

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.18263 Behavior technician; requirements; use of words, titles, or letters; "convicted" defined.

Sec. 18263.

(1) An individual shall not act as a behavior technician in this state if any of the following apply:

(a) Sanctions have been imposed against the individual by a licensure, registration, specialty licensure, or specialty certification board of any other state, of the United States Military, of the federal government, or of any other country based on grounds that are substantially similar to this article or a rule promulgated under this article, and the sanctions are in force at the time the individual is to deliver applied behavior analysis services.

(b) Beginning April 3, 2020, he or she has not completed a training program that is based on the BACB's registered behavior technician task list.

(c) He or she has been convicted of any of the following:

(i) A relevant crime described under 42 USC 1320a-7(a).

(ii) Any of the following felonies, an attempt or conspiracy to commit any of those felonies, or any other state or federal crime that is similar to the felonies described in this subparagraph, other than a felony for a relevant crime described under 42 USC 1320a-7(a), unless 15 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction before the date that he or she delivers applied behavior analysis services:

(A) A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.

(B) A felony involving cruelty or torture.

(C) A felony under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(D) A felony involving criminal sexual conduct.

(E) A felony involving abuse or neglect.

(F) A felony involving the use of a firearm or dangerous weapon.

(G) A felony involving the diversion or adulteration of a prescription drug or other medications.

(iii) A felony or an attempt or conspiracy to commit a felony, other than a felony for a relevant crime described under 42 USC 1320a-7(a) or a felony described under subparagraph (ii), unless 10 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction before the date that he or she delivers applied behavior analysis services.

(iv) Any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subparagraph, within the 10 years immediately preceding the date that he or she delivers applied behavior analysis services:

(A) A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.

(B) A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(C) A misdemeanor involving criminal sexual conduct.

(D) A misdemeanor involving cruelty or torture unless otherwise provided under subparagraph (v).

(E) A misdemeanor involving abuse or neglect.

(v) Any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subparagraph, within the 5 years immediately preceding the date that he or she delivers applied behavior analysis services:

(A) A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.

(B) A misdemeanor involving home invasion.

(C) A misdemeanor involving embezzlement.

(D) A misdemeanor involving negligent homicide or a violation of section 601d(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.601d.

(E) A misdemeanor involving larceny unless otherwise provided under subparagraph (vii).

(F) A misdemeanor of retail fraud in the second degree unless otherwise provided under subparagraph (vii).

(G) Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under subparagraphs (iv), (vi), or (vii).

(vi) Any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this

subparagraph, within the 3 years immediately preceding the date that he or she delivers applied behavior analysis services:

(A) A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.

(B) A misdemeanor of retail fraud in the third degree unless otherwise provided under subparagraph (vii).

(C) A misdemeanor under part 74 unless otherwise provided under subparagraph (vii).

(vii) Any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subparagraph, within the year immediately preceding the date that he or she delivers applied behavior analysis services:

(A) A misdemeanor under part 74 if the individual, at the time of conviction, is under the age of 18.

(B) A misdemeanor for larceny or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.

(d) He or she is the subject of an order or disposition under section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(e) He or she engages in conduct that becomes the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency under an investigation conducted in accordance with 42 USC 1395i-3 or 1396r.

(2) A behavior technician shall not use words, titles, or letters that indicate that he or she is a behavior analyst or an assistant behavior analyst or that he or she is engaging in the practice of applied behavior analysis or practice as an assistant behavior analyst.

(3) As used in this section, "convicted" means either of the following:

(a) For a crime that is not a relevant crime described under 42 USC 1320a-7(a), a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(b) For a relevant crime described under 42 USC 1320a-7(a), that term as defined in 42 USC 1320a-7.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017 ;-- Am. 2020, Act 19, Imd. Eff. Jan. 27, 2020

Popular Name: Act 368