

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

John W. Scibak

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the licensure of applied behavior analysts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
John W. Scibak	2nd Hampshire
Michael F. Dorsey	16 Priest Rd. Plymouth, MA 02360

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2244 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE LICENSURE OF APPLIED BEHAVIOR ANALYSTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 13 of the General Laws is hereby amended by adding the following
2 sections:-

3
4 Section 101. (a) There shall be within the division of professional licensure a board of
5 registration of applied behavior analysts, in this section and in sections 102 to 104, inclusive,
6 hereinafter called the board, consisting of nine members appointed by the governor for terms of
7 three years. Members of the board shall be residents of the commonwealth and citizens of the
8 United States. Five members of the board shall be Independently Licensed Applied Behavior
9 Analysts and two shall be Licensed Applied Behavior Analysts, under the provisions of sections
10 two hundred and thirty-six to two hundred and fifty-two, inclusive, of chapter one hundred and
11 twelve and shall have been actively engaged in the practice of Applied Behavior Analysis for the
12 five years next preceding their appointment. Two members of said board shall be selected from
13 and shall represent the public, subject to the provisions of section nine B of chapter 13.

14 (b) Of the initial members appointed to said board, three shall serve for terms of three years, two
15 three shall serve for terms of two years, and three shall serve for a term of one year. Each
16 member of said board shall hold office until his successor has been qualified. A vacancy in the
17 membership of the board shall be filled for the unexpired term in the manner provided for the
18 original appointment. No member shall serve more than two consecutive full terms. A member
19 appointed for less than a full term may serve 2 full terms in addition to such part of a full term. .

20 (c) The governor shall have the power to remove from office any member of the board for cause;
21 but no board member may be so removed without being informed in writing at least thirty days

22 in advance of the reasons for his removal and of his right to a public or private hearing with
23 counsel.

24 Section 102. The board shall at its first meeting and, annually thereafter, organize by electing
25 from among its members, by majority vote, a chairman, a vice-chairman, and a secretary. Such
26 officers shall serve until their successors are elected and qualified. The board shall hold at least
27 two meetings each year, but additional meetings may be held upon the call of the chairman, or
28 the secretary, or at the written request of any three members of the board. Five members of the
29 board shall constitute a quorum. The members of the board shall serve without compensation
30 but each member shall be reimbursed for actual expenses reasonably incurred in the performance
31 of his/her duties as a member on behalf of the board. The board shall be empowered to hire such
32 assistants as it may deem necessary to carry on its activities.

33 Section 103. The board shall have the following powers and duties: (i) to examine and pass
34 upon the qualifications of all applications for licenses under sections two hundred and thirty-six
35 to two hundred and fifty-two, inclusive, of chapter one hundred and twelve, and issue a license
36 to those who are determined to be qualified as independent applied behavior analysts or applied
37 behavior analysts; (ii) to adopt rules and promulgate regulations governing the licensure of
38 applied behavior analysts and the practice of behavior analysis; (iii) to recommend policy and
39 budgetary matters to the division of professional licensure; (iv) to establish specifications for the
40 licensure examination, which may be or may include the complete certification examination
41 given by the Behavior Analysis Certification BoardTM, or its successor, and to provide or
42 procure appropriate examination questions and answers and to establish examination procedures;
43 (v) to define by regulation the appropriate standards for education and experience necessary to
44 qualify for licensing, including, but not limited to, continuing professional education
45 requirements for licensed applied behavior analysts, which shall be no less stringent than those
46 of the Behavior Analysis Certification BoardTM, or its successor, and for the conduct and ethics
47 which shall govern the practice of applied behavior analysis; (vi) to receive, review, and approve
48 or disapprove applications for a reciprocal license to applicants who are licensed or certified as
49 an applied behavior analyst in another state and who has demonstrated qualifications which
50 equal or exceed those required pursuant to sections two hundred and thirty-six to two hundred
51 and fifty-two, inclusive, of chapter one hundred and twelve, provided that no reciprocal license
52 shall be granted under this section to an applicant unless the state in which the applicant is
53 licensed affords reciprocal treatment to persons who are residents of the Commonwealth of
54 Massachusetts and who are licensed pursuant to said chapter one hundred and twelve; (vii) to
55 establish standards of supervision for students or persons in training to become qualified to
56 obtain a license in applied behavior analysis; (viii) to fine, censure, revoke, suspend or deny a
57 license, place on probation, reprimand or otherwise discipline licensees for violations of the code
58 of ethics or the rules of the board in accordance with sections two hundred and forty-six, two
59 hundred and forty-eight, and two hundred and fifty of chapter 112, but the board shall not have
60 the power of subpoena; (ix) to summarily suspend the license of a licensee who poses an
61 imminent danger to the public but a hearing shall be afforded to the licensee within 7 days of an
62 action by the board to determine whether such summary action is warranted; and (x) to perform
63 such other functions and duties as may be required to carry out this section.

