

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0544.01 Josh Schultz x6586

HOUSE BILL 26-1425

HOUSE SPONSORSHIP

Gilchrist and Brown, Sirota, Stewart K., Stewart R., Taggart

SENATE SPONSORSHIP

Daugherty and Bright,

House Committees

Health & Human Services
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF APPLIED BEHAVIOR ANALYSIS**
102 **SERVICES, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

The bill creates the Colorado behavior analyst licensing board (board) under the direction and supervision of the division of professions and occupations in the department of regulatory agencies (division). On and after July 1, 2028, an individual is prohibited from engaging in or offering the practice of applied behavior analysis unless the individual is

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

licensed by the board. The board is authorized to license behavior analysts and assistant behavior analysts if they meet the requirements specified by the bill and the rules adopted by the board pursuant to the bill.

An individual who seeks to practice as a behavior analyst or assistant behavior analyst must meet the following requirements:

- File an application for a license;
- Have a valid certification in good standing with a certifying entity;
- Complete a fingerprint-based criminal history record check; and
- If the individual seeks to practice as an assistant behavior analyst, be supervised by a licensed behavior analyst.

The board may deny or refuse to renew a license, suspend or revoke a license, impose probationary conditions on a license, or issue a cease-and-desist letter or seek injunctive relief against a licensee or an applicant for licensure who has engaged in specified grounds for discipline or unprofessional conduct.

The bill exempts specified individuals from the licensing requirements established by the bill.

An individual who practices or offers or attempts to practice as a behavior analyst or assistant behavior analyst without being licensed pursuant to the bill and who is not exempted from licensure commits a class 2 misdemeanor.

The board shall adopt rules as necessary to implement the bill.

The regulation of behavior analysts and assistant behavior analysts is scheduled for repeal on September 1, 2031. Before the repeal, the functions of the board in regulating applied behavior analysis are scheduled for review in accordance with the sunset law.

The bill requires the department of health care policy and financing (state department) to reimburse an applied behavior analysis provider for applied behavior analysis services provided by a behavior technician certified by a certifying entity to a medicaid member with autism spectrum disorder or other conditions for which coverage may be available under state department policies. The state department shall reimburse the applicable applied behavior analysis provider for applied behavior analysis services provided by a behavior technician who is required by the state department to be certified by a certifying entity, but is not certified at the time of services, for services provided during a temporary period of not less than 60 days while the behavior technician is pursuing the certification.

The department of human services (department) is required to prescribe and publish separate standards for the licensing of applied behavior analysis clinics (clinics). The department is authorized to adopt rules concerning specific subjects related to standards for clinics. Clinics are required to comply with specified requirements regarding local

government zoning regulations, licensing fees, and qualifications for employees of the clinics.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) The practice of applied behavior analysis affects the health,
5 safety, and welfare of the citizens of Colorado and should be subject to
6 regulation to protect the public from:

7 (I) The practice of applied behavior analysis by unqualified
8 persons; and

9 (II) Unprofessional, unethical, or harmful conduct by behavior
10 analysis practitioners;

11 (b) The practice of applied behavior analysis by any individual
12 who is not licensed or practicing as permitted by this act is inimical to the
13 general public welfare. It is not, however, the intent of this act to restrict
14 the practice of any individual duly licensed, certified, or registered under
15 other laws of this state from practicing within the individual's scope of
16 competency and authority under those laws.

17 (c) The practice of behavior analysis in clinical settings where
18 children may regularly be in therapy for several hours in a private facility
19 warrants additional oversight for facility safety and any nontherapeutic
20 operations. Such oversight must, however, be subject to and coordinated
21 with professional licensing rules and requirements to ensure efficiency
22 and access to medically necessary care and compliance with other federal
23 and state laws.

24 **SECTION 2.** In Colorado Revised Statutes, **add** article 247 to
25 title 12 as follows:

1 **ARTICLE 247**

2 **Behavior Analysts and Assistant Behavior Analysts**

3 **12-247-101. Short title.**

4 THE SHORT TITLE OF THIS ARTICLE 247 IS THE "APPLIED BEHAVIOR
5 ANALYSIS PRACTICE ACT".

6 **12-247-102. Applicability of common provisions.**

7 ARTICLES 1, 20, AND 30 OF THIS TITLE 12 APPLY, ACCORDING TO
8 THEIR TERMS, TO THIS ARTICLE 247.

9 **12-247-103. Definitions.**

10 AS USED IN THIS ARTICLE 247, UNLESS THE CONTEXT OTHERWISE
11 REQUIRES:

12 (1) (a) "APPLIED BEHAVIOR ANALYSIS" MEANS THE DESIGN,
13 IMPLEMENTATION, AND EVALUATION OF INSTRUCTIONAL AND
14 ENVIRONMENTAL MODIFICATIONS TO PRODUCE SOCIALLY SIGNIFICANT
15 IMPROVEMENTS IN HUMAN BEHAVIOR.

16 (b) "APPLIED BEHAVIOR ANALYSIS" MAY INCLUDE:

17 (I) THE EMPIRICAL IDENTIFICATION OF FUNCTIONAL RELATIONS
18 BETWEEN BEHAVIORAL AND ENVIRONMENTAL FACTORS, KNOWN AS
19 "FUNCTIONAL ASSESSMENT AND ANALYSIS"; AND

20 (II) APPLIED BEHAVIOR ANALYSIS INTERVENTIONS, WHICH ARE
21 BASED ON SCIENTIFIC RESEARCH AND DIRECT AND INDIRECT OBSERVATION
22 AND MEASUREMENT OF BEHAVIOR AND ENVIRONMENT. APPLIED BEHAVIOR
23 ANALYSIS INTERVENTIONS UTILIZE CONTEXTUAL FACTORS, MOTIVATING
24 OPERATIONS, ANTECEDENT STIMULI, POSITIVE REINFORCEMENT, AND
25 OTHER PROCEDURES TO HELP INDIVIDUALS DEVELOP NEW BEHAVIORS,
26 INCREASE OR DECREASE EXISTING BEHAVIORS, AND EMIT BEHAVIORS
27 UNDER SPECIFIC ENVIRONMENTAL CONDITIONS.

1 (c) "APPLIED BEHAVIOR ANALYSIS" DOES NOT INCLUDE:
2 (I) DIAGNOSIS;
3 (II) PSYCHOLOGICAL TESTING;
4 (III) PSYCHOTHERAPY;
5 (IV) COGNITIVE THERAPY;
6 (V) PSYCHOANALYSIS;
7 (VI) MENTAL HEALTH COUNSELING;
8 (VII) PRACTICE WITH NONHUMANS;
9 (VIII) BUSINESS OR ORGANIZATIONAL CONSULTING, INCLUDING
10 ORGANIZATIONAL BEHAVIOR MANAGEMENT SERVICES; OR
11 (IX) ANY PRACTICES REGULATED UNDER ARTICLE 245 OF THIS
12 TITLE 12.

13 (2) "BEHAVIOR TECHNICIAN", "APPLIED BEHAVIOR ANALYSIS
14 TECHNICIAN", "BOARD CERTIFIED AUTISM TECHNICIAN", OR "REGISTERED
15 BEHAVIOR TECHNICIAN" MEANS AN INDIVIDUAL WHO PRACTICES UNDER
16 THE SUPERVISION OF A LICENSED BEHAVIOR ANALYST OR LICENSED
17 ASSISTANT BEHAVIOR ANALYST IN ACCORDANCE WITH THE REQUIREMENTS
18 OF A CERTIFYING ENTITY. A BEHAVIOR TECHNICIAN, APPLIED BEHAVIOR
19 ANALYSIS TECHNICIAN, BOARD CERTIFIED AUTISM TECHNICIAN, OR
20 REGISTERED BEHAVIOR TECHNICIAN DOES NOT DESIGN ASSESSMENT OR
21 INTERVENTION PLANS OR PROCEDURES BUT DELIVERS SERVICES AS
22 ASSIGNED BY THE SUPERVISOR RESPONSIBLE FOR THEIR WORK.

23 (3) "BOARD" MEANS THE COLORADO BEHAVIOR ANALYST
24 LICENSING BOARD CREATED IN SECTION 12-247-104, WHICH IS
25 AUTHORIZED TO IMPLEMENT AND ENFORCE THIS ARTICLE 247 AND
26 OVERSEE THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS.

