated association,
 11 group, or other legal entity that provides behavioral health services and that presents
 12 itself to the public as a provider of behavioral health services.

13 (3) "Client" means any person who has been accepted for treatment or
 14 services, including rehabilitation services, furnished by a provider licensed pursuant
 15 to this Part.

16 (4) "Department" means the Department of Health and Hospitals or any
 17 office or agency thereof designated by the secretary to administer the provisions of
 18 this Part.

19 (5) "Financial viability" means the provider or facility seeking licensure is
 20 able to provide verification and continuous maintenance of all of the following:

21 (a) A line of credit issued from a federally insured, licensed lending
 22 institution in the amount of at least fifty thousand dollars.

23 (b) General and professional liability insurance of at least five hundred
 24 thousand dollars.

25 (c) Workers' compensation insurance.

26 (6) "License" means a license issued by the department to a behavioral
 27 health services provider.

28 (7) "Licensed Mental Health Professional (LMHP)" means an individual
 29 who is currently licensed and in good standing in the state of Louisiana to practice

1 within the scope of all applicable state laws, practice acts, and the individual's
 2 professional license, as one of the following:

- 3 (a) Medical psychologist.
- 4 (b) Licensed psychologist.
- 5 (c) Licensed clinical social worker (LCSW).
- 6 (d) Licensed professional counselor (LPC).
- 7 (e) Licensed marriage and family therapist (LMFT).
- 8 (f) Licensed addiction counselor (LAC).
- 9 (g) Licensed Advanced Practice Registered Nurse (APRN).
- 10 (h) Licensed rehabilitation counselor (LRC).

11 (8) "Mental health service" means a service related to the screening,
 12 diagnosis, management, or treatment of a mental disorder, mental illness, or other
 13 psychological or psychiatric condition or problem.

14 (9) "Outpatient services" means behavioral health services offered in an
 15 accessible nonresidential setting to clients whose physical and emotional status
 16 allows them to function in their usual environment.

17 (10) "Physician" means an individual who is currently licensed and in good
 18 standing in the state of Louisiana to practice medicine in Louisiana and who is acting
 19 within the scope of all applicable state laws and the individual's professional license.

20 (11) "Physician assistant" means an individual who is currently approved and
 21 licensed by and in good standing with the Louisiana State Board of Medical
 22 Examiners to perform medical services under the supervision of a physician or group
 23 of physicians who are licensed by and registered with the Louisiana State Board of
 24 Medical Examiners to supervise a physician assistant, and who is acting within the
 25 scope of all applicable state laws and the individual's professional license.

26 (12) "Secretary" means the secretary of the Department of Health and
 27 Hospitals or his designee.

28 (13) "Standards" means policies, procedures, rules, and other guidelines or
 29 standards of current practice contained in this Part, in addition to those rules and

1 standards promulgated by the department for the licensing and operation of
2 behavioral health service providers.

3 (14) "Substance abuse/addiction treatment service" means a service related
4 to the screening, diagnosis, management, or treatment for the abuse of or addiction
5 to controlled dangerous substances, drugs or inhalants, alcohol, problem gambling,
6 or a combination thereof.

7 §2154. Applicability

8 The provisions of this Part shall not apply to the licensing of any of the
9 following facilities or persons and shall not be construed as requiring any of the
10 following facilities or persons to seek licensure as a behavioral health services
11 provider:

12 (1) Hospitals licensed under R.S. 40:2100 et seq.

13 (2) Crisis receiving centers licensed under R.S. 40:2180.11 et seq.

14 (3) Nursing homes licensed under R.S. 40:2009.3 et seq.

15 (4) Psychiatric residential treatment facilities or therapeutic group homes
16 licensed under R.S. 40:2009.

17 (5) Facilities or services operated by the federal government.

18 (6) Federally qualified health care centers certified by the federal
19 government.

20 (7) Community mental health centers certified by the federal government.

21 (8) Home- and community-based service providers licensed under R.S.
22 40:2120.1 et seq.

23 (9) An individual Licensed Mental Health Professional (LMHP), whether
24 incorporated or unincorporated, or a group practice of LMHPs, providing services
25 under the auspices of and pursuant to the scope of the individual's license or group's
26 licenses.

27 (10) An individual licensed physician, or a group of licensed physicians,
28 providing services under the auspices of and pursuant to the scope of the individual's
29 license or group's licenses.

1 (11) An individual licensed physician assistant, or a group practice of
2 licensed physician assistants, providing services under the auspices of and pursuant
3 to the scope of the individual's license or group's licenses.

4 (12) School-based health clinics/centers that are certified by the Department
5 of Health and Hospitals, office of public health, and enrolled in the Louisiana
6 Medicaid Program.

7 (13) A health care provider or entity solely providing case management or
8 peer support services, or a combination thereof.

9 (14) A health care provider that meets all of the following criteria:

10 (a) Was an accredited mental health rehabilitation provider enrolled in the
11 Louisiana Medicaid Program as of February 28, 2012.

12 (b) Was enrolled with the statewide management organization for the
13 Louisiana Behavioral Health Partnership as of March 1, 2012.

14 (c) Maintains continuous, uninterrupted accreditation through an approved
15 accreditation organization.

16 (d) Maintains continuous, uninterrupted enrollment with the statewide
17 management organization for the Louisiana Behavioral Health Partnership.

18 (15) An individual licensed advanced practice registered nurse, or a group
19 practice of licensed advanced practice registered nurses, providing services under the
20 auspices of and pursuant to the scope of the individual's license or group's licenses.

21 (16) Rural health clinics licensed under R.S. 40:2197.

22 (17) Facilities or services operated by the Department of Public Safety and
23 Corrections, corrections services.

24 §2155. Licensure of behavioral health services providers

25 A. All behavioral health services providers shall be licensed. No facility,
26 agency, institution, person, society, corporation, partnership, unincorporated
27 association, group, or other legal entity providing behavioral health services may be
28 established, operated, or reimbursed under the Medicaid program unless licensed as
29 a behavioral health services provider to perform such care by the department.

1 B. A license issued to a behavioral health services provider shall be valid for
 2 only one geographic location and shall be issued only for the person and premises
 3 named in the license application.

4 C. A license pursuant to this Part shall be valid for twelve months, beginning
 5 the month of issuance, unless revoked or otherwise suspended prior to that date.

6 D. A license issued pursuant to this Part shall be on a form prescribed by the
 7 department.

8 E. A license pursuant to this Part shall not be transferrable or assignable.

9 F. A license issued to a behavioral health services provider shall be posted
 10 in a conspicuous place on the licensed premises.

11 G. A license issued to a behavioral health services provider shall list the
 12 types or modules of behavioral health services that the provider is licensed to
 13 provide.

14 §2156. Rules and regulations; licensing standards; fees

15 A. The department shall promulgate and publish rules, regulations, and
 16 licensing standards, in accordance with the Administrative Procedure Act, to provide
 17 for the licensure of behavioral health services providers, to provide for the health,
 18 safety, and welfare of persons receiving care and services from providers, and to
 19 provide for the safe operation and maintenance of providers. The rules, regulations,
 20 and licensing standards shall become effective upon approval of the secretary of the
 21 department in accordance with the Administrative Procedure Act. The rules,
 22 regulations, and licensing standards shall have the effect of law.

23 B. The department shall prescribe, promulgate, and publish rules,
 24 regulations, and licensing standards. The rules, regulations, and licensing standards
 25 shall include but are not limited to the following:

26 (1) Licensure application and renewal application forms, procedures, and
 27 requirements.

28 (2) Operational and personnel requirements.

29 (3) Practice standards to assure quality of care.

1 (4) Practice standards to assure the health, safety, welfare, and comfort of
2 persons receiving care and services.

3 (5) Confidentiality of clients' records.

4 (6) Treatment priorities, as well as residential and outpatient criteria.

5 (7) Criteria and protocols to assure uniform and quality assessment,
6 diagnosis, evaluation, and referral to appropriate level of care.

7 (8) Survey and complaint investigations, including investigations into
8 allegations that a provider is operating without a license.

9 (9) Initial and annual renewal of license, including the requirement of
10 providing verification and continuous maintenance of financial viability for all
11 behavioral health services providers other than those owned by governmental
12 entities.

13 (10) Provisional licenses.

14 (11) Denial, revocation, suspension, and nonrenewal of licenses, and the
15 appeals therefrom.

16 (12) Planning, construction, and design of the facility or provider to ensure
17 the health, safety, welfare, and comfort of persons receiving care and services.

18 (13) Modules of behavioral health services providers with varying levels or
19 types of services. The modules for behavioral health services providers shall
20 include at a minimum:

21 (a) Mental Health Services Module.

22 (b) Substance Abuse/Addiction Treatment Module.

23 (14) Requirements for offsite or branch locations.

24 (15) Other regulations or standards as will ensure proper care and treatment
25 of persons receiving care and services, including provisions relative to civil
26 monetary penalties, as may be deemed necessary for an effective administration of
27 this Part.

28 C. The department shall have the authority to monitor, survey, and regulate
29 mental health clinics and substance abuse/addiction treatment facilities under the
30 existing licensing regulations for the programs until the department publishes

1 minimum licensing standards for behavioral health services providers and the time
2 for all existing licensed mental health clinics and substance abuse/addiction
3 treatment facilities to apply for the behavioral health services provider license has
4 expired.

5 §2157. License issuance; application; onsite inspection

6 A. Each application for licensure of a behavioral health services provider
7 shall be submitted to the department on forms prescribed by the department and shall
8 contain such information as the department may require. Additional information
9 required by the department shall be provided by the applicant as requested.