64 Section 104. The board may also appoint Independently Licensed Applied Behavior Analysts,
65 subject to the approval of the director of consumer affairs and business regulations, who meet the
66 qualifications for appointment to the board, to assist it in administering the examination required
67 by sections two hundred and thirty seven and two hundred and thirty nine of chapter one hundred
68 and twelve. Said assistance shall be provided under the supervision of a board member.

69 Section 105. The board shall take no action with respect to the granting of a license or its
70 revocation or suspension without the concurrence of at least five members of the board. The
71 board shall adopt a seal which shall be affixed to all licenses issued by the board.

72 Section 106. The board shall make available to the public a list of Licensed Independent
73 Behavior Analysts and Licensed Behavior Analysts.

74 Section 107. The members of the board shall be indemnified by the commonwealth for all
75 actions taken as part of their responsibilities described herein.

76 SECTION 2. Chapter 112 of the General Laws is hereby amended by adding the following
77 sections:-

78 Section 236. As used in sections two hundred and thirty-six to two hundred and fifty-two,
79 inclusive, the following words, unless the context clearly indicates otherwise, shall have the
80 following meanings:

81 Applied behavior analyst, an individual who by training and experience meets the requirements
82 for licensing by the board and is duly licensed to practice applied behavior analysis in the
83 commonwealth.

84 “Board”, the board of registration of applied behavior analysts.

85 “Licensed Independent Applied Behavior Analyst (LIABA)”, an individual who by training and
86 experience meets the requirements for licensing by the board and is duly licensed to practice
87 independent applied behavior analysis.

88 "Licensed Applied Behavior Analyst (LABA)", an individual who by training and experience
89 meets the requirements for licensing by the board and is duly licensed to practice applied
90 behavior analysis.

91 “Recognized educational institution”, a degree-granting college or university which is accredited
92 by a Regional Board or Association of Institutions of higher education approved by the Council
93 on Post Secondary Education of the United States Department of Education, or which is
94 chartered to grant doctoral degrees by the commonwealth. Such institutional accreditation shall
95 exist at the time that the doctoral degree is granted or within two years thereafter. The program
96 in applied behavior analysis used to meet the standards for licensure under this law must be
97 accredited by the Association for Behavior Analysis International Accreditation Board at the
98 time of graduation or be approved by the board.

99 “The scope of practice of applied behavior analysis”, includes rendering or offering to render
100 professional service for any fee, monetary or otherwise, to individuals, groups of individuals,
101 organizations or members of the public which includes the observation, description,
102 measurement, evaluation, and modification of observable human behavior, consistent with the
103 principles of learning and operant conditioning, and the application of operant and respondent
104 conditioning procedures for shaping new behaviors, modifying established behaviors and the
105 reduction of behavioral problems. With an emphasis on habilitation and enhanced functioning,
106 applied behavior analysis uses environmental manipulation through changes in setting events,
107 stimulus control and verbal learning principles to analyze and change behaviors of a wide variety
108 of populations, including developmentally disabled, mentally ill, and socially maladjusted
109 individuals, as well as groups, or organizations. The practice of applied behavior analysis
110 includes, but is not limited to, conducting functional behavioral analyses, standardized
111 behavioral assessments and curriculum based measurements, creating behavioral objectives,
112 developing individual behavioral plans, monitoring the application and effectiveness of
113 behavioral interventions, training program staff in applied behavior analysis and intervention
114 techniques, designing data collection programs, developing and implementing teaching curricula,
115 conducting task analyses, using precision teaching and direct instruction methods, as well as
116 providing behavioral consultation to teachers and training to parents and other caregivers, and
117 conducting behavior analytically based therapy. Under this scope of practice, Licensed Applied
118 Behavior Analysts must either work under the direct supervision of a Licensed Independent
119 Applied Behavior Analyst, or be employed to provide such services by the commonwealth, a
120 nonprofit agency which delivers services to residents of the commonwealth as a subcontractor of
121 a state agency, a Local Education agency (LEA), an approved Ch. 766 private school, or other
122 entity approved by the board. However, nothing in this scope of practice should be construed as
123 allowing applied behavior analysts the ability to diagnose psychiatric conditions.

