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Introduced by Sens. FUSCHILLO, LAVALLE, FLANAGAN, PARKER, SAVINO, 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 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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-

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

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1 AL PROVISIONS FOR ALL PROFESSIONS CONTAINED IN ARTICLE ONE HUNDRED THIR-
2 TY OF THIS TITLE APPLY TO THIS ARTICLE.

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

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

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

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."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 S 8806. LIMITED PERMITS. THE FOLLOWING REQUIREMENTS FOR A LIMITED
43 PERMIT SHALL APPLY TO ALL PROFESSIONS LICENSED OR CERTIFIED PURSUANT TO
44 THIS ARTICLE:

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

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

50 3. THE FEE FOR EACH LIMITED PERMIT AND FOR EACH RENEWAL SHALL BE
51 SEVENTY DOLLARS.

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

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

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

5 A. BY A FEDERAL, STATE, COUNTY OR MUNICIPAL AGENCY, OR OTHER POLITICAL
6 SUBDIVISION;

7 B. BY A CHARTERED ELEMENTARY OR SECONDARY SCHOOL OR DEGREE-GRANTING
8 INSTITUTION;

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

13 D. IN A SETTING TO THE EXTENT THAT THE EXEMPTION IN PARAGRAPH D OF
14 SUBDIVISION SIX OF SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER
15 APPLIES.

16 3. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS PROHIBITING A CERTI-
17 FIED TEACHER OR TEACHING ASSISTANT, OTHER THAN A PUPIL PERSONNEL
18 SERVICES PROFESSIONAL, FROM PERFORMING THE DUTIES OF A LICENSED BEHAVIOR
19 ANALYST OR CERTIFIED BEHAVIOR ANALYST ASSISTANT, IN THE COURSE OF SUCH
20 EMPLOYMENT OR CONTRACTUAL AGREEMENT, IF SUCH PERSON IS EMPLOYED OR
21 CONTRACTED WITH AN AGENCY APPROVED BY THE DEPARTMENT OF HEALTH TO
22 PROVIDE EARLY INTERVENTION SERVICES OR HAS AN AGREEMENT WITH THE DEPART-
23 MENT OF HEALTH TO PROVIDE EARLY INTERVENTION SERVICES PURSUANT TO TITLE
24 TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW.

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

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

43 2. THE BOARD SHALL CONSIST OF SEVEN INDIVIDUALS, TO BE COMPOSED OF THE
44 FOLLOWING:

45 (A) THREE LICENSED BEHAVIOR ANALYSTS;

46 (B) ONE CERTIFIED BEHAVIOR ANALYST ASSISTANT;

47 (C) ONE LICENSED PSYCHOLOGIST, WHO MAY CURRENTLY PRESCRIBE TREATMENT
48 INVOLVING APPLIED BEHAVIOR ANALYSIS IN HIS OR HER PROFESSIONAL PRACTICE;
49 AND

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

52 S 2. Subparagraph (i) of paragraph a of subdivision 1 of section
53 6503-a of the education law, as added by chapter 130 of the laws of
54 2010, is amended to read as follows:

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

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

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

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

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

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

51 1. Apply to the practice, conduct, activities, services or use of any
52 title by any person licensed or otherwise authorized to practice medi-
53 cine within the state pursuant to article one hundred thirty-one of this
54 title or by any person registered to perform services as a physician
55 assistant within the state pursuant to article one hundred thirty-one-B
56 of this title or by any person licensed or otherwise authorized to prac-

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

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

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

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

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

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

1 to provide licensed clinical social work services as such services are
2 defined in article 154 of the education law, each member of such limited
3 liability company shall be licensed pursuant to article 154 of the
4 education law to practice licensed clinical social work in this state.
5 With respect to a professional service limited liability company formed
6 to provide creative arts therapy services as such services are defined
7 in article 163 of the education law, each member of such limited liabil-
8 ity company must be licensed pursuant to article 163 of the education
9 law to practice creative arts therapy in this state. With respect to a
10 professional service limited liability company formed to provide
11 marriage and family therapy services as such services are defined in
12 article 163 of the education law, each member of such limited liability
13 company must be licensed pursuant to article 163 of the education law to
14 practice marriage and family therapy in this state. With respect to a
15 professional service limited liability company formed to provide mental
16 health counseling services as such services are defined in article 163
17 of the education law, each member of such limited liability company must
18 be licensed pursuant to article 163 of the education law to practice
19 mental health counseling in this state. With respect to a professional
20 service limited liability company formed to provide psychoanalysis
21 services as such services are defined in article 163 of the education
22 law, each member of such limited liability company must be licensed
23 pursuant to article 163 of the education law to practice psychoanalysis
24 in this state. WITH RESPECT TO A PROFESSIONAL SERVICE LIMITED LIABILITY
25 COMPANY FORMED TO PROVIDE APPLIED BEHAVIOR ANALYSIS SERVICES AS SUCH
26 SERVICES ARE DEFINED IN ARTICLE 167 OF THE EDUCATION LAW, EACH MEMBER OF
27 SUCH LIMITED LIABILITY COMPANY MUST BE LICENSED OR CERTIFIED PURSUANT TO
28 ARTICLE 167 OF THE EDUCATION LAW TO PRACTICE APPLIED BEHAVIOR ANALYSIS
29 IN THIS STATE.