10 B. Each application for licensure and each license renewal application shall
11 be accompanied by a nonrefundable license fee in the amount required pursuant to
12 R.S. 40:2006.

13 C. Following receipt of the completed initial licensing application and
14 licensing fee, the department shall perform an onsite survey and inspection. If, after
15 the onsite survey and inspection, the department finds that the provider meets the
16 requirements established under this Part and under the licensing standards adopted
17 pursuant to this Part, a license shall be issued.

18 D. As a condition for renewal of license, the licensee shall submit to the
19 department a completed annual renewal application on the forms prescribed by the
20 department, which shall contain all information required by the department.
21 Additionally, the annual renewal licensing fee shall be submitted with the annual
22 renewal application. Upon receipt of the completed annual renewal application and
23 the annual renewal licensing fee, the department shall determine if the facility
24 continues to meet the requirements established under this Part and under the
25 licensing standards adopted pursuant to this Part. The department may perform an
26 onsite survey and inspection upon annual renewal. If the provider continues to meet
27 the requirements established under this Part and under the licensing standards
28 adopted pursuant to this Part, a license shall be issued which shall be valid for up to
29 one year, unless otherwise revoked or suspended.

1 E. The department may perform an onsite inspection at reasonable times as
 2 necessary to ensure compliance with this Part.

3 §2158. Operation without license; penalty

4 A. A behavioral health services provider shall not operate without a license
 5 issued by the department. Any provider or facility operating without a license shall
 6 be guilty of a misdemeanor and upon conviction shall be fined no less than two
 7 hundred fifty dollars nor more than one thousand dollars. Each day of violation shall
 8 constitute a separate offense. It shall be the responsibility of the department to
 9 inform the appropriate district attorney of the alleged violation to assure
 10 enforcement.

11 B. If a behavioral health services provider is operating without a license
 12 issued by the department, the department shall have the authority to issue an
 13 immediate cease and desist order to that provider. Any such provider receiving such
 14 a cease and desist order from the department shall immediately cease operations until
 15 such time as that provider is issued a license by the department.

16 C. The department shall seek an injunction in the Nineteenth Judicial District
 17 Court against any provider who receives a cease and desist order from the
 18 department under Subsection B of this Section and who does not cease operations
 19 immediately. Any provider against whom an injunction is granted shall be liable to
 20 the department for attorney fees, costs, and damages.

21 §2159. Opioid treatment programs

22 The department shall not license any opioid treatment programs under the
 23 behavioral health services provider license unless the department, in its discretion,
 24 determines that there is a need for another opioid treatment program in a certain
 25 geographic location. The department has promulgated and adopted rules and
 26 regulations in accordance with the Administrative Procedure Act to provide for the
 27 criteria and processes for determining whether such a need exists and the procedures
 28 for selecting an opioid treatment program to be licensed once a need has been
 29 determined.

1 §2160. Right of inspection by department; records; reports

2 A. Every behavioral health services provider that has applied for a license
3 or that is licensed pursuant to this Part shall be open at all reasonable times for
4 inspection by the department, the state fire marshal, municipal boards of health, and
5 any other authorized governmental entity.

6 B. Every licensee shall keep all records and make all reports as the
7 department shall prescribe, and all records shall be open to inspection by the
8 department or other authorized governmental entity.

9 §2161. Drug free zone; notice, signs

10 A. A drug free zone is an area inclusive of any property used as a behavioral
11 health services provider that has a substance abuse/addiction treatment module, or
12 within two thousand feet of such property.

13 B. The local governing authority which has jurisdiction over zoning matters
14 in which each drug free zone is located shall publish a map clearly indicating the
15 boundaries of each drug free zone in accordance with the specifications in
16 Subsection A of this Section. The drug free zone map shall be made on an official
17 public document and placed with the clerk of court for the parish or parishes in
18 which the drug free zone is located.

19 C.(1) The secretary of the Department of Health and Hospitals shall develop
20 a method by which to mark drug free zones, including the use of signs or other
21 markings suitable to the situation. Signs or other markings shall be located in a
22 visible manner on or near each behavioral health services provider that has a
23 substance abuse/addiction treatment module, indicating that the area is a drug free
24 zone, that the zone extends for a distance of two thousand feet, and that a felony
25 violation of the Uniform Controlled Dangerous Substances Law will subject the
26 offender to severe penalties under law. The posting required in this Subsection is
27 the responsibility and at the expense of the licensed provider.

28 (2) The Department of Public Safety and Corrections shall coordinate and
29 provide rules for the establishment of toll free telephone numbers for use in
30 submitting anonymous information regarding drug activity to local law enforcement

1 agencies. The telephone numbers shall be displayed on the drug free zone signs that
2 shall be manufactured in correctional institutions subject to the office of corrections
3 in the Department of Public Safety and Corrections.

4 D.(1) It shall be unlawful for any person to cover, remove, deface, alter, or
5 destroy any sign or other marking identifying a drug free zone as provided in this
6 Section.

7 (2) Any violation of this Subsection shall be punishable by a fine of not more
8 than one thousand dollars or by a jail sentence of not more than six months, or both.

9 Section 2. R.S. 28:567 through 573 and Part XIII of Chapter 4 of Title 40 of the
10 Louisiana Revised Statutes of 1950, comprised of R.S. 40:1058.1 through 1058.10, are
11 hereby repealed in their entirety.

12 Section 3. The provisions of R.S. 40:2006(A)(2)(b), (B)(2)(e), and (E)(2)(b) as
13 enacted under the provisions of this Act and Section 2 of this Act shall become effective
14 upon promulgation and publication by the Department of Health and Hospitals of the final
15 rules for the Behavioral Health Services Provider license.

16 Section 4. The provisions of R.S. 40:2151 through 2161 as enacted under the
17 provisions of this Act and Sections 3 and 4 of this Act shall become effective upon signature
18 by the governor or, if not signed by the governor, upon expiration of the time for bills to
19 become law without signature by the governor, as provided by Article III, Section 18 of the
20 Constitution of Louisiana. If vetoed by the governor and subsequently approved by the
21 legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

Regular Session, 2013
HOUSE BILL NO. 653

ACT No. 425

BY REPRESENTATIVE ROBIDEAUX

1 AN ACT

2 To amend and reenact R.S. 47:306(A)(3) and 318(A) and to enact R.S. 47:302(U), relative
3 to state sales and use taxes; to provide with respect to the collection of tax on
4 transactions involving certain tangible personal property and services; to provide for
5 disposition of certain collections; to provide for effectiveness; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:306(A)(3) and 318(A) are hereby amended and reenacted and
9 R.S. 47:302(U) is hereby enacted to read as follows:

10 §302. Imposition of tax

11 * * *

12 U. Collection of consumer use tax. It is the duty of the secretary of the
13 Department of Revenue to collect all taxes imposed pursuant to this Chapter and
14 Chapters 2-A and 2-B of this Subtitle which may be due upon the sale by a remote
15 seller of tangible personal property or services in Louisiana. The secretary is
16 authorized and directed to employ all means available to ensure the collection of the
17 tax in an equitable, efficient, and effective manner.

18 * * *

19 §306. Returns and payment of tax; penalty for absorption

20 A.

21 * * *

22 (3)(a) For the purpose of compensating the dealer in accounting for and
23 remitting the tax levied by this Chapter, each dealer shall be allowed ~~one and~~
24 ~~one-tenth~~ .935 percent of the amount of tax due and accounted for and remitted to
25 the secretary in the form of a deduction in submitting his report and paying the

1 amount due by him, provided the amount of any credit claimed for taxes already paid
2 to a wholesaler shall not be deducted in computing the commission allowed the
3 dealer hereunder. This compensation shall be allowed only if the payment of the
4 dealer is timely paid and the return is timely filed.

5 (b) Municipalities are hereby authorized to pay compensation to their sales
6 tax dealers in any amounts designated by the governing body of the municipality.

7 * * *

8 §318. Disposition of collections

9 A. All monies collected under this Chapter shall be immediately paid into
10 the state treasury, upon receipt, and first credited to the Bond Security and
11 Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of
12 Louisiana; then an amount equal to ~~thirty-seven percent of the deduction allowed in~~
13 ~~R.S. 47:306(A)(3)(a) and (B)(4)~~ four-tenths of one percent of all monies collected
14 under this Chapter, and Chapters 2-A and 2-B of this Subtitle, and R.S. 51:1286 shall
15 be used as provided in this Section.

16 * * *

17 Section 2. The provisions of this Act shall be applicable to all taxable transactions
18 occurring on or after July 1, 2013.