27 

1 (4) "CERTIFYING ENTITY" MEANS THE BEHAVIOR ANALYST
2 CERTIFICATION BOARD, THE QUALIFIED APPLIED BEHAVIOR ANALYSIS
3 CREDENTIALING BOARD, OR ANOTHER NATIONAL ENTITY IDENTIFIED BY
4 THE BOARD WHOSE PROGRAMS TO CREDENTIAL PRACTITIONERS OF APPLIED
5 BEHAVIOR ANALYSIS ARE ACCREDITED BY THE NATIONAL COMMISSION
6 FOR CERTIFYING AGENCIES OR THE AMERICAN NATIONAL STANDARDS
7 INSTITUTE.

8 (5) "LICENSED ASSISTANT BEHAVIOR ANALYST" MEANS AN
9 INDIVIDUAL WHO IS A CERTIFIED ASSISTANT BEHAVIOR ANALYST AND IS
10 LICENSED PURSUANT TO SECTION 12-247-108.

11 (6) "LICENSED BEHAVIOR ANALYST" MEANS AN INDIVIDUAL WHO
12 IS A CERTIFIED BEHAVIOR ANALYST, CERTIFIED BEHAVIOR
13 ANALYST-DOCTORAL, OR QUALIFIED BEHAVIOR ANALYST, OR WHO HAS
14 ANOTHER CERTIFICATION AS DETERMINED BY THE BOARD, AND IS
15 LICENSED PURSUANT TO SECTION 12-247-107.

16 **12-247-104. Colorado behavior analyst licensing board -**
17 **created - members - terms - repeal.**

18 (1) (a) THERE IS CREATED THE COLORADO BEHAVIOR ANALYST
19 LICENSING BOARD, WHICH IS A **TYPE 1** ENTITY, AS DEFINED IN SECTION
20 24-1-105, AND WHICH EXERCISES ITS POWERS AND PERFORMS ITS DUTIES
21 AND FUNCTIONS UNDER THE DIVISION. THE BOARD CONSISTS OF FIVE
22 MEMBERS WHO ARE APPOINTED BY THE GOVERNOR AS FOLLOWS:

- 23 (I) THREE MEMBERS WHO ARE LICENSED BEHAVIOR ANALYSTS;
24 (II) ONE LICENSED ASSISTANT BEHAVIOR ANALYST; AND
25 (III) ONE PUBLIC MEMBER.

26 (b) (I) THE LICENSED BEHAVIOR ANALYST AND LICENSED
27 ASSISTANT BEHAVIOR ANALYST BOARD MEMBERS INITIALLY APPOINTED

1 PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION MUST MEET THE
2 QUALIFICATIONS FOR LICENSURE UPON APPOINTMENT AND SHALL APPLY
3 FOR LICENSURE AS SOON THE FIRST APPLICATION PERIOD BEGINS, AND
4 THEY SHALL BE GRANTED APPLICABLE LICENSES UPON MEETING ALL
5 QUALIFICATIONS OF SECTION 12-247-107 OR 12-247-108, AS APPLICABLE.

6 (II) THE LICENSED BEHAVIOR ANALYST AND LICENSED ASSISTANT
7 BEHAVIOR ANALYST BOARD MEMBERS INITIALLY APPOINTED PURSUANT TO
8 SUBSECTION (1)(a) OF THIS SECTION SHALL MAINTAIN LICENSURE
9 PURSUANT TO SECTION 12-247-107 OR 12-247-108, AS APPLICABLE, WHILE
10 SERVING ON THE BOARD.

11 (III) EXCEPT AS PROVIDED IN SUBSECTION (1)(b)(IV) OF THIS
12 SECTION, THE TERM OF APPOINTMENT FOR EACH MEMBER OF THE BOARD
13 IS THREE YEARS.

14 (IV) (A) THE INITIAL TERM OF APPOINTMENT OF TWO OF THE
15 LICENSED BEHAVIORAL ANALYSTS APPOINTED PURSUANT TO SUBSECTION
16 (1)(a)(I) OF THIS SECTION IS TWO YEARS, WITH THE INITIAL TERM OF
17 APPOINTMENT FOR THE REMAINING MEMBERS OF THE BOARD BEING THREE
18 YEARS.

19 (B) THIS SUBSECTION (1)(b)(IV) IS REPEALED, EFFECTIVE
20 DECEMBER 1, 2030.

21 (c) (I) THE GOVERNOR SHALL MAKE THE INITIAL APPOINTMENTS TO
22 THE BOARD PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION NO LATER
23 THAN ONE HUNDRED EIGHTY DAYS AFTER THE EFFECTIVE DATE OF THIS
24 SECTION.

25 (II) THIS SUBSECTION (1)(c) IS REPEALED, EFFECTIVE SEPTEMBER
26 1, 2029.

27 (2) (a) (I) UPON THE EXPIRATION OF THE TERM OF EACH INITIAL

1 BOARD MEMBER DESIGNATED PURSUANT TO SUBSECTION (1)(a) OF THIS
2 SECTION, THE GOVERNOR SHALL APPOINT A BOARD MEMBER TO A
3 THREE-YEAR TERM AND THE BOARD MEMBER SHALL SERVE UNTIL A
4 SUCCESSOR IS APPOINTED AND QUALIFIED.

5 (II) AN INDIVIDUAL SHALL NOT SERVE MORE THAN TWO
6 CONSECUTIVE FULL TERMS ON THE BOARD.

7 (b) IF A MEMBER OF THE BOARD CANNOT COMPLETE A TERM OF
8 OFFICE, THE VACANCY SHALL BE FILLED IN THE SAME MANNER AS THE
9 ORIGINAL APPOINTMENT FOR THE REMAINDER OF THE UNEXPIRED TERM.

10 (3) EACH MEMBER OF THE BOARD SHALL RECEIVE THE
11 COMPENSATION PROVIDED FOR IN SECTION 12-20-103 (6).

12 (4) A BOARD MEMBER SHALL NOT PARTICIPATE IN ANY MATTER
13 BEFORE THE BOARD IN WHICH THE MEMBER HAS A PECUNIARY INTEREST OR
14 SIMILAR CONFLICT OF INTEREST.

15 (5) THE GOVERNOR MAY REMOVE A BOARD MEMBER FOR
16 MISCONDUCT, INCOMPETENCE, OR NEGLECT OF DUTY.

17 (6) (a) THE DIRECTOR SHALL CALL THE FIRST MEETING OF THE
18 BOARD NO LATER THAN THREE MONTHS AFTER THE GOVERNOR MAKES ALL
19 OF THE INITIAL APPOINTMENTS TO THE BOARD.

20 (b) THREE MEMBERS OF THE BOARD CONSTITUTE A QUORUM FOR
21 THE TRANSACTION OF ALL BUSINESS.

22 (7) THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS
23 TO SERVE FOR A TERM NOT TO EXCEED ONE YEAR. A CHAIR SHALL NOT
24 SERVE MORE THAN THREE CONSECUTIVE TERMS.

25 **12-247-105. Powers and duties of the Colorado behavior**
26 **analyst licensing board - rules.**

27 (1) IN ADDITION TO ALL OTHER POWERS AND DUTIES CONFERRED

1 UPON THE BOARD BY THIS ARTICLE 247, THE BOARD HAS THE FOLLOWING
2 POWERS AND DUTIES:

3 (a) ADMINISTER, COORDINATE, AND ENFORCE THIS ARTICLE 247;

4 (b) ADOPT, AMEND, OR REPEAL RULES TO ADMINISTER AND
5 ENFORCE THIS ARTICLE 247;

6 (c) ESTABLISH AND DETERMINE THE QUALIFICATION AND FITNESS
7 OF APPLICANTS FOR LICENSURE UNDER THIS ARTICLE 247;

8 (d) ISSUE, RENEW, DENY, SUSPEND, REVOKE, OR REFUSE TO ISSUE
9 OR RENEW ANY LICENSE IN ACCORDANCE WITH THIS ARTICLE 247; AND

10 (e) CHARGE FEES PURSUANT TO SECTION 12-20-105.

11 (2) THIS ARTICLE 247 APPLIES TO THE PRACTICE OF APPLIED
12 BEHAVIOR ANALYSIS IN ALL SETTINGS. NOTHING IN THIS ARTICLE 247
13 AUTHORIZES THE BOARD TO REGULATE APPLIED BEHAVIOR ANALYSIS
14 CLINICS LICENSED PURSUANT TO SECTIONS 26-6-905 AND 26-6-909.5.

