

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Brian A. Joyce

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:
Brian A. Joyce	Norfolk, Bristol and Plymouth
John W. Scibak	2nd Hampshire

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01124 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 sections:-
- 2 Section 101. (a) There shall be within the division of professional licensure a board of registration of
3 applied behavior analysts, in this section and in sections 102 to 104, inclusive, hereinafter called the
4 board, consisting of nine members appointed by the governor for terms of three years. Members of the
5 board shall be residents of the commonwealth and citizens of the United States. Five members of the
6 board shall be Independently Licensed Applied Behavior Analysts and two shall be Licensed Applied
7 Behavior Analysts, under the provisions of sections two hundred and thirty-six to two hundred and fifty-
8 two, inclusive, of chapter one hundred and twelve and shall have been actively engaged in the practice of
9 Applied Behavior Analysis for the five years next preceding their appointment. Two members of said
10 board shall be selected from and shall represent the public, subject to the provisions of section nine B of
11 chapter 13.
- 12 (b) Of the initial members appointed to said board, three shall serve for terms of three years, two three
13 shall serve for terms of two years, and three shall serve for a term of one year. Each member of said
14 board shall hold office until his successor has been qualified. A vacancy in the membership of the board
15 shall be filled for the unexpired term in the manner provided for the original appointment. No member
16 shall serve more than two consecutive full terms. A member appointed for less than a full term may serve
17 2 full terms in addition to such part of a full term. .

18 (c) The governor shall have the power to remove from office any member of the board for cause; but no
19 board member may be so removed without being informed in writing at least thirty days in advance of the
20 reasons for his removal and of his right to a public or private hearing with counsel.

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

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

53 and two hundred and fifty of chapter 112, but the board shall not have the power of subpoena; (ix) to
54 summarily suspend the license of a licensee who poses an imminent danger to the public but a hearing
55 shall be afforded to the licensee within 7 days of an action by the board to determine whether such
56 summary action is warranted; and (x) to perform such other functions and duties as may be required to
57 carry out this section.

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

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

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

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

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

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

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

75 "Board", the board of registration of applied behavior analysts.

76 "Licensed Independent Applied Behavior Analyst (LIABA)", an individual who by training and
77 experience meets the requirements for licensing by the board and is duly licensed to practice independent
78 applied behavior analysis.

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

81 "Recognized educational institution", a degree-granting college or university which is accredited by a
82 Regional Board or Association of Institutions of higher education approved by the Council on Post

83 Secondary Education of the United States Department of Education, or which is chartered to grant
84 doctoral degrees by the commonwealth. Such institutional accreditation shall exist at the time that the
85 doctoral degree is granted or within two years thereafter. The program in applied behavior analysis used
86 to meet the standards for licensure under this law must be accredited by the Association for Behavior
87 Analysis International Accreditation Board at the time of graduation or be approved by the board.

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

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

113 1. A Doctoral Degree from a recognized educational institution accredited by the Association for
114 Behavior Analysis International Accreditation Board, or from a program at a recognized educational
115 institution with a specific applied behavior analysis track and which is approved by the Board.

116 2. The successful completion of an approved practicum or supervised experience in the practice of
117 applied behavior analysis, totaling at least 1500 hours of supervised experience over a period of not less
118 than one calendar year, of which not less than 75 hours is spent in direct 1:1 contact with the supervisor;

119 3. The successful completion, as defined by the Board, of a nationally recognized examination
120 adopted by the Association for Behavior Analysis International and approved by the Board, related to the
121 principles and practice of the profession of applied behavior analysis.

122

123 (b) For the first five years of enactment of this legislation in the Commonwealth of Massachusetts,
124 applicants who have graduated with a Doctoral Degree from a regionally accredited university and are a
125 Board Certified Behavior Analyst (BCBA) certificant of the Behavior Analysis Certification Board™ or
126 whose Doctoral program included a minimum of 60 graduate credit hours in courses directly related to the
127 study of Applied Behavior Analysis, will be eligible to be granted status as a Licensed Independent
128 Applied Behavior Analyst. Additionally for the first five years of enactment of this legislation in the
129 Commonwealth of Massachusetts, applicants who have graduated with a Masters Degree from a
130 regionally accredited university, are a Board Certified Behavior Analyst (BCBA) certificant of the
131 Behavior Analysis Certification Board™, and have practiced as an Applied Behavior Analyst
132 continuously for the past ten years will be eligible to be granted status as a Licensed Independent Applied
133 Behavior Analyst. Thereafter, applicants must meet the requirements noted above.

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

136 1. A Master’s Degree from a recognized educational institution accredited by the Association for
137 Behavior Analysis International Accreditation Board, or from a program at a recognized educational
138 institution with a specific applied behavior analysis track and which is approved by the Board.

139 2. The successful completion of an approved practicum or supervised experience in the practice of
140 Applied Behavior Analysis, totaling at least 3000 hours of supervised experience over a period of not less
141 than two calendar years, of which not less than 150 hours is spent in direct 1:1 contact with the
142 supervisor;

143 3. The successful completion, as defined by the Board, of a nationally recognized examination
144 adopted by the Association for Behavior Analysis International and approved by the Board, related to the
145 principles and practice of the profession of Applied Behavior Analysis.

146

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

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

159 (i) At least 10 years have elapsed from the date of conviction.