124 Section 237 (a). The standards to qualify for the designation of Licensed Independent Applied
125 Behavior Analyst include:

- 126 1. A Doctoral Degree from a recognized educational institution accredited by the
127 Association for Behavior Analysis International Accreditation Board, or from a
128 program at a recognized educational institution with a specific applied behavior
129 analysis track and which is approved by the Board.
- 130 2. The successful completion of an approved practicum or supervised experience in the
131 practice of applied behavior analysis, totaling at least 1500 hours of supervised
132 experience over a period of not less than one calendar year, of which not less than 75
133 hours is spent in direct 1:1 contact with the supervisor;
- 134 3. The successful completion, as defined by the Board, of a nationally recognized
135 examination adopted by the Association for Behavior Analysis International and
136 approved by the Board, related to the principles and practice of the profession of
137 applied behavior analysis.

138
139 (b) For the first five years of enactment of this legislation in the Commonwealth of
140 Massachusetts, applicants who have graduated with a Doctoral Degree from a regionally
141 accredited university and are a Board Certified Behavior Analyst (BCBA) certificant of the

142 Behavior Analysis Certification Board™ or whose Doctoral program included a minimum of 60
143 graduate credit hours in courses directly related to the study of Applied Behavior Analysis, will
144 be eligible to be granted status as a Licensed Independent Applied Behavior Analyst.
145 Additionally for the first five years of enactment of this legislation in the Commonwealth of
146 Massachusetts, applicants who have graduated with a Masters Degree from a regionally
147 accredited university, are a Board Certified Behavior Analyst (BCBA) certificant of the Behavior
148 Analysis Certification Board™, and have practiced as an Applied Behavior Analyst continuously
149 for the past ten years will be eligible to be granted status as a Licensed Independent Applied
150 Behavior Analyst. Thereafter, applicants must meet the requirements noted above.

151 Section 238 (a).The standards to qualify for the designation of Licensed Applied Behavior
152 Analyst include:

- 153 1. A Master's Degree from a recognized educational institution accredited by the
154 Association for Behavior Analysis International Accreditation Board, or from a
155 program at a recognized educational institution with a specific applied behavior
156 analysis track and which is approved by the Board.
- 157 2. The successful completion of an approved practicum or supervised experience in the
158 practice of Applied Behavior Analysis, totaling at least 3000 hours of supervised
159 experience over a period of not less than two calendar years, of which not less than
160 150 hours is spent in direct 1:1 contact with the supervisor;
- 161 3. The successful completion, as defined by the Board, of a nationally recognized
162 examination adopted by the Association for Behavior Analysis International and
163 approved by the Board, related to the principles and practice of the profession of
164 Applied Behavior Analysis.

165
166 (b) For the first five years of enactment of this legislation in the Commonwealth of
167 Massachusetts, applicants who have graduated with a Master's Degree from a regionally
168 accredited university and are a Board Certified Behavior Analyst (BCBA) certificant of the
169 Behavior Analysis Certification Board™, will be eligible to be granted status as a Licensed
170 Applied Behavior Analyst. Thereafter, applicants must meet the requirements noted above.

171 Section 239. Each person desiring to obtain a license as a Licensed Independent Applied
172 Behavior Analyst or as a Licensed Applied Behavior Analyst shall make application to the board
173 upon such form and in such manner as the board shall prescribe and shall furnish evidence
174 satisfactory to the board that such person is of good moral character, including, but not limited to
175 the fact that such applicant has not been convicted of a felony, which shall include a judgment,
176 an admission of guilt or a plea of nolo contendere to such charges, or of an offense under the
177 laws of another jurisdiction, which, if committed in the Commonwealth of Massachusetts, would
178 be a felony unless the following apply:

- 179 (i) At least 10 years have elapsed from the date of conviction.
- 180 (ii) The applicant satisfactorily demonstrates to the Board that the applicant
181 has made significant progress in personal rehabilitation since the conviction, so that licensure of

182 the applicant would not be expected to create a substantial risk of harm to the health and safety
183 of the applicant's clients or the public or a substantial risk of further criminal violations.

184 Section 240. Notwithstanding the provisions of sections two hundred thirty-seven and two
185 hundred and thirty-eight, the board may issue a license without examination to an applicant who
186 presents evidence that he/she has been licensed or certified as an applied behavior analyst by a
187 similar board of another jurisdiction whose standards, in the opinion of the board, are not lower
188 than those required in the commonwealth; or that he/she holds a diploma from a nationally
189 recognized board or agency approved by the board.