15 **12-247-106. License required - title protection - behavior**
16 **technician providing applied behavior analysis services.**

17 (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 12-247-115, AN
18 INDIVIDUAL SHALL NOT ENGAGE IN OR OFFER TO PROVIDE THE PRACTICE
19 OF APPLIED BEHAVIOR ANALYSIS UNLESS THE INDIVIDUAL IS LICENSED
20 UNDER THIS ARTICLE 247.

21 (2) (a) AN INDIVIDUAL SHALL NOT DESIGNATE THEMSELVES OR
22 HOLD THEMSELF OUT AS A LICENSED BEHAVIOR ANALYST UNLESS THE
23 INDIVIDUAL IS LICENSED AS A LICENSED BEHAVIOR ANALYST UNDER THIS
24 ARTICLE 247.

25 (b) AN INDIVIDUAL SHALL NOT DESIGNATE THEMSELVES OR HOLD
26 THEMSELF OUT AS A LICENSED ASSISTANT BEHAVIOR ANALYST UNLESS THE
27 INDIVIDUAL IS LICENSED AS A LICENSED ASSISTANT BEHAVIOR ANALYST

1 UNDER THIS ARTICLE 247.

2 (3) (a) A BEHAVIOR TECHNICIAN PROVIDING APPLIED BEHAVIOR
3 ANALYSIS SERVICES UNDER THE SUPERVISION OF A LICENSED BEHAVIOR
4 ANALYST OR A LICENSED ASSISTANT BEHAVIOR ANALYST PURSUANT TO
5 SECTION 12-247-115 (1)(b) SHALL NOT REPRESENT THEMSELVES AS A
6 LICENSED BEHAVIOR ANALYST AND SHALL USE A TITLE THAT INDICATES
7 THEIR NONPROFESSIONAL STATUS, SUCH AS "ABA TECHNICIAN",
8 "BEHAVIOR TECHNICIAN", OR "TUTOR".

9 (b) A BEHAVIOR TECHNICIAN MAY USE THE TITLE OF A CURRENT,
10 VALID CREDENTIAL THEY POSSESS THAT HAS BEEN ISSUED BY A
11 CERTIFYING ENTITY, SUCH AS "REGISTERED BEHAVIOR TECHNICIAN", IF
12 THEY ARE PERFORMING FUNCTIONS IN ACCORDANCE WITH THE
13 CREDENTIAL.

14 **12-247-107. Licensure of behavior analysts - qualifications -**
15 **application.**

16 (1) AN APPLICANT FOR A LICENSE AS A LICENSED BEHAVIOR
17 ANALYST SHALL SUBMIT A COMPLETED APPLICATION AS REQUIRED BY THE
18 BOARD AND SHALL:

19 (a) HAVE A CURRENT, VALID CERTIFICATION IN GOOD STANDING
20 WITH A CERTIFYING ENTITY AS A CERTIFIED BEHAVIOR ANALYST,
21 CERTIFIED BEHAVIOR ANALYST-DOCTORAL, OR QUALIFIED BEHAVIOR
22 ANALYST OR HAVE ANOTHER CERTIFICATION AS DETERMINED BY THE
23 BOARD; AND

24 (b) COMPLETE A FINGERPRINT-BASED CRIMINAL HISTORY RECORD
25 CHECK IN ACCORDANCE WITH SECTION 12-247-109.

26 (2) AFTER AN APPLICANT HAS FULFILLED THE REQUIREMENTS OF
27 SUBSECTION (1) OF THIS SECTION, THE BOARD SHALL ISSUE A LICENSE TO

1 THE APPLICANT; EXCEPT THAT THE BOARD MAY DENY A LICENSE IF THE
2 APPLICANT HAS COMMITTED AN ACT THAT WOULD BE GROUNDS FOR
3 DISCIPLINARY ACTION UNDER SECTION 12-247-117.

4 **12-247-108. Licensure of assistant behavior analysts -**
5 **qualifications - application.**

6 (1) AN APPLICANT FOR A LICENSE AS A LICENSED ASSISTANT
7 BEHAVIOR ANALYST SHALL SUBMIT A COMPLETED APPLICATION AS
8 REQUIRED BY THE BOARD AND SHALL:

9 (a) HAVE A CURRENT, VALID CERTIFICATION IN GOOD STANDING
10 WITH A CERTIFYING ENTITY AS A CERTIFIED ASSISTANT BEHAVIOR
11 ANALYST OR QUALIFIED AUTISM SERVICE PRACTITIONER-SUPERVISOR OR
12 HAVE ANOTHER CERTIFICATION AS DETERMINED BY THE BOARD; AND

13 (b) COMPLETE A FINGERPRINT-BASED CRIMINAL HISTORY RECORD
14 CHECK IN ACCORDANCE WITH SECTION 12-247-109.

15 [REDACTED]

16 (2) AFTER AN APPLICANT HAS FULFILLED THE REQUIREMENTS OF
17 SUBSECTION (1) OF THIS SECTION, THE BOARD SHALL ISSUE A LICENSE TO
18 THE APPLICANT; EXCEPT THAT THE BOARD MAY DENY A LICENSE IF THE
19 APPLICANT HAS COMMITTED AN ACT THAT WOULD BE GROUNDS FOR
20 DISCIPLINARY ACTION UNDER SECTION 12-247-117.

21 **12-247-109. Fingerprint-based criminal history record check.**

22 (1) AN APPLICANT FOR A LICENSE PURSUANT TO THIS ARTICLE 247
23 SHALL SUBMIT TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD
24 CHECK. THE APPLICANT MUST PAY THE COSTS ASSOCIATED WITH THE
25 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

26 (2) AN APPLICANT SHALL HAVE THE APPLICANT'S FINGERPRINTS
27 TAKEN BY A LOCAL LAW ENFORCEMENT AGENCY OR ANY THIRD PARTY

1 APPROVED BY THE COLORADO BUREAU OF INVESTIGATION FOR THE
2 PURPOSE OF OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD
3 CHECK. THE APPLICANT SHALL AUTHORIZE THE ENTITY TAKING THE
4 APPLICANT'S FINGERPRINTS TO SUBMIT, AND THE ENTITY SHALL SUBMIT,
5 THE COMPLETE SET OF THE APPLICANT'S FINGERPRINTS TO THE COLORADO
6 BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING A
7 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

8 (3) IF AN APPROVED THIRD PARTY TAKES THE PERSON'S
9 FINGERPRINTS, THE FINGERPRINTS MAY BE ELECTRONICALLY CAPTURED
10 USING COLORADO BUREAU OF INVESTIGATION-APPROVED LIVESCAN
11 EQUIPMENT. AN APPROVED THIRD PARTY SHALL NOT KEEP THE
12 APPLICANT'S INFORMATION FOR MORE THAN THIRTY DAYS AFTER THE
13 APPLICANT'S FINGERPRINTS ARE TAKEN BY THE APPROVED THIRD PARTY.

14 (4) THE COLORADO BUREAU OF INVESTIGATION SHALL USE THE
15 APPLICANT'S FINGERPRINTS TO CONDUCT A CRIMINAL HISTORY RECORD
16 CHECK USING THE BUREAU'S RECORDS. THE COLORADO BUREAU OF
17 INVESTIGATION SHALL ALSO FORWARD THE FINGERPRINTS TO THE FEDERAL
18 BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING A
19 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. THE COLORADO
20 BUREAU OF INVESTIGATION, APPLICANT, DEPARTMENT, AND ENTITY
21 TAKING FINGERPRINTS SHALL COMPLY WITH THE FEDERAL BUREAU OF
22 INVESTIGATION'S REQUIREMENTS TO CONDUCT A CRIMINAL HISTORY
23 RECORD CHECK.

24 (5) THE COLORADO BUREAU OF INVESTIGATION SHALL RETURN
25 THE RESULTS OF ITS CRIMINAL HISTORY RECORD CHECK TO THE
26 DEPARTMENT. THE DEPARTMENT SHALL USE THE INFORMATION
27 RESULTING FROM THE CRIMINAL HISTORY RECORD CHECKS TO

1 INVESTIGATE AND DETERMINE WHETHER AN APPLICANT IS QUALIFIED TO
2 HOLD A LICENSE PURSUANT TO THIS ARTICLE 247.

3 (6) IF THE FEDERAL BUREAU OF INVESTIGATION IS UNABLE TO
4 COMPLETE A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK OF
5 AN APPLICANT, THE COLORADO BUREAU OF INVESTIGATION SHALL INFORM
6 THE DEPARTMENT, AND THE DEPARTMENT MAY CONDUCT A CRIMINAL
7 HISTORY RECORD CHECK OF THE APPLICANT USING THE COLORADO
8 BUREAU OF INVESTIGATION'S RECORDS AS A SUBSTITUTE FOR THE
9 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK REQUIRED IN THIS
10 ARTICLE 247.

