

4862--A

2013-2014 Regular Sessions

I N S E N A T E

April 26, 2013

Introduced by Sens. FUSCHILLO, LAVALLE, FLANAGAN, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, the limited liability company law, the partnership law and the social services law, in relation to applied behavior analysis

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The education law is amended by adding a new article 167 to
2 read as follows:

3 ARTICLE 167

4 APPLIED BEHAVIOR ANALYSIS

5 SECTION 8800. INTRODUCTION.

6 8801. DEFINITIONS.

7 8802. DEFINITION OF THE PRACTICE OF "APPLIED BEHAVIOR ANALYSIS".

8 8803. THE PRACTICE OF AND USE OF THE TITLE "LICENSED BEHAVIOR
9 ANALYST" OR "CERTIFIED BEHAVIOR ANALYST ASSISTANT".

10 8804. REQUIREMENTS AND PROCEDURES FOR PROFESSIONAL LICENSURE.

11 8805. SPECIAL PROVISIONS.

12 8806. LIMITED PERMITS.

13 8807. EXEMPTIONS.

14 8808. STATE BOARD FOR APPLIED BEHAVIOR ANALYSIS.

15 S 8800. INTRODUCTION. THIS ARTICLE APPLIES TO THE PROFESSION AND PRAC-
16 TICE OF APPLIED BEHAVIOR ANALYSIS AND TO THE USE OF THE TITLES "LICENSED
17 BEHAVIOR ANALYST" AND "CERTIFIED BEHAVIOR ANALYST ASSISTANT". THE GENER-
18 AL PROVISIONS FOR ALL PROFESSIONS CONTAINED IN ARTICLE ONE HUNDRED THIR-
19 TY OF THIS TITLE APPLY TO THIS ARTICLE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD08806-15-3

1 S 8801. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERM SHALL
2 HAVE THE FOLLOWING MEANING:

3 "APPLIED BEHAVIOR ANALYSIS" OR "ABA" MEANS THE DESIGN, IMPLEMENTATION,
4 AND EVALUATION OF ENVIRONMENTAL MODIFICATIONS, USING BEHAVIORAL STIMULI
5 AND CONSEQUENCES, TO PRODUCE SOCIALLY SIGNIFICANT IMPROVEMENT IN HUMAN
6 BEHAVIOR, INCLUDING THE USE OF DIRECT OBSERVATION, MEASUREMENT, AND
7 FUNCTIONAL ANALYSIS OF THE RELATIONSHIP BETWEEN ENVIRONMENT AND BEHAV-
8 IOR.

9 S 8802. DEFINITION OF THE PRACTICE OF "APPLIED BEHAVIOR ANALYSIS". 1.
10 THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS BY A "LICENSED BEHAVIOR
11 ANALYST" SHALL MEAN THE DESIGN, IMPLEMENTATION AND EVALUATION OF ENVI-
12 RONMENTAL MODIFICATIONS, USING BEHAVIORAL STIMULI AND CONSEQUENCES, TO
13 PRODUCE SOCIALLY SIGNIFICANT IMPROVEMENT IN HUMAN BEHAVIOR, INCLUDING
14 THE USE OF DIRECT OBSERVATION, MEASUREMENT, AND FUNCTIONAL ANALYSIS OF
15 THE RELATIONSHIP BETWEEN ENVIRONMENT AND BEHAVIOR, PURSUANT TO A DIAGNO-
16 SIS AND PRESCRIPTION OR ORDER FROM A PERSON WHO IS LICENSED OR OTHERWISE
17 AUTHORIZED TO PROVIDE SUCH DIAGNOSIS AND PRESCRIPTION OR ORDERING
18 SERVICES PURSUANT TO A PROFESSION ENUMERATED IN THIS TITLE, FOR THE
19 PURPOSE OF PROVIDING BEHAVIORAL HEALTH TREATMENT FOR PERSONS WITH AUTISM
20 AND AUTISM SPECTRUM DISORDERS AND RELATED DISORDERS; AND INCLUDES THE
21 SUPERVISION OF CERTIFIED BEHAVIOR ANALYST ASSISTANTS IN THE PROVISION OF
22 ABA SERVICES TO INDIVIDUALS.

23 2. THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS BY A "CERTIFIED BEHAVIOR
24 ANALYST ASSISTANT" MEANS THE SERVICES AND ACTIVITIES PROVIDED BY A
25 PERSON CERTIFIED IN ACCORDANCE WITH THIS ARTICLE WHO WORKS UNDER THE
26 SUPERVISION OF A LICENSED BEHAVIOR ANALYST TO PERFORM SUCH PATIENT
27 RELATED APPLIED BEHAVIOR ANALYSIS TASKS AS ARE ASSIGNED BY THE SUPERVIS-
28 ING LICENSED BEHAVIOR ANALYST. SUPERVISION OF A CERTIFIED BEHAVIOR
29 ANALYST ASSISTANT BY A LICENSED BEHAVIOR ANALYST SHALL BE IN ACCORDANCE
30 WITH REGULATIONS OF THE COMMISSIONER. NO LICENSED BEHAVIOR ANALYST
31 SHALL SUPERVISE MORE THAN SIX CERTIFIED BEHAVIOR ANALYST ASSISTANTS.

32 3. THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS SHALL NOT INCLUDE DIAGNO-
33 SIS OF A DISORDER OR CONDITION FOR WHICH ABA MAY BE APPROPRIATE, OR
34 PRESCRIBING OR ORDERING ABA FOR A PARTICULAR INDIVIDUAL.

