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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - LICENSING OF BEHAVIOR
ANALYSTS

Introduced By: Representatives Palumbo, Messier, Corvese, Naughton, and E Coderre

Date Introduced: January 18, 2012

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"
2 is hereby amended by adding thereto the following chapter:

CHAPTER 86

LICENSING OF APPLIED BEHAVIOR ANALYSTS

5 **5-86-1. Short title.** – This chapter shall be known and may be cited as “Licensing of
6 Applied Behavior Analysts”.

7 **5-86-2. Definitions.** – As used in this chapter, the following terms shall be construed as
8 follows:

9 (1) “Applied behavior analyst” means a person licensed to practice applied behavior
10 analysis under the provisions of this chapter and the rules and regulations authorized by this
11 chapter.

12 (2) “Applied behavior analyst aide” means a person not licensed pursuant to the laws and
13 rules applicable to the practice of applied behavior analysis, who works under the supervision of a
14 licensed applied behavior analyst, who assists in the practice of applied behavior analysis and
15 whose activities require an understanding of applied behavior analysis, but do not require
16 professional or advanced training in the basic anatomical, psychological, and social sciences
17 involved in the practice of applied behavior analysis.

18 (3) “Applied behavior assistant analyst” means a person licensed who practices applied

1 behavior analysis under the provisions of this chapter and the rules and regulations authorized by
2 this chapter.

3 (4) “Board” means the licensing board of applied behavior analysts within the Rhode
4 Island department of health, established pursuant to the provisions of section 5-86-3 of the
5 chapter.

6 (5) “Department” means the Rhode Island department of health.

7 (6) “Director” means the director of the Rhode Island department of health.

8 (7) “Education” means the academic program pursued by the person in obtaining the
9 bachelor’s, master’s or doctorate degree, that the programs to include formal course work,
10 seminars and practica.

11 (8) “Psychologist with equivalent experience” means a person deemed to hold equivalent
12 licensure as an applied behavior analyst upon satisfying equivalency requirements through
13 submission and satisfaction of written evidence of education and relevant experience to the
14 department pursuant to subsection 5-86-9(c) of this chapter.

15 (9) “Practice of applied behavior analysis” means the design, implementation and
16 evaluation of environmental modifications by a behavior analyst to produce socially significant
17 improvements in human behavior. It includes the empirical identification of functional relations
18 between environment and behavior, known as functional assessment and analysis. Applied
19 behavior analysis interventions are based on scientific research and the direct observation and
20 measurement of behavior and environment. They utilize contextual factors, establishing
21 operations, antecedent stimuli, positive reinforcement and other consequences to help people
22 develop new behaviors, increase or decrease existing behaviors, and emit behaviors under
23 specific environmental conditions. The practice of applied behavior analysis expressly excludes
24 psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex therapy,
25 psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities. Such services
26 are provided by a person licensed under this chapter only when applied behavior analysis services
27 are prescribed by a child psychiatrist, a behavioral developmental pediatrician, a child neurologist
28 or a licensed psychologist with training in child psychology pursuant to section 27-20.11-4.

29 (10) “Supervised experience” means the practical application of principles, methods and
30 procedures of the science of applied behavioral analysis in accordance with the requirements of
31 section 5-86-9 of this chapter.

32 (11) “Supervision” means that a licensed applied behavior analyst is at all times
33 responsible for supportive personnel and clients.

34 (12) “These regulations” mean all parts of Rhode Island rules and regulations for

1 licensing applied behavior analysts, applied behavior assistant analysts, and psychologists with
2 equivalent experience.

3 (13) “Training” means the pre-professional or professional supervised experience
4 received by the person at the pre or post-doctoral level that experience to have been obtained in
5 an internship, clinic, or other similar professional setting.

6 **5-86-3. Licensing.** – (a) Any individual licensed under this chapter may use the title
7 “licensed applied behavior analyst” and the abbreviation “LBA” or the title “licensed applied
8 behavior assistant analyst” and the abbreviation “LABA”, or the title psychologist with
9 equivalent experience, provided that the title and abbreviation correspond to the license held
10 pursuant to this chapter.