11 (7) WHEN THE RESULTS OF A CRIMINAL HISTORY RECORD CHECK
12 OF AN APPLICANT PERFORMED PURSUANT TO THIS ARTICLE 247 REVEAL A
13 RECORD OF ARREST WITHOUT A DISPOSITION, THE DEPARTMENT SHALL
14 REQUIRE THE APPLICANT TO SUBMIT TO A NAME-BASED JUDICIAL RECORD
15 CHECK, AS DEFINED IN SECTION 22-2-119.3 (6)(d).

16 **12-247-110. Issuance, expiration, and renewal of licenses -**
17 **rules.**

18 (1) LICENSES ISSUED PURSUANT TO THIS ARTICLE 247 ARE VALID
19 FOR A PERIOD AS DETERMINED PURSUANT TO SECTION 12-20-202.

20 (2) (a) PRIOR TO THE EXPIRATION OF A LICENSE, THE BOARD MAY
21 RENEW A LICENSE ISSUED PURSUANT TO THIS ARTICLE 247 IF:

22 (I) THE LICENSEE SUBMITS A COMPLETED APPLICATION FOR
23 RENEWAL TO THE BOARD AS REQUIRED BY THE BOARD BY RULE; AND

24 (II) THE BOARD VERIFIES THE LICENSEE'S CERTIFICATION BY A
25 CERTIFYING ENTITY.

26 (b) A LICENSE ISSUED PURSUANT TO THIS ARTICLE 247 IS SUBJECT
27 TO A GRACE PERIOD AFTER THE EXPIRATION OF THE LICENSE PURSUANT TO

1 SECTION 12-20-202 (1)(e).

2 **12-247-111. Licensure by endorsement.**

3 THE BOARD SHALL ISSUE A LICENSE BY ENDORSEMENT TO AN
4 APPLICANT WHO SATISFIES THE REQUIREMENTS OF THE OCCUPATIONAL
5 CREDENTIAL PORTABILITY PROGRAM DESCRIBED IN SECTION 12-20-202 (3).

6 **12-247-112. Supervision of licensed assistant behavior analysts**
7 **- rules.**

8 (1) A LICENSED ASSISTANT BEHAVIOR ANALYST SHALL PRACTICE
9 ONLY UNDER THE SUPERVISION OF A LICENSED BEHAVIOR ANALYST.

10 (2) A LICENSED BEHAVIOR ANALYST SHALL SUPERVISE A LICENSED
11 ASSISTANT BEHAVIOR ANALYST IN ACCORDANCE WITH THE RULES OF THE
12 BOARD.

13 (3) A LICENSED ASSISTANT BEHAVIOR ANALYST SHALL PRACTICE
14 WITHIN THE SCOPE OF PRACTICE ESTABLISHED BY THE RULES OF THE
15 BOARD.

16 **12-247-113. Scope of practice - licensed behavioral analysts.**

17 (1) (a) THE PRACTICE OF BEHAVIORAL ANALYSIS INCLUDES THE
18 DESIGN, IMPLEMENTATION, AND EVALUATION OF ENVIRONMENTAL
19 MODIFICATIONS USING BEHAVIORAL STIMULI AND CONSEQUENCES TO
20 PRODUCE SOCIALLY SIGNIFICANT IMPROVEMENT IN HUMAN BEHAVIOR,
21 INCLUDING THE USE OF DIRECT OBSERVATION, MEASUREMENT, AND
22 FUNCTIONAL ANALYSIS OF THE RELATIONSHIP BETWEEN ENVIRONMENT
23 AND BEHAVIOR, FOR THE PURPOSE OF PROVIDING TREATMENT.

24 (b) THE PRACTICE OF BEHAVIORAL ANALYSIS MAY INCLUDE OTHER
25 PRACTICES AS DEFINED BY THE BOARD.

26 (2) A LICENSED BEHAVIORAL ANALYST SHALL SUPERVISE AN
27 APPROPRIATE NUMBER OF ASSISTANT BEHAVIORAL ANALYSTS OR

1 BEHAVIORAL TECHNICIANS AT A TIME AS DETERMINED BY THE BOARD.

2 (3) (a) A LICENSED BEHAVIOR ANALYST SHALL DEVELOP AN
3 INDIVIDUALIZED TREATMENT PLAN FOR APPLIED BEHAVIOR ANALYSIS
4 THAT WILL GUIDE RECOMMENDATIONS FOR TREATMENT GOALS,
5 TREATMENT INTENSITY, AND SERVICE DELIVERY.

6 (b) AN INDIVIDUALIZED TREATMENT PLAN DESCRIBED IN
7 SUBSECTION (3)(a) OF THIS SECTION MUST IDENTIFY AND DEVELOP
8 OBJECTIVE AND MEASURABLE TREATMENT GOALS TO ADDRESS PROBLEM
9 AREAS THAT WERE IDENTIFIED THROUGH THE USE OF STANDARDIZED
10 CRITERIA REFERENCED BY THE PLAN OR OTHER ASSESSMENTS FOR INITIAL
11 AND ONGOING ASSESSMENT AND PROGRESS MONITORING. THE TREATMENT
12 GOALS SHALL BE DEFINED APPROPRIATE TO PROPOSED TREATMENT
13 INTENSITY AND SERVICE DELIVERY.

14 **12-247-114. Scope of practice - licensed assistant behavioral**
15 **analysts - rules.**

16 A LICENSED ASSISTANT BEHAVIORAL ANALYST MAY PERFORM ANY
17 FUNCTION A LICENSED BEHAVIORAL ANALYST IS AUTHORIZED TO PERFORM
18 IF THE FUNCTION IS PERFORMED UNDER THE SUPERVISION OF A LICENSED
19 BEHAVIORAL ANALYST, WHICH SUPERVISION THE BOARD SHALL DEFINE BY
20 RULE.

21 **12-247-115. Scope of article - exclusions.**

22 (1) THIS ARTICLE 247 DOES NOT PROHIBIT OR RESTRICT THE
23 PRACTICE OF THE FOLLOWING:

24 (a) A HEALTH-CARE PROFESSIONAL LICENSED, CERTIFIED, OR
25 REGISTERED UNDER THIS TITLE 12 AND PRACTICING IN THIS STATE AND
26 ANY INDIVIDUAL PRACTICING UNDER THEIR SUPERVISION IN ACCORDANCE
27 WITH THIS TITLE 12, IF:

1 (I) APPLIED BEHAVIOR ANALYSIS IS WITHIN THE SCOPE OF
2 PRACTICE APPLICABLE TO THE INDIVIDUAL UNDER THIS TITLE 12;

3 (II) THE APPLIED BEHAVIOR ANALYSIS SERVICES PROVIDED ARE
4 WITHIN THE SCOPE OF THE LICENSED HEALTH-CARE PROFESSIONAL'S
5 EDUCATION, TRAINING, AND COMPETENCE; AND

6 (III) THE LICENSED, CERTIFIED, OR REGISTERED HEALTH-CARE
7 PROFESSIONAL OR SUPERVISEE DOES NOT REPRESENT THEMSELVES USING
8 TITLES PROTECTED UNDER SECTION 12-247-106;

9 (b) A BEHAVIOR TECHNICIAN FROM PROVIDING APPLIED BEHAVIOR
10 ANALYSIS SERVICES UNDER THE SUPERVISION OF A LICENSED BEHAVIOR
11 ANALYST OR A LICENSED ASSISTANT BEHAVIOR ANALYST;

12 (c) A CAREGIVER OF A RECIPIENT OF APPLIED BEHAVIOR ANALYSIS
13 SERVICES WHO PROVIDES APPLIED BEHAVIOR ANALYSIS SERVICES UNDER
14 THE AUTHORITY AND DIRECTION OF A LICENSED BEHAVIOR ANALYST OR A
15 LICENSED ASSISTANT BEHAVIOR ANALYST. THE CAREGIVER SHALL NOT
16 REPRESENT THEMSELVES AS A LICENSED BEHAVIOR ANALYST OR LICENSED
17 ASSISTANT BEHAVIOR ANALYST.