35 4. ANY INDIVIDUAL WHOSE LICENSE OR AUTHORITY TO PRACTICE DERIVES FROM
36 THE PROVISIONS OF THIS ARTICLE SHALL BE PROHIBITED FROM:

37 (A) PRESCRIBING OR ADMINISTERING DRUGS AS DEFINED IN THIS CHAPTER OR
38 AS A TREATMENT, THERAPY, OR PROFESSIONAL SERVICE IN THE PRACTICE OF HIS
39 OR HER PROFESSION; OR

40 (B) USING INVASIVE PROCEDURES AS A TREATMENT, THERAPY, OR PROFESSIONAL
41 SERVICE IN THE PRACTICE OF HIS OR HER PROFESSION. FOR PURPOSES OF THIS
42 SUBDIVISION, "INVASIVE PROCEDURE" MEANS ANY PROCEDURE IN WHICH HUMAN
43 TISSUE IS CUT, ALTERED, OR OTHERWISE INFILTRATED BY MECHANICAL OR OTHER
44 MEANS. INVASIVE PROCEDURE INCLUDES, BUT IS NOT LIMITED TO, SURGERY,
45 LASERS, IONIZING RADIATION, THERAPEUTIC ULTRASOUND, OR ELECTROCONVULSIVE
46 THERAPY.

47 S 8803. THE PRACTICE OF AND USE OF THE TITLE "LICENSED BEHAVIOR
48 ANALYST" OR "CERTIFIED BEHAVIOR ANALYST ASSISTANT". ONLY A PERSON
49 LICENSED, CERTIFIED OR EXEMPT UNDER THIS ARTICLE SHALL PRACTICE APPLIED
50 BEHAVIOR ANALYSIS. ONLY A PERSON LICENSED OR CERTIFIED UNDER THIS ARTI-
51 CLE SHALL USE THE TITLES "LICENSED BEHAVIOR ANALYST" OR "CERTIFIED
52 BEHAVIOR ANALYST ASSISTANT" OR ANY OTHER DESIGNATION TENDING TO IMPLY
53 THAT THE PERSON IS LICENSED OR CERTIFIED TO PRACTICE APPLIED BEHAVIOR
54 ANALYSIS.

1 S 8804. REQUIREMENTS AND PROCEDURES FOR PROFESSIONAL LICENSURE. 1. TO
2 QUALIFY FOR CERTIFICATION AS A CERTIFIED BEHAVIOR ANALYST ASSISTANT, AN
3 APPLICANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

4 (A) APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT;

5 (B) EDUCATION: HAVE RECEIVED AN EDUCATION, INCLUDING A BACHELOR'S OR
6 HIGHER DEGREE FROM A PROGRAM REGISTERED BY THE DEPARTMENT OR DETERMINED
7 BY THE DEPARTMENT TO BE THE SUBSTANTIAL EQUIVALENT THEREOF, IN ACCORD-
8 ANCE WITH THE COMMISSIONER'S REGULATIONS.

9 (C) EXPERIENCE: HAVE EXPERIENCE IN THE PRACTICE OF APPLIED BEHAVIOR
10 ANALYSIS SATISFACTORY TO THE BOARD AND THE DEPARTMENT IN ACCORDANCE WITH
11 THE COMMISSIONER'S REGULATIONS.

12 (D) EXAMINATION: PASS AN EXAMINATION ACCEPTABLE TO THE BOARD AND THE
13 DEPARTMENT IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS.

14 (E) AGE: BE AT LEAST TWENTY-ONE YEARS OF AGE;

15 (F) CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPART-
16 MENT AND SUBMIT AN ATTESTATION OF MORAL CHARACTER; AND

17 (G) FEE: PAY A FEE OF ONE HUNDRED FIFTY DOLLARS FOR AN INITIAL LICENSE
18 AND A FEE OF SEVENTY-FIVE DOLLARS FOR EACH TRIENNIAL REGISTRATION PERI-
19 OD.

20 2. TO QUALIFY FOR A LICENSE AS A LICENSED BEHAVIOR ANALYST, AN APPLI-
21 CANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

22 (A) APPLICATION: FILE AN APPLICATION WITH THE DEPARTMENT;

23 (B) EDUCATION: HAVE RECEIVED AN EDUCATION, INCLUDING A MASTER'S OR
24 HIGHER DEGREE FROM A PROGRAM REGISTERED BY THE DEPARTMENT OR DETERMINED
25 BY THE DEPARTMENT TO BE THE SUBSTANTIAL EQUIVALENT, THEREOF, IN ACCORD-
26 ANCE WITH THE COMMISSIONER'S REGULATIONS.

27 (C) EXPERIENCE: HAVE EXPERIENCE IN THE PRACTICE OF APPLIED BEHAVIOR
28 ANALYSIS SATISFACTORY TO THE BOARD AND THE DEPARTMENT IN ACCORDANCE WITH
29 THE COMMISSIONER'S REGULATIONS.

30 (D) EXAMINATION: PASS AN EXAMINATION ACCEPTABLE TO THE BOARD AND THE
31 DEPARTMENT IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS.

32 (E) AGE: BE AT LEAST TWENTY-ONE YEARS OF AGE;

33 (F) CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPART-
34 MENT AND SUBMIT AN ATTESTATION OF MORAL CHARACTER; AND

35 (G) FEE: PAY A FEE OF TWO HUNDRED DOLLARS FOR AN INITIAL LICENSE AND A
36 FEE OF ONE HUNDRED DOLLARS FOR EACH TRIENNIAL REGISTRATION PERIOD.