11 (b) It is unlawful for any person to represent herself or himself as a licensed applied
12 behavior analyst, LBA, licensed applied behavior assistant analyst, LABA, or psychologist with
13 equivalent experience, unless she or he is licensed as a licensed applied behavior analyst or
14 licensed applied behavior assistant analyst or licensed as a psychologist with equivalent
15 experience pursuant to the provisions of this chapter.

16 (c) A licensed applied behavior analyst, licensed applied behavior assistant analyst, or
17 psychologist with equivalent experience, is not required to be an employee of a prescribing
18 profession or organization, and may work for a public or private agency or in private practice in
19 accordance with the requirements of 5-86-9 of this chapter.

20 (d) Licensed applied behavior analysts, licensed applied behavior assistant analysts, and
21 psychologists with equivalent experience are responsible for following all applicable federal and
22 state laws and regulations regarding the confidentiality of medical records.

23 **5-86-4. Board of applied behavior analysts– Creation – Composition.** – Within the
24 department of professional regulation in the department of health there shall be a Rhode Island
25 applied behavior analyst licensing board consisting of five (5) members as provided by section 5-
26 86-5.

27 **5-86-5. Board of applied behavior analysts – Appointment, terms, and removal of**
28 **members.** – (a) The director of the department of health shall, with the approval of the governor,
29 appoint five (5) electors as members of the board. Three (3) members of the board shall be
30 licensed applied behavior analysts, one member shall be a licensed applied behavior assistant
31 analyst, and one shall be a consumer representative holding neither license. The licensed applied
32 behavior analysts and licensed applied behavior assistant analyst shall have at least three (3) years
33 professional experience with credentials comparable as those established in this chapter, be
34 certified for a minimum of five (5) years by an appropriate nationally recognized accrediting

1 organization as approved by the department of health.

2 (b) The director shall, with the approval of the governor, appoint persons to serve on the
3 board. Two (2) of those members first appointed by the director of the department of health shall
4 serve initial terms of three (3) years; two (2) of those members first appointed by the director of
5 the department of health shall serve an initial term of two (2) years; and one of those members
6 appointed by the director of the department of health shall serve an initial term of one year
7 thereafter, all appointed members of the board shall be appointed to serve for terms of three (3)
8 years.

9 (c) The board members are eligible to succeed themselves.

10 (d) The director may remove any member from the board for neglect of any duty required
11 by law, or for incompetence, or unprofessional or dishonorable conduct. Vacancies shall be filled
12 in the same manner as the original appointment was made, for the remainder of the term.

13 **5-86-6. Board of applied behavior analysts – Organization and meetings.** – (a) The
14 board shall organize immediately after the appointment and qualification of its members.

15 (b) The board shall annually elect a chairperson and secretary. Meetings may be called by
16 the chairperson or the director of the department of health or by written request of three (3)
17 members of the board. A majority of seats filled shall constitute a quorum. The board shall meet
18 as often as necessary.

19 **5-86-7. Board of applied behavior analysts – General powers.** – The Rhode Island
20 applied behavior analyst licensing board shall:

21 (1) Recommend to the director for his or her approval the adoption and revision of rules
22 and regulations not inconsistent with law as necessary to enable it to carry into effect the
23 provisions of this chapter;

24 (2) Adopt policies to be followed in the licensure and renewal of licenses of qualified
25 applicants in accordance with chapter 42-35, of the administrative procedures act;

26 (3) Conduct hearings upon charges calling for the discipline of a license or revocation.
27 The department has the power to issue subpoenas and compel the attendance of witnesses and
28 administer oaths to persons giving testimony at hearings; and

29 (4) The board or the director shall prosecute all persons violating this chapter and has the
30 power to incur the necessary expenses of prosecution. The board shall keep a record of all its
31 proceedings, including, but not limited to, meeting minutes.