18 (d) A MATRICULATED COLLEGE OR UNIVERSITY STUDENT OR
19 POSTDOCTORAL FELLOW WHOSE APPLIED BEHAVIOR ANALYSIS ACTIVITIES
20 ARE PART OF A DEFINED PROGRAM OF STUDY, COURSE, PRACTICUM,
21 INTERNSHIP, OR FELLOWSHIP AND ARE DIRECTLY SUPERVISED BY A
22 LICENSED BEHAVIOR ANALYST OR A QUALIFIED FACULTY MEMBER
23 LOCATED IN THIS STATE. THE STUDENT OR FELLOW SHALL NOT REPRESENT
24 THEMSELVES AS A LICENSED BEHAVIOR ANALYST OR LICENSED ASSISTANT
25 BEHAVIOR ANALYST AND SHALL USE A TITLE THAT CLEARLY INDICATES
26 THEIR TRAINEE STATUS, SUCH AS "STUDENT", "INTERN", OR "TRAINEE".

27 (e) UNLICENSED INDIVIDUALS FROM PURSUING EXPERIENCE IN

1 APPLIED BEHAVIOR ANALYSIS CONSISTENT WITH THE EXPERIENCE
2 REQUIREMENTS OF THE BOARD, PROVIDED THE EXPERIENCE IS SUPERVISED
3 IN ACCORDANCE WITH THE REQUIREMENTS OF THE BOARD; AND

4 (f) AN INDIVIDUAL EMPLOYED BY A SCHOOL, AS DEFINED IN
5 SECTION 22-1-132 (2)(c), PERFORMING THE DUTIES OF THEIR POSITION.
6 SUCH AN INDIVIDUAL SHALL NOT:

7 (I) REPRESENT THEMSELVES AS A LICENSED BEHAVIOR ANALYST
8 OR LICENSED ASSISTANT BEHAVIOR ANALYST UNLESS THEY ARE LICENSED
9 UNDER THIS ARTICLE 247;

10 (II) OFFER APPLIED BEHAVIOR ANALYSIS SERVICES TO A PERSON
11 OTHER THAN THE STUDENTS OF THEIR SCHOOL EMPLOYER; OR

12 (III) ACCEPT REMUNERATION FOR PROVIDING APPLIED BEHAVIOR
13 ANALYSIS SERVICES OTHER THAN THE REMUNERATION THEY RECEIVE
14 FROM THEIR SCHOOL EMPLOYER.

15 **12-247-116. Continuing professional competency - rules.**

16 (1) INDIVIDUALS LICENSED PURSUANT TO THIS ARTICLE 247 SHALL
17 MAINTAIN THEIR PROFESSIONAL CREDENTIAL ISSUED BY A CERTIFYING
18 ENTITY AS DESCRIBED IN SECTION 12-247-107 (1)(a) OR 12-247-108 (1)(a),
19 AS APPLICABLE, AND SHALL PRACTICE IN ACCORDANCE WITH THE
20 REQUIREMENTS OF THE CREDENTIAL AND IN ACCORDANCE WITH RULES
21 ADOPTED BY THE BOARD.

22 (2) INDIVIDUALS LICENSED PURSUANT TO THIS ARTICLE 247 SHALL
23 IMMEDIATELY NOTIFY THE BOARD IF THEIR APPLICABLE PROFESSIONAL
24 CREDENTIAL ISSUED BY A CERTIFYING ENTITY IS SUSPENDED OR REVOKED.

25 (3) (a) UNLESS OTHERWISE PUBLICLY AVAILABLE, RECORDS OF
26 ASSESSMENTS OR OTHER DOCUMENTATION DEVELOPED OR SUBMITTED IN
27 CONNECTION WITH PEER REVIEW ACTIVITIES ARE CONFIDENTIAL AND

1 EXEMPT FROM PUBLIC INSPECTION UNDER SECTION 24-72-204 (3)(a)(IV)
2 OR DISCOVERY IN CONNECTION WITH A CIVIL ACTION AGAINST A LICENSED
3 BEHAVIOR ANALYST OR LICENSED ASSISTANT BEHAVIOR ANALYST. THE
4 BOARD SHALL ONLY USE THE RECORDS OR DOCUMENTS FOR PURPOSES OF
5 DETERMINING WHETHER A LICENSED BEHAVIOR ANALYST OR LICENSED
6 ASSISTANT BEHAVIOR ANALYST IS MAINTAINING CONTINUING
7 PROFESSIONAL COMPETENCY TO ENGAGE IN THE PROFESSION.

8 (b) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (3)(a) OF THIS
9 SECTION, NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RESTRICT
10 THE DISCOVERY OF INFORMATION OR DOCUMENTS THAT ARE OTHERWISE
11 DISCOVERABLE UNDER THE COLORADO RULES OF CIVIL PROCEDURE IN
12 CONNECTION WITH A CIVIL ACTION AGAINST A LICENSED BEHAVIOR
13 ANALYST OR LICENSED ASSISTANT BEHAVIOR ANALYST.

14 **12-247-117. Disciplinary action - grounds for discipline.**

15
16 (1) PURSUANT TO PART 4 OF ARTICLE 20 OF THIS TITLE 12, THE
17 BOARD MAY DENY OR REFUSE TO RENEW A LICENSE, SUSPEND OR REVOKE
18 A LICENSE, IMPOSE PROBATIONARY CONDITIONS ON A LICENSE, ISSUE A
19 CEASE-AND-DESIST LETTER, OR SEEK INJUNCTIVE RELIEF AGAINST A
20 LICENSEE OR AN APPLICANT FOR LICENSURE WHO HAS ENGAGED IN ONE OR
21 MORE OF THE FOLLOWING GROUNDS FOR DISCIPLINE OR UNPROFESSIONAL
22 CONDUCT:

23 (a) ENGAGING IN CONDUCT INVOLVING FRAUD, DECEIT,
24 MISREPRESENTATION, OR CONCEALMENT OF MATERIAL FACTS IN
25 OBTAINING OR ATTEMPTING TO OBTAIN A LICENSE OR THE RENEWAL OF A
26 LICENSE;

27 (b) (I) FAILING TO NOTIFY THE BOARD, AS REQUIRED BY SECTION

1 12-30-108 (1), OF A PHYSICAL ILLNESS, PHYSICAL CONDITION, OR
2 BEHAVIORAL, MENTAL HEALTH, OR SUBSTANCE USE DISORDER THAT
3 IMPACTS THE LICENSEE'S ABILITY TO PROVIDE APPLIED BEHAVIOR
4 ANALYSIS SERVICES WITH REASONABLE SKILL AND SAFETY OR THAT MAY
5 ENDANGER THE HEALTH OR SAFETY OF INDIVIDUALS RECEIVING SERVICES;

6 (II) FAILING TO ACT WITHIN THE LIMITATIONS CREATED BY A
7 PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL, MENTAL
8 HEALTH, OR SUBSTANCE USE DISORDER THAT RENDERS THE PERSON
9 UNABLE TO PRACTICE APPLIED BEHAVIOR ANALYSIS WITH REASONABLE
10 SKILL AND SAFETY OR THAT MAY ENDANGER THE HEALTH OR SAFETY OF
11 INDIVIDUALS UNDER THE LICENSEE'S CARE;

12 (III) FAILING TO COMPLY WITH THE LIMITATIONS AGREED TO
13 UNDER A CONFIDENTIAL AGREEMENT ENTERED INTO PURSUANT TO
14 SECTIONS 12-30-108 AND 12-247-121; OR

15 (IV) REFUSING TO SUBMIT TO A PHYSICAL OR MENTAL
16 EXAMINATION WHEN ORDERED BY THE BOARD PURSUANT TO SECTION
17 12-247-120;

18 (c) (I) VIOLATING THE REQUIREMENTS OF SECTION 12-247-116 OR
19 FAILING TO NOTIFY THE BOARD OF THE SUSPENSION OR REVOCATION OF
20 THE INDIVIDUAL'S PAST OR CURRENTLY HELD LICENSE, CERTIFICATE, OR
21 REGISTRATION REQUIRED TO PRACTICE APPLIED BEHAVIOR ANALYSIS IN
22 THIS STATE OR ANY OTHER JURISDICTION; OR

23 (II) HAVING A LICENSE, CERTIFICATE, OR REGISTRATION
24 SUSPENDED OR REVOKED FOR AN ACTION THAT VIOLATES THIS ARTICLE
25 247;

26 (d) BEING CONVICTED OF OR PLEADING GUILTY OR NOLO
27 CONTENDERE TO A FELONY OR COMMITTING AN ACT SPECIFIED IN SECTION

1 12-247-106. IN CONSIDERING THE DISCIPLINARY ACTION, THE BOARD IS
2 GOVERNED BY SECTIONS 12-20-202 (5) AND 24-5-101.