19 Section 3. This Act shall become effective on July 1, 2013; if vetoed by the governor
20 and subsequently approved by the legislature, this Act shall become effective on July 1,
21 2013, or on the day following such approval by the legislature, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

ACT No. 351

SENATE BILL NO. 134

BY SENATORS MORRELL AND HEITMEIER AND REPRESENTATIVES ARMES, BADON, BARROW, BERTHELOT, BROSSETT, BROWN, COX, FOIL, GUINN, HAVARD, HOWARD, HUNTER, KATRINA JACKSON, KLECKLEY, LEGER, MORENO, SCHEXNAYDER, THIERRY, ALFRED WILLIAMS AND PATRICK WILLIAMS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To enact R.S. 36:259(E)(25) and Chapter 60 of Title 37 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:3701 through 3718, relative to behavior analysts; to create the Louisiana Behavior Analyst Board within the Department of Health and Hospitals; to provide for the Behavior Analyst Practice Act; to provide for definitions; to provide for the Louisiana Behavior Analyst Board and provide for its powers and duties; to provide for the requirements of licensure, state certification, or registration; to provide for the qualifications for licensure and state certification; to provide for issuance and renewal of licenses and state certificates; to provide for reinstatement of licenses and state certifications; to provide for the filing of licenses and state certificates; to provide for the denial, revocation, or suspension of licenses and state certificates; to provide for continuing education; to provide for fees; to provide for certain exceptions; to provide for penalties; to provide for injunctive proceedings; to provide for the sharing of resources between boards; to provide for termination; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:259(E)(25) is hereby enacted to read as follows:

§259. Transfer of agencies and functions to Department of Health and Hospitals

* * *

E. The following agencies, as defined in R.S. 36:3, are transferred to and hereafter shall be within the Department of Health and Hospitals, as provided in R.S.

1 36:803:

2 * * *

3 (25) Louisiana Behavior Analyst Board (R.S. 37:3701 et seq.)

4 Section 2. Chapter 60 of Title 37 of the Louisiana Revised Statutes of 1950,
5 comprised of R.S. 37:3701 through 3718, is hereby enacted to read as follows:

6 CHAPTER 60. BEHAVIOR ANALYSTS

7 §3701. Short title

8 This Part shall be known and may be cited as the "Behavior Analyst
9 Practice Act".

10 §3702. Definitions

11 As used in this Part the following words, terms, and phrases have the
12 following meaning ascribed to them in this Section, unless the context clearly
13 indicates a different meaning:

14 (1) "Applied behavior analysis" means the design, implementation, and
15 evaluation of systematic instructional and environmental modifications by a
16 behavior analyst, to produce socially significant improvements in behavior.

17 (2) "Assistant behavior analyst", "state certified assistant behavior
18 analyst", or "SCABA" means an individual who by training, experience, and
19 examination meets the requirements for certification by the board and is duly
20 certified to engage in the practice of behavior analysis under the supervision of
21 a licensed behavior analyst.

22 (3) "Behavior analyst", "licensed behavior analyst" or "LBA" means an
23 individual who by training, experience, and examination meets the
24 requirements for licensing by the board and is duly licensed to independently
25 practice behavior analysis in the state of Louisiana. The distinction of a licensed
26 behavior analyst or LBA is separate and apart from any other licensed
27 individuals, including but not limited to psychologists.

28 (4) "Board" means the Louisiana Behavior Analyst Board.

29 (5) "Line technician" or "registered line technician" means an individual
30 who works directly with the client to implement applied behavior analysis

1 services under the direction and supervision of a licensed behavior analyst and
2 is registered as required in this Chapter.

3 (6) "Scope of practice of behavior analysis" includes the empirical
4 identification of functional relations between behavior and environments. It
5 uses direct observation and measurement of behavior and environment, the
6 empirical identification of functional relations between behavior and
7 environmental factors, known as functional assessment and analysis. Applied
8 behavior analysis interventions are based on scientific research and the direct
9 observation and measurement of behavior and environment. They utilize
10 contextual factors, establishing operations, antecedent stimuli, positive
11 reinforcement, and other consequences to help people develop new behaviors,
12 increase or decrease existing behaviors, and emit behaviors under specific
13 environmental conditions. The practice of behavior analysis expressly excludes
14 psychological testing, neuropsychology, cognitive therapy, diagnosis of
15 psychiatric conditions, psychotherapy, sex therapy, psychoanalysis,
16 hypnotherapy, and mental health counseling or academic teaching by college or
17 university staff.

18 §3703. Louisiana Behavior Analyst Board

19 A. There is hereby created within the Department of Health and
20 Hospitals the Louisiana Behavior Analyst Board which shall be subject to the
21 provisions of R.S. 36:803.

22 B. (1) The board shall consist of five behavior analysts who shall be
23 appointed by the governor from a list of nominees submitted by the Louisiana
24 Behavior Analysis Association, and who shall be confirmed by the Senate.

25 (2) The five behavior analysts shall become licensed once this Chapter
26 becomes effective.

27 (3) Members of the board shall serve at the pleasure of the governor. A
28 vacancy in an unexpired term shall be filled in the manner of the original
29 appointment.

30 (4)(a) The first two appointments to the initial board shall each serve a

1 term of four years, and such positions on the board shall be four-year terms.

2 (b) The third and fourth appointments to the initial board shall each
3 serve a term of three years, and such positions on the board shall be three-year
4 terms.

5 (c) The fifth appointment to the initial board shall serve a term of five
6 years, and such position on the board shall be a five-year term.

7 (5) If there is a vacancy, the appointment to complete the term shall
8 follow the same process to appoint members to the board.

9 (6) No member of the board shall serve more than two consecutive
10 complete terms on the board.

11 (7) The State Board of Examiners of Psychologists shall appoint a
12 member to serve as an ex officio, nonvoting member of the board.

13 C. The board shall convene its first meeting no later than October 1,
14 2013. At this meeting, the board shall elect from among its membership a
15 chairman and vice chairman.

16 D. A majority of the members of the board shall constitute a quorum for
17 the transaction of all business. The ex officio member shall not be considered
18 for the purpose of establishing a quorum.

19 E. The board shall meet at least quarterly. The board shall meet at the
20 call of the chairman or at the request of at least three members.

21 F. Members of the board shall serve without compensation but shall be
22 reimbursed for reasonable travel expenses incurred in attendance at meetings
23 and other official business of the board.

24 §3704. Powers and duties

25 A. The board shall have and exercise all powers and duties granted to
26 it by this Chapter. In addition, the board shall have the authority to:

27 (1) Establish and publish standards of behavior analysis practice.

28 (2) Approve, deny, revoke, suspend, renew and reinstate licensure and
29 state certification of duly qualified applicants.

30 (3) Establish and publish standards for the registration of line

1 **technicians.**

2 **(4) Adopt, revise, and enforce orders and rules, and promulgate**
3 **regulations governing the licensure of behavior analysts, the state certification**
4 **of assistant behavior analysts, the registration of line technicians, the practice**
5 **of behavior analysis, the protection of the public, and proper administration in**
6 **accordance with the Administrative Procedure Act.**

7 **(5) Promulgate rules in accordance with the Administrative Procedure**
8 **Act governing the temporary licensure of behavior analysts.**

9 **(6) Promulgate rules in accordance with the Administrative Procedure**
10 **Act governing the reciprocity of licensure of behavior analysts and the state**
11 **certification of assistant behavior analysts provided that the standards under**
12 **which the applicants were licensed or certified are at least as stringent as those**
13 **required in this Chapter.**

14 **(7) Receive, review, and approve or disapprove applications for an**
15 **emergency temporary license in response to a declared public health emergency.**

16 **(8) Fine, censure, revoke, suspend or deny a license or state certificate,**
17 **place on probation, reprimand or otherwise discipline licensees or holders of**
18 **certificates for violations of the code of ethics or the rules and regulations of the**
19 **board and committee.**

20 **(9) Summarily suspend the license of a licensee or a state certificate**
21 **holder of one who poses an imminent danger to the public acting upon the**
22 **recommendation of the committee provided that a hearing shall be afforded to**
23 **the individual within ten days after any such action by the board to determine**
24 **whether such summary action was warranted.**

25 **(10) Accept grants, donations, or gifts of money or services from public**
26 **or private individuals or organizations or from any other sources to be utilized**
27 **for the purposes of the board. Such monies shall be deposited into the treasury**
28 **of the board.**

29 **(11) Create and adopt an official seal for the board.**

30 **(12) Submit the names of applicants for licensure and state certification**

1 to the Louisiana Bureau of Criminal Identification and Information of the office
2 of state police within the Department of Public Safety and Corrections for
3 criminal background checks. Upon the board's submission of an applicant's
4 fingerprints and such other identifying information as may be required, the
5 Louisiana Bureau of Criminal Identification and Information of the office of
6 state police within the Department of Public Safety and Corrections shall survey
7 its criminal history records and identification files and make a simultaneous
8 request of the Federal Bureau of Investigation for like information from other
9 jurisdictions. The Louisiana Bureau of Criminal Identification and Information
10 of the office of state police within the Department of Public Safety and
11 Corrections may charge the board a reasonable processing fee for conducting
12 and reporting on any such search.

13 (13) Perform such other functions and duties as may be required to carry
14 out under this Chapter.

15 B. The board shall maintain and make available to the public a registry
16 of licensed behavior analysts, state certified assistant behavior analysts, and
17 registered line technicians.

18 §3705. License, state certification, or registration required

19 A. No person shall hold himself out as a licensed behavior analyst, a
20 state certified assistant behavior analyst, or a registered line technician unless
21 licensed, state certified, or registered in accordance with the provisions of this
22 Chapter.

23 B. This Section shall be enforced beginning December 31, 2013.

24 §3706. Qualifications of applicants of a licensed behavior analyst

25 A. Notwithstanding any other provision of this Chapter or other law to
26 the contrary, an applicant for licensure as a licensed behavior analyst shall be
27 issued a behavior analyst license by the board upon satisfaction of all the
28 following criteria:

29 (1) Submission to the board of a completed application form. The board
30 shall approve the form.

1 (2) Payment of all mandatory licensure fees.

2 (3) Proof of good moral character.

3 (4) Satisfactory completion of the criminal background check in
4 accordance with the authority granted to the board.