160 (ii) The applicant satisfactorily demonstrates to the Board that the applicant has made
161 significant progress in personal rehabilitation since the conviction, so that licensure of the applicant
162 would not be expected to create a substantial risk of harm to the health and safety of the applicant's clients
163 or the public or a substantial risk of further criminal violations.

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

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

178 Section 242. Licenses shall be valid for two years and shall be renewed biennially. On or before April
179 fifteenth every two years the secretary of the board shall forward to each licensed applied behavior

180 analyst an application form for renewal. Upon the receipt of the completed form and the renewal fee on or
181 before June first, the secretary shall renew the license for two years commencing July first. Any
182 application for renewal of a license which has expired shall require the payment of a new application fee.
183 Pursuant to the renewal, the applicant shall present to the board documented evidence of the completion
184 of 36 hours of continuing education programs designed to improve the professional competence of the
185 licensee. Such programs shall be completed during the licensed period immediately prior to renewal. Such
186 CEUs must be obtained either directly from the Association for Behavior Analysis International, an
187 organization offering CEU activities which are approved by the Association for Behavior Analysis
188 International, or be approved by the board.

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

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

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

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

207

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

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

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

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

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

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

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

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

235 (a) fraudulently procured said license;

236 (b) is guilty of an offense against any provision of the laws of the commonwealth relating to the practice
237 of applied behavior analysis or any rule or regulation adopted thereunder;

238 (c) is guilty of conduct that places into question the applied behavior analyst’s competence to practice
239 applied behavior analysis, including but not limited to gross misconduct in the practice of applied
240 behavior analysis or of practicing applied behavior analysis fraudulently, or beyond its authorized scope,

241 or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated
242 occasions;

243 (d) is guilty of practicing applied behavior analysis while the ability to practice was impaired by alcohol,
244 drugs, physical disability or mental instability;

245 (e) is guilty of being habitually drunk or being or having been within a reasonable period of time addicted
246 to, dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other
247 drugs having similar effects;

248 (f) is guilty of knowingly permitting, aiding or abetting an unlicensed individual to perform activities
249 requiring a license for purposes of fraud, deception or personal gain, excluding activities permissible
250 under any provision of laws of the commonwealth or rules or regulations of the board;

251 (g) has been convicted of a criminal offense which reasonably calls into question his/her ability to
252 practice applied behavior analysis; or

253 (h) is guilty of violating any rule or regulation of the board governing the practice of applied behavior
254 analysis.

255 (i) is guilty of violating any provision of the Ethical Standards for applied behavior analysts as adopted by
256 the Association for Behavior Analysis International.

257 The board shall, after proper notice and hearing, adopt rules and regulations governing the practice of
258 applied behavior analysis in order to promote the public health, welfare, and safety and to implement the
259 provisions of this section.

260 No person filing a complaint or reporting or providing information pursuant to this section or assisting the
261 board at its request in any manner in discharging its duties and functions shall be liable in any cause of
262 action arising out of the receiving of such information and assistance; provided, however, that the person
263 making the complaint or reporting or providing said information or assistance does so in good faith and
264 without malice. Anonymous complaints submitted to the board of such violations shall not be considered.

265 If the applied behavior analyst is found not to have violated any of the provisions set forth in this section,
266 the board shall forthwith order a dismissal of the charges.

267 Notice in writing of a contemplated revocation or suspension of a license, or the cause therefore in
268 sufficient particularity, and of the date of hearing thereon, shall be sent by registered or certified mail to
269 the licensee at his/her last known address at least fifteen days before the date of such hearing. The applied
270 behavior analyst against whom a charge is filed shall have a right to appear before the board in person or
271 by counsel, or both, may produce witnesses and evidence on his/her behalf, and may question witnesses.

272 No license shall be revoked or suspended without such hearing, but the nonappearance of the licensee,
273 after notice, shall not prevent such hearing. All matters upon which the decision is based shall be
274 introduced in evidence at the proceeding. The licensee shall be notified in writing of the board's decision.
275 The board may make such rules and regulations as it deems proper for the filing of charges and the
276 conduct of hearings.

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

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

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

286 Section 252. All communications between a licensed applied behavior analyst and the individuals with
287 whom the applied behavior analyst engages in the practice of applied behavior analysis are confidential
288 and shall be considered as privileged communications. At the initiation of the professional relationship
289 the applied behavior analyst shall inform the patient of the following limitations to the confidentiality of
290 their communications. No applied behavior analyst, colleague, agent or employee of any applied behavior
291 analyst, whether professional, clerical, academic or therapeutic, or a graduate of, or student enrolled in, a
292 degree program in applied behavior analysis at a recognized educational institution as that term is defined
293 in section two hundred and thirty-six, who is working under the supervision of a licensed applied
294 behavior analyst, shall disclose any information acquired or revealed in the course of or in connection
295 with the performance of the applied behavior analyst's professional services, including the fact,
296 circumstances, findings or records of such services, except under the following circumstances:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

334 The applied behavior analyst shall only disclose that information which is essential in order to protect the
335 rights and safety of others. Furthermore, nothing contained herein shall require an applied behavior
336 analyst to take any action which, in the exercise of reasonable professional judgment, would endanger
337 him or increase the danger to a potential victim or victims.

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