190 Section 241. The board may grant a temporary license for a period not to exceed three years to
191 an applied behavior analyst with prior legal residence outside the commonwealth to practice
192 within the commonwealth, provided he/she registers with the board and practices in consultation
193 with, or under the supervision of, a licensed independent applied behavior analyst or possesses
194 qualifications acceptable to the board, and demonstrates that he/she is enrolled in a recognized
195 educational institution accredited by the Association for Behavior Analysis International
196 Accreditation Board program in preparation for meeting the standards and the requirements
197 noted herein for licensure as an applied behavior analyst in Massachusetts.

198 Section 242. Licenses shall be valid for two years and shall be renewed biennially. On or before
199 April fifteenth every two years the secretary of the board shall forward to each licensed applied
200 behavior analyst an application form for renewal. Upon the receipt of the completed form and the
201 renewal fee on or before June first, the secretary shall renew the license for two years
202 commencing July first. Any application for renewal of a license which has expired shall require
203 the payment of a new application fee. Pursuant to the renewal, the applicant shall present to the
204 board documented evidence of the completion of 36 hours of continuing education programs
205 designed to improve the professional competence of the licensee. Such programs shall be
206 completed during the licensed period immediately prior to renewal. Such CEUs must be obtained
207 either directly from the Association for Behavior Analysis International, an organization offering
208 CEU activities which are approved by the Association for Behavior Analysis International, or be
209 approved by the board.

210 Section 243. The following fees shall be determined annually by the commissioner of
211 administration under the provision of section three B of chapter seven and shall be collected by
212 the board: (a) application fee; (b) initial license fee; (c) temporary license fee; and (d) biennial
213 renewal fee.

214 Section 244. Nothing in sections two hundred and thirty-six to two hundred and fifty-two,
215 inclusive, shall be construed to prevent qualified members of other professions or occupations
216 such as physicians, psychologists, teachers, members of the clergy, authorized Christian Science
217 practitioners, attorneys-at-law, social workers, guidance counselors, clinical counselors,
218 adjustment counselors, speech pathologists, audiologists or rehabilitation counselors from doing
219 work of an applied behavior analytic nature consistent with the accepted standards of their
220 respective professions, provided, however, that they do not hold themselves out to the public by
221 any title or description stating or implying that they are applied behavior analysts or that they are
222 licensed to practice applied behavior analysis.

223 Section 245. To qualify as a supervisor of approved practicum or supervised experience, an
224 individual shall meet one of the following criteria:

- 225 1. Holds a license as a Licensed Independent Applied Behavior Analyst or as a Licensed
226 Applied Behavior Analyst in the Commonwealth of Massachusetts;
- 227 2. Holds a license as a psychologist and holds ABPP Diplomate status in Behavioral
228 Psychology;
- 229 3. Until January 1, 2015, is a Board Certified in Behavior Analysis (BCBA) certificant in
230 good standing by the Behavior Analysis Certification Board.

231
232 Section 246. Those engaged in the practice of applied behavior analysis within the
233 Commonwealth of Massachusetts shall comply with the standards of ethical practice as adopted
234 by the Association for Behavior Analysis International.

235 Section 247. As provided in the Individuals with Disabilities Education Act (2004), the
236 Massachusetts Department of Education will implement such policies necessary to include the
237 profession of applied behavior analysis as a “Related Service Provider” relative to the provision
238 of Special Education services provided within the commonwealth, and shall adopt the standards
239 provided herein as those required to meet this standard.

240 Section 248. Any person not licensed to practice applied behavior analysis who holds himself
241 out to be an applied behavior analyst or who uses the title applied behavior analyst or engages in
242 the practice of applied behavior analysis shall be punished by a fine of not more than five
243 hundred dollars, or by imprisonment of not more than three months, or both such fine and
244 imprisonment.

245 Section 249. The penalties in section two hundred and forty-eight shall not apply to:

246 (a) persons eligible for licensure as an applied behavior analyst under this law and who provide
247 consultative services for a fee no more than one day a month; or

248 (b) students of applied behavior analysis currently enrolled in a recognized educational
249 institution accredited by the Association for Behavior Analysis International Accreditation
250 Board, interns or persons preparing for the practice of applied behavior analysis under qualified
251 supervision in such a program; provided, however, that they are designated by such titles as
252 “applied behavior analyst intern”, “applied behavior analyst trainee” or other title clearly
253 indicating such training status.