32 **5-86-8. Register of applied behavior analysts – Licensing records – Issuance of**
33 **licenses.** – The department shall maintain a register of all licensed applied behavior analysts,
34 licensed applied behavior assistant analysts and psychologists with equivalent experience under

1 this chapter which shall be open at all reasonable times to public inspection and updated
2 regularly. The department shall be the custodian of all records pertaining to the licensing of
3 applied behavior analysts, applied behavior assistant analysts and psychologists with equivalent
4 experience.

5 **5-86-9. Qualifications and Examinations for Licensing.-** (a) An applicant for licensure
6 as a licensed applied behavior analyst shall submit to the board written evidence on forms
7 furnished by the department verified under oath (i.e. notarized) that said applicant:

8 (1) Be of good moral character;

9 (2) Has obtained a graduate degree in applied behavior analysis or a related field, as
10 approved by the board, from a college or university accredited by the New England association of
11 schools and colleges, or an equivalent regional accrediting agency, and which has the approval by
12 a national or regional certifying authority, including but not limited to the applied behavior
13 analyst licensing board;

14 (3) Has successfully completed the amount of coursework in applied behavior analysis
15 acceptable to the board;

16 (4) Has appropriate supervised experience to include either: (i) One year, including one
17 thousand five hundred (1500) hours of supervised independent fieldwork in applied behavior
18 analysis. The distribution of supervised independent fieldwork hours must be at least ten (10)
19 hours per week, but not more than thirty (30) hours per week, for a minimum of three (3) weeks
20 per month; (ii) One thousand (1000) hours of practicum in behavior analysis within a university
21 experience program approved by the national or regional certifying authority. The distribution of
22 practicum hours must be at least ten (10) hours per week, but not more than twenty-five (25)
23 hours per week, for a minimum of three (3) weeks per month; or (iii) Seven hundred fifty (750)
24 hours of intensive practicum in behavior analysis within a university experience program
25 approved by the national or regional certifying authority. The distribution of intensive practicum
26 hours must be at least ten (10) hours per week, but not more than twenty-five (25) hours per
27 week, for a minimum of three (3) weeks per month;

28 (5) Has passed the relevant examination administered by an appropriate nationally
29 recognized accrediting organization as approved by the department of health for this function;

30 (6) Maintain active status and fulfill all relevant requirements for renewal and relicensing
31 with the nationally recognized and accredited organization(s) as approved by the department of
32 health licensing;

33 (7) Conducts his or her professional activities in accordance with accepted standards for
34 responsible professional conduct, as approved by the Rhode Island applied behavior analyst

1 licensing board; and

2 (8) Meets the criteria as established in section 5-86-12.

3 (b) An applicant for licensure as a licensed applied behavior assistant analyst shall submit
4 to the board written evidence on forms furnished by the department verified under oath (i.e.,
5 notarized) that said applicant:

6 (1) Be of good moral character;

7 (2) Has obtained a bachelor's degree in behavior analysis or a related field, as approved
8 by the board, from a college or university accredited by the New England Association of Schools
9 and Colleges, or an equivalent regional accrediting agency, and which has the approval by a
10 national or regional certifying authority, including, but not limited to, the applied behavior analyst
11 licensing board;

12 (3) Has successfully completed the amount of coursework in applied behavior analysis
13 acceptable to the board;

14 (4) Has appropriate supervised experience to include either: (i) One thousand (1000)
15 hours of supervised independent fieldwork in applied behavior analysis. The distribution of
16 supervised independent fieldwork hours must be at least ten (10) hours per week, but not more
17 than thirty (30) hours per week, for a minimum of (3) three weeks per month; (ii) Six hundred
18 seventy (670) hours of practicum in behavior analysis within a university experience program
19 approved by the national or regional certifying board. The distribution of practicum hours must
20 be at least ten (10) hours per week, but not more than twenty-five (25) hours per week, for a
21 minimum of three (3) weeks per month; or (iii) Five hundred (500) hours of intensive practicum
22 in behavior analysis within a university experience program approved by the national or regional
23 certifying board. The distribution of intensive practicum hours must be at least ten (10) hours per
24 week, but not more than twenty-five (25) hours per week, for a minimum of three (3) weeks per
25 month