3 (e) ADMINISTERING TREATMENT WITHOUT CLINICAL JUSTIFICATION
4 THAT IS DEMONSTRABLY UNNECESSARY;

5 (f) COMMITTING AN ACT OR OMISSION THAT IS CONTRARY TO
6 GENERALLY ACCEPTED STANDARDS OF THE PRACTICE OF APPLIED
7 BEHAVIOR ANALYSIS;

8 (g) ENGAGING IN IMMORAL, DISHONORABLE, UNPROFESSIONAL, OR
9 UNETHICAL CONDUCT AS DESCRIBED IN THIS ARTICLE 247 OR IN BOARD
10 RULES;

11 (h) FAILING TO PROVIDE SUPERVISION OF A LICENSED ASSISTANT
12 BEHAVIOR ANALYST, A BEHAVIOR TECHNICIAN, OR ANY UNLICENSED
13 INDIVIDUAL IN THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS; OR

14 (i) OTHERWISE VIOLATING THIS ARTICLE 247 OR ANY LAWFUL
15 ORDER OR RULE OF THE BOARD.

16 (2) (a) THE BOARD MAY COMMENCE A PROCEEDING TO DISCIPLINE
17 A LICENSEE UPON RECEIPT OF A COMPLAINT AGAINST A LICENSEE OR BY A
18 MOTION OF THE BOARD IF THE BOARD HAS REASONABLE GROUNDS TO
19 BELIEVE THAT THE LICENSEE HAS COMMITTED AN ACT OR OMISSION
20 DESCRIBED IN THIS SECTION OR HAS VIOLATED A LAWFUL ORDER OR RULE
21 OF THE BOARD.

22 (b) IN ANY PROCEEDING COMMENCED UNDER THIS SECTION, THE
23 BOARD MAY ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION
24 A DISCIPLINARY ACTION TAKEN AGAINST A LICENSEE, CERTIFICANT, OR
25 REGISTRANT IN ANOTHER JURISDICTION IF THE VIOLATION THAT PROMPTED
26 THE DISCIPLINARY ACTION IN THE OTHER JURISDICTION WOULD BE
27 GROUNDS FOR DISCIPLINARY ACTION UNDER THIS ARTICLE 247 OR A RULE

1 ADOPTED BY THE BOARD.

2 (3) (a) THE BOARD SHALL CONDUCT DISCIPLINARY PROCEEDINGS
3 IN ACCORDANCE WITH SECTION 12-20-403 AND ARTICLE 4 OF TITLE 24.
4 THE BOARD MAY EXERCISE ALL POWERS AND DUTIES CONFERRED BY THIS
5 ARTICLE 247 DURING THE DISCIPLINARY PROCEEDINGS.

6 (b) NO LATER THAN THIRTY DAYS AFTER THE DATE OF THE
7 BOARD'S DISCIPLINARY ACTION, THE BOARD SHALL NOTIFY A LICENSEE
8 DISCIPLINED UNDER THIS SECTION OF THE DISCIPLINARY ACTION, THE
9 SPECIFIC ALLEGATIONS GIVING RISE TO THE ACTION, AND THE LICENSEE'S
10 RIGHT TO REQUEST A HEARING ON THE ACTION TAKEN. THE BOARD SHALL
11 PROVIDE THE NOTICE BY SENDING AN EMAIL TO THE MOST RECENT EMAIL
12 ADDRESS PROVIDED TO THE BOARD BY THE LICENSEE, IF THE LICENSEE
13 CONFIRMS RECEIPT OF THE EMAIL WITHIN SEVEN DAYS. IF THE LICENSEE
14 DOES NOT CONFIRM RECEIPT OF THE EMAIL WITHIN SEVEN DAYS, THE
15 BOARD SHALL SEND THE NOTICE TO THE LICENSEE THROUGH CERTIFIED OR
16 FIRST-CLASS UNITED STATES MAIL, RETURN RECEIPT REQUESTED.

17 (c) WITHIN THIRTY CALENDAR DAYS AFTER THE BOARD SENDS THE
18 NOTICE DESCRIBED IN SUBSECTION (3)(b) OF THIS SECTION, THE LICENSEE
19 MAY FILE A WRITTEN REQUEST WITH THE BOARD FOR A HEARING ON THE
20 DISCIPLINARY ACTION TAKEN. UPON RECEIPT OF THE REQUEST, THE BOARD
21 SHALL GRANT A HEARING TO THE LICENSEE. IF THE LICENSEE FAILS TO FILE
22 A WRITTEN REQUEST FOR A HEARING WITHIN THIRTY CALENDAR DAYS
23 AFTER THE LICENSEE CONFIRMS RECEIPT OF THE EMAIL OR AFTER THE
24 LICENSEE RECEIVES THE NOTICE SENT VIA CERTIFIED OR FIRST-CLASS
25 UNITED STATES MAIL, WHICHEVER IS LATER, THE DISCIPLINARY ACTION OF
26 THE BOARD BECOMES FINAL ON THE THIRTY-FIRST CALENDAR DAY AFTER
27 THE BOARD SENT THE NOTICE DESCRIBED IN SUBSECTION (3)(b) OF THIS

1 SECTION.

2 (d) A LICENSEE'S FAILURE TO APPEAR AT A HEARING WITHOUT
3 GOOD CAUSE IS DEEMED A WITHDRAWAL OF THE LICENSEE'S REQUEST FOR
4 A HEARING, AND THE BOARD'S DISCIPLINARY ACTION BECOMES FINAL ON
5 THE HEARING DATE. THE BOARD'S FAILURE TO APPEAR AT A HEARING
6 WITHOUT GOOD CAUSE IS DEEMED CAUSE TO DISMISS THE DISCIPLINARY
7 PROCEEDING.

8 (4) INVESTIGATIONS, EXAMINATIONS, HEARINGS, MEETINGS, OR
9 ANY OTHER PROCEEDINGS OF THE BOARD CONDUCTED PURSUANT TO THIS
10 SECTION ARE EXEMPT FROM ANY LAW REQUIRING THAT PROCEEDINGS OF
11 THE BOARD BE CONDUCTED PUBLICLY OR THAT THE MINUTES OR RECORDS
12 OF THE BOARD WITH RESPECT TO ACTION OF THE BOARD TAKEN PURSUANT
13 TO THIS SECTION BE OPEN TO PUBLIC INSPECTION. THIS SUBSECTION (4)
14 DOES NOT APPLY TO INVESTIGATIONS, EXAMINATIONS, HEARINGS,
15 MEETINGS, OR ANY OTHER PROCEEDINGS OR RECORDS OF THE BOARD
16 RELATED TO THE UNLICENSED PRACTICE OF APPLIED BEHAVIOR ANALYSIS.

17 (5) THE BOARD MAY SEEK AN INJUNCTION IN ACCORDANCE WITH
18 SECTION 12-20-406 TO ENJOIN A PERSON FROM COMMITTING AN ACT
19 PROHIBITED BY THIS ARTICLE 247.

20 (6) A FINAL ACTION OF THE BOARD IS SUBJECT TO JUDICIAL REVIEW
21 PURSUANT TO SECTION 12-20-408.

22

23 (7) THE BOARD MAY ISSUE A CEASE-AND-DESIST ORDER UNDER
24 THE CIRCUMSTANCES AND IN ACCORDANCE WITH THE PROCEDURES
25 SPECIFIED IN SECTION 12-20-405.

26 (8) THE BOARD MAY SEND A LETTER OF ADMONITION TO A
27 LICENSEE UNDER THE CIRCUMSTANCES SPECIFIED IN AND IN ACCORDANCE

1 WITH SECTION 12-20-404 (4).

2 (9) THE BOARD MAY SEND A CONFIDENTIAL LETTER OF CONCERN
3 TO A LICENSEE UNDER THE CIRCUMSTANCES SPECIFIED IN SECTION
4 12-20-404 (5).

