

1 BEHAVIOR, INCLUDING THE USE OF DIRECT OBSERVATION, MEASUREMENT, AND
2 FUNCTIONAL ANALYSIS OF THE RELATIONSHIP BETWEEN ENVIRONMENT AND BEHAV-
3 IOR.

4 S 8802. DEFINITION OF THE PRACTICE OF "APPLIED BEHAVIOR ANALYSIS". 1.
5 THE PRACTICE OF "LICENSED APPLIED BEHAVIOR ANALYST" SHALL MEAN THE
6 DESIGN, IMPLEMENTATION AND EVALUATION OF ENVIRONMENTAL MODIFICATIONS,
7 USING BEHAVIORAL STIMULI AND CONSEQUENCES, TO PRODUCE SOCIALLY SIGNIF-
8 ICANT IMPROVEMENT IN HUMAN BEHAVIOR, INCLUDING THE USE OF DIRECT OBSER-
9 VATION, MEASUREMENT, AND FUNCTIONAL ANALYSIS OF THE RELATIONSHIP BETWEEN
10 ENVIRONMENT AND BEHAVIOR, PURSUANT TO A DIAGNOSIS AND PRESCRIPTION OR
11 ORDER FROM A PERSON WHO IS LICENSED OR OTHERWISE AUTHORIZED TO PROVIDE
12 SUCH DIAGNOSTIC AND PRESCRIPTION OR ORDERING SERVICES PURSUANT TO A
13 PROFESSION ENUMERATED IN THIS TITLE, FOR THE PURPOSE OF PROVIDING BEHAV-
14 IORAL HEALTH SERVICES FOR PERSONS WITH AUTISM AND AUTISM SPECTRUM DISOR-
15 DERS; AND INCLUDES THE SUPERVISION OF CERTIFIED APPLIED BEHAVIOR ANALY-
16 SIS ASSISTANTS IN THE PROVISION OF ABA SERVICES TO INDIVIDUALS.

17 2. THE PRACTICE OF "CERTIFIED APPLIED BEHAVIOR ANALYSIS ASSISTANT"
18 MEANS THE SERVICES AND ACTIVITIES PROVIDED BY A PERSON CERTIFIED IN
19 ACCORDANCE WITH THIS ARTICLE WHO WORKS UNDER THE SUPERVISION OF A
20 LICENSED APPLIED BEHAVIOR ANALYST TO PERFORM SUCH PATIENT RELATED
21 APPLIED BEHAVIOR ANALYSIS TASKS AS ARE ASSIGNED BY THE SUPERVISING
22 LICENSED APPLIED BEHAVIOR ANALYST. SUPERVISION OF A CERTIFIED APPLIED
23 BEHAVIOR ANALYSIS ASSISTANT BY A LICENSED APPLIED BEHAVIOR ANALYST SHALL
24 BE IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER.

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

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

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

33 (B) USING INVASIVE PROCEDURES AS A TREATMENT, THERAPY, OR PROFESSIONAL
34 SERVICE IN THE PRACTICE OF HIS OR HER PROFESSION. FOR PURPOSES OF THIS
35 SUBDIVISION, "INVASIVE PROCEDURE" MEANS ANY PROCEDURE IN WHICH HUMAN
36 TISSUE IS CUT, ALTERED, OR OTHERWISE INFILTRATED BY MECHANICAL OR OTHER
37 MEANS. INVASIVE PROCEDURE INCLUDES, BUT IS NOT LIMITED TO, SURGERY,
38 LASERS, IONIZING RADIATION, THERAPEUTIC ULTRASOUND, OR ELECTROCONVULSIVE
39 THERAPY.

40 S 8803. THE PRACTICE OF AND USE OF THE TITLE "LICENSED APPLIED BEHAV-
41 IOR ANALYST" OR "CERTIFIED APPLIED BEHAVIOR ANALYSIS ASSISTANT". ONLY A
42 PERSON LICENSED, CERTIFIED OR EXEMPT UNDER THIS ARTICLE SHALL PRACTICE
43 APPLIED BEHAVIOR ANALYSIS. ONLY A PERSON LICENSED OR CERTIFIED UNDER
44 THIS ARTICLE SHALL USE THE TITLES "LICENSED APPLIED BEHAVIOR ANALYST" OR
45 "CERTIFIED APPLIED BEHAVIOR ANALYSIS ASSISTANT" OR ANY OTHER DESIGNATION
46 TENDING TO IMPLY THAT THE PERSON IS LICENSED OR CERTIFIED TO PRACTICE
47 APPLIED BEHAVIOR ANALYSIS.