26 (5) Is supervised by a licensed applied behavior analyst in a manner consistent with the
27 board's requirements for supervision of licensed applied behavior assistant analysts;

28 (6) Has passed the examination administered by an appropriate nationally recognized
29 accrediting organization as approved by department of health licensing for this function;

30 (7) Maintain active status and fulfill all relevant requirements for renewal and relicensing
31 with the nationally recognized and accredited organization(s) as approved by the department of
32 health licensing;

33 (8) Conduct his or her professional activities in accordance with accepted standards for
34 responsible professional conduct, as required by the Rhode Island applied behavior analyst

1 licensure board; and

2 (9) Meet the criteria as established in section 5-86-11.

3 (c) An applicant shall be judged to hold the equivalent requirement of a licensure as an
4 applied behavior analyst upon submission to the board, written evidence on forms furnished by
5 the department verified under oath (i.e., notarized), if the following equivalency requirements are
6 met to the satisfaction of the licensing board:

7 (1) Has received a doctoral degree in psychology from a college or university accredited
8 by the New England association of schools and colleges, or an equivalent regional accrediting
9 agency, and which has the approval by a national or regional certifying authority;

10 (2) Be individually licensed by the department of health as a psychologist subject to
11 chapter 5-44;

12 (3) Be of good moral character;

13 (4) Has completed coursework in applied behavior analysis supervised by the department
14 within the college or university granting the requisite degree or by an accredited postgraduate
15 clinical training program recognized by the United States department of education, or education
16 and/or experience which is deemed equivalent by the board;

17 (5) Has completed one thousand five hundred (1,500) hours of direct client contact
18 offering applied behavior analysis services subsequent to being awarded a doctoral degree in
19 psychology;

20 (6) Conducts his or her professional activities in accordance with accepted standards for
21 responsible professional conduct, as required by the Rhode Island applied behavior analyst
22 licensure board; and

23 (7) Meets the criteria as established in section 5-86-12.

24 **5-86-10. Licensure. -- A license may be issued to:**

25 (1) An applicant who meets the requirements for licensure as approved by the department
26 of health and licensed as a licensed applied behavior analyst, licensed applied behavior assistant
27 analyst or psychologist with equivalent experience as stated in this chapter; and

28 (2) An applicant who has been certified by an appropriate nationally recognized and
29 accredited organization, as approved by the department of health, licensing and licensed as a
30 licensed applied behavior analyst, licensed applied behavior assistant analyst or psychologist with
31 equivalent experience under the laws of another state, United States territory, or foreign country
32 where the board determines that the requirements are substantially equivalent to those of this
33 state.

34 **5-86-11. Application fee. -- The applicant applying for licensure as an applied behavior**

1 analyst, applied behavior assistant analyst or psychologist with equivalent experience shall pay a
2 fee of one hundred fifty dollars (\$150) to the department.

3 **5-86-12. Limitation of practice. --** The board shall ensure through regulations and
4 enforcement that licensees limit their practice to demonstrated areas of competence as
5 documented by relevant professional education, training, and experience.

6 **5-86-13. Expiration and renewal of licenses – Continuing education – Lapsed**
7 **license. --** (a) The license of every person licensed under the provisions of this chapter shall
8 expire on the first (1st) day of July of the next even-numbered year following the issuance of his
9 or her license.

10 (b) On or before the first day of May of each even-numbered year, the department shall
11 mail an application for renewal of license to every person to whom a license has been issued or
12 renewed during the cycle.