5 **12-247-118. Unauthorized practice - penalties.**

6 AN INDIVIDUAL WHO PRACTICES OR OFFERS OR ATTEMPTS TO
7 PRACTICE APPLIED BEHAVIOR ANALYSIS WITHOUT AN ACTIVE LICENSE AS
8 REQUIRED BY AND ISSUED UNDER THIS ARTICLE 247 IS SUBJECT TO
9 PENALTIES PURSUANT TO SECTION 12-20-407 (1)(b). INDIVIDUAL IS
10 SUBJECT TO A GRACE PERIOD AFTER THE EXPIRATION OF A LICENSE
11 PURSUANT TO SECTION 12-20-202 (1)(e).

12 **12-247-119. Rules.**

13 THE BOARD MAY ADOPT RULES TO IMPLEMENT THIS ARTICLE 247
14 PURSUANT TO SECTION 12-20-204.

15 **12-247-120. Mental and physical examination of licensees.**

16 (1) IF THE BOARD HAS REASONABLE CAUSE TO BELIEVE THAT A
17 LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY,
18 THE BOARD MAY ORDER THE LICENSEE TO TAKE A MENTAL OR PHYSICAL
19 EXAMINATION ADMINISTERED BY A PHYSICIAN OR OTHER LICENSED
20 HEALTH-CARE PROFESSIONAL DESIGNATED BY THE BOARD. EXCEPT WHERE
21 DUE TO CIRCUMSTANCES BEYOND THE LICENSEE'S CONTROL, IF THE
22 LICENSEE FAILS OR REFUSES TO UNDERGO A MENTAL OR PHYSICAL
23 EXAMINATION, THE BOARD SHALL PROCEED WITH AN ORDER FOR
24 EXAMINATION AND SHALL MAKE A DETERMINATION IN A TIMELY MANNER.

25 (2) IN AN ORDER REQUIRING A LICENSEE TO UNDERGO A MENTAL
26 OR PHYSICAL EXAMINATION, THE BOARD SHALL STATE THE BASIS OF THE
27 BOARD'S REASONABLE CAUSE TO BELIEVE THAT THE LICENSEE IS UNABLE

1 TO PRACTICE WITH REASONABLE SKILL AND SAFETY. FOR THE PURPOSE OF
2 A DISCIPLINARY PROCEEDING AUTHORIZED UNDER THIS ARTICLE 247, THE
3 LICENSEE IS DEEMED TO HAVE WAIVED ALL OBJECTIONS TO THE
4 ADMISSIBILITY OF THE EXAMINING PHYSICIAN'S OR LICENSED
5 HEALTH-CARE PROFESSIONAL'S TESTIMONY OR EXAMINATION REPORTS ON
6 THE GROUNDS THAT THEY ARE PRIVILEGED COMMUNICATION.

7 (3) THE LICENSEE MAY SUBMIT TO THE BOARD TESTIMONY OR
8 EXAMINATION REPORTS FROM A PHYSICIAN OR OTHER LICENSED
9 HEALTH-CARE PROFESSIONAL CHOSEN BY THE LICENSEE AND PERTAINING
10 TO ANY CONDITION THAT THE BOARD HAS ALLEGED MAY PRECLUDE THE
11 LICENSEE FROM PRACTICING WITH REASONABLE SKILL AND SAFETY. THE
12 BOARD MAY CONSIDER THE TESTIMONY AND REPORTS SUBMITTED BY THE
13 LICENSEE IN CONJUNCTION WITH, BUT NOT IN LIEU OF, TESTIMONY AND
14 EXAMINATION REPORTS OF THE PHYSICIAN OR OTHER LICENSED
15 HEALTH-CARE PROFESSIONAL DESIGNATED BY THE BOARD.

16 (4) THE RESULTS OF A MENTAL OR PHYSICAL EXAMINATION
17 ORDERED BY THE BOARD SHALL NOT BE USED AS EVIDENCE IN ANY
18 PROCEEDING OTHER THAN ONE BEFORE THE BOARD AND SHALL NOT BE
19 DEEMED A PUBLIC RECORD OR MADE AVAILABLE TO THE PUBLIC.

20 **12-247-121. Confidential agreement to limit practice.**

21 SECTION 12-30-108 CONCERNING CONFIDENTIAL AGREEMENTS TO
22 LIMIT PRACTICE APPLIES TO THIS ARTICLE 247.

23 **12-247-122. Professional liability insurance required - rules.**

24 (1) AN INDIVIDUAL LICENSED UNDER THIS ARTICLE 247 SHALL NOT
25 PRACTICE APPLIED BEHAVIOR ANALYSIS UNLESS THE INDIVIDUAL IS
26 COVERED BY PROFESSIONAL LIABILITY INSURANCE IN AN AMOUNT
27 DETERMINED BY THE BOARD BY RULE THAT COVERS ALL ACTS WITHIN THE

1 SCOPE OF PRACTICE OF THE LICENSED BEHAVIOR ANALYST OR LICENSED
2 ASSISTANT BEHAVIOR ANALYST.

3 (2) THIS SECTION DOES NOT APPLY TO A LICENSED BEHAVIOR
4 ANALYST OR LICENSED ASSISTANT BEHAVIOR ANALYST WHO IS A PUBLIC
5 EMPLOYEE ACTING WITHIN THE COURSE AND SCOPE OF THE PUBLIC
6 EMPLOYEE'S DUTIES AND WHO IS GRANTED IMMUNITY UNDER THE
7 "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24.

8 **12-247-123. Repeal of article - review of functions.**

9 THIS ARTICLE 247 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2031.
10 BEFORE THE REPEAL, THIS ARTICLE 247 IS SCHEDULED FOR REVIEW IN
11 ACCORDANCE WITH SECTION 24-34-104.

12 **SECTION 3.** In Colorado Revised Statutes, 12-20-407, **amend**
13 (1)(a)(V)(W) and (1)(a)(V)(X); and **add** (1)(a)(V)(Y) as follows:

14 **12-20-407. Unauthorized practice of profession or occupation**
15 **- penalties - exclusions.**

16 (1) (a) A person commits a class 2 misdemeanor and shall be
17 punished as provided in section 18-1.3-501 if the person:

18 (V) Practices or offers or attempts to practice any of the following
19 professions or occupations without an active license, certification, or
20 registration issued under the part or article of this title 12 governing the
21 particular profession or occupation:

22 (W) Veterinary medicine or as a veterinary technician or
23 veterinary professional associate, as regulated under article 315 of this
24 title 12; ~~or~~

25 (X) Facilitating natural medicine services, as regulated under
26 article 170 of this title 12; OR

27 (Y) APPLIED BEHAVIOR ANALYSIS, AS REGULATED UNDER ARTICLE

1 247 OF THIS TITLE 12.

2 **SECTION 4.** In Colorado Revised Statutes, 24-34-104, **add**
3 (32)(a)(XVI) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.**

7 (32) (a) The following agencies, functions, or both, are scheduled
8 for repeal on September 1, 2031:

9 (XVI) THE REGULATION OF APPLIED BEHAVIOR ANALYSIS, IN
10 ACCORDANCE WITH ARTICLE 247 OF TITLE 12.

11 **SECTION 5.** In Colorado Revised Statutes, **add** 25.5-4-436 as
12 follows:

13 **25.5-4-436. Registered behavior technicians - reimbursement**
14 **- definitions.**

15 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
16 REQUIRES:

17 (a) "APPLIED BEHAVIOR ANALYSIS" HAS THE MEANING SET FORTH
18 IN SECTION 12-247-103 (1).

19 (b) "AUTISM SPECTRUM DISORDER":

20 (I) HAS THE SAME MEANING AS SET FORTH IN THE MOST RECENT
21 EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL
22 DISORDERS IN EFFECT AT THE TIME OF THE DIAGNOSIS; AND

23 (II) INCLUDES THE FOLLOWING DISORDERS, AS THE DISORDERS ARE
24 DEFINED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND
25 STATISTICAL MANUAL OF MENTAL DISORDERS IN EFFECT AT THE TIME OF
26 THE DIAGNOSIS:

27 (A) AUTISM SPECTRUM DISORDER;

- 1 (B) AUTISTIC DISORDER;
2 (C) ASPERGER'S DISORDER; AND
3 (D) ATYPICAL AUTISM AS A DIAGNOSIS WITHIN PERVASIVE
4 DEVELOPMENTAL DISORDER NOT OTHERWISE SPECIFIED.