5 (5) Proof that the applicant passed a nationally recognized examination
6 administered by a nonprofit organization accredited by the National
7 Commission for Certifying Agencies, the American National Standards
8 Institute, or a substantial equivalent to credential professional practitioners of
9 behavior analysis related to the principles and practice of the profession of
10 behavior analysis that is approved by the board.

11 (6) Proof that the applicant passed the jurisprudence examination
12 covering the laws and rules governing the practice of behavior analysis in
13 Louisiana that is approved by the board.

14 (7) Proof that the applicant conducts his professional activities in
15 accordance with accepted standards, including the Guidelines for Responsible
16 Conduct for Behavior Analysts and Professional Disciplinary and Ethical
17 Standards of the Behavior Analyst Certification Board or other national
18 credentialing bodies as approved by the board.

19 (8) Proof that the applicant holds a master's degree from any accredited
20 university or other institution of higher learning.

21 B. The standards and requirements in this Chapter shall be separate and
22 unique from the standards and requirements for practicing psychology and
23 pertain to the practice of applied behavior analysis.

24 C. There shall be no requirement for individuals practicing under this
25 Chapter to be supervised by members of other professions.

26 D. A behavior analyst applicant who has a suspended license may
27 reapply for licensure after three years from the date of suspension.

28 **§3707. Qualifications of applicants of a state certified assistant behavior analyst**

29 A. Notwithstanding any other provision of this Chapter or other law to
30 the contrary, an applicant for state certification as a state certified assistant

1 behavior analyst shall be issued an assistant behavior analyst state certificate
2 by the board upon satisfaction of all the following criteria:

3 (1) Submission to the board of a completed application form. The board
4 shall approve the form.

5 (2) Payment of all mandatory certification fees.

6 (3) Proof of good moral character.

7 (4) Satisfactory completion of the criminal background check in
8 accordance with the authority granted to the board.

9 (5) Proof that the applicant passed a nationally recognized examination
10 administered by a nonprofit organization accredited by the National
11 Commission for Certifying Agencies, the National Standards Institute, or a
12 substantial equivalent to credential professional practitioners of behavior
13 analysis related to the principles and practice of the profession of behavior
14 analysis that is approved by the board.

15 (6) Proof that the applicant passed the jurisprudence examination
16 covering the laws and rules governing the practice of behavior analysis in
17 Louisiana that is approved by the board.

18 (7) Proof that the applicant conducts his professional activities in
19 accordance with accepted standards, including the Guidelines for Responsible
20 Conduct for Behavior Analysts and Professional Disciplinary and Ethical
21 Standards of the Behavior Analyst Certification Board or other national
22 professional organizations as approved by the board.

23 (8) Proof that the applicant holds a bachelor's degree from any
24 accredited university or other institution of higher learning.

25 B. The standards and requirements in this Chapter shall be separate and
26 unique from the standards and requirements for practicing psychology and
27 pertain to the practice of applied behavior analysis.

28 C. There shall be no requirement for practicing individuals under this
29 Chapter to be supervised by members of other professions.

30 D. An assistant behavior analyst applicant who has a suspended

1 certificate may reapply for certification after three years from the date of
2 suspension.

3 §3708. Registration of line technician

4 A. A line technician shall be registered by his supervising licensed
5 behavior analyst with the board.

6 B. At registration, the line technician shall submit a criminal background
7 report from the Louisiana Bureau of Criminal Identification and Information
8 of the office of state police within the Department of Public Safety and
9 Corrections, issued not more than fourteen days from the date of registration.

10 C. The registration provided for in this Section shall be renewed
11 annually by the supervising licensed behavior analyst.

12 §3709. Issuance and renewal of license and state certificate

13 A. The board shall issue a license or state certificate to any person who
14 meets the qualifications provided in this Chapter and the rules and regulations
15 of the board, and who pays the applicable fees fixed by the board.

16 B. A license or state certificate issued under provisions of this Chapter
17 shall be subject to annual renewal and shall expire and become null and void
18 unless renewed in the manner prescribed by the board.

19 C. License and state certificate renewal shall require documentation of
20 completion of the continuing education as required by this Chapter.

21 §3710. Reinstatement of license and state certificate

22 A. Any license or state certificate suspended, revoked, or otherwise
23 restricted by the board may be reinstated by the board.

24 B. A license or state certificate that has expired without renewal for a
25 period of one year from the date of expiration may be reinstated by the board
26 provided the applicant shall otherwise be eligible under the provisions of this
27 Chapter, pays the applicable fees, satisfies the continuing education
28 requirement, and meets such other requirements as may be established by the
29 board.

30 §3711. License and state certificate; filing

1 The board shall issue a license or certificate signed by the board's
2 chairman, vice chairman, and all members of the board whenever a candidate
3 for licensure or state certification is found to be qualified as provided in this
4 Chapter. A copy of such license or state certificate, so certified by the board's
5 vice chairman as a true copy, shall be filed with the secretary of state by the
6 administrative assistant of the board. Any filing fees in connection with such
7 filing shall be paid, in advance, to the administrative assistant of the board by
8 the person being licensed or receiving a certificate.

9 §3712. Denial, revocation, or suspension of license or state certificate

10 A. A licensed behavior analyst and anyone under the supervision of a
11 licensed behavior analyst shall conduct his activities in conformity with ethical
12 and professional standards promulgated by the board under its current rules
13 and regulations.

14 B. The board shall have the power and duty to suspend, place on
15 probation, require remediation for a specified time, revoke any license or state
16 certificate to practice behavior analysis, or take any other action specified in the
17 rules and regulations whenever the board, by affirmative vote of at least four
18 of its five members, shall find by a preponderance of the evidence that a
19 behavior analyst or assistant behavior analyst has engaged in any of the
20 following acts or offenses:

21 (1) Fraud or deception in applying for or procuring a license or a state
22 certificate to practice behavior analysis.

23 (2) Practicing behavior analysis in such a manner as to endanger the
24 welfare of clients or patients, including but not limited to:

25 (a) Harassment, intimidation, or abuse, sexual or otherwise, of a client
26 or patient.

27 (b) Engaging in sexual intercourse or other sexual contact with a client
28 or patient.

29 (c) Gross malpractice, repeated malpractice, or gross negligence in the
30 practice of behavior analysis.

1 (3) Conviction of a felony. A copy of the record of conviction, certified
2 by the clerk of the court entering the conviction, shall be conclusive evidence.

3 (4) Conviction of any crime or offense which reflects the inability of the
4 practitioner to practice behavior analysis with due regard for the health and
5 safety of clients or patients.

6 (5) Use of repeated untruthful, deceptive, or improbable statements
7 concerning the licensee's qualifications or the effects or results of proposed
8 treatment, including functioning outside of one's professional competence
9 established by education, training, and experience.

10 (6) Aiding or abetting the practice of behavior analysis by any person not
11 licensed, state certified, or registered with the board and in violation of this
12 Chapter.

13 (7) Conviction of fraud in filing Medicare or Medicaid claims or in filing
14 claims to any third-party payor. A copy of the record of conviction, certified by
15 the clerk of the court entering the conviction, shall be conclusive evidence.

16 (8) Exercising undue influence in such a manner as to exploit the client
17 or patient for financial or other personal advantage to the practitioner or a
18 third party.

19 (9) The suspension or revocation by another state of a license or
20 certificate to practice behavior analysis. A certified copy of the record of
21 suspension or revocation of the state making such a suspension or revocation
22 shall be conclusive evidence thereof.

23 (10) Refusal to appear before the board after having been ordered to do
24 so in writing by a duly authorized agent of the board.

25 (11) Making any fraudulent or untrue statement to the board.

26 (12) Violation of the code of ethics adopted in the rules and regulations
27 of the board or other immoral, unprofessional, or dishonorable conduct as
28 defined in the rules and regulations of the board.

29 (13) Inability to practice behavior analysis with reasonable skill and
30 safety to patients or clients by reason of illness, inebriation, misuse of drugs,

1 narcotics, alcohol, chemicals, or any other substance, or as a result of any
2 mental or physical condition.

3 (14) Failure to report the physical, mental, or sexual abuse of a child to
4 a law enforcement agency or district attorney.

5 (15) Violation of any of the provisions of this Chapter or of the rules and
6 regulations promulgated by the board.

7 C. Proceedings for disciplinary action or for the denial or withholding
8 of a license or state certificate under the authority of this Section shall be
9 conducted in compliance with the Administrative Procedure Act. The board
10 may require a person against whom disciplinary action has been taken by the
11 board after the hearing to pay reasonable costs of the proceedings incurred by
12 the board for the hearing and any judicial review, including attorney,
13 stenographer, and witness fees. These costs shall be paid no later than thirty
14 days after the adjudication by the board becomes final. No license shall be
15 issued, reinstated, or renewed until such costs have been paid.

16 D. The board may deny or withhold for a specified time not to exceed
17 two years the granting of a license or a state certificate to any applicant or
18 candidate who has committed any of the acts or offenses set forth in Subsection
19 B of this Section.

20 E. Suspension by the board of the license of a behavior analyst or the
21 state certificate of an assistant behavior analyst shall be for a period not
22 exceeding two years.

23 F. A person who has been refused a license or state certificate, or whose
24 license or state certificate has been revoked, under the provisions of this Section,
25 may reapply for licensure or state certification after more than two years have
26 elapsed from the date such denial or revocation is legally effective.