37 S 8805. SPECIAL PROVISIONS. AN INDIVIDUAL WHO MEETS THE REQUIREMENTS
38 FOR A LICENSE OR CERTIFICATION AS A LICENSED BEHAVIOR ANALYST OR A
39 CERTIFIED BEHAVIOR ANALYST ASSISTANT, EXCEPT FOR EXAMINATION, EXPERIENCE
40 AND EDUCATION, AND WHO IS CERTIFIED OR REGISTERED BY A NATIONAL CERTIFY-
41 ING BODY HAVING CERTIFICATION OR REGISTRATION STANDARDS ACCEPTABLE TO
42 THE COMMISSIONER, MAY BE LICENSED OR CERTIFIED, WITHOUT MEETING ADDI-
43 TIONAL REQUIREMENTS AS TO EXAMINATION, EXPERIENCE AND EDUCATION,
44 PROVIDED THAT SUCH INDIVIDUAL SUBMITS AN APPLICATION TO THE DEPARTMENT
45 WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS SECTION.

46 S 8806. LIMITED PERMITS. THE FOLLOWING REQUIREMENTS FOR A LIMITED
47 PERMIT SHALL APPLY TO ALL PROFESSIONS LICENSED OR CERTIFIED PURSUANT TO
48 THIS ARTICLE:

49 1. THE DEPARTMENT MAY ISSUE A LIMITED PERMIT TO AN APPLICANT WHO MEETS
50 ALL QUALIFICATIONS FOR LICENSURE, EXCEPT THE EXAMINATION AND/OR EXPERI-
51 ENCE REQUIREMENTS, IN ACCORDANCE WITH REGULATIONS PROMULGATED THEREFOR.

52 2. LIMITED PERMITS SHALL BE FOR ONE YEAR; SUCH LIMITED PERMITS MAY BE
53 RENEWED, AT THE DISCRETION OF THE DEPARTMENT, FOR ONE ADDITIONAL YEAR.

54 3. THE FEE FOR EACH LIMITED PERMIT AND FOR EACH RENEWAL SHALL BE
55 SEVENTY DOLLARS.

1 4. A LIMITED PERMIT HOLDER SHALL PRACTICE ONLY UNDER SUPERVISION AS
2 DETERMINED IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS.

3 S 8807. EXEMPTIONS. 1. NOTHING CONTAINED IN THIS ARTICLE SHALL BE
4 CONSTRUED TO LIMIT THE SCOPES OF PRACTICE OF ANY OTHER PROFESSION
5 LICENSED UNDER THIS TITLE.

6 2. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS PROHIBITING A PERSON
7 FROM PERFORMING THE DUTIES OF A LICENSED BEHAVIOR ANALYST OR A CERTIFIED
8 BEHAVIOR ANALYST ASSISTANT, IN THE COURSE OF SUCH EMPLOYMENT, IF SUCH
9 PERSON IS EMPLOYED:

10 A. BY A FEDERAL, STATE, COUNTY OR MUNICIPAL AGENCY, OR OTHER POLITICAL
11 SUBDIVISION;

12 B. BY A CHARTERED ELEMENTARY OR SECONDARY SCHOOL OR DEGREE-GRANTING
13 INSTITUTION;

14 C. AS A CERTIFIED TEACHER OR TEACHING ASSISTANT, OTHER THAN A PUPIL
15 PERSONNEL SERVICES PROFESSIONAL, IN AN APPROVED PROGRAM AS DEFINED IN
16 PARAGRAPH B OF SUBDIVISION ONE OF SECTION FORTY-FOUR HUNDRED TEN OF THIS
17 CHAPTER; OR

18 D. IN A SETTING TO THE EXTENT THAT THE EXEMPTION IN PARAGRAPH D OF
19 SUBDIVISION SIX OF SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER
20 APPLIES.

21 3. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS PROHIBITING THE
22 ACTIVITIES AND SERVICES REQUIRED OF A STUDENT, INTERN, OR RESIDENT IN AN
23 EDUCATIONAL PROGRAM ACCEPTABLE TO THE DEPARTMENT PURSUANT TO THE COMMIS-
24 SIONER'S REGULATIONS, PURSUING A COURSE OF STUDY LEADING TO A BACHELOR'S
25 OR HIGHER DEGREE IN AN EDUCATIONAL PROGRAM ACCEPTABLE TO THE DEPARTMENT
26 PURSUANT TO THE COMMISSIONER'S REGULATIONS IN AN INSTITUTION APPROVED BY
27 THE DEPARTMENT, PROVIDED THAT SUCH ACTIVITIES AND SERVICES CONSTITUTE A
28 PART OF HIS OR HER SUPERVISED COURSE OF STUDY IN AN EDUCATIONAL PROGRAM
29 ACCEPTABLE TO THE DEPARTMENT PURSUANT TO THE COMMISSIONER'S REGULATIONS.
30 SUCH PERSON SHALL BE DESIGNATED BY TITLE WHICH CLEARLY INDICATES HIS OR
31 HER TRAINING STATUS.

32 S 8808. STATE BOARD FOR APPLIED BEHAVIOR ANALYSIS. 1. A STATE BOARD
33 FOR APPLIED BEHAVIOR ANALYSIS SHALL BE APPOINTED BY THE BOARD OF REGENTS
34 UPON THE RECOMMENDATION OF THE COMMISSIONER AND SHALL ASSIST ON MATTERS
35 OF LICENSING AND PROFESSIONAL CONDUCT IN ACCORDANCE WITH SECTION SIXTY-
36 FIVE HUNDRED EIGHT OF THIS TITLE. AN EXECUTIVE SECRETARY OF THE BOARD
37 SHALL BE APPOINTED BY THE BOARD OF REGENTS UPON THE RECOMMENDATION OF
38 THE COMMISSIONER.

