

S T A T E O F N E W Y O R K

4862--A

2013-2014 Regular Sessions

I N S E N A T E

April 26, 2013

Introduced by Sens. FUSCHILLO, LAVALLE, FLANAGAN, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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.

LBD08806-15-3

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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; AND INCLUDES THE  
21 SUPERVISION OF CERTIFIED BEHAVIOR ANALYST ASSISTANTS IN THE PROVISION OF  
22 ABA SERVICES TO INDIVIDUALS.

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

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

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

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

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

47 S 8803. THE PRACTICE OF AND USE OF THE TITLE "LICENSED BEHAVIOR  
48 ANALYST" OR "CERTIFIED BEHAVIOR ANALYST ASSISTANT". ONLY A PERSON  
49 LICENSED, CERTIFIED OR EXEMPT UNDER THIS ARTICLE SHALL PRACTICE APPLIED  
50 BEHAVIOR ANALYSIS. ONLY A PERSON LICENSED OR CERTIFIED UNDER THIS ARTI-  
51 CLE SHALL USE THE TITLES "LICENSED BEHAVIOR ANALYST" OR "CERTIFIED  
52 BEHAVIOR ANALYST ASSISTANT" OR ANY OTHER DESIGNATION TENDING TO IMPLY  
53 THAT THE PERSON IS LICENSED OR CERTIFIED TO PRACTICE APPLIED BEHAVIOR  
54 ANALYSIS.

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

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

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

7 BY THE DEPARTMENT TO BE THE SUBSTANTIAL EQUIVALENT THEREOF, IN ACCORD-  
8 ANCE WITH THE COMMISSIONER'S REGULATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 2. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS PROHIBITING A PERSON

7 FROM PERFORMING THE DUTIES OF A LICENSED BEHAVIOR ANALYST OR A CERTIFIED  
8 BEHAVIOR ANALYST ASSISTANT, IN THE COURSE OF SUCH EMPLOYMENT, IF SUCH  
9 PERSON IS EMPLOYED:

10 A. BY A FEDERAL, STATE, COUNTY OR MUNICIPAL AGENCY, OR OTHER POLITICAL  
11 SUBDIVISION;

12 B. BY A CHARTERED ELEMENTARY OR SECONDARY SCHOOL OR DEGREE-GRANTING  
13 INSTITUTION;

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

18 D. IN A SETTING TO THE EXTENT THAT THE EXEMPTION IN PARAGRAPH D OF  
19 SUBDIVISION SIX OF SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER  
20 APPLIES.

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

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

39 2. THE BOARD SHALL CONSIST OF SEVEN INDIVIDUALS, TO BE COMPOSED OF THE  
40 FOLLOWING:

- 41 (A) THREE LICENSED BEHAVIOR ANALYSTS;
- 42 (B) ONE CERTIFIED BEHAVIOR ANALYST ASSISTANT;
- 43 (C) ONE LICENSED PSYCHOLOGIST, WHO CURRENTLY PRESCRIBES TREATMENT  
44 INVOLVING APPLIED BEHAVIOR ANALYSIS IN HIS OR HER PROFESSIONAL PRACTICE;  
45 AND
- 46 (D) TWO PUBLIC REPRESENTATIVES, AS DEFINED IN PARAGRAPH B OF SUBDIVI-  
47 SION ONE OF SECTION SIXTY-FIVE HUNDRED EIGHT OF THIS TITLE.

48 S 2. Subparagraph (i) of paragraph a of subdivision 1 of section  
49 6503-a of the education law, as added by chapter 130 of the laws of  
50 2010, is amended to read as follows:

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

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

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1 4. The practice, conduct, activities, or services by any person  
2 licensed or otherwise authorized to practice nursing as a registered  
3 professional nurse or nurse practitioner within the state pursuant to  
4 article one hundred thirty-nine of this title or by any person licensed  
5 or otherwise authorized to practice social work within the state pursu-  
6 ant to article one hundred fifty-four of this title, or by any person

7 licensed or otherwise authorized to practice mental health counseling,  
 8 marriage and family therapy, creative arts therapy, or psychoanalysis  
 9 within the state pursuant to article one hundred sixty-three of this  
 10 title, OR ANY PERSON LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE  
 11 APPLIED BEHAVIOR ANALYSIS WITHIN THE STATE PURSUANT TO ARTICLE ONE  
 12 HUNDRED SIXTY-SEVEN OF THIS TITLE or any individual who is credentialed  
 13 under any law, including attorneys, rape crisis counselors, certified  
 14 alcoholism counselors, and certified substance abuse counselors from  
 15 providing mental health services within their respective established  
 16 authorities.

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

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

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

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

6 nurse practitioner, psychologist, licensed master social worker, [or]  
7 licensed clinical social worker, LICENSED BEHAVIOR ANALYST OR CERTIFIED  
8 BEHAVIOR ANALYST ASSISTANT may use the titles "licensed mental health  
9 counselor", "licensed marriage and family therapist", "licensed creative  
10 arts therapist", or "licensed psychoanalyst", unless licensed under this  
11 article.