48 S 8804. REQUIREMENTS AND PROCEDURES FOR PROFESSIONAL LICENSURE. 1. TO
49 QUALIFY FOR CERTIFICATION AS A CERTIFIED APPLIED BEHAVIOR ANALYSIS
50 ASSISTANT, AN APPLICANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

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

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

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

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

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

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

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

12 2. TO QUALIFY FOR A LICENSE AS A LICENSED APPLIED BEHAVIOR ANALYST, AN
13 APPLICANT SHALL FULFILL THE FOLLOWING REQUIREMENTS:

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

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

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

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

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

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

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

29 S 8805. SPECIAL PROVISIONS. AN INDIVIDUAL WHO MEETS THE REQUIREMENTS
30 FOR A LICENSE OR CERTIFICATION AS A LICENSED APPLIED BEHAVIOR ANALYST OR
31 A CERTIFIED APPLIED BEHAVIOR ANALYSIS ASSISTANT, EXCEPT FOR EXAMINATION,
32 EXPERIENCE AND EDUCATION, AND WHO IS CERTIFIED OR REGISTERED BY A
33 NATIONAL CERTIFYING BODY HAVING CERTIFICATION OR REGISTRATION STANDARDS
34 ACCEPTABLE TO THE COMMISSIONER, MAY BE LICENSED OR CERTIFIED, WITHOUT
35 MEETING ADDITIONAL REQUIREMENTS AS TO EXAMINATION, EXPERIENCE AND EDUCA-
36 TION, PROVIDED THAT SUCH INDIVIDUAL SUBMITS AN APPLICATION TO THE
37 DEPARTMENT WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS SECTION.

38 S 8806. LIMITED PERMITS. THE FOLLOWING REQUIREMENTS FOR A LIMITED
39 PERMIT SHALL APPLY TO ALL PROFESSIONS LICENSED OR CERTIFIED PURSUANT TO
40 THIS ARTICLE:

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

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

46 3. THE FEE FOR EACH LIMITED PERMIT AND FOR EACH RENEWAL SHALL BE
47 SEVENTY DOLLARS.

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

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

53 2. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS PROHIBITING A PERSON
54 EMPLOYED BY A FEDERAL, STATE, COUNTY OR MUNICIPAL AGENCY, OR OTHER POLI-
55 TICAL SUBDIVISION, OR A CHARTERED ELEMENTARY OR SECONDARY SCHOOL OR
56 DEGREE-GRANTING INSTITUTION, OR AS A CERTIFIED TEACHER OR TEACHING

1 ASSISTANT, OTHER THAN A PUPIL PERSONNEL SERVICES PROFESSIONAL, IN AN
2 APPROVED PROGRAM AS DEFINED IN PARAGRAPH B OF SUBDIVISION ONE OF SECTION
3 FORTY-FOUR HUNDRED TEN OF THIS CHAPTER, OR OTHER SETTING TO THE EXTENT
4 THAT THE EXEMPTION IN PARAGRAPH D OF SUBDIVISION SIX OF SECTION
5 FORTY-FOUR HUNDRED TEN OF THIS CHAPTER APPLIES, FROM PERFORMING THE
6 DUTIES OF A LICENSED APPLIED BEHAVIOR ANALYST OR A CERTIFIED APPLIED
7 BEHAVIOR ANALYSIS ASSISTANT, IN THE COURSE OF SUCH EMPLOYMENT.

8 3. NOTHING IN THE ARTICLE SHALL BE CONSTRUED AS PROHIBITING THE ACTIV-
9 ITIES AND SERVICES REQUIRED OF A STUDENT, INTERN, OR RESIDENT IN AN
10 EDUCATIONAL PROGRAM ACCEPTABLE TO THE DEPARTMENT PURSUANT TO THE COMMIS-
11 SIONER'S REGULATIONS, PURSUING A COURSE OF STUDY LEADING TO A BACHELOR
12 OR HIGHER DEGREE IN AN EDUCATIONAL PROGRAM ACCEPTABLE TO THE DEPARTMENT
13 PURSUANT TO THE COMMISSIONER'S REGULATIONS IN AN INSTITUTION APPROVED BY
14 THE DEPARTMENT, PROVIDED THAT SUCH ACTIVITIES AND SERVICES CONSTITUTE A
15 PART OF HIS OR HER SUPERVISED COURSE OF STUDY IN AN EDUCATIONAL PROGRAM
16 ACCEPTABLE TO THE DEPARTMENT PURSUANT TO THE COMMISSIONER'S REGULATIONS.
17 SUCH PERSON SHALL BE DESIGNED BY TITLE WHICH CLEARLY INDICATES HIS OR
18 HER TRAINING STATUS.

19 S 8808. STATE COMMITTEE FOR APPLIED BEHAVIOR ANALYSIS. 1. A STATE
20 COMMITTEE FOR APPLIED BEHAVIOR ANALYSIS SHALL BE APPOINTED BY THE BOARD
21 OF REGENTS UPON THE RECOMMENDATION OF THE COMMISSIONER AND SHALL ASSIST
22 ON MATTERS OF LICENSURE AND PROFESSIONAL CONDUCT IN ACCORDANCE WITH
23 SECTION SIXTY-FIVE HUNDRED EIGHT OF THIS TITLE. NOTWITHSTANDING THE
24 PROVISIONS OF SECTION SIXTY-FIVE HUNDRED EIGHT OF THIS TITLE, THE
25 COMMITTEE SHALL ASSIST THE BOARD FOR MENTAL HEALTH PRACTITIONERS SOLELY
26 IN APPLIED BEHAVIOR ANALYSIS MATTERS, WHICH BOARD SHALL ALSO SERVE AS
27 THE STATE BOARD FOR APPLIED BEHAVIOR ANALYSIS. MEMBERS OF THE FIRST
28 COMMITTEE PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION
29 NEED NOT BE LICENSED PRIOR TO THEIR APPOINTMENT TO THE COMMITTEE.