13 (c) Every licensed person who desires to renew his or her license shall file with the
14 department a renewal application, executed, together with a renewal fee of one hundred and fifty
15 dollars (\$150), on or before the first (1st) day of June in each even-numbered year. Upon receipt
16 of a renewal application and payment of the renewal fee, the accuracy of the application shall be
17 verified and the department may grant a renewal license effective July 1st and expiring the June
18 30th in each even-numbered year.

19 (d) Every licensed person who desires to continue licensure as a licensed applied
20 behavior analyst, licensed applied behavior assistant analyst or psychologist with equivalent
21 experience shall present satisfactory evidence to the board and approved by rule or regulation of
22 the board that the licensed applied behavior analyst, licensed applied behavior assistant analyst or
23 psychologist with equivalent experience, has completed a prescribed course of continuing applied
24 behavior analysis education.

25 (e) Any person who allows his or her license to lapse, by failing to renew it on or before
26 June 1st in each even-numbered year, as provided in this section, may be reinstated by the
27 department on payment of the current renewal fee, plus an additional fee of forty dollars (\$40.00).
28 Any person using the title licensed applied behavior analyst or licensed applied behavior assistant
29 analyst or psychologist with equivalent experience offering services defined as the practice of
30 behavior analysis under this chapter during the time his or her license has lapsed is subject to the
31 penalties provided for violation of this chapter.

32 **5-86-14. Transfers to inactive list – Reinstatement. --** (a) A licensed applied behavior
33 analyst, licensed applied behavior assistant analyst or the equivalence who does not intend to
34 continue his or her licensure, upon written request to the department may have his or her name

1 transferred to an inactive list, and shall not be required to pay the renewal fee as long as he or she
2 remains inactive.

3 (b) Should a licensed applied behavior analyst, licensed applied behavior assistant analyst
4 or psychologist with equivalent experience wish to resume functioning as an applied behavior
5 analyst, he or she must notify the department and remit his or her renewal fee in accordance with
6 the rules and regulations promulgated hereunder within the immediate two (2) years prior to the
7 applicant's request for licensure.

8 **5-86-15. Receipts. --** The proceeds of any fees collected pursuant to the provisions of this
9 chapter shall be deposited as general revenues.

10 **5-86-16. Grounds for discipline. --** The board has the power to deny, revoke, or suspend
11 any license issued by the department in accordance with this chapter, or to discipline a licensee
12 upon proof that the person:

13 (1) Is guilty of fraud or deceit in procuring or attempting to procure a license or
14 temporary license;

15 (2) Is guilty of a felony or of a crime of immorality;

16 (3) Is habitually intemperate or is addicted to the use of habit-forming drugs;

17 (4) Is mentally incompetent;

18 (5) Is incompetent or negligent in the practice of applied behavior analysis as determined
19 by the Rhode Island applied behavior analyst licensing board;

20 (6) Has not fulfilled the required continuing education requirements as determined by the
21 Rhode Island applied behavior analysis licensing board;

22 (7) Has violated the ethical principles governing applied behavior analysts and the
23 practice of applied behavior analysis, as adopted by the board and in force at the time a charge is
24 made, provided that those ethical principles are a nationally recognized standard;

25 (8) Has practiced as a licensed applied behavior assistant analyst or has performed the
26 duties of a licensed applied behavior assistant analyst without proper supervision by a licensed
27 applied behavior analyst pursuant to section 5-86-26;

28 (9) Has had their license revoked, suspended, privileges limited or other disciplinary
29 action in another state or jurisdiction, including the voluntary surrender of a license; or

30 (10) Has failed to furnish the department or its legal representative information requested
31 by the board as part of a disciplinary action.

32 **5-86-17. Procedure for discipline. --** (a) When a sworn complaint is filed with the board
33 charging a person with being guilty of any of the actions specified in section 5-86-16, the
34 department shall immediately investigate those charges, or, the board, after investigation, may

1 institute charges. The department may coordinate investigations of alleged violations of the
2 Rhode Island applied behavior analyst licensing board with an appropriate nationally recognized
3 accrediting organization.

