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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 APPLIED
BEHAVIOR ANALYSTS

Introduced By: Senators E O'Neill, Perry, Gallo, Ottiano, and Goodwin

Date Introduced: February 28, 2012

Referred To: Senate Health & Human Services

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:

3 CHAPTER 86

4 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 statues
13 and rules applicable to the practice of applied behavior analysis, who works under the supervision
14 of a licensed applied behavior analyst therapist or applied behavior analyst assistant, who assists
15 in the practice of applied behavior analysis and whose activities require an understanding of
16 applied behavior analysis, but do not require professional or advanced training in the basis
17 anatomical, psychological, and social sciences involved in the practice of applied behavior
18 analysis.

1 (3) “Applied behavior assistant analyst” means a person licensed who practices applied
2 behavior analysis under the provisions of this chapter and the rules and regulations authorized by
3 this chapter.

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

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

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

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

12 (8) “Equivalence” means a person deemed to hold equivalent licensure as an applied
13 behavior analyst upon satisfying equivalency requirements through submission and satisfaction of
14 written evidence of education and relevant experience to the department pursuant to subsection 5-
15 86-9(c) of this chapter.

16 (9) “Practice of applied behavior analysis” means the design, implementation and
17 evaluation of environmental modifications by a behavior analyst to produce socially significant
18 improvements in human behavior. It includes the empirical identification of functional relations
19 between environment and behavior, known as functional assessment and analysis. Applied
20 behavior analysis interventions are based on scientific research and the direct observation and
21 measurement of behavior and environment. They utilize contextual factors, establishing
22 operations, antecedent stimuli, positive reinforcement and other consequences to help people
23 develop new behaviors, increase or decrease existing behaviors, and emit behaviors under
24 specific environmental conditions. The practice of applied behavior analysis expressly excludes
25 psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex therapy,
26 psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities. Such 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 5-86-3 of these regulations.

32 (11) “Supervision” means that a licensed (11) applied behavior analyst or licensed applied
33 behavior assistant analyst is at all times 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 equivalence.

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

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

9 (b) It is unlawful for any person to represent herself or himself as a licensed applied
10 behavior analyst, LBA, licensed assistant applied behavior analyst, or LABA unless she or he is
11 licensed as a licensed applied behavior analyst or licensed assistant applied behavior analyst
12 pursuant to the provisions of this chapter or falls within an exemption provided by section 27-
13 20.11-7.

14 (c) Any individual licensed as an applied behavior analyst or an applied behavior
15 assistant analyst shall provide services to clients who have been prescribed applied behavioral
16 analysis by a child psychiatrist, a behavioral developmental pediatrician, a child neurologist or a
17 licensed psychologist with training in child psychology pursuant to section 27-20.11-4. A
18 licensed applied behavior analyst is not required to be an employee of a prescribing profession or
19 organization, and may work for a public or private agency or in private practice.

20 (d) Licensed applied behavior analysts, licensed applied assistant behavior analysts and
21 equivalence are responsible for following all applicable federal and state laws and regulations
22 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 equivalence under this chapter which shall be

1 open at all reasonable times to public inspection. The department shall be the custodian of all
2 records pertaining to the licensing of applied behavior analysts, applied behavior assistant
3 analysts and equivalence.

4 **5-86-9. Qualifications and Examinations for Licensing.-** (a) An applicant for licensure
5 as a licensed applied behavior analyst shall submit to the board written evidence on forms
6 furnished by the department verified under oath (i.e. notarized) that said applicant:

7 (1) Be of good moral character;

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

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

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

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

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

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

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

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

5 (1) Be of good moral character;

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

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

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

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

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

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

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

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

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

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

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

11 (3) Be of good moral character;

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

16 (5) Has completed one thousand five hundred (1,500) hours of direct client contact
17 offering applied behavior analysis services subsequent to being awarded a master's degree,
18 certificate of advanced graduate study or doctorate;

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

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

23 **5-86-10. Licensure.** -- A license as an applied behavior analyst may be issued to:

24 (1) An applicant who meets the requirements for licensure as stated in this statute; and

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

30 **5-86-11. Application fee.** -- The applicant applying for licensure as an applied behavior
31 analyst, applied behavior assistant analyst or the equivalent shall pay a fee of one hundred fifty
32 dollars (\$150) to the department.

33 **5-86-12. Limitation of practice.** -- The board shall ensure through regulations and
34 enforcement that licensees limit their practice to demonstrated areas of competence as

1 documented by relevant professional education, training, and experience.

2 **5-86-13. Expiration and renewal of licenses – Continuing education – Lapsed**

3 **license.** -- (a) The license of every person licensed under the provisions of this chapter shall
4 expire on the first (1st) day of July of the next even-numbered year following the issuance of his
5 or her license.

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

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

15 (d) Every licensed person who desires to continue licensure as a licensed applied
16 behavior analyst, licensed applied behavior assistant analyst or an equivalence shall present
17 satisfactory evidence to the board and approved by rule or regulation of the board that the
18 licensed applied behavior analyst, licensed applied behavior assistant analyst or the equivalence,
19 has completed a prescribed course of continuing applied behavior analysis education.