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

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

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

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

31 (b) With respect to a professional service limited liability company  
32 formed to provide medical services as such services are defined in arti-  
33 cle 131 of the education law, each member of such limited liability  
34 company must be licensed pursuant to article 131 of the education law to  
35 practice medicine in this state. With respect to a professional service  
36 limited liability company formed to provide dental services as such  
37 services are defined in article 133 of the education law, each member of  
38 such limited liability company must be licensed pursuant to article 133  
39 of the education law to practice dentistry in this state. With respect  
40 to a professional service limited liability company formed to provide  
41 veterinary services as such services are defined in article 135 of the  
42 education law, each member of such limited liability company must be  
43 licensed pursuant to article 135 of the education law to practice veter-  
44 inary medicine in this state. With respect to a professional service  
45 limited liability company formed to provide professional engineering,  
46 land surveying, architectural and/or landscape architectural services as  
47 such services are defined in article 145, article 147 and article 148 of  
48 the education law, each member of such limited liability company must be  
49 licensed pursuant to article 145, article 147 and/or article 148 of the  
50 education law to practice one or more of such professions in this state.  
51 With respect to a professional service limited liability company formed  
52 to provide licensed clinical social work services as such services are  
53 defined in article 154 of the education law, each member of such limited  
54 liability company shall be licensed pursuant to article 154 of the  
55 education law to practice licensed clinical social work in this state.  
56 With respect to a professional service limited liability company formed  
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1 to provide creative arts therapy services as such services are defined  
2 in article 163 of the education law, each member of such limited liabil-  
3 ity company must be licensed pursuant to article 163 of the education

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

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

28 (a) "Foreign professional service limited liability company" means a  
 29 professional service limited liability company, whether or not denomi-  
 30 nated as such, organized under the laws of a jurisdiction other than  
 31 this state, (i) each of whose members and managers, if any, is a profes-  
 32 sional authorized by law to render a professional service within this  
 33 state and who is or has been engaged in the practice of such profession  
 34 in such professional service limited liability company or a predecessor  
 35 entity, or will engage in the practice of such profession in the profes-  
 36 sional service limited liability company within thirty days of the date  
 37 such professional becomes a member, or each of whose members and manag-  
 38 ers, if any, is a professional at least one of such members is author-  
 39 ized by law to render a professional service within this state and who  
 40 is or has been engaged in the practice of such profession in such  
 41 professional service limited liability company or a predecessor entity,  
 42 or will engage in the practice of such profession in the professional  
 43 service limited liability company within thirty days of the date such  
 44 professional becomes a member, or (ii) authorized by, or holding a  
 45 license, certificate, registration or permit issued by the licensing  
 46 authority pursuant to, the education law to render a professional  
 47 service within this state; except that all members and managers, if any,  
 48 of a foreign professional service limited liability company that  
 49 provides health services in this state shall be licensed in this state.  
 50 With respect to a foreign professional service limited liability company  
 51 which provides veterinary services as such services are defined in arti-  
 52 cle 135 of the education law, each member of such foreign professional  
 53 service limited liability company shall be licensed pursuant to article  
 54 135 of the education law to practice veterinary medicine. With respect  
 55 to a foreign professional service limited liability company which  
 56 provides medical services as such services are defined in article 131 of  
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1 the education law, each member of such foreign professional service  
 2 limited liability company must be licensed pursuant to article 131 of



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

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

52 (q) Each partner of a registered limited liability partnership formed  
53 to provide medical services in this state must be licensed pursuant to  
54 article 131 of the education law to practice medicine in this state and  
55 each partner of a registered limited liability partnership formed to  
56 provide dental services in this state must be licensed pursuant to arti-  
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1 cle 133 of the education law to practice dentistry in this state. Each

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

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

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

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

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

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

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

54 (a) The following persons and officials are required to report or  
 55 cause a report to be made in accordance with this title when they have  
 56 reasonable cause to suspect that a child coming before them in their

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

30 S 13. If any section of article 167 of the education law, as added by  
31 section one of this act, or part thereof, shall be adjudged by any court  
32 of competent jurisdiction to be invalid, such judgment shall not affect,  
33 impair or invalidate the remainder of any other section or part thereof.

34 S 14. The provisions of sections eleven and twelve of this act shall  
35 not apply to persons applying for licensure or certification or to  
36 persons licensed or certified pursuant to section 8805 of the education  
37 law until such licensed or certified person re-registers their license  
38 or certification in accordance with the provisions of paragraph g of  
39 subdivisions 1 and 2 of section 8804 of the education law as added by  
40 section one of this act.

41 S 15. This act shall take effect July 1, 2014: provided, however,  
42 that if section 3 of part D of chapter 501 of the laws of 2012 is not in  
43 effect on such date, then the amendments to paragraph (a) of subdivision  
44 1 of section 413 of the social services law made by section twelve of  
45 this act shall take effect on the same date and in the same manner as  
46 such chapter of the laws of 2012, takes effect; provided further that  
47 sections six, seven, eight, nine and ten of this act and section 8805 of  
48 the education law as added by section one of this act shall take effect  
49 immediately; and provided further that effective immediately, the addi-  
50 tion, amendment and/or repeal of any rule or regulation necessary for  
51 the implementation of this act on its effective date are authorized and  
52 directed to be made and completed on or before such effective date.