4 (b) If the investigation reveals reasonable grounds for believing that the licensee or
5 applicant for licensure is guilty of the charges, the board shall fix a time and place for a hearing,
6 and shall serve a copy of the charges, together with a notice of the time and the place fixed for the
7 hearing, personally upon the accused at least twenty (20) days prior to the time fixed for the
8 hearing.

9 (c) When personal service cannot be effected and that fact is certified by oath by any
10 person authorized to make service, the board shall publish once in each of two (2) successive
11 weeks, a notice of the hearing in a newspaper published in the county where the accused last
12 resided according to the records of the board and shall mail a copy of the charges and of the
13 notice to the accused at his or her last known address.

14 (d) When publication of notice is necessary, the date of the hearing shall not be less than
15 twenty (20) days after the last date of publication of the notice.

16 (e) At the hearing, the accused has the right to appear personally or by counsel or both, to
17 produce witnesses and evidence on his or her behalf, to cross-examine witnesses, and to have
18 subpoenas issued by the administrator of professional regulation.

19 (f) The attendance of witnesses and the production of books, documents, and papers at
20 the hearing may be compelled by subpoenas issued by the department, which shall be served in
21 accordance with law.

22 (g) The department shall administer oaths as necessary for the proper conduct of the
23 hearing.

24 (h) The board is not bound by the strict rules of procedure or by the laws of evidence in
25 the conduct of its proceedings, but the determination shall be based upon sufficient legal evidence
26 to sustain it.

27 (i) If the accused is found guilty of the charges, the board may refuse to issue a license to
28 the applicant, or may revoke or suspend his or her license, or discipline that person.

29 (j) Upon the revocation or suspension of any license, the license holder shall surrender
30 the license to the department, who shall indicate the same in the licensure verification database.

31 (k) A revocation or suspension of license may be reviewed at the discretion of the board,
32 or at the initiative of the department which may order a rehearing of the issue if it finds cause.

33 **5-86-18. Grounds for discipline without a hearing. --** With the approval of the director,
34 the board may temporarily suspend the license of a licensed applied behavior analyst, licensed

1 applied behavior assistant analyst or psychologist with equivalent experience without a hearing if
2 the board finds that evidence in its possession indicates that a licensed applied behavior analyst,
3 licensed applied behavior assistant analyst or psychologist with equivalent experience continuing
4 in practice would constitute an immediate danger to the public. In the event that the board
5 temporarily suspends the license of a licensed applied behavior analyst, licensed applied behavior
6 assistant analyst or psychologist with equivalent experience without a hearing by the board, a
7 hearing must be held within ten (10) days after the suspension has occurred.

8 **5-86-19. Penalty for violations. --** (a) It is a misdemeanor for any person, in offering his
9 or her services to the public, to:

10 (1) Use in connection with his or her name any designation tending to imply that he or
11 she is a licensed applied behavior analyst, licensed applied behavior assistant analyst, or
12 psychologist with equivalent experience to render services defined as the practice of behavior
13 analysis, unless licensed under the provisions of this chapter;

14 (2) Use in connection with his or her name any designation tending to imply that he or
15 she is a licensed applied behavior analyst, licensed applied behavior assistant analyst, or
16 psychologist with equivalent experience to render services defined as the practice of behavior
17 analysis, during the time his or her license issued under the provision of this chapter is suspended
18 or revoked; or

19 (3) Otherwise violate any of the provisions of this chapter or the rules and regulations
20 promulgated hereunder.

21 (b) These misdemeanors shall be punishable by a fine of not more than five hundred
22 dollars (\$500) for each offense.

23 **5-86-20. Injunction of violations. --** When it appears to the board that any person is
24 violating any of the provisions of this chapter, the director may institute an action, commenced in
25 the name of the board, to enjoin that violation in a court of competent jurisdiction. That court may
26 enjoin any person from violating any of the provisions of this chapter, without regard to whether
27 proceedings have been or may be instituted before the board or whether criminal proceedings
28 have been or may be instituted.

