

**HOUSE . . . . . No. 181**

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**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
Brian A. Joyce	Norfolk, Bristol and Plymouth
Matthew C. Patrick	3rd Barnstable
Tom Sannicandro	7th Middlesex
Denise Provost	27th Middlesex
Viriato Manuel deMacedo	1st Plymouth

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

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### 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 Section 101. (a) There shall be within the division of professional licensure a board of  
4 registration of applied behavior analysts, in this section and in sections 102 to 104, inclusive,  
5 hereinafter called the board, consisting of nine members appointed by the governor for terms of  
6 three years. Members of the board shall be residents of the commonwealth and citizens of the  
7 United States. Five members of the board shall be Independently Licensed Applied Behavior  
8 Analysts and two shall be Licensed Applied Behavior Analysts, under the provisions of sections  
9 two hundred and thirty-six to two hundred and fifty-two, inclusive, of chapter one hundred and  
10 twelve and shall have been actively engaged in the practice of Applied Behavior Analysis for the  
11 five years next preceding their appointment. Two members of said board shall be selected from  
12 and shall represent the public, subject to the provisions of section nine B of chapter 13.
- 13 (b) Of the initial members appointed to said board, three shall serve for terms of three years, two  
14 three shall serve for terms of two years, and three shall serve for a term of one year. Each  
15 member of said board shall hold office until his successor has been qualified. A vacancy in the  
16 membership of the board shall be filled for the unexpired term in the manner provided for the  
17 original appointment. No member shall serve more than two consecutive full terms. A member  
18 appointed for less than a full term may serve 2 full terms in addition to such part of a full term. .
- 19 (c) The governor shall have the power to remove from office any member of the board for cause;  
20 but no board member may be so removed without being informed in writing at least thirty days  
21 in advance of the reasons for his removal and of his right to a public or private hearing with  
22 counsel.

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

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

63 Section 104. The board may also appoint Independently Licensed Applied Behavior Analysts,  
64 subject to the approval of the director of consumer affairs and business regulations, who meet the  
65 qualifications for appointment to the board, to assist it in administering the examination required

66 by sections two hundred and thirty seven and two hundred and thirty nine of chapter one hundred  
67 and twelve. Said assistance shall be provided under the supervision of a board member.

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

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

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

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

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

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

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

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

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

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

98 “The scope of practice of applied behavior analysis”, includes rendering or offering to render  
99 professional service for any fee, monetary or otherwise, to individuals, groups of individuals,  
100 organizations or members of the public which includes the observation, description,

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

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

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

137 (b) For the first five years of enactment of this legislation in the Commonwealth of  
138 Massachusetts, applicants who have graduated with a Doctoral Degree from a regionally  
139 accredited university and are a Board Certified Behavior Analyst (BCBA) certificant of the  
140 Behavior Analysis Certification Board™ or whose Doctoral program included a minimum of 60  
141 graduate credit hours in courses directly related to the study of Applied Behavior Analysis, will  
142 be eligible to be granted status as a Licensed Independent Applied Behavior Analyst.  
143 Additionally for the first five years of enactment of this legislation in the Commonwealth of

144 Massachusetts, applicants who have graduated with a Masters Degree from a regionally  
145 accredited university, are a Board Certified Behavior Analyst (BCBA) certificant of the Behavior  
146 Analysis Certification Board™, and have practiced as an Applied Behavior Analyst continuously  
147 for the past ten years will be eligible to be granted status as a Licensed Independent Applied  
148 Behavior Analyst. Thereafter, applicants must meet the requirements noted above.

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

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

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

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

- 176 (i) At least 10 years have elapsed from the date of conviction.
- 177 (ii) The applicant satisfactorily demonstrates to the Board that the applicant  
178 has made significant progress in personal rehabilitation since the conviction, so that licensure of  
179 the applicant would not be expected to create a substantial risk of harm to the health and safety  
180 of the applicant’s clients or the public or a substantial risk of further criminal violations.

181 Section 240. Notwithstanding the provisions of sections two hundred thirty-seven and two  
182 hundred and thirty-eight, the board may issue a license without examination to an applicant who  
183 presents evidence that he/she has been licensed or certified as an applied behavior analyst by a

184 similar board of another jurisdiction whose standards, in the opinion of the board, are not lower  
185 than those required in the commonwealth; or that he/she holds a diploma from a nationally  
186 recognized board or agency approved by the board.

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

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

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

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

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

- 222 1. Holds a license as a Licensed Independent Applied Behavior Analyst or as a Licensed  
223 Applied Behavior Analyst in the Commonwealth of Massachusetts;

224 2. Holds a license as a psychologist and holds ABPP Diplomate status in Behavioral  
225 Psychology;

226 3. Until January 1, 2015, is a Board Certified in Behavior Analysis (BCBA) certificant in  
227 good standing by the Behavior Analysis Certification Board.

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

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

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

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

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

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

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

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

257 (a) fraudulently procured said license;

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



260 (c) is guilty of conduct that places into question the applied behavior analyst's competence to  
261 practice applied behavior analysis, including but not limited to gross misconduct in the practice  
262 of applied behavior analysis or of practicing applied behavior analysis fraudulently, or beyond its  
263 authorized scope, or with gross incompetence, or with gross negligence on a particular occasion  
264 or negligence on repeated occasions;

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

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

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

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

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

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

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

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

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

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

296 his/her behalf, and may question witnesses. No license shall be revoked or suspended without  
297 such hearing, but the nonappearance of the licensee, after notice, shall not prevent such hearing.  
298 All matters upon which the decision is based shall be introduced in evidence at the proceeding.  
299 The licensee shall be notified in writing of the board's decision. The board may make such rules  
300 and regulations as it deems proper for the filing of charges and the conduct of hearings.

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

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

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

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

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

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

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

326 (1) the patient presents a clear and present danger to himself and refuses explicitly or by his  
327 behavior to voluntarily accept further appropriate treatment. In such circumstances, where the  
328 applied behavior analyst has a reasonable basis to believe that a patient can be committed to a  
329 hospital pursuant to chapter one hundred and twenty-three, he/she shall have a duty to seek said  
330 commitment. The applied behavior analyst may also contact members of the patient's family or  
331 other individuals if in the applied behavior analyst's opinion, it would assist in protecting the  
332 safety of the patient; or

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

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

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

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

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

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

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

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

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

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

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

366 No provision of this section shall be construed to prevent a nonprofit hospital service or medical  
367 service corporation from inspecting and copying, in the ordinary course of determining eligibility

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