254 Section 250. The board shall investigate all complaints relating to the proper practice of applied
255 behavior analysis by any person licensed under sections two hundred and thirty-six to two
256 hundred and fifty-two, inclusive.

257 The board may, after a hearing in accordance with the provisions of chapter thirty A, revoke,
258 suspend or cancel the license, or reprimand, censure or otherwise discipline an applied behavior
259 analyst licensed under said sections two hundred and thirty-six to two hundred and fifty-two,
260 inclusive, upon proof satisfactory to a majority of the board that said applied behavior analyst:

- 261 (a) fraudulently procured said license;
- 262 (b) is guilty of an offense against any provision of the laws of the commonwealth relating to the
263 practice of applied behavior analysis or any rule or regulation adopted thereunder;
- 264 (c) is guilty of conduct that places into question the applied behavior analyst's competence to
265 practice applied behavior analysis, including but not limited to gross misconduct in the practice
266 of applied behavior analysis or of practicing applied behavior analysis fraudulently, or beyond its
267 authorized scope, or with gross incompetence, or with gross negligence on a particular occasion
268 or negligence on repeated occasions;
- 269 (d) is guilty of practicing applied behavior analysis while the ability to practice was impaired by
270 alcohol, drugs, physical disability or mental instability;
- 271 (e) is guilty of being habitually drunk or being or having been within a reasonable period of time
272 addicted to, dependent on, or a habitual user of narcotics, barbiturates, amphetamines,
273 hallucinogens, or other drugs having similar effects;
- 274 (f) is guilty of knowingly permitting, aiding or abetting an unlicensed individual to perform
275 activities requiring a license for purposes of fraud, deception or personal gain, excluding
276 activities permissible under any provision of laws of the commonwealth or rules or regulations of
277 the board;
- 278 (g) has been convicted of a criminal offense which reasonably calls into question his/her ability
279 to practice applied behavior analysis; or
- 280 (h) is guilty of violating any rule or regulation of the board governing the practice of applied
281 behavior analysis.
- 282 (i) is guilty of violating any provision of the Ethical Standards for applied behavior analysts as
283 adopted by the Association for Behavior Analysis International.
- 284 The board shall, after proper notice and hearing, adopt rules and regulations governing the
285 practice of applied behavior analysis in order to promote the public health, welfare, and safety
286 and to implement the provisions of this section.
- 287 No person filing a complaint or reporting or providing information pursuant to this section or
288 assisting the board at its request in any manner in discharging its duties and functions shall be
289 liable in any cause of action arising out of the receiving of such information and assistance;
290 provided, however, that the person making the complaint or reporting or providing said
291 information or assistance does so in good faith and without malice. Anonymous complaints
292 submitted to the board of such violations shall not be considered.
- 293 If the applied behavior analyst is found not to have violated any of the provisions set forth in this
294 section, the board shall forthwith order a dismissal of the charges.

295 Notice in writing of a contemplated revocation or suspension of a license, or the cause therefore
296 in sufficient particularity, and of the date of hearing thereon, shall be sent by registered or
297 certified mail to the licensee at his/her last known address at least fifteen days before the date of
298 such hearing. The applied behavior analyst against whom a charge is filed shall have a right to
299 appear before the board in person or by counsel, or both, may produce witnesses and evidence on
300 his/her behalf, and may question witnesses. No license shall be revoked or suspended without
301 such hearing, but the nonappearance of the licensee, after notice, shall not prevent such hearing.
302 All matters upon which the decision is based shall be introduced in evidence at the proceeding.
303 The licensee shall be notified in writing of the board's decision. The board may make such rules
304 and regulations as it deems proper for the filing of charges and the conduct of hearings.

305 After issuing an order or revocation or suspension the board may also file a petition in equity in
306 the superior court in a county in which the respondent resides or transacts business, or in Suffolk
307 County, to ensure appropriate injunctive relief to expedite and secure the enforcement of its
308 order, pending the final determination.

309 Any decision the board makes pursuant to this section shall be subject to review in superior court
310 in accordance with the provisions of chapter thirty A.

311 Section 251. After three years from the date of revocation, an application for reinstatement may
312 be made to the board, which may, upon the affirmative vote of at least five of its members, grant
313 such reinstatement.