29 **5-86-21. Persons and practices exempt. --** (a) No provision of this chapter shall be
30 construed to prevent members of other recognized professions that are licensed, certified, or
31 regulated for independent practice of that profession under the laws of this state from rendering
32 services consistent with their professional training and code of ethics and scope of practice as
33 defined in the relevant licensure act, provided that they do not represent themselves to be licensed
34 applied behavior analysts, licensed applied behavior assistant analysts or psychologists with

1 equivalent experience. Recognized members of the clergy shall not be restricted from functioning
2 in their ministerial capacity, provided that they do not represent themselves to be applied
3 behavior analysts, licensed applied behavior assistant analysts or psychologists with equivalent
4 experience.

5 (b) Nothing in this chapter shall be construed to prohibit teachers, guidance personnel,
6 social workers, and school psychologists in public or private schools from full performance of
7 their duties, nor to prohibit the use of applied behavior analytic techniques by business or
8 industrial organizations or companies for employment, placement, evaluation, promotion, or job
9 adjustment of their own officers or employees.

10 (c) Nothing in this section shall be construed as prohibiting the use of consultants who
11 are defined as qualified mental retardation professionals under the Code of Federal Regulations
12 (CFR) 42, § 483.430 by facilities licensed as intermediate care facilities for people who are
13 developmentally disabled by the department of behavioral healthcare, developmental disabilities
14 and hospitals.

15 (d) Nothing in this chapter shall be construed as permitting licensed applied behavior
16 analysts, licensed applied behavior assistant analysts or psychologist with equivalent experience
17 to practice medicine as defined by the laws of this state.

18 (e) Nothing in this section shall be construed as permitting those persons identified in
19 subsections (b) and (f) of this section to offer their services to any persons or organizations other
20 than those listed in subsection (f) of this section as consultants or to accept remuneration for any
21 behavior analytic services other than that of their institutional salaries or fees unless they have
22 been licensed under this chapter or exempted under subsection (a) of this section.

23 (f) Nothing in this section shall be construed as prohibiting those persons who are
24 implementing applied behavior analysis services to an immediate family member or as a paid or
25 volunteer caregiver, if the individual or caregiver does not represent himself/herself as a licensed
26 applied behavior analyst, licensed applied behavior assistant analyst or psychologist with
27 equivalent experience.

28 (g) An applied behavior analyst licensed or certified in another state, or United States
29 territory may perform applied behavior analysis services in this state without obtaining a license
30 for up to ten (10) calendar days per calendar year with no more than five (5) days of this activity
31 occurring consecutively. The calendar day limit shall not apply to services as an expert witness in
32 a legal proceeding.

33 (h) Nothing in this section shall be construed as prohibiting any person pursuing a
34 supervised course of study leading to a degree or certificate in applied behavior analysis at an

1 accredited or approved educational program if the person is designated by a title which clearly
2 indicates his or her status as a student or trainee.

3 (i) Nothing in this section shall be construed as prohibiting any persons fulfilling the
4 supervised fieldwork experience requirement of this section.

5 **5-86-22. Enforcement.** -- The director shall enforce the provisions of this chapter. He or
6 she, or his or her authorized agents, and the board shall be exempt from providing surety for costs
7 in connection with the commencement of any legal proceedings under this chapter.

8 **5-86-23. Rules Governing Practices and Procedures.** -- All hearings and reviews
9 required under the provisions of chapter 5-44 of the general laws of Rhode Island, as amended,
10 shall be held in accordance with the provisions of the rules and regulations of the Rhode Island
11 department of health regarding practices and procedures before the department of health and
12 access to public records of the department of health (R42-35-PP).

13 **5-86-24. Appeals from director and board.** -- Any person aggrieved by any decision or
14 ruling of the director or the board may appeal to the superior court in the manner provided in the
15 administrative procedures act, chapter 35 of title 42.