39 2. THE BOARD SHALL CONSIST OF SEVEN INDIVIDUALS, TO BE COMPOSED OF THE
40 FOLLOWING:

41 (A) THREE LICENSED BEHAVIOR ANALYSTS;

42 (B) ONE CERTIFIED BEHAVIOR ANALYST ASSISTANT;

43 (C) ONE LICENSED PSYCHOLOGIST, WHO CURRENTLY PRESCRIBES TREATMENT
44 INVOLVING APPLIED BEHAVIOR ANALYSIS IN HIS OR HER PROFESSIONAL PRACTICE;
45 AND

46 (D) TWO PUBLIC REPRESENTATIVES, AS DEFINED IN PARAGRAPH B OF SUBDIVI-
47 SION ONE OF SECTION SIXTY-FIVE HUNDRED EIGHT OF THIS TITLE.

48 S 2. Subparagraph (i) of paragraph a of subdivision 1 of section
49 6503-a of the education law, as added by chapter 130 of the laws of
50 2010, is amended to read as follows:

51 (i) services provided under article one hundred fifty-four [or], one
52 hundred sixty-three OR ONE HUNDRED SIXTY-SEVEN of this title for which
53 licensure would be required, or

54 S 3. Subdivision 4 of section 7605 of the education law, as amended by
55 chapter 210 of the laws of 2004, is amended to read as follows:

1 4. The practice, conduct, activities, or services by any person
2 licensed or otherwise authorized to practice nursing as a registered
3 professional nurse or nurse practitioner within the state pursuant to
4 article one hundred thirty-nine of this title or by any person licensed
5 or otherwise authorized to practice social work within the state pursu-
6 ant to article one hundred fifty-four of this title, or by any person
7 licensed or otherwise authorized to practice mental health counseling,
8 marriage and family therapy, creative arts therapy, or psychoanalysis
9 within the state pursuant to article one hundred sixty-three of this
10 title, OR ANY PERSON LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE
11 APPLIED BEHAVIOR ANALYSIS WITHIN THE STATE PURSUANT TO ARTICLE ONE
12 HUNDRED SIXTY-SEVEN OF THIS TITLE or any individual who is credentialed
13 under any law, including attorneys, rape crisis counselors, certified
14 alcoholism counselors, and certified substance abuse counselors from
15 providing mental health services within their respective established
16 authorities.

17 S 4. Subdivision 1 of section 7706 of the education law, as amended by
18 chapter 230 of the laws of 2004, is amended to read as follows:

19 1. Apply to the practice, conduct, activities, services or use of any
20 title by any person licensed or otherwise authorized to practice medi-
21 cine within the state pursuant to article one hundred thirty-one of this
22 title or by any person registered to perform services as a physician
23 assistant within the state pursuant to article one hundred thirty-one-B
24 of this title or by any person licensed or otherwise authorized to prac-
25 tice psychology within this state pursuant to article one hundred
26 fifty-three of this title or by any person licensed or otherwise author-
27 ized to practice nursing as a registered professional nurse or nurse
28 practitioner within this state pursuant to article one hundred thirty-
29 nine of this title or by any person licensed or otherwise authorized to
30 practice occupational therapy within this state pursuant to article one
31 hundred fifty-six of this title or by any person licensed or otherwise
32 authorized to practice mental health counseling, marriage and family
33 therapy, creative arts therapy, or psychoanalysis within the state
34 pursuant to article one hundred sixty-three of this title OR BY ANY
35 PERSON LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE APPLIED BEHAVIOR
36 ANALYSIS WITHIN THE STATE PURSUANT TO ARTICLE ONE HUNDRED SIXTY-SEVEN OF
37 THIS TITLE; provided, however, that no physician, physician assistant,
38 registered professional nurse, nurse practitioner, psychologist, occupa-
39 tional therapist, licensed mental health counselor, licensed marriage
40 and family therapist, licensed creative arts therapist, [or] licensed
41 psychoanalyst, LICENSED BEHAVIOR ANALYST OR CERTIFIED BEHAVIOR ANALYST
42 ASSISTANT may use the titles "licensed clinical social worker" or
43 "licensed master social worker", unless licensed under this article.

44 S 5. Subdivision 1 of section 8410 of the education law, as amended by
45 chapter 210 of the laws of 2004, is amended to read as follows:

46 1. Apply to the practice, conduct, activities, services or use of any
47 title by any person licensed or otherwise authorized to practice medi-
48 cine within the state pursuant to article one hundred thirty-one of this
49 title or by any person registered to perform services as a physician
50 assistant within the state pursuant to article one hundred thirty-one-B
51 of this title or by any person licensed or otherwise authorized to prac-
52 tice psychology within this state pursuant to article one hundred
53 fifty-three of this title or by any person licensed or otherwise author-
54 ized to practice social work within this state pursuant to article one
55 hundred fifty-four of this title, or by any person licensed or otherwise
56 authorized to practice nursing as a registered professional nurse or

1 nurse practitioner within this state pursuant to article one hundred
2 thirty-nine of this title OR BY ANY PERSON LICENSED OR OTHERWISE AUTHOR-
3 IZED TO PRACTICE APPLIED BEHAVIOR ANALYSIS WITHIN THE STATE PURSUANT TO
4 ARTICLE ONE HUNDRED SIXTY-SEVEN OF THIS TITLE; provided, however, that
5 no physician, physician's assistant, registered professional nurse,
6 nurse practitioner, psychologist, licensed master social worker, [or]
7 licensed clinical social worker, LICENSED BEHAVIOR ANALYST OR CERTIFIED
8 BEHAVIOR ANALYST ASSISTANT may use the titles "licensed mental health
9 counselor", "licensed marriage and family therapist", "licensed creative
10 arts therapist", or "licensed psychoanalyst", unless licensed under this
11 article.