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

27 **5-86-14. Transfers to inactive list – Reinstatement.** -- (a) A licensed applied behavior

28 analyst, licensed applied behavior assistant analyst or an equivalence who does not intend to
29 continue his or her licensure, upon written request to the department may have his or her name
30 transferred to an inactive list, and shall not be required to pay the renewal fee as long as he or she
31 remains inactive.

32 (b) Should a licensed applied behavior analyst, licensed applied behavior assistant analyst
33 or an equivalence wish to resume functioning as an applied behavior analyst, he or she must
34 notify the department and remit his or her renewal fee in accordance with the rules and

1 regulations promulgated hereunder within the immediate two (2) years prior to the applicant's
2 request for licensure.

3 **5-86-15. Receipts.** -- The proceeds of any fees collected pursuant to the provisions of this
4 chapter shall be deposited as general revenues.

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

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

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

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

12 (4) Is mentally incompetent;

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

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

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

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

23 (9) Has failed to furnish the department or its legal representative information requested
24 by the board as part of a disciplinary action.

25 **5-86-17. Procedure for discipline.** -- (a) When a sworn complaint is filed with the board
26 charging a person with being guilty of any of the actions specified in section 5-86-16, the
27 department shall immediately investigate those charges, or, the board, after investigation, may
28 institute charges. The department may coordinate investigations of alleged violations of the
29 Rhode Island applied behavior analyst licensing board with an appropriate nationally recognized
30 accrediting organization.

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

1 hearing.

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

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

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

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

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

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

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

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

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

26 **5-86-18. Grounds for discipline without a hearing. --** With the approval of the director,
27 the board may temporarily suspend the license of a licensed applied behavior analyst, licensed
28 applied behavior assistant analyst or an equivalence without a hearing if the board finds that
29 evidence in its possession indicates that a licensed applied behavior analyst or licensed applied
30 behavior assistant analyst or an equivalence continuing in practice would constitute an immediate
31 danger to the public. In the event that the board temporarily suspends the license of a licensed
32 applied behavior analyst, licensed applied behavior assistant analyst or an equivalence without a
33 hearing by the board, a hearing must be held within ten (10) days after the suspension has
34 occurred.

1 **5-86-19. Penalty for violations. --** (a) It is a misdemeanor for any person, in offering his
2 or her services to the public, to:

3 (1) Use in connection with his or her name any designation tending to imply that he or
4 she is a licensed applied behavior analyst, licensed applied behavior assistant analyst, or an
5 equivalence to render services defined as the practice of behavior analysis, unless licensed under
6 the provisions of this chapter;

7 (2) Use in connection with his or her name any designation tending to imply that he or
8 she is a licensed applied behavior analyst, licensed applied behavior assistant analyst, or an
9 equivalence to render services defined as the practice of behavior analysis, during the time his or
10 her license issued under the provision of this chapter is suspended or revoked; or

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

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

15 **5-86-20. Injunction of violations. --** When it appears to the board that any person is
16 violating any of the provisions of this chapter, the director may institute an action, commenced in
17 the name of the board, to enjoin that violation in a court of competent jurisdiction. That court may
18 enjoin any person from violating any of the provisions of this chapter, without regard to whether
19 proceedings have been or may be instituted before the board or whether criminal proceedings
20 have been or may be instituted.

21 **5-86-21. Persons and practices exempt. --** (a) No provision of this chapter shall be
22 construed to prevent members of other recognized professions that are licensed, certified, or
23 regulated for independent practice of that profession under the laws of this state from rendering
24 services consistent with their professional training and code of ethics and scope of practice as
25 defined in the relevant licensure act, provided that they do not represent themselves to be licensed
26 applied behavior analysts, licensed applied behavior assistant analysts or equivalence.
27 Recognized members of the clergy shall not be restricted from functioning in their ministerial
28 capacity, provided that they do not represent themselves to be applied behavior analysts.

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

34 (c) Nothing in this section shall be construed as prohibiting the use of consultants who

1 are defined as qualified mental retardation professionals under the Code of Federal Regulations
2 (CFR) 42, § 483.430 by facilities licensed as intermediate care facilities for people who are
3 developmentally disabled by the department of behavioral healthcare, developmental disabilities
4 and hospitals.

5 (d) Nothing in this chapter shall be construed as permitting licensed applied behavior
6 analysts, licensed applied behavior assistant analysts or equivalence to practice medicine as
7 defined by the laws of this state.

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

13 (f) Nothing in this section shall be construed as prohibiting those persons who are
14 implementing applied behavior analysis services to an immediate family member or as a paid or
15 volunteer caregiver as specified in a treatment plan prescribed by a child psychiatrist, a
16 behavioral developmental pediatrician, a child neurologist or a licensed psychologist with training
17 in child psychology, pursuant to section 27-20.11-4 and supervised by licensed applied behavior
18 analyst, if the individual or caregiver does not represent as a licensed applied behavior analyst,
19 licensed applied behavior assistant analyst or an equivalence.