27 G. The board shall notify all licensed behavior analysts, state certified
28 assistant behavior analysts, and registered line technicians of any disciplinary
29 action taken against a licensed behavior analyst, a state certified assistant
30 behavior analyst, or a registered line technician.

1 **§3713. Continuing education**

2 **A.(1) A licensed behavior analyst shall annually complete a minimum**
3 **number of hours of continuing education relevant to the practice of behavior**
4 **analysis as established by the board.**

5 **(2) A certified assistant behavior analyst shall annually complete a**
6 **minimum number of hours of continuing education relevant to the practice of**
7 **behavior analysis as established by the board.**

8 **B. The board shall develop the requirements for continuing education.**

9 **C. The continuing education classes shall be approved by the board.**

10 **§3714. Fees**

11 **A. All monies received by the board under this Section shall be paid into**
12 **the treasury of the board.**

13 **B. Fees set by the board under the authority of this Chapter shall include**
14 **fees for the following purposes which shall not exceed the maximum amounts**
15 **listed below:**

16 **(1) For application for licensure** **\$400**

17 **(2) For application for certification** **\$250**

18 **(3) For application for registration** **\$50**

19 **(4) For renewal of licensure** **\$400**

20 **(5) For renewal of certification** **\$250**

21 **(6) For renewal of registration** **\$50**

22 **(7) For JE examination** **\$75**

23 **(8) For late fees** **\$50**

24 **(9) For reissuance of license or certificate** **\$15**

25 **(10) For name changes on record** **\$25**

26 **(11) For background check** **\$50**

27 **(12) License verification** **\$15**

28 **(13) Insufficient check fee** **\$15**

29 **(14) For copies of documents in the board or committee's**
30 **possession** **\$2 per page**

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

1 (15) For temporary licensure \$125

2 §3715. Persons and practices not affected

3 The provisions of this Chapter shall not be construed as prohibiting or
4 restricting the practice of any of the following:

5 (1) Other human service professionals who are licensed, certified, or
6 registered by the state of Louisiana, provided such individuals are working
7 within the scope of practice of their profession and the scope of their training
8 and competence.

9 (2) State certified assistant behavior analyst or registered line technician
10 who delivers applied behavior analysis services under the extended authority
11 and direction of a licensed behavior analyst. Such state certified assistant
12 behavior analyst or registered line technician shall not represent himself as a
13 behavior analyst.

14 (3) A family member or guardian of a recipient of applied behavior
15 analysis services who implements certain applied behavior analysis procedures
16 with the recipient under the extended authority and direction of a licensed
17 behavior analyst or a state certified assistant behavior analyst, who is
18 supervised by a licensed behavior analyst. Such an individual shall not
19 represent himself as a behavior analyst.

20 (4) An individual who practices with nonhumans, including applied
21 animal behaviorists and animal trainers.

22 (5) An individual who provides general applied behavior analysis
23 services to an organization, so long as those services are for the benefit of such
24 organization and do not involve direct services to individuals.

25 (6) A matriculated college or university student, intern, or postdoctoral
26 fellow whose activities are part of a defined behavior analysis program of study,
27 practicum, intensive practicum, or supervised independent fieldwork. Such
28 practice under this exemption requires the direct supervision by a licensed
29 behavior analyst in this state or an instructor in an approved course sequence
30 approved by the board. A student, intern, or postdoctoral fellow shall not

1 represent himself as a behavior analyst and shall use a title that clearly indicates
2 his training status, such as "behavior analysis student", "behavior analysis
3 intern", "behavior analysis trainee", or other title clearly indicating such
4 training status.

5 (7) An individual who teaches behavior analysis or conducts behavior
6 analytic research, provided that such teaching or research shall not involve the
7 delivery of direct behavior analytic services. Such individual may use the title
8 "behavior analyst" but may not represent himself as a licensed behavior analyst
9 or a state certified assistant behavior analyst unless he holds one of those
10 credentials issued by the board.

11 (8) An unlicensed individual pursuing experiential training in behavior
12 analysis consistent with the licensure requirements and standards as required
13 by the board, provided such experience is supervised by a licensed behavior
14 analyst.

15 (9) An individual licensed to practice psychology within the state, so long
16 as the applied behavior analysis services provided by the licensed psychologist
17 are within the licensed psychologist's education, training and expertise. This
18 includes individuals acting under the extended authority and direction of
19 licensed psychologists. Licensed psychologists and those acting under their
20 extended authority are prohibited from representing themselves as behavior
21 analysts, licensed behavior analysts, assistant behavior analysts, or state
22 certified assistant behavior analysts without being duly licensed or state
23 certified.

24 §3716. Penalties

25 A. It shall be a misdemeanor for any individual:

26 (1) Not licensed, state certified, or registered under this Chapter to
27 represent himself as a licensed behavior analyst, a state certified assistant
28 behavior analyst, or a registered line technician.

29 (2) Not licensed, state certified, or registered under this Chapter to
30 engage in the practice of behavior analysis.

1 (3) To represent himself as a licensed behavior analyst or a state
2 certified assistant behavior analyst during the time that his license or state
3 certificate as a behavior analyst or an assistant behavior analyst shall be
4 suspended or revoked or lapsed.

5 (4) To employ as a line technician, a line technician who is not registered
6 pursuant to this Chapter.

7 B. Such misdemeanor shall be punishable upon conviction by
8 imprisonment for not more than six months or by a fine of not less than one
9 hundred dollars nor more than five hundred dollars, or both. Each violation
10 shall be deemed a separate offense.

11 C. Such misdemeanor shall be prosecuted by the district attorney of the
12 judicial district in which the offense was committed.

13 §3717. Injunctive proceedings

14 A. The board may investigate any evidence or allegation which appears
15 to show that any person is or may be in violation of any provision of this
16 Chapter.

17 B. The board may apply for an injunction in any court of competent
18 jurisdiction to enjoin any person from committing any act which is in violation
19 of this Chapter.

20 C. If it be established that the defendant has been or is committing an
21 act which is in violation of this Chapter, the court shall enter a decree
22 perpetually enjoining said defendant from further committing such act.

23 D. In case of violation of any injunction issued under the provisions of
24 this Section, the court may summarily conduct a hearing and find the offender
25 in contempt of court.

26 E. Such injunctive proceedings shall be in addition to, and not in lieu of,
27 all penalties and other remedies as provided in this Chapter.

28 §3718. Termination

29 The provisions of this Chapter shall terminate and have no effect on and
30 after July 1, 2018.

1 Section 3. The Louisiana Behavior Analyst Board and the State Board of Examiners
2 of Psychologists shall share office space, professional staff, and other resources in the
3 operation and management of each of the respective boards.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 135

BY SENATORS RISER AND THOMPSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 28:54(B) and R.S. 40:1379.3(C)(13), and to enact R.S. 13:752 and R.S. 28:57, relative to possession of weapons and permits to carry concealed weapons; to provide relative to certain judicial proceedings and reports; to provide for mandatory reporting of certain information regarding persons ineligible to possess, ship, transport or receive firearms or to apply for a permit to carry a concealed weapon by virtue of certain state and federal law; to provide for mandatory reporting of involuntary judicial commitments or certain adjudications for certain offenses; to provide procedures by which such information shall be reported to the Louisiana Supreme Court and to the National Instant Criminal Background Check System database; to provide procedures by which certain persons may file a civil petition seeking adjudicated restoration of rights; to provide procedures by which such petitions shall be filed, heard, recorded, and reported to the Louisiana Supreme Court and to the National Instant Criminal Background Check System; to provide for the effects of judgments in such proceedings; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:752 is hereby enacted to read as follows:

§752. Reporting of information to Louisiana Supreme Court for NICS database; possession of firearm

A. Effective January 1, 2014, each district clerk of court shall report to the Louisiana Supreme Court for reporting to the National Instant Criminal Background Check System database the name and other identifying information of an adult who is prohibited from possessing a firearm pursuant

1 to the laws of this state or 18 U.S.C. §922(d)(4) and (g)(4) by reason of a
 2 conviction or adjudication in a court of that district for any of the following:

3 (1) Guilty of a crime listed in R.S. 14:95.1(A).

4 (2) Not guilty by reason of insanity for a crime listed in R.S. 14:95.1(A).

5 (3) Lacking mental capacity to proceed to trial for a crime listed in R.S.
 6 14:95.1(A).

7 (4) Ordered to be involuntarily committed to an inpatient mental health
 8 treatment facility pursuant to R.S. 28:54.

9 B. The report shall be submitted to the Louisiana Supreme Court, in the
 10 manner and form as directed by the supreme court, within ten business days of
 11 the date of conviction, adjudication, or order of involuntary commitment.

12 C. The Louisiana Supreme Court shall within fifteen business days of
 13 receipt of the report submit the information in the report to the National
 14 Instant Criminal Background Check System database.

15 D. Except in the case of willful or wanton misconduct or gross
 16 negligence, no district clerk of court shall be held civilly or criminally liable on
 17 the basis of the accuracy, availability, or unavailability of any information
 18 reported or required to be reported pursuant to this Section.

19 Section 2. R.S. 28:54(B) is hereby amended and reenacted to read as follows:

20 §54. Judicial commitment; procedure

21 * * *

22 B.(1) The petition shall contain the facts ~~which~~ **that** are the basis of the
 23 assertion and provide the respondent with adequate notice and knowledge relative
 24 to the nature of the proceedings.

25 (2) In addition, the petition shall contain the following information
 26 regarding the respondent:

27 (a) Name.

28 (b) Date of birth.

29 (c) Aliases, if any.

30 (d) Social security number.