12 S 6. Subdivision (a) of section 1203 of the limited liability company
13 law, as separately amended by chapters 420 and 676 of the laws of 2002,
14 is amended to read as follows:

15 (a) Notwithstanding the education law or any other provision of law,
16 one or more professionals each of whom is authorized by law to render a
17 professional service within the state, or one or more professionals, at
18 least one of whom is authorized by law to render a professional service
19 within the state, may form, or cause to be formed, a professional
20 service limited liability company for pecuniary profit under this arti-
21 cle for the purpose of rendering the professional service or services as
22 such professionals are authorized to practice. With respect to a profes-
23 sional service limited liability company formed to provide medical
24 services as such services are defined in article 131 of the education
25 law, each member of such limited liability company must be licensed
26 pursuant to article 131 of the education law to practice medicine in
27 this state. With respect to a professional service limited liability
28 company formed to provide dental services as such services are defined
29 in article 133 of the education law, each member of such limited liabil-
30 ity company must be licensed pursuant to article 133 of the education
31 law to practice dentistry in this state. With respect to a professional
32 service limited liability company formed to provide veterinary services
33 as such services are defined in article 135 of the education law, each
34 member of such limited liability company must be licensed pursuant to
35 article 135 of the education law to practice veterinary medicine in this
36 state. With respect to a professional service limited liability company
37 formed to provide professional engineering, land surveying, architec-
38 tural and/or landscape architectural services as such services are
39 defined in article 145, article 147 and article 148 of the education
40 law, each member of such limited liability company must be licensed
41 pursuant to article 145, article 147 and/or article 148 of the education
42 law to practice one or more of such professions in this state. With
43 respect to a professional service limited liability company formed to
44 provide licensed clinical social work services as such services are
45 defined in article 154 of the education law, each member of such limited
46 liability company shall be licensed pursuant to article 154 of the
47 education law to practice licensed clinical social work in this state.
48 With respect to a professional service limited liability company formed
49 to provide creative arts therapy services as such services are defined
50 in article 163 of the education law, each member of such limited liabil-
51 ity company must be licensed pursuant to article 163 of the education
52 law to practice creative arts therapy in this state. With respect to a
53 professional service limited liability company formed to provide
54 marriage and family therapy services as such services are defined in
55 article 163 of the education law, each member of such limited liability
56 company must be licensed pursuant to article 163 of the education law to

1 practice marriage and family therapy in this state. With respect to a
2 professional service limited liability company formed to provide mental
3 health counseling services as such services are defined in article 163
4 of the education law, each member of such limited liability company must
5 be licensed pursuant to article 163 of the education law to practice
6 mental health counseling in this state. With respect to a professional
7 service limited liability company formed to provide psychoanalysis
8 services as such services are defined in article 163 of the education
9 law, each member of such limited liability company must be licensed
10 pursuant to article 163 of the education law to practice psychoanalysis
11 in this state. WITH RESPECT TO A PROFESSIONAL SERVICE LIMITED LIABILITY
12 COMPANY FORMED TO PROVIDE APPLIED BEHAVIOR ANALYSIS SERVICES AS SUCH
13 SERVICES ARE DEFINED IN ARTICLE 167 OF THE EDUCATION LAW, EACH MEMBER OF
14 SUCH LIMITED LIABILITY COMPANY MUST BE LICENSED OR CERTIFIED PURSUANT TO
15 ARTICLE 167 OF THE EDUCATION LAW TO PRACTICE APPLIED BEHAVIOR ANALYSIS
16 IN THIS STATE. In addition to engaging in such profession or
17 professions, a professional service limited liability company may engage
18 in any other business or activities as to which a limited liability
19 company may be formed under section two hundred one of this chapter.
20 Notwithstanding any other provision of this section, a professional
21 service limited liability company (i) authorized to practice law may
22 only engage in another profession or business or activities or (ii)
23 which is engaged in a profession or other business or activities other
24 than law may only engage in the practice of law, to the extent not
25 prohibited by any other law of this state or any rule adopted by the
26 appropriate appellate division of the supreme court or the court of
27 appeals.

28 S 7. Subdivision (b) of section 1207 of the limited liability company
29 law, as separately amended by chapters 420 and 676 of the laws of 2002,
30 is amended to read as follows:

31 (b) With respect to a professional service limited liability company
32 formed to provide medical services as such services are defined in arti-
33 cle 131 of the education law, each member of such limited liability
34 company must be licensed pursuant to article 131 of the education law to
35 practice medicine in this state. With respect to a professional service
36 limited liability company formed to provide dental services as such
37 services are defined in article 133 of the education law, each member of
38 such limited liability company must be licensed pursuant to article 133
39 of the education law to practice dentistry in this state. With respect
40 to a professional service limited liability company formed to provide
41 veterinary services as such services are defined in article 135 of the
42 education law, each member of such limited liability company must be
43 licensed pursuant to article 135 of the education law to practice veter-
44 inary medicine in this state. With respect to a professional service
45 limited liability company formed to provide professional engineering,
46 land surveying, architectural and/or landscape architectural services as
47 such services are defined in article 145, article 147 and article 148 of
48 the education law, each member of such limited liability company must be
49 licensed pursuant to article 145, article 147 and/or article 148 of the
50 education law to practice one or more of such professions in this state.
51 With respect to a professional service limited liability company formed
52 to provide licensed clinical social work services as such services are
53 defined in article 154 of the education law, each member of such limited
54 liability company shall be licensed pursuant to article 154 of the
55 education law to practice licensed clinical social work in this state.
56 With respect to a professional service limited liability company formed