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

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

1 cle 135 of the education law, each member of such foreign professional
2 service limited liability company shall be licensed pursuant to article
3 135 of the education law to practice veterinary medicine. With respect
4 to a foreign professional service limited liability company which
5 provides medical services as such services are defined in article 131 of
6 the education law, each member of such foreign professional service
7 limited liability company must be licensed pursuant to article 131 of
8 the education law to practice medicine in this state. With respect to a
9 foreign professional service limited liability company which provides
10 dental services as such services are defined in article 133 of the
11 education law, each member of such foreign professional service limited
12 liability company must be licensed pursuant to article 133 of the educa-
13 tion law to practice dentistry in this state. With respect to a foreign
14 professional service limited liability company which provides profes-
15 sional engineering, land surveying, architectural and/or landscape
16 architectural services as such services are defined in article 145,
17 article 147 and article 148 of the education law, each member of such
18 foreign professional service limited liability company must be licensed
19 pursuant to article 145, article 147 and/or article 148 of the education
20 law to practice one or more of such professions in this state. With
21 respect to a foreign professional service limited liability company
22 which provides licensed clinical social work services as such services
23 are defined in article 154 of the education law, each member of such
24 foreign professional service limited liability company shall be licensed
25 pursuant to article 154 of the education law to practice clinical social
26 work in this state. With respect to a foreign professional service
27 limited liability company which provides creative arts therapy services
28 as such services are defined in article 163 of the education law, each
29 member of such foreign professional service limited liability company
30 must be licensed pursuant to article 163 of the education law to prac-
31 tice creative arts therapy in this state. With respect to a foreign
32 professional service limited liability company which provides marriage
33 and family therapy services as such services are defined in article 163
34 of the education law, each member of such foreign professional service
35 limited liability company must be licensed pursuant to article 163 of
36 the education law to practice marriage and family therapy in this state.
37 With respect to a foreign professional service limited liability company
38 which provides mental health counseling services as such services are
39 defined in article 163 of the education law, each member of such foreign
40 professional service limited liability company must be licensed pursuant
41 to article 163 of the education law to practice mental health counseling
42 in this state. With respect to a foreign professional service limited
43 liability company which provides psychoanalysis services as such
44 services are defined in article 163 of the education law, each member of
45 such foreign professional service limited liability company must be
46 licensed pursuant to article 163 of the education law to practice
47 psychoanalysis in this state. WITH RESPECT TO A FOREIGN PROFESSIONAL
48 SERVICE LIMITED LIABILITY COMPANY WHICH PROVIDES APPLIED BEHAVIOR ANALY-
49 SIS SERVICES AS SUCH SERVICES ARE DEFINED IN ARTICLE 167 OF THE EDUCA-
50 TION LAW, EACH MEMBER OF SUCH FOREIGN PROFESSIONAL SERVICE LIMITED
51 LIABILITY COMPANY MUST BE LICENSED OR CERTIFIED PURSUANT TO ARTICLE 167
52 OF THE EDUCATION LAW TO PRACTICE APPLIED BEHAVIOR ANALYSIS IN THIS
53 STATE.

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

1 (q) Each partner of a registered limited liability partnership formed
2 to provide medical services in this state must be licensed pursuant to
3 article 131 of the education law to practice medicine in this state and
4 each partner of a registered limited liability partnership formed to
5 provide dental services in this state must be licensed pursuant to arti-
6 cle 133 of the education law to practice dentistry in this state. Each
7 partner of a registered limited liability partnership formed to provide
8 veterinary services in this state must be licensed pursuant to article
9 135 of the education law to practice veterinary medicine in this state.
10 Each partner of a registered limited liability partnership formed to
11 provide professional engineering, land surveying, architectural and/or
12 landscape architectural services in this state must be licensed pursuant
13 to article 145, article 147 and/or article 148 of the education law to
14 practice one or more of such professions in this state. Each partner of
15 a registered limited liability partnership formed to provide licensed
16 clinical social work services in this state must be licensed pursuant to
17 article 154 of the education law to practice clinical social work in
18 this state. Each partner of a registered limited liability partnership
19 formed to provide creative arts therapy services in this state must be
20 licensed pursuant to article 163 of the education law to practice crea-
21 tive arts therapy in this state. Each partner of a registered limited
22 liability partnership formed to provide marriage and family therapy
23 services in this state must be licensed pursuant to article 163 of the
24 education law to practice marriage and family therapy in this state.
25 Each partner of a registered limited liability partnership formed to
26 provide mental health counseling services in this state must be licensed
27 pursuant to article 163 of the education law to practice mental health
28 counseling in this state. Each partner of a registered limited liability
29 partnership formed to provide psychoanalysis services in this state must
30 be licensed pursuant to article 163 of the education law to practice
31 psychoanalysis in this state. EACH PARTNER OF A REGISTERED LIMITED
32 LIABILITY PARTNERSHIP FORMED TO PROVIDE APPLIED BEHAVIOR ANALYSIS
33 SERVICE IN THIS STATE MUST BE LICENSED OR CERTIFIED PURSUANT TO ARTICLE
34 167 OF THE EDUCATION LAW TO PRACTICE APPLIED BEHAVIOR ANALYSIS IN THIS
35 STATE.