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

25 (h) Nothing in this section shall be construed as prohibiting any person pursuing a
26 supervised course of study leading to a degree or certificate in applied behavior analysis at an
27 accredited or approved educational program if the person is designated by a title which clearly
28 indicates his or her status as a student or trainee.

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

31 **5-86-22. Enforcement.** -- The director shall enforce the provisions of this chapter. He or
32 she, or his or her authorized agents, and the board shall be exempt from providing surety for costs
33 in connection with the commencement of any legal proceedings under this chapter.

34 **5-86-23. Rules Governing Practices and Procedures.** -- All hearings and reviews

1 [required under the provisions of chapter 5-44 of the general laws of Rhode Island, as amended,](#)
2 [shall be held in accordance with the provisions of the rules and regulations of the Rhode Island](#)
3 [department of health regarding practices and procedures before the department of health and](#)
4 [access to public records of the department of health \(R42-35-PP\).](#)

5 **5-86-24. Appeals from director and board.** -- [Any person aggrieved by any decision or](#)
6 [ruling of the director or the board may appeal to the superior court in the manner provided in the](#)
7 [administrative procedures act, chapter 35 of title 42.](#)

8 **5-86-25. Applicability of other laws.** -- [This chapter shall be subject to the provisions of](#)
9 [chapter 2 of title 38 \("access to public records"\) and chapter 46 of this title \("open meetings"\)](#)
10 [and, in addition, the members of the board shall be subject to the provisions of chapter 14 of title](#)
11 [36 \("code of ethics"\).](#)

12 **5-86-26. Supervision.** – [\(a\) A licensed applied behavior analyst shall exercise sound](#)
13 [judgment and shall provide adequate care in the performance of duties. A licensed applied](#)
14 [behavior analyst shall be permitted to supervise the following: applied behavior analysts, applied](#)
15 [behavior assistant analysts, applied behavior analyst aides, care extenders, applied behavior](#)
16 [analyst students, and volunteers.](#)

17 [\(b\) Subject to the requirements of this section, a licensed applied behavior assistant](#)
18 [analyst may practice limited applied behavior analysis only under the supervision of a licensed](#)
19 [applied behavior analyst. Supervision requires, at a minimum, that the supervising licensed](#)
20 [applied behavior analyst meet in person with the licensed applied behavior assistant analyst to](#)
21 [provide initial direction and periodic on-site supervision. The supervising licensed applied](#)
22 [behavior analyst working with the applied behavior assistant analyst shall determine the amount](#)
23 [and type of supervision necessary in response to the experience and competence of the licensed](#)
24 [applied behavior assistant analyst and the complexity of the treatment program. The supervisor](#)
25 [and the licensed applied behavior assistant analyst shall be jointly responsible for maintaining](#)
26 [records, including patient records, to document compliance with regulation.](#)

27 [\(c\) A licensed applied behavior assistant analyst:](#)

28 [\(1\) May not initiate a treatment program until the patient has been evaluated and the](#)
29 [treatment planned by the licensed behavior analyst or equivalence;](#)

30 [\(2\) May not perform an evaluation, but may assist in the data gathering process and](#)
31 [administer specific assessments where clinical competency has been demonstrated, under the](#)
32 [direction of the licensed applied behavior analyst or equivalence;](#)

33 [\(3\) May not analyze or interpret evaluation data;](#)

34 [\(4\) May participate in the screening process by collecting data and communicate the](#)

1 information gathered to the licensed applied behavior analyst or equivalence;
2 (5) Monitors the need for reassessment and report changes in status that might warrant
3 reassessment or referral under the supervision of the licensed applied behavior analyst or
4 equivalence; and
5 (6) Immediately discontinues any treatment procedure, which appears harmful to the
6 patient and immediately notifies the supervising applied behavior analyst or equivalence.
7 (d) An applied behavior analyst aide shall be a worker trained on the job. A licensed
8 applied behavior analyst or equivalence using applied behavior analyst aide personnel to assist
9 with the provision of applied behavior analysis services must provide close supervision in order
10 to protect the health and welfare of the consumer.
11 (e) The primary function of an applied behavior analyst aide shall be to perform
12 designated routine tasks related to the operation of applied behavior analysis service.
13 (f) The licensed applied behavior analyst or equivalence shall not delegate to an applied
14 behavior analyst aide:
15 (1) Performance of applied behavior analysis evaluation procedures;
16 (2) Initiation, planning, adjustment, modification, or performance of applied behavior
17 analyst procedures requiring the skills or judgment of a licensed applied behavior analyst or
18 equivalence;
19 (3) The authority to act on behalf of the applied behavior analyst or equivalence in any
20 matter related to applied behavior analysis, which requires decision making or professional
21 judgment.
22 **5-86-27. Severability. --** The provisions of this chapter are severable, and if any
23 provision hereof shall be held invalid in any circumstances, any invalidity shall not affect any
24 other provisions or circumstances. This chapter shall be construed in all respects so as to meet
25 any constitutional requirements. In carrying out the purposes and provisions of this chapter, all
26 steps shall be taken which are necessary to meet constitutional requirements.
27 SECTION 2. This act shall take effect upon passage.

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LC01474
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - LICENSING OF APPLIED
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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LC01474
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