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(e) Sex.

(f) Race.

If the petitioner is unable to provide any of the information listed in this Paragraph, the petitioner shall include in the petition the reasons why that information cannot be provided.

* * *

Section 3. R.S. 28:57 is hereby enacted to read as follows:

§57. Petition for restoration of right to possess firearm and to apply for permit for concealed handgun; procedure

A. A person who is subject to the disabilities of 18 U.S.C. §922(d)(4) and (g)(4) or of R.S. 40:1379.3(C)(13) because of an adjudication or commitment that occurred under the laws of this state may, upon release from involuntary commitment, file a civil petition seeking judgment ordering the removal of such disabilities.

B. The petition for restoration shall be filed in the form of a rule to show cause and shall be filed in the district in which the adjudication or order of commitment occurred.

C. The hearing on the petition shall be a contradictory proceeding with the attorney who represented the state in the original proceeding, or the attorney's successor, who shall represent the interests of the state and be served with a copy of the petition and citation to answer it not less than thirty days prior to the hearing.

D. The hearing shall be in chambers, unless the court determines that it is in the best interest of the public that the hearing be in open court.

E. At the hearing, the court shall consider evidence concerning:

(1) The circumstances regarding the firearm disabilities from which relief is sought.

(2) The petitioner's mental health and criminal history records, if any.

(3) The petitioner's reputation, developed at a minimum through character witness statements, testimony, or other character evidence.

1 (4) Changes in the petitioner's condition or circumstances since the
2 original adjudication or commitment relevant to the relief sought. If the court
3 determines the hearing should be open to the public, upon motion by the
4 petitioner for restoration, the court may allow for in camera inspection of any
5 mental health records.

6 F. The court shall render such judgment as the nature of the relief and
7 the law and evidence shall justify. The court shall grant the relief requested if
8 it finds, by a preponderance of the evidence, that the petitioner's record and
9 reputation are such that he will not be likely to act in a manner dangerous to
10 public safety and that the granting of the relief requested would not be contrary
11 to the public interest. A record of the proceedings shall be kept.

12 G. In the event of a closed hearing, the record of the proceedings shall
13 remain under seal and be disclosed only to an appellate court or the parties. The
14 district court order may be reviewed on appeal to the court of appeal under a
15 de novo standard of review. The appellate court shall maintain the
16 confidentiality of the records.

17 H. The petitioner for restoration in all cases shall pay the costs of the
18 proceedings.

19 I. After a judgment granting restoration of rights under this Section has
20 become final and definitive, the clerk of court in the district where the judgment
21 was rendered shall, as soon as is practicable, but in no case later than ten
22 business days after receipt of the final and definitive judgment, forward a copy
23 of the judgment to the Louisiana Supreme Court. The Louisiana Supreme
24 Court shall within fifteen business days after receipt of the judgment revise the
25 person's record in any information database that the Louisiana Supreme Court
26 makes available to the National Instant Criminal Background Check System
27 and shall notify the United States Attorney General for the purpose of reporting
28 to the National Instant Criminal Background Check System that the basis for
29 the disabilities imposed by 18 U.S.C. §922(d)(4) and (g)(4) no longer applies.

30 Section 4. R.S. 40:1379.3(C)(13) is hereby amended and reenacted to read as

1 follows:

2 §1379.3. Statewide permits for concealed handguns; application procedures;
3 definitions

4 * * *

5 C. To qualify for a concealed handgun permit, a Louisiana resident shall:

6 * * *

7 (13) Not have been adjudicated to be mentally deficient or been committed
8 to a mental institution, **unless the resident's right to possess a firearm has been**
9 **restored pursuant to R.S. 28:57.**

10 * * *

11 Section 5. This Act shall become effective on January 1, 2014.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 71

BY SENATOR BROOME AND REPRESENTATIVES BARROW, BILLIOT, WESLEY BISHOP, BROSSETT, BURRELL, COX, DIXON, HUNTER, MORENO AND SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To enact Chapter 33-A of Title 13 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 13:5351 through 5358, relative to mental health court treatment;
4 to provide for a short title; to provide findings; to provide definitions; to provide
5 authority for a mental health court treatment program; to provide for eligibility and
6 procedure; to provide for collaboration with established substance abuse treatment
7 programs; to provide for violations and sanctions; to provide for dismissal from the
8 program; to provide relative to the discharge of criminal charges; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 33-A of Title 13 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 13:5351 through 5358, is hereby enacted to read as follows:

13 **CHAPTER 33-A. MENTAL HEALTH COURT**

14 **TREATMENT PROGRAMS**

15 **§5351. Short title**

16 **This Chapter shall be known and may be cited as the "Mental Health**
17 **Court Treatment Act".**

18 **§5352. Legislative findings**

19 **A. The Legislature of Louisiana recognizes that a significant percentage**
20 **of criminal defendants have a diagnosable mental illness.**

21 **B. The legislature further recognizes that such mental illnesses tend to**
22 **have a negative effect on the criminal justice system in the state of Louisiana.**

23 **C. The legislature further recognizes that mental illness and substance**
24 **abuse issues co-occur in a substantial percentage of criminal defendants.**

1 D. The legislature further recognizes the critical need for a program
2 within the criminal justice system designed to reduce the number of defendants
3 with either mental illness issues or co-occurring mental illness and substance
4 abuse issues.

5 E. Such programs would also seek to address recidivism percentages
6 among criminal defendants dealing with both mental illness and co-occurring
7 mental illness and substance abuse issues thus reducing the incidence of crimes
8 committed as a result of mental illness and co-occurring mental illness and
9 substance abuse issues.

10 F. It is therefore the intent of the Legislature of Louisiana to provide for
11 the creation of specialized mental health courts with the necessary flexibility to
12 address the issues of criminal defendants with either mental illness or co-
13 occurring mental illness and substance abuse issues.

14 §5353. Definitions

15 For the purposes of this Chapter, the following terms shall have the
16 following meanings, unless the context clearly indicates otherwise:

17 (1) "Mental health court" or "mental health court program" means a
18 structured judicial intervention process for mental health treatment of eligible
19 criminal defendants that includes mental health court professionals, local social
20 programs, and intensive judicial monitoring in support of such defendants.

21 (2) "Mental health court professional" means a member of the mental
22 health court team, including but not limited to a judge, prosecutor, defense
23 attorney, probation officer, coordinator, treatment provider, behavioral health
24 advocate, or case manager.

25 (3) "Post-adjudicatory mental health court program" means a program
26 in which the defendant has pled guilty or has been convicted and the defendant
27 then agrees, with consent of the prosecution, to enter a mental health court
28 program as part of the defendant's criminal sentence.

29 (4) "Co-occurring mental health and substance abuse court program"
30 means a program that, through the participation of professionals with training

1 and experience in treating persons with mental illness issues and co-occurring
2 mental illness and substance abuse issues, addresses the needs of criminal
3 defendants with either mental illness or co-occurring mental health and
4 substance abuse issues.

5 §5354. Authorization

6 Each district court by rule may designate one or more divisions to
7 preside over a mental health treatment court program to which alcohol or drug
8 related offenses are assigned, and may establish a program to be administered
9 by the presiding judge or judges thereof or by an employee designated by the
10 court. The judicial district is authorized to provide funding for any expenses
11 related to the administration and operation of such a mental health court
12 treatment program.

13 §5355. Eligibility and exclusion

14 A. A criminal defendant may be admitted to a mental health court
15 program if all of the following criteria are met:

16 (1) A diagnosis by a qualified mental health professional of mental
17 illness or co-occurring mental illness and substance abuse.

18 (2) Consent of the prosecutor and the court assigned to the criminal
19 defendant's case.

20 (3) Consent of the defendant.

21 B. A criminal defendant may be excluded from a mental health court
22 program if any of the following occurs:

23 (1) The defendant fails to demonstrate a willingness to participate in a
24 recommended mental health court program.

25 (2) The criminal defendant has, within the previous ten years not
26 including incarceration time, been convicted of any one of the following
27 enumerated crimes:

28 (a) First or second degree murder.

29 (b) Aggravated or criminal sexual assault, including sexual assault of a
30 child.

1 (c) Armed robbery.

2 (d) Arson.

3 (e) Stalking.

4 (f) Any crimes of violence involving the discharge of a firearm.

5 §5356. Procedure; screening and assessment

6 A.(1) The court shall require an eligibility screening and an assessment
7 of the defendant.

8 (2) If a valid assessment related to the present charge pending against
9 the defendant has been completed within the previous sixty days, the eligibility
10 and assessment need not be ordered.

11 B. When appropriate, the imposition of execution of sentence shall be
12 postponed while the defendant is enrolled in the treatment program. As long
13 as the defendant complies with the conditions of his agreement, he shall remain
14 on probation. At the conclusion of the period of probation, the district attorney,
15 on advice of the person providing the probationer's treatment and the probation
16 officer, may recommend that the mental health division take one of the
17 following courses of action:

18 (1) That the probationer's probation be revoked and the probationer be
19 sentenced if the probationer has not successfully completed the treatment or has
20 violated one or more of the conditions of his probation; or, if already sentenced,
21 that the probation be revoked and the probationer be remanded to the
22 appropriate custodian for service of that sentence.

23 (2) That the period of probation be extended so that the probationer
24 may continue the program.

25 (3) That the probationer's conviction be set aside and the prosecution
26 dismissed if the probationer has successfully completed all the conditions of his
27 probation and his treatment agreement. The district attorney shall make the
28 final determination as to whether to request revocation, extension or dismissal.