30 2. THE COMMITTEE SHALL CONSIST OF FIVE INDIVIDUALS, TO BE COMPOSED OF
31 THE FOLLOWING:

32 (A) THREE LICENSED APPLIED BEHAVIOR ANALYSTS, OR TWO LICENSED APPLIED
33 BEHAVIOR ANALYSTS AND ONE CERTIFIED APPLIED BEHAVIOR ANALYSIS ASSISTANT;

34 (B) ONE LICENSED PSYCHOLOGIST, WHO CURRENTLY PRESCRIBES TREATMENT
35 INVOLVING APPLIED BEHAVIOR ANALYSIS IN HIS OR HER PROFESSIONAL PRACTICE;

36 (C) ONE MENTAL HEALTH PRACTITIONER LICENCED UNDER ARTICLE ONE HUNDRED
37 SIXTY-THREE OF THIS TITLE; AND

38 (D) A PUBLIC REPRESENTATIVE, AS DEFINED IN PARAGRAPH B OF SUBDIVISION
39 ONE OF SECTION SIXTY-FIVE HUNDRED EIGHT OF THIS TITLE.

40 S 2. Subparagraph (i) of paragraph a of subdivision 1 of section
41 6503-a of the education law, as added by chapter 130 of the laws of
42 2010, is amended to read as follows:

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

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

48 4. The practice, conduct, activities, or services by any person
49 licensed or otherwise authorized to practice nursing as a registered
50 professional nurse or nurse practitioner within the state pursuant to
51 article one hundred thirty-nine of this title or by any person licensed
52 or otherwise authorized to practice social work within the state pursu-
53 ant to article one hundred fifty-four of this title, or by any person
54 licensed or otherwise authorized to practice mental health counseling,
55 marriage and family therapy, creative arts therapy, or psychoanalysis
56 within the state pursuant to article one hundred sixty-three of this

1 title, OR ANY PERSON LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE
2 APPLIED BEHAVIOR ANALYSIS WITHIN THE STATE PURSUANT TO ARTICLE ONE
3 HUNDRED SIXTY-SEVEN OF THIS TITLE or any individual who is credentialed
4 under any law, including attorneys, rape crisis counselors, certified
5 alcoholism counselors, and certified substance abuse counselors from
6 providing mental health services within their respective established
7 authorities.

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

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

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

38 1. Apply to the practice, conduct, activities, services or use of any
39 title by any person licensed or otherwise authorized to practice medi-
40 cine within the state pursuant to article one hundred thirty-one of this
41 title or by any person registered to perform services as a physician
42 assistant within the state pursuant to article one hundred thirty-one-B
43 of this title or by any person licensed or otherwise authorized to prac-
44 tice psychology within this state pursuant to article one hundred
45 fifty-three of this title or by any person licensed or otherwise author-
46 ized to practice social work within this state pursuant to article one
47 hundred fifty-four of this title, or by any person licensed or otherwise
48 authorized to practice nursing as a registered professional nurse or
49 nurse practitioner within this state pursuant to article one hundred
50 thirty-nine of this title OR BY ANY PERSON LICENSED OR OTHERWISE AUTHOR-
51 IZED TO PRACTICE APPLIED BEHAVIOR ANALYSIS WITHIN THE STATE PURSUANT TO
52 ARTICLE ONE HUNDRED SIXTY-SEVEN OF THIS TITLE; provided, however, that
53 no physician, physician's assistant, registered professional nurse,
54 nurse practitioner, psychologist, licensed master social worker, [or]
55 licensed clinical social worker, LICENSED APPLIED BEHAVIOR ANALYST OR
56 CERTIFIED APPLIED BEHAVIOR ANALYSIS ASSISTANT may use the titles

1 "licensed mental health counselor", "licensed marriage and family thera-
2 pist", "licensed creative arts therapist", or "licensed psychoanalyst",
3 unless licensed under this article.
4 S 6. If any section of article 167 of the education law, as added by
5 section one of this act, or part thereof, shall be adjudged by any court
6 of competent jurisdiction to be invalid, such judgment shall not affect,
7 impair or invalidate the remainder of any other section or part thereof.
8 S 7. This act shall take effect July 1, 2014, provided, however, that
9 section 8805 of the education law as added by section one of this act
10 shall take effect immediately; and provided further that effective imme-
11 diately, the addition, amendment and/or repeal of any rule or regulation
12 necessary for the implementation of this act on its effective date are
13 authorized and directed to be made and completed on or before such
14 effective date.