314 Section 252. All communications between a licensed applied behavior analyst and the
315 individuals with whom the applied behavior analyst engages in the practice of applied behavior
316 analysis are confidential and shall be considered as privileged communications. At the initiation
317 of the professional relationship the applied behavior analyst shall inform the patient of the
318 following limitations to the confidentiality of their communications. No applied behavior
319 analyst, colleague, agent or employee of any applied behavior analyst, whether professional,
320 clerical, academic or therapeutic, or a graduate of, or student enrolled in, a degree program in
321 applied behavior analysis at a recognized educational institution as that term is defined in section
322 two hundred and thirty-six, who is working under the supervision of a licensed applied behavior
323 analyst, shall disclose any information acquired or revealed in the course of or in connection with
324 the performance of the applied behavior analyst's professional services, including the fact,
325 circumstances, findings or records of such services, except under the following circumstances:

326 (a) pursuant to the provisions of section twenty B of chapter two hundred and thirty-three or any
327 other law;

328 (b) upon express, written consent of the patient (if competent) or his/her guardian;

329 (c) upon the need to disclose information which protects the rights and safety of others if:

330 (1) the patient presents a clear and present danger to himself and refuses explicitly or by his
331 behavior to voluntarily accept further appropriate treatment. In such circumstances, where the
332 applied behavior analyst has a reasonable basis to believe that a patient can be committed to a

333 hospital pursuant to chapter one hundred and twenty-three, he/she shall have a duty to seek said
334 commitment. The applied behavior analyst may also contact members of the patient's family or
335 other individuals if in the applied behavior analyst's opinion, it would assist in protecting the
336 safety of the patient; or

337 (2) the patient has communicated to the applied behavior analyst an explicit threat to kill or
338 inflict serious bodily injury upon a reasonably identified person and the patient has the apparent
339 intent and ability to carry out the threat. In such circumstances, the applied behavior analyst shall
340 have a duty to take reasonable precautions. An applied behavior analyst shall be deemed to have
341 taken reasonable precautions if said applied behavior analyst makes reasonable efforts to take
342 one or more of the following actions:

343 (a) communicates a threat of death or serious bodily injury to a reasonably identified person;

344 (b) notifies an appropriate law enforcement agency in the vicinity where the patient or any
345 potential victim resides;

346 (c) arranges for the patient to be hospitalized voluntarily;

347 (3) the patient has a history of physical violence which is known to the applied behavior analyst
348 and the applied behavior analyst has a reasonable basis to believe that there is a clear and present
349 danger that the patient will attempt to kill or inflict serious bodily injury upon a reasonably
350 identified person. In such circumstances the applied behavior analyst shall have a duty to take
351 reasonable precautions. An applied behavior analyst shall be deemed to have taken reasonable
352 precautions if said applied behavior analyst makes reasonable efforts to take one or more of the
353 following actions:

354 (a) communicates a threat of death or serious bodily injury to the reasonably identified person;

355 (b) notifies an appropriate law enforcement agency in the vicinity where the patient or any
356 potential victim resides;

357 (c) arranges for his patient to be hospitalized voluntarily;

358 (4) in order to collect amounts owed by the patient for professional services rendered by the
359 applied behavior analyst or his/her employees; provided, however, that the applied behavior
360 analyst may only disclose the nature of services provided, the dates of services, the amount due
361 for services and other relevant financial information; provided, further, that if the patient raises
362 as a defense to said action substantive assertions concerning the competence of the applied
363 behavior analyst or the quality of the services provided, the applied behavior analyst may
364 disclose whatever information is necessary to rebut such assertions; or

365 (5) in such other situations as shall be defined in the rules and regulations of the board.

366 The applied behavior analyst shall only disclose that information which is essential in order to
367 protect the rights and safety of others. Furthermore, nothing contained herein shall require an

368 applied behavior analyst to take any action which, in the exercise of reasonable professional
369 judgment, would endanger him or increase the danger to a potential victim or victims.

370 No provision of this section shall be construed to prevent a nonprofit hospital service or medical
371 service corporation from inspecting and copying, in the ordinary course of determining eligibility
372 for or entitlement to benefits, any and all records relating to diagnosis, treatment, or other
373 services provided to any person, including a minor or incompetent, for which coverage, benefit
374 or reimbursement is claimed, so long as the policy or certificate under which the claim is made
375 provides that such access to such records is permitted. No provision of this section shall be
376 construed to prevent access to any such records in connection with any coordination of benefits,
377 subrogation, workers' compensation, peer review, utilization review or benefit management
378 procedures applied and implemented in good faith.