29 C. The judge shall inform the defendant that if the defendant fails to
30 meet the requirements of the mental health court treatment program, eligibility

1 to participate in the program may be revoked. Such revocation would result in
2 the defendant being sentenced.

3 D. The defendant shall execute a written document which shall contain
4 all of the following criteria:

5 (1) An agreement to participate in the mental health court treatment
6 program.

7 (2) An agreement to all terms and conditions of the program, including
8 but not limited to the possibility of sanctions or incarceration for failing to abide
9 by or comply with the terms of the program.

10 E.(1) The court may order a defendant enrolled in a program authorized
11 by this Chapter to complete mental health or substance abuse treatment in an
12 outpatient, inpatient, residential, or jail-based custodial treatment program.

13 (2) Any period of time a defendant shall serve in a jail-based treatment
14 program may not be reduced by the accumulation of good time or other credits.

15 F. The mental health court program may include a regimen of graduated
16 requirements and rewards and sanctions, including but not limited to the
17 following:

18 (1) Fines.

19 (2) Fees.

20 (3) Costs.

21 (4) Restitution.

22 (5) Incarceration of not more than one hundred eighty days.

23 (6) Individual and group therapy.

24 (7) Medication.

25 (8) Supervision of progress.

26 (9) Educational or vocational counseling, as appropriate.

27 (10) Any other reasonable requirements necessary to complete the
28 mental health court program.

29 §5357. Mental health and substance abuse treatment

30 A. The mental health court program may maintain or collaborate with

1 a network of mental health treatment programs and, if the defendant has co-
2 occurring mental illness and substance abuse issues, a network of treatment
3 programs dealing with co-occurring mental illness and substance abuse
4 treatment programs, representing a continuum of treatment options
5 commensurate with the needs of defendants and in accordance with available
6 resources. The mental health court program may designate a court liaison to
7 monitor the progress of defendants in their assigned treatment programs on
8 behalf of the court.

9 B. Any mental illness or substance abuse treatment to which defendants
10 are referred shall be licensed by the state and shall be in compliance with all
11 rules governing such programs operating within the state of Louisiana.

12 C. The mental health court program may, at its discretion, employ
13 additional services or interventions, as it deems necessary on a case by case
14 basis.

15 §5358. Violation; sanctions; dismissal; discharge of criminal charges

16 A. Violations by the defendant. (1) If a court finds, from the evidence
17 presented, including but not limited to the reports or proffers of proof from the
18 mental health court professionals that any of the conditions set forth in
19 Paragraph (2) of this Subsection are met, sanctions may be imposed.

20 (2)(a) The defendant is not performing satisfactorily in the assigned
21 program.

22 (b) The defendant is not benefitting from education, treatment, or
23 rehabilitation.

24 (c) The defendant has engaged in criminal conduct rendering the
25 defendant unsuitable for continuing participation in the program.

26 (d) The defendant has otherwise violated the terms and conditions of the
27 program or of the defendant's sentence.

28 (e) The defendant is for any reason unable to continue participation in
29 the program.

30 B. Sanctions. The court may impose reasonable sanctions under prior

1 written agreement of the defendant, including but not limited to imprisonment
2 or dismissal of the defendant from participation in the program.

3 C.(1) Dismissal from the program. If an individual who has enrolled in
4 a mental health court program violates any of the conditions of his probation
5 or his treatment agreement or appears to be performing unsatisfactorily in the
6 assigned program, or if it appears that the probationer is not benefitting from
7 education, treatment, or rehabilitation, the treatment supervisor, probation
8 officer, or the district attorney may move the court to dismiss the individual
9 from the mental health court program.

10 (2) If the court dismisses the defendant from the mental health court
11 program, the defendant shall be provided with the specific reasons for his
12 dismissal from the program.

13 D. Discharge from criminal charges.

14 Upon successful completion of the terms and conditions of the program,
15 the court may do any of the following:

16 (1) The court may dismiss the original criminal charges against the
17 defendant.

18 (2) The court may successfully terminate the original sentence of the
19 defendant.

20 (3) The court may otherwise discharge the defendant from the program
21 or from any further proceedings against the defendant as may be pending in the
22 original criminal matter.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 86

BY SENATOR MORRELL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 37:1106(A) and (D) and 1110 and R.S. 44:4.1(B)(23) and to enact R.S. 37:1107(F) and (G), 1116(C) and (D), and 1123, relative to the Louisiana Mental Health Counselor Licensing Act; to provide for fees; to provide for counselor intern and marriage and family therapist intern registrations; to provide for temporary licenses and registrations; to provide for criminal history record information; to provide for costs of administrative proceedings; to provide for the recovery of certain costs on judicial review; to provide for terms, procedures, and conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1106(A) and (D) and 1110 are hereby amended and reenacted and R.S. 37:1107(F) and (G), 1116(C) and (D), and 1123 are hereby enacted to read as follows:

§1106. Fees; application for license; **violations; penalties**

A. ~~(1) The board shall collect the following fees:~~ **Fees established and collected by the board pursuant to this Chapter shall be set by rule and shall not exceed the following maximum amounts:**

- ~~(1) For privileging review and registration, a fee of \$100 per occurrence.~~
- ~~(2) For applications, licenses, and seals, a fee of \$200.~~
- ~~(3) For renewal of licenses, a fee of \$150.~~
- ~~(4) For late fees for license renewals, a fee of \$50.~~
- ~~(5) For reissuance of licenses or duplicate licenses, a fee of \$25.~~
- ~~(6) For name changes on records, a fee of \$25.~~
- ~~(7) For copies of licensed professional counselors' files, a fee of \$25.~~
- ~~(8) For copies of any documents in the board's possession, a fee which represents the cost incurred by the board.~~

1	<u>(a) Application of privilege, credential, or registration</u>	<u>\$200</u>
2	<u>(b) Application of licensure</u>	<u>\$325</u>
3	<u>(c) Renewal of privilege, credential, registration, or license</u>	<u>\$300</u>
4	<u>(d) Examination or reexamination</u>	<u>\$250</u>
5	<u>(e) Late fees</u>	<u>\$100</u>
6	<u>(f) Failure to update contact information with board</u>	<u>\$100</u>
7	<u>(g) Reissuance of privilege, credential, registration, or license</u>	<u>\$50</u>
8	<u>(h) Name changes on record</u>	<u>\$50</u>
9	<u>(i) Copies of documents in the board's possession</u>	<u>\$50</u>
10	<u>(j) Formal verification of status of any privilege, credential,</u>	
11	<u>registration, or license</u>	<u>\$25</u>

12 (2) A fee below the maximum amount set forth in Paragraph (1) of this
 13 Subsection may be increased by the board by rule up to the maximum amount.
 14 However, the board shall not increase any fee by more than a total of fifteen
 15 percent over a consecutive three-year period.

16 * * *

17 D.(1) The board may assess and collect fines in an amount not to exceed five
 18 hundred ~~thousand~~ **thousand** dollars for violations of this Chapter and rules promulgated by
 19 the board. **In addition to the disciplinary action or fine assessed by the board,**
 20 **the board may also assess all costs incurred in connection with the proceedings,**
 21 **including but not limited to the costs of an investigator, a stenographer, legal**
 22 **fees, or witness fees, and any costs and fees incurred by the board on any**
 23 **judicial review or appeal. All costs and fees shall be paid no later than ninety**
 24 **days after the decision of the board becomes final and delays for seeking**
 25 **judicial review of the decision have expired without action by an aggrieved**
 26 **party. No license, certificate, or registration shall be issued, reinstated, or**
 27 **renewed until such costs and fees are paid.**

28 (2) A person aggrieved by a final decision of the board who prevails
 29 upon judicial review may recover reasonable costs, attorney fees, and other
 30 expenses incurred as a result of the administrative investigation, adjudication

1 and judicial review, in addition to other remedies provided by law.

2 * * *

3 §1107. Requirements for licensed professional counselor; temporary license or
4 registration; renewal of license or registration

5 * * *

6 F. The board may issue a registration as a counselor intern to an
7 applicant who meets qualifications established by the board. The board shall
8 adopt rules pursuant to the Administrative Procedure Act establishing such
9 qualifications and requirements as necessary for the adequate protection of the
10 health and welfare of the residents of this state. Such qualifications shall
11 include, at a minimum, that the applicant shall be at least twenty-one years old,
12 of good moral character, in compliance with all applicable provisions of law or
13 board regulations, and possess a graduate degree the substance of which is
14 mental health counseling.

15 G.(1) Pending the results of the criminal history information inquiry,
16 the board may issue a temporary license or registration authorizing the practice
17 of licensed professional counseling, for a period of time not to exceed ninety
18 calendar days from the date of issuance.

19 (2) The board shall adopt rules and regulations in accordance with the
20 Administrative Procedure Act establishing the necessary qualifications,
21 requirements, and formalities for the issuance of such licenses and registrations
22 as are necessary for the adequate protection of the health and welfare of the
23 residents of this state.

24 * * *

25 §1110. Denial, revocation, or suspension of license or registration

26 A. The board shall withhold, deny, revoke, or suspend any license or
27 registration issued or applied for in accordance with the provisions of this Chapter
28 or otherwise discipline a licensee upon proof that the applicant, ~~or licensee,~~ or
29 registrant:

30 (1) Has been convicted in a court of competent jurisdiction of a felony, the

1 conviction being final, or upon a plea of guilty or nolo contendere to a felony, the
2 record of conviction or plea being conclusive evidence thereof.