1 to provide creative arts therapy services as such services are defined
2 in article 163 of the education law, each member of such limited liabil-
3 ity company must be licensed pursuant to article 163 of the education
4 law to practice creative arts therapy in this state. With respect to a
5 professional service limited liability company formed to provide
6 marriage and family therapy services as such services are defined in
7 article 163 of the education law, each member of such limited liability
8 company must be licensed pursuant to article 163 of the education law to
9 practice marriage and family therapy in this state. With respect to a
10 professional service limited liability company formed to provide mental
11 health counseling services as such services are defined in article 163
12 of the education law, each member of such limited liability company must
13 be licensed pursuant to article 163 of the education law to practice
14 mental health counseling in this state. With respect to a professional
15 service limited liability company formed to provide psychoanalysis
16 services as such services are defined in article 163 of the education
17 law, each member of such limited liability company must be licensed
18 pursuant to article 163 of the education law to practice psychoanalysis
19 in this state. WITH RESPECT TO A PROFESSIONAL SERVICE LIMITED LIABILITY
20 COMPANY FORMED TO PROVIDE APPLIED BEHAVIOR ANALYSIS SERVICES AS SUCH
21 SERVICES ARE DEFINED IN ARTICLE 167 OF THE EDUCATION LAW, EACH MEMBER OF
22 SUCH LIMITED LIABILITY COMPANY MUST BE LICENSED OR CERTIFIED PURSUANT TO
23 ARTICLE 167 OF THE EDUCATION LAW TO PRACTICE APPLIED BEHAVIOR ANALYSIS
24 IN THIS STATE.

25 S 8. Subdivision (a) of section 1301 of the limited liability company
26 law, as separately amended by chapters 420 and 676 of the laws of 2002,
27 is amended to read as follows:

28 (a) "Foreign professional service limited liability company" means a
29 professional service limited liability company, whether or not denomi-
30 nated as such, organized under the laws of a jurisdiction other than
31 this state, (i) each of whose members and managers, if any, is a profes-
32 sional authorized by law to render a professional service within this
33 state and who is or has been engaged in the practice of such profession
34 in such professional service limited liability company or a predecessor
35 entity, or will engage in the practice of such profession in the profes-
36 sional service limited liability company within thirty days of the date
37 such professional becomes a member, or each of whose members and manag-
38 ers, if any, is a professional at least one of such members is author-
39 ized by law to render a professional service within this state and who
40 is or has been engaged in the practice of such profession in such
41 professional service limited liability company or a predecessor entity,
42 or will engage in the practice of such profession in the professional
43 service limited liability company within thirty days of the date such
44 professional becomes a member, or (ii) authorized by, or holding a
45 license, certificate, registration or permit issued by the licensing
46 authority pursuant to, the education law to render a professional
47 service within this state; except that all members and managers, if any,
48 of a foreign professional service limited liability company that
49 provides health services in this state shall be licensed in this state.
50 With respect to a foreign professional service limited liability company
51 which provides veterinary services as such services are defined in arti-
52 cle 135 of the education law, each member of such foreign professional
53 service limited liability company shall be licensed pursuant to article
54 135 of the education law to practice veterinary medicine. With respect
55 to a foreign professional service limited liability company which
56 provides medical services as such services are defined in article 131 of

1 the education law, each member of such foreign professional service
2 limited liability company must be licensed pursuant to article 131 of
3 the education law to practice medicine in this state. With respect to a
4 foreign professional service limited liability company which provides
5 dental services as such services are defined in article 133 of the
6 education law, each member of such foreign professional service limited
7 liability company must be licensed pursuant to article 133 of the educa-
8 tion law to practice dentistry in this state. With respect to a foreign
9 professional service limited liability company which provides profes-
10 sional engineering, land surveying, architectural and/or landscape
11 architectural services as such services are defined in article 145,
12 article 147 and article 148 of the education law, each member of such
13 foreign professional service limited liability company must be licensed
14 pursuant to article 145, article 147 and/or article 148 of the education
15 law to practice one or more of such professions in this state. With
16 respect to a foreign professional service limited liability company
17 which provides licensed clinical social work services as such services
18 are defined in article 154 of the education law, each member of such
19 foreign professional service limited liability company shall be licensed
20 pursuant to article 154 of the education law to practice clinical social
21 work in this state. With respect to a foreign professional service
22 limited liability company which provides creative arts therapy services
23 as such services are defined in article 163 of the education law, each
24 member of such foreign professional service limited liability company
25 must be licensed pursuant to article 163 of the education law to prac-
26 tice creative arts therapy in this state. With respect to a foreign
27 professional service limited liability company which provides marriage
28 and family therapy services as such services are defined in article 163
29 of the education law, each member of such foreign professional service
30 limited liability company must be licensed pursuant to article 163 of
31 the education law to practice marriage and family therapy in this state.
32 With respect to a foreign professional service limited liability company
33 which provides mental health counseling services as such services are
34 defined in article 163 of the education law, each member of such foreign
35 professional service limited liability company must be licensed pursuant
36 to article 163 of the education law to practice mental health counseling
37 in this state. With respect to a foreign professional service limited
38 liability company which provides psychoanalysis services as such
39 services are defined in article 163 of the education law, each member of
40 such foreign professional service limited liability company must be
41 licensed pursuant to article 163 of the education law to practice
42 psychoanalysis in this state. WITH RESPECT TO A FOREIGN PROFESSIONAL
43 SERVICE LIMITED LIABILITY COMPANY WHICH PROVIDES APPLIED BEHAVIOR ANALY-
44 SIS SERVICES AS SUCH SERVICES ARE DEFINED IN ARTICLE 167 OF THE EDUCA-
45 TION LAW, EACH MEMBER OF SUCH FOREIGN PROFESSIONAL SERVICE LIMITED
46 LIABILITY COMPANY MUST BE LICENSED OR CERTIFIED PURSUANT TO ARTICLE 167
47 OF THE EDUCATION LAW TO PRACTICE APPLIED BEHAVIOR ANALYSIS IN THIS
48 STATE.