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

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

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

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

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

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

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

36 S 13. a. Nothing in this act shall be construed as prohibiting a
37 person from performing the duties of a licensed behavior analyst or a
38 certified behavior analyst assistant, in the course of such employment,
39 if such person is employed by programs licensed, certified, operated, or
40 funded and regulated by the office for people with developmental disa-
41 bilities or the office of mental health; provided, however, that this
42 section shall not authorize the use of any title authorized pursuant to
43 article 167 of the education law; and provided further, however, that
44 this section shall be deemed repealed on July 1, 2018.

45 b. On or before September 1, 2016, the office for people with develop-
46 mental disabilities and the office of mental health as identified in
47 subdivision a of this section that licenses, certifies, operates or
48 funds and regulates programs that employ individuals to provide services
49 that would otherwise be restricted to individuals licensed or authorized
50 under article 167 of the education law, shall submit to the commissioner
51 of education, in such form and detail as requested by such commissioner,
52 data in relation to: the number of individuals employed in exempt
53 programs licensed, certified, operated, or funded and regulated by the
54 office for people with developmental disabilities on July 1, 2016 who
55 are providing services that would otherwise be restricted to those
56 licensed or authorized under article 167 of the education law; and the

1 occupational title of individuals who on July 1, 2016 are not licensed
2 or otherwise authorized under title 8 of the education law, and who are
3 engaged in the practice of applied behavior analysis for the purpose of
4 providing behavioral health treatment for persons with autism and autism
5 spectrum disorders and related disorders.

6 c. The commissioner of education, after receipt of this data and in
7 consultation with the office for people with developmental disabilities
8 and the office of mental health, not-for-profit providers, professional
9 associations, consumers and other key stakeholders, shall prepare a
10 report that recommends changes in any laws, rules or regulations neces-
11 sary to ensure appropriate licensure or other authorization of individ-
12 uals providing services that are within the restricted practice of
13 professions licensed or otherwise authorized under article 167 of the
14 education law. The report shall include an estimate of the fiscal impact
15 of any such recommended changes and, to the extent practicable, how such
16 recommendations will result in improved outcomes. The commissioner of
17 education shall submit the report to the governor, the speaker of the
18 assembly, the temporary president of the senate, and the chairs of the
19 senate and assembly higher education committees by January 1, 2017. The
20 commissioners of the agencies identified in subdivision a of this
21 section shall be provided an opportunity to include statements or alter-
22 native recommendations in such report.

23 S 14. If any section of article 167 of the education law, as added by
24 section one of this act, or part thereof, shall be adjudged by any court
25 of competent jurisdiction to be invalid, such judgment shall not affect,
26 impair or invalidate the remainder of any other section or part thereof.

27 S 15. The provisions of sections eleven and twelve of this act shall
28 not apply to persons applying for licensure or certification or to
29 persons licensed or certified pursuant to section 8805 of the education
30 law until such licensed or certified person re-registers their license
31 or certification in accordance with the provisions of paragraph g of
32 subdivisions 1 and 2 of section 8804 of the education law as added by
33 section one of this act.

34 S 16. This act shall take effect July 1, 2014: provided, however,
35 that if section 3 of part D of chapter 501 of the laws of 2012 is not in
36 effect on such date, then the amendments to paragraph (a) of subdivision
37 1 of section 413 of the social services law made by section twelve of
38 this act shall take effect on the same date and in the same manner as
39 such chapter of the laws of 2012, takes effect; provided further that
40 sections six, seven, eight, nine and ten of this act and section 8805 of
41 the education law as added by section one of this act shall take effect
42 immediately; and provided further that effective immediately, the addi-
43 tion, amendment and/or repeal of any rule or regulation necessary for
44 the implementation of this act on its effective date are authorized and
45 directed to be made and completed on or before such effective date.