16 **5-86-25. Applicability of other laws.** -- This chapter shall be subject to the provisions of
17 chapter 2 of title 38 ("access to public records") and chapter 46 of this title ("open meetings")
18 and, in addition, the members of the board shall be subject to the provisions of chapter 14 of title
19 36 ("code of ethics").

20 **5-86-26. Supervision.** -- (a) A licensed applied behavior analyst shall exercise sound
21 judgment and shall provide care within the scope of practice or guidelines in the performance of
22 his or her duties. A licensed applied behavior analyst shall be permitted to supervise the
23 following: applied behavior analysts, applied behavior assistant analysts, applied behavior analyst
24 aides, care extenders, applied behavior analyst students, and volunteers.

25 (b) Subject to the requirements of this section, a licensed applied behavior assistant
26 analyst may practice limited applied behavior analysis only under the supervision of a licensed
27 applied behavior analyst. Supervision requires, at a minimum, that the supervising licensed
28 applied behavior therapist meet in person with the licensed applied behavior assistant analyst to
29 provide initial direction and periodic on-site supervision. The supervising licensed applied
30 behavior analyst working with the applied behavior assistant analyst shall determine the amount
31 and type of supervision necessary in response to the experience and competence of the licensed
32 applied behavior assistant analyst and the complexity of the treatment program. The supervisor
33 and the licensed applied behavior assistant analyst shall be jointly responsible for maintaining
34 records, including patient records, to document compliance with this regulation.

- 1 (c) A licensed applied behavior assistant analyst:
- 2 (1) May not initiate a treatment program until the patient has been evaluated and the
- 3 treatment planned by the licensed behavior analyst;
- 4 (2) May not perform an evaluation, but may assist in the data gathering process and
- 5 administer specific assessments where clinical competency has been demonstrated, under the
- 6 direction of the licensed applied behavior analyst;
- 7 (3) May not analyze or interpret evaluation data;
- 8 (4) May participate in the screening process by collecting data and communicate the
- 9 information gathered to the licensed applied behavior analyst;
- 10 (5) Monitors the need for reassessment and report changes in status that might warrant
- 11 reassessment or referral under the supervision of the licensed applied behavior analyst; and
- 12 (6) Immediately discontinues any treatment procedure, which appears harmful to the
- 13 patient and immediately notifies the supervising applied behavior analyst.
- 14 (d) An applied behavior analyst aide shall be a worker trained on the job. A licensed
- 15 applied behavior analyst using applied behavior analyst aide personnel to assist with the provision
- 16 of applied behavior analysis services must provide close supervision in order to protect the health
- 17 and welfare of the consumer.
- 18 (e) The primary function of an applied behavior analyst aide shall be to perform
- 19 designated routine tasks related to the operation of applied behavior analysis service.
- 20 (f) The licensed applied behavior analyst shall not delegate to an applied behavior analyst
- 21 aide:
- 22 (1) Performance of applied behavior analysis evaluation procedures;
- 23 (2) Initiation, planning, adjustment, modification, or performance of applied behavior
- 24 analyst procedures requiring the skills or judgment of a licensed applied behavior analyst;
- 25 (3) Acting on behalf of the applied behavior analyst in any matter related to applied
- 26 behavior analysis, which requires decision making or professional judgment.
- 27 **5-86-27. Severability. --** The provisions of this chapter are severable, and if any
- 28 provision hereof shall be held invalid in any circumstances, any invalidity shall not affect any
- 29 other provisions or circumstances. This chapter shall be construed in all respects so as to meet
- 30 any constitutional requirements. In carrying out the purposes and provisions of this chapter, all
- 31 steps shall be taken which are necessary to meet constitutional requirements.

32 SECTION 2. This act shall take effect upon passage.

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LC00679/SUB A/3
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - LICENSING OF BEHAVIOR
ANALYSTS

- 1 This act would add a chapter to the general laws governing the licensing of applied
- 2 behavior analysts, their assistants and their equivalence.
- 3 This act would take effect upon passage.

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LC00679/SUB A/3
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