3 (2) Has been convicted in a court of competent jurisdiction of any crime or
4 offense which reflects the inability of the practitioner to practice with due regard for
5 the health and safety of clients or patients.

6 (3) Has violated the code of ethics adopted by the board.

7 (4) Is abusing drugs or alcohol to an extent or in a manner dangerous to any
8 other person or the public, or to an extent that said use impairs his ability to perform
9 the work of a licensee or registrant.

10 (5) Has impersonated another person holding a professional license or
11 registration issued pursuant to this Chapter or allowed another person to use his
12 license or registration.

13 (6) Has used fraud or deception in applying for a license or registration or
14 in taking an examination provided for in this Chapter.

15 (7) Has allowed his name, ~~or~~ license, or registration issued under this
16 Chapter to be used in connection with any person or persons who practice outside of
17 the area of their training, experience, or competence.

18 (8) Is legally adjudicated mentally incompetent, the record of such
19 adjudication being conclusive evidence thereof.

20 (9) Has willfully or negligently violated any of the provisions of this
21 Chapter.

22 B. Notice of denial, revocation, suspension, or disciplinary action shall be
23 sent to the applicant, ~~or~~ licensee, or registrant by registered mail or personal service
24 setting forth the particular reasons for the proposed action and fixing a date at which
25 time the applicant, registrant, or licensee shall be given an opportunity for a prompt
26 and fair hearing. The written notice shall be sent to the person's last known address,
27 but the nonappearance of the person shall not prevent such a hearing. For the
28 purpose of such hearing, the board may subpoena persons, books, and papers, on its
29 own behalf or on behalf of the applicant, ~~or~~ licensee, or registrant who may appear
30 by counsel or personally in his own behalf.

1 C. On the basis of any hearing or upon default of applicant, ~~or licensee, or~~
 2 registrant, the board shall make a determination specifying its findings of fact and
 3 conclusions of law. A copy of such determination shall be sent by registered mail
 4 or served personally upon the applicant, ~~or licensee, or~~ registrant. The decision of
 5 the board denying, revoking, or suspending the license or registration, shall become
 6 final thirty days after receipt of the copy of the determination unless within said
 7 period the applicant, ~~or licensee, or~~ registrant appeals the decision as provided by
 8 the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. No such appeal
 9 while pending appropriate court action shall supersede such denial, revocation, or
 10 suspension. All proceedings and evidence presented at hearings before the board
 11 may be admissible during appellate proceedings.

12 D. Every order and judgment of the board shall take effect immediately on
 13 its promulgation unless the board in such order or judgment fixes a probationary
 14 period for applicant, ~~or licensee, or~~ registrant. Such order and judgment shall
 15 continue in effect until expiration of any specified time period or termination by a
 16 court of competent jurisdiction. The board shall notify all applicants, licensees, or
 17 registrants of any action taken against a licensee and may make public its orders and
 18 judgments in such manner and form as it deems proper if such orders and judgments
 19 are not consent orders or compromise judgments.

20 E. The board is authorized to suspend the license of a licensee and the
 21 registration of a registrant for a period not exceeding two years. At the end of this
 22 period, the board shall re-evaluate the suspension and may recommend to the
 23 chairman the reinstatement or revocation of the license or registration. A person
 24 whose license or registration has been revoked under the provisions of this Section
 25 may apply for reinstatement after a period of not less than two years from the date
 26 such denial, or revocation is legally effective. The board may, upon favorable action
 27 by a majority of the board members present and voting, recommend such
 28 reinstatement.

29 * * *

30 §1116. Licensure application for marriage and family therapists; temporary license

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or registration

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C. The board may issue a registration as a marriage and family therapist intern to an applicant who meets qualifications established by the board. The board shall adopt rules pursuant to the Administrative Procedure Act establishing such qualifications and requirements as necessary for the adequate protection of the health and welfare of the residents of this state. Such qualifications shall include, at a minimum, that the applicant shall be at least twenty-one years old, of good moral character, in compliance with applicable provisions of law or board regulations, and possess a graduate degree in marriage and family therapy, or a related clinical mental health field from a regionally accredited institution of higher education, or a certificate from a postgraduate training institute in marriage and family therapy.

D. (1) Pending the results of the criminal history information inquiry, the board may issue a temporary license or registration authorizing the practice of marriage and family therapy, for a period of time not to exceed ninety calendar days from the date of issuance.

(2) The board shall adopt rules and regulations in accordance with the Administrative Procedure Act establishing the necessary qualifications, requirements, and formalities for the issuance of such licenses and registrations as are necessary for the adequate protection of the health and welfare of the residents of this state.

* * *

§1123. Louisiana Licensed Professional Counselors Board of Examiners; authorization to obtain criminal history record information

A. As used in this Section, the following terms shall have the following meanings:

(1) "Applicant" means an individual who has made application to the board for the issuance, renewal, or reinstatement of any form of licensure which the board is authorized by law to issue.

1 (2) "Board" means the Louisiana Licensed Professional Counselors
2 Board of Examiners.

3 (3) "Bureau" means the Louisiana Bureau of Criminal Identification
4 and Information of the office of state police within the Department of Public
5 Safety and Corrections.

6 (4) "Criminal history record information" means information collected
7 by state and federal criminal justice agencies on individuals consisting of
8 identifiable descriptions and notations of arrests, detentions, indictments, bills
9 of information, or any formal criminal charges, and any disposition arising
10 therefrom, including sentencing, criminal correctional supervision and release.
11 It shall not include intelligence information gathered for investigatory purposes
12 or any identification information which does not indicate involvement of the
13 individual in the criminal justice system.

14 (5) "FBI" means the Federal Bureau of Investigation of the United
15 States Department of Justice.

16 (6) "Licensure" means any license, certification, or registration which
17 the board is authorized to issue.

18 B. In addition to any other requirements established by board rules, the
19 board may require an applicant, as a condition of eligibility for licensure:

20 (1) To submit a full set of fingerprints, in a form and manner prescribed
21 by the board.

22 (2) To permit the board to request and obtain state and national
23 criminal history record information on the applicant.

24 (3) To pay the reasonable costs incurred by the board in requesting and
25 obtaining state and national criminal history record information on the
26 applicant.

27 C. In accordance with the provisions and procedure prescribed by this
28 Section, the board may request and obtain state and national criminal history
29 record information from the bureau and the FBI relative to any applicant for
30 licensure whose fingerprints the board has obtained pursuant to this Section for

1 the purpose of determining the applicant's suitability and eligibility for
 2 licensure.

3 D. Upon request by the board and upon the board's submission of an
 4 applicant's fingerprints, and such other identifying information as may be
 5 required, the bureau shall survey its criminal history records and identification
 6 files and make a simultaneous request of the FBI for like information from
 7 other jurisdictions. The bureau may charge the board a reasonable processing
 8 fee for conducting and reporting on any such search.

9 E. Any and all state or national criminal history record information
 10 obtained by the board from the bureau or FBI which is not already a matter of
 11 public record shall be deemed nonpublic and confidential information restricted
 12 to the exclusive use by the board, its members, officers, investigators, agents,
 13 and attorneys in evaluating the applicant's eligibility or disqualification for
 14 licensure. No such information or records related thereto shall, except with the
 15 written consent of the applicant or by order of a court of competent jurisdiction,
 16 be released or otherwise disclosed by the board to any other person or agency.

17 F. Upon investigation of the application and other evidence submitted,
 18 the board shall notify each applicant that the application and evidence
 19 submitted for consideration is satisfactory and accepted, or is unsatisfactory
 20 and rejected. If an application is rejected, such notice shall state the reasons for
 21 the rejection and the applicant's right to a compliance hearing in accordance
 22 with the rules and regulations promulgated by the board.

23 Section 2. R.S. 44:4.1(B)(23) is hereby amended and reenacted to read as follows:

24 §4.1. Exceptions

25 * * *

26 B. The legislature further recognizes that there exist exceptions, exemptions,
 27 and limitations to the laws pertaining to public records throughout the revised
 28 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
 29 limitations are hereby continued in effect by incorporation into this Chapter by
 30 citation:

1
2
3
4
5
6

* * *

(23) R.S. 37:74, 86, 90, 147, 691, 711.10, 763, 763.1, 781, 920.1, 969.1,
1123(E), 1277, 1278, 1285, 1326, 1518, 1745.15, 1747, 1806, 2156.1, 2406, 2505.1,
3481, 3507.1

* * *

Section 3. This Act shall become effective on January 1, 2014.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

Summary

2013 Regular Session of the Louisiana Legislature



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Summary

The 2013 Regular Session of the Louisiana Legislature was one of the most dynamic in Louisiana political history. There were many firsts for the legislature in 2013. The 2013 session marked the beginning of Governor Bobby Jindal's status as a "lame-duck" governor. His "lame-duck" status was accelerated as a result of the fiscal troubles of the state. The 2013 session also marked the legislative independence of the Louisiana House of Representatives. It is clear that Governor Bobby Jindal will have major challenges in his dealings with the House of Representatives throughout the remainder of his term.

The 2014 Regular Session will be a session of "general jurisdiction" and will exclude fiscal matters. During the 2013 Regular Session, there were a high number of general jurisdiction bills. There are indications that there will be a high number of bills filed in 2014. Legislators will likely use this opportunity to file and pass legislation to keep their campaign promises from there election. They have officially marked the halfway point of their term and you will see many legislators turning their attention to their reelection efforts for their legislative seats or for election to other offices.

Prepared By:



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