49 S 9. Subdivision (q) of section 121-1500 of the partnership law, as
50 separately amended by chapters 420 and 676 of the laws of 2002, is
51 amended to read as follows:

52 (q) Each partner of a registered limited liability partnership formed
53 to provide medical services in this state must be licensed pursuant to
54 article 131 of the education law to practice medicine in this state and
55 each partner of a registered limited liability partnership formed to
56 provide dental services in this state must be licensed pursuant to arti-

1 cle 133 of the education law to practice dentistry in this state. Each
2 partner of a registered limited liability partnership formed to provide
3 veterinary services in this state must be licensed pursuant to article
4 135 of the education law to practice veterinary medicine in this state.
5 Each partner of a registered limited liability partnership formed to
6 provide professional engineering, land surveying, architectural and/or
7 landscape architectural services in this state must be licensed pursuant
8 to article 145, article 147 and/or article 148 of the education law to
9 practice one or more of such professions in this state. Each partner of
10 a registered limited liability partnership formed to provide licensed
11 clinical social work services in this state must be licensed pursuant to
12 article 154 of the education law to practice clinical social work in
13 this state. Each partner of a registered limited liability partnership
14 formed to provide creative arts therapy services in this state must be
15 licensed pursuant to article 163 of the education law to practice crea-
16 tive arts therapy in this state. Each partner of a registered limited
17 liability partnership formed to provide marriage and family therapy
18 services in this state must be licensed pursuant to article 163 of the
19 education law to practice marriage and family therapy in this state.
20 Each partner of a registered limited liability partnership formed to
21 provide mental health counseling services in this state must be licensed
22 pursuant to article 163 of the education law to practice mental health
23 counseling in this state. Each partner of a registered limited liability
24 partnership formed to provide psychoanalysis services in this state must
25 be licensed pursuant to article 163 of the education law to practice
26 psychoanalysis in this state. EACH PARTNER OF A REGISTERED LIMITED
27 LIABILITY PARTNERSHIP FORMED TO PROVIDE APPLIED BEHAVIOR ANALYSIS
28 SERVICE IN THIS STATE MUST BE LICENSED OR CERTIFIED PURSUANT TO ARTICLE
29 167 OF THE EDUCATION LAW TO PRACTICE APPLIED BEHAVIOR ANALYSIS IN THIS
30 STATE.

31 S 10. Subdivision (q) of section 121-1502 of the partnership law, as
32 amended by chapter 230 of the laws of 2004, is amended to read as
33 follows:

34 (q) Each partner of a foreign limited liability partnership which
35 provides medical services in this state must be licensed pursuant to
36 article 131 of the education law to practice medicine in the state and
37 each partner of a foreign limited liability partnership which provides
38 dental services in the state must be licensed pursuant to article 133 of
39 the education law to practice dentistry in this state. Each partner of a
40 foreign limited liability partnership which provides veterinary service
41 in the state shall be licensed pursuant to article 135 of the education
42 law to practice veterinary medicine in this state. Each partner of a
43 foreign limited liability partnership which provides professional engi-
44 neering, land surveying, architectural and/or landscape architectural
45 services in this state must be licensed pursuant to article 145, article
46 147 and/or article 148 of the education law to practice one or more of
47 such professions. Each partner of a foreign limited liability partner-
48 ship which provides licensed clinical social work services in this state
49 must be licensed pursuant to article 154 of the education law to prac-
50 tice licensed clinical social work in this state. Each partner of a
51 foreign limited liability partnership which provides creative arts ther-
52 apy services in this state must be licensed pursuant to article 163 of
53 the education law to practice creative arts therapy in this state. Each
54 partner of a foreign limited liability partnership which provides
55 marriage and family therapy services in this state must be licensed
56 pursuant to article 163 of the education law to practice marriage and

1 family therapy in this state. Each partner of a foreign limited liabil-
2 ity partnership which provides mental health counseling services in this
3 state must be licensed pursuant to article 163 of the education law to
4 practice mental health counseling in this state. Each partner of a
5 foreign limited liability partnership which provides psychoanalysis
6 services in this state must be licensed pursuant to article 163 of the
7 education law to practice psychoanalysis in this state. EACH PARTNER OF
8 A FOREIGN LIMITED LIABILITY PARTNERSHIP WHICH PROVIDES APPLIED BEHAVIOR
9 ANALYSIS SERVICES IN THIS STATE MUST BE LICENSED OR CERTIFIED PURSUANT
10 TO ARTICLE 167 OF THE EDUCATION LAW TO PRACTICE APPLIED BEHAVIOR ANALY-
11 SIS IN THIS STATE.

12 S 11. Paragraph a of subdivision 3 of section 6507 of the education
13 law, as amended by chapter 356 of the laws of 2006, is amended to read
14 as follows:

15 a. Establish standards for preprofessional and professional education,
16 experience and licensing examinations as required to implement the arti-
17 cle for each profession. Notwithstanding any other provision of law, the
18 commissioner shall establish standards requiring that all persons apply-
19 ing, on or after January first, nineteen hundred ninety-one, initially,
20 or for the renewal of, a license, registration or limited permit to be a
21 physician, chiropractor, dentist, registered nurse, podiatrist, optome-
22 trist, psychiatrist, psychologist, licensed master social worker,
23 licensed clinical social worker, licensed creative arts therapist,
24 licensed marriage and family therapist, licensed mental health counse-
25 lor, licensed psychoanalyst, [or] dental hygienist, LICENSED BEHAVIOR
26 ANALYST, OR CERTIFIED BEHAVIOR ANALYST ASSISTANT shall, in addition to
27 all the other licensure, certification or permit requirements, have
28 completed two hours of coursework or training regarding the identifica-
29 tion and reporting of child abuse and maltreatment. The coursework or
30 training shall be obtained from an institution or provider which has
31 been approved by the department to provide such coursework or training.
32 The coursework or training shall include information regarding the phys-
33 ical and behavioral indicators of child abuse and maltreatment and the
34 statutory reporting requirements set out in sections four hundred thir-
35 teen through four hundred twenty of the social services law, including
36 but not limited to, when and how a report must be made, what other
37 actions the reporter is mandated or authorized to take, the legal
38 protections afforded reporters, and the consequences for failing to
39 report. Such coursework or training may also include information regard-
40 ing the physical and behavioral indicators of the abuse of individuals
41 with mental retardation and other developmental disabilities and volun-
42 tary reporting of abused or neglected adults to the office of mental
43 retardation and developmental disabilities or the local adult protective
44 services unit. Each applicant shall provide the department with documen-
45 tation showing that he or she has completed the required training. The
46 department shall provide an exemption from the child abuse and maltreat-
47 ment training requirements to any applicant who requests such an
48 exemption and who shows, to the department's satisfaction, that there
49 would be no need because of the nature of his or her practice for him or
50 her to complete such training;

51 S 12. Paragraph (a) of subdivision 1 of section 413 of the social
52 services law, as amended by section 3 of part D of chapter 501 of the
53 laws of 2012, is amended to read as follows:

54 (a) The following persons and officials are required to report or
55 cause a report to be made in accordance with this title when they have
56 reasonable cause to suspect that a child coming before them in their

1 professional or official capacity is an abused or maltreated child, or
2 when they have reasonable cause to suspect that a child is an abused or
3 maltreated child where the parent, guardian, custodian or other person
4 legally responsible for such child comes before them in their profes-
5 sional or official capacity and states from personal knowledge facts,
6 conditions or circumstances which, if correct, would render the child an
7 abused or maltreated child: any physician; registered physician assist-
8 ant; surgeon; medical examiner; coroner; dentist; dental hygienist;
9 osteopath; optometrist; chiropractor; podiatrist; resident; intern;
10 psychologist; registered nurse; social worker; emergency medical techni-
11 cian; licensed creative arts therapist; licensed marriage and family
12 therapist; licensed mental health counselor; licensed psychoanalyst;
13 LICENSED BEHAVIOR ANALYST; CERTIFIED BEHAVIOR ANALYST ASSISTANT; hospi-
14 tal personnel engaged in the admission, examination, care or treatment
15 of persons; a Christian Science practitioner; school official, which
16 includes but is not limited to school teacher, school guidance counse-
17 lor, school psychologist, school social worker, school nurse, school
18 administrator or other school personnel required to hold a teaching or
19 administrative license or certificate; social services worker; director
20 of a children's overnight camp, summer day camp or traveling summer day
21 camp, as such camps are defined in section thirteen hundred ninety-two
22 of the public health law; day care center worker; school-age child care
23 worker; provider of family or group family day care; or any other child
24 care or foster care worker; mental health professional; substance abuse
25 counselor; alcoholism counselor; all persons credentialed by the office
26 of alcoholism and substance abuse services; peace officer; police offi-
27 cer; district attorney or assistant district attorney; investigator
28 employed in the office of a district attorney; or other law enforcement
29 official.

30 S 13. If any section of article 167 of the education law, as added by
31 section one of this act, or part thereof, shall be adjudged by any court
32 of competent jurisdiction to be invalid, such judgment shall not affect,
33 impair or invalidate the remainder of any other section or part thereof.

34 S 14. The provisions of sections eleven and twelve of this act shall
35 not apply to persons applying for licensure or certification or to
36 persons licensed or certified pursuant to section 8805 of the education
37 law until such licensed or certified person re-registers their license
38 or certification in accordance with the provisions of paragraph g of
39 subdivisions 1 and 2 of section 8804 of the education law as added by
40 section one of this act.

41 S 15. This act shall take effect July 1, 2014: provided, however,
42 that if section 3 of part D of chapter 501 of the laws of 2012 is not in
43 effect on such date, then the amendments to paragraph (a) of subdivision
44 1 of section 413 of the social services law made by section twelve of
45 this act shall take effect on the same date and in the same manner as
46 such chapter of the laws of 2012, takes effect; provided further that
47 sections six, seven, eight, nine and ten of this act and section 8805 of
48 the education law as added by section one of this act shall take effect
49 immediately; and provided further that effective immediately, the addi-
50 tion, amendment and/or repeal of any rule or regulation necessary for
51 the implementation of this act on its effective date are authorized and
52 directed to be made and completed on or before such effective date.