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I N   A S S E M B L Y

April 26, 2013

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Introduced by M. of A. MORELLE, ZEBROWSKI -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

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.

LBD08806-18-3

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.

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

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

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

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

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

45 S 8803. THE PRACTICE OF AND USE OF THE TITLE "LICENSED BEHAVIOR  
46 ANALYST" OR "CERTIFIED BEHAVIOR ANALYST ASSISTANT". ONLY A PERSON  
47 LICENSED, CERTIFIED OR EXEMPT UNDER THIS ARTICLE SHALL PRACTICE APPLIED  
48 BEHAVIOR ANALYSIS. ONLY A PERSON LICENSED OR CERTIFIED UNDER THIS ARTI-  
49 CLE SHALL USE THE TITLES "LICENSED BEHAVIOR ANALYST" OR "CERTIFIED  
50 BEHAVIOR ANALYST ASSISTANT."

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

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

55 (B) EDUCATION: HAVE RECEIVED AN EDUCATION, INCLUDING A BACHELOR'S OR  
56 HIGHER DEGREE FROM A PROGRAM REGISTERED BY THE DEPARTMENT OR DETERMINED

BY THE DEPARTMENT TO BE THE SUBSTANTIAL EQUIVALENT THEREOF, IN ACCORDANCE WITH THE COMMISSIONER'S REGULATIONS.

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

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

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

(F) CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT AND SUBMIT AN ATTESTATION OF MORAL CHARACTER; AND

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

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

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

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

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

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

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

(F) CHARACTER: BE OF GOOD MORAL CHARACTER AS DETERMINED BY THE DEPARTMENT AND SUBMIT AN ATTESTATION OF MORAL CHARACTER; AND

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

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

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

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

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

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

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

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

2. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS PROHIBITING A PERSON FROM PERFORMING THE DUTIES OF A LICENSED BEHAVIOR ANALYST OR A CERTIFIED

1 BEHAVIOR ANALYST ASSISTANT, IN THE COURSE OF SUCH EMPLOYMENT, IF SUCH  
2 PERSON IS EMPLOYED:

3 A. BY A FEDERAL, STATE, COUNTY OR MUNICIPAL AGENCY, OR OTHER POLITICAL  
4 SUBDIVISION;

5 B. BY A CHARTERED ELEMENTARY OR SECONDARY SCHOOL OR DEGREE-GRANTING  
6 INSTITUTION;

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

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

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

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

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

41 2. THE BOARD SHALL CONSIST OF SEVEN INDIVIDUALS, TO BE COMPOSED OF THE  
42 FOLLOWING:

43 (A) THREE LICENSED BEHAVIOR ANALYSTS;

44 (B) ONE CERTIFIED BEHAVIOR ANALYST ASSISTANT;

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

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

50 S 2. Subparagraph (i) of paragraph a of subdivision 1 of section  
51 6503-a of the education law, as added by chapter 130 of the laws of  
52 2010, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

30 S 7. Subdivision (b) of section 1207 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 (b) With respect to a professional service limited liability company  
34 formed to provide medical services as such services are defined in arti-  
35 cle 131 of the education law, each member of such limited liability  
36 company must be licensed pursuant to article 131 of the education law to  
37 practice medicine in this state. With respect to a professional service  
38 limited liability company formed to provide dental services as such  
39 services are defined in article 133 of the education law, each member of  
40 such limited liability company must be licensed pursuant to article 133  
41 of the education law to practice dentistry in this state. With respect  
42 to a professional service limited liability company formed to provide  
43 veterinary services as such services are defined in article 135 of the  
44 education law, each member of such limited liability company must be  
45 licensed pursuant to article 135 of the education law to practice veter-  
46 inary medicine in this state. With respect to a professional service  
47 limited liability company formed to provide professional engineering,  
48 land surveying, architectural and/or landscape architectural services as  
49 such services are defined in article 145, article 147 and article 148 of  
50 the education law, each member of such limited liability company must be  
51 licensed pursuant to article 145, article 147 and/or article 148 of the  
52 education law to practice one or more of such professions in this state.  
53 With respect to a professional service limited liability company formed  
54 to provide licensed clinical social work services as such services are  
55 defined in article 154 of the education law, each member of such limited  
56 liability company shall be licensed pursuant to article 154 of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 b. On or before September 1, 2016, the office for people with develop-  
43 mental disabilities and the office of mental health as identified in  
44 subdivision a of this section that licenses, certifies, operates or  
45 funds and regulates programs that employ individuals to provide services  
46 that would otherwise be restricted to individuals licensed or authorized  
47 under article 167 of the education law, shall submit to the commissioner  
48 of education, in such form and detail as requested by such commissioner,  
49 data in relation to: the number of individuals employed in exempt  
50 programs licensed, certified, operated, or funded and regulated by the  
51 office for people with developmental disabilities on July 1, 2016 who  
52 are providing services that would otherwise be restricted to those  
53 licensed or authorized under article 167 of the education law; and the  
54 occupational title of individuals who on July 1, 2016 are not licensed  
55 or otherwise authorized under title 8 of the education law, and who are  
56 engaged in the practice of applied behavior analysis for the purpose of

1 providing behavioral health treatment for persons with autism and autism  
2 spectrum disorders and related disorders.

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

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

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

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