5 (c) "BOARD CERTIFIED ASSISTANT BEHAVIOR ANALYST" MEANS AN
6 INDIVIDUAL WHO IS DESIGNATED AS A "BOARD CERTIFIED ASSISTANT
7 BEHAVIOR ANALYST" BY A CERTIFYING ENTITY AND WHO IS LICENSED
8 PURSUANT TO SECTION 12-247-108 WHEN REQUIRED BY SECTION
9 12-247-106.

10 (d) "BOARD CERTIFIED BEHAVIOR ANALYST" MEANS AN
11 INDIVIDUAL WHO IS CERTIFIED AS A "BOARD CERTIFIED BEHAVIOR
12 ANALYST" BY A CERTIFYING ENTITY AND WHO IS LICENSED PURSUANT TO
13 SECTION 12-247-107 WHEN REQUIRED BY SECTION 12-247-106.

14 (e) "BOARD CERTIFIED BEHAVIOR ANALYST-DOCTORAL" MEANS AN
15 INDIVIDUAL WHO IS CERTIFIED AS A "BOARD CERTIFIED BEHAVIOR
16 ANALYST" BY A CERTIFYING ENTITY, HAS RECEIVED A "BOARD CERTIFIED
17 BEHAVIOR ANALYST-DOCTORAL" DESIGNATION FROM A CERTIFYING
18 ENTITY, AND IS LICENSED PURSUANT TO SECTION 12-247-107 WHEN
19 REQUIRED BY SECTION 12-247-106.

20 (f) "CERTIFYING ENTITY" HAS THE MEANING SET FORTH SECTION
21 12-247-103 (4).

22 (g) "REGISTERED BEHAVIOR TECHNICIAN" MEANS A BEHAVIOR
23 TECHNICIAN, AS DEFINED IN SECTION 12-247-103 (2), WHO IS CERTIFIED BY
24 A CERTIFYING ENTITY AND WHO DELIVERS APPLIED BEHAVIOR ANALYSIS
25 SERVICES IN COMPLIANCE WITH ARTICLE 247 OF TITLE 12 UNDER THE
26 SUPERVISION OF:

27 (I) A LICENSED PSYCHOLOGIST;

- 1 (II) A BOARD CERTIFIED BEHAVIOR ANALYST;
- 2 (III) A BOARD CERTIFIED BEHAVIOR ANALYST-DOCTORAL; OR
- 3 (IV) A BOARD CERTIFIED ASSISTANT BEHAVIOR ANALYST.

4 (2) THE STATE DEPARTMENT SHALL REIMBURSE THE APPLICABLE
5 APPLIED BEHAVIOR ANALYSIS PROVIDER FOR APPLIED BEHAVIOR ANALYSIS
6 SERVICES PROVIDED BY A REGISTERED BEHAVIOR TECHNICIAN TO A
7 MEMBER WITH AUTISM SPECTRUM DISORDER OR OTHER CONDITIONS FOR
8 WHICH COVERAGE MAY BE AVAILABLE UNDER STATE DEPARTMENT
9 POLICIES.

10 (3) (a) SUBJECT TO SUBSECTION (3)(b) OF THIS SECTION, THE
11 STATE DEPARTMENT SHALL REIMBURSE THE APPLICABLE APPLIED
12 BEHAVIOR ANALYSIS PROVIDER FOR APPLIED BEHAVIOR ANALYSIS
13 SERVICES PROVIDED BY A BEHAVIOR TECHNICIAN WHO IS REQUIRED BY THE
14 STATE DEPARTMENT TO BE CERTIFIED BY A CERTIFYING ENTITY, BUT IS NOT
15 CERTIFIED AT THE TIME OF SERVICES, FOR SERVICES PROVIDED DURING A
16 TEMPORARY PERIOD OF NOT LESS THAN SIXTY DAYS WHILE THE BEHAVIOR
17 TECHNICIAN IS PURSUING THE CERTIFICATION.

18 (b) A BEHAVIOR TECHNICIAN WHO OBTAINS CERTIFICATION AFTER
19 PROVISION OF SERVICES PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION
20 SHALL MAINTAIN THE CERTIFICATION TO BE ELIGIBLE FOR REIMBURSEMENT
21 BY THE STATE DEPARTMENT FOR PROVIDING APPLIED BEHAVIOR ANALYSIS
22 SERVICES.

23 (c) AN APPLIED BEHAVIOR ANALYSIS PROVIDER SHALL OBTAIN A
24 NAME-BASED JUDICIAL RECORD CHECK, AS DEFINED IN SECTION 22-2-119.3
25 (6)(d), FOR A BEHAVIOR TECHNICIAN BEFORE SEEKING REIMBURSEMENT
26 PURSUANT TO SUBSECTIONS (2) AND (3)(b) OF THIS SECTION FOR SERVICES
27 PROVIDED BY THE BEHAVIOR TECHNICIAN.

1 **SECTION 6.** In Colorado Revised Statutes, **amend** 26-6-901 as
2 follows:

3 **26-6-901. Short title.**

4 The short title of this part 9 is the "Foster Care, Kinship Foster
5 Care, Residential, Day Treatment, and Child Placement Agency AND
6 APPLIED BEHAVIOR ANALYSIS CLINIC Licensing and Certification Act".

7 **SECTION 7.** In Colorado Revised Statutes, 26-6-902, **amend**
8 (1)(a), (1.5), and (2) as follows:

9 **26-6-902. Legislative declaration.**

10 (1) The general assembly finds that:

11 (a) The regulation, licensing, and funding of foster care homes,
12 kinship foster care homes, residential and day treatment child care
13 facilities, APPLIED BEHAVIOR ANALYSIS CLINICS, and child placement
14 agencies contribute to a safe and healthy environment for children and
15 youth;

16 (1.5) The general assembly intends that those who regulate and
17 fund, and those who are regulated and funded, work together to meet the
18 needs of ~~the~~ children, youth, and their families; foster care providers;
19 kinship foster care providers; APPLIED BEHAVIOR ANALYSIS CLINICS; child
20 placement agencies; and residential and day treatment child care facilities.

21 (2) In balancing the needs of children and their families with the
22 needs of child placement agencies, APPLIED BEHAVIOR ANALYSIS CLINICS,
23 and the residential and day treatment child care industry, the general
24 assembly also recognizes the financial demands the department of human
25 services faces in its attempt to ensure a safe and sanitary environment for
26 children of the state of Colorado who are in foster care with child
27 placement agencies or in residential and day treatment child care

1 facilities. In an effort to reduce the risk to children placed outside their
2 homes while recognizing the financial constraints placed on the
3 department, it is the intent of the general assembly that the limited
4 resources available are focused primarily on residential and day treatment
5 child care facilities, APPLIED BEHAVIOR ANALYSIS CLINICS, and agencies
6 that have demonstrated that children in their care may be at higher risk.

7 **SECTION 8.** In Colorado Revised Statutes, 26-6-903, **amend** (2),
8 (8), (11), (17), (19), and (30); and **add** (2.3), (2.5), (2.7), and (17.5) as
9 follows:

10 **26-6-903. Definitions.**

11 As used in this part 9, unless the context otherwise requires:

12 (2) "Application" means a declaration of intent to obtain or
13 continue a license or certificate for a residential or day treatment child
14 care facility, ~~or~~ child placement agency, OR APPLIED BEHAVIOR ANALYSIS
15 CLINIC.

16 (2.3) "APPLIED BEHAVIOR ANALYSIS" HAS THE MEANING SET
17 FORTH IN SECTION 12-247-103 (1).

18 (2.5) "APPLIED BEHAVIOR ANALYSIS CLINIC" MEANS A FACILITY
19 THAT PROVIDES APPLIED BEHAVIOR ANALYSIS THERAPY AND PROVIDES AT
20 LEAST FOUR HOURS OF CARE BUT LESS THAN TWENTY-FOUR HOURS OF
21 CARE EACH BUSINESS DAY TO AT LEAST THREE INDIVIDUALS WHO ARE AT
22 LEAST EIGHTEEN MONTHS OLD BUT LESS THAN TWENTY-ONE YEARS OLD.

23 (2.7) (a) "BEHAVIORAL HEALTH" MEANS A CHILD'S MENTAL OR
24 EMOTIONAL WELL-BEING OR A CHILD'S ACTIONS THAT AFFECT THE CHILD'S
25 OVERALL WELLNESS.

26 (b) "BEHAVIORAL HEALTH" INCLUDES:

27 (I) INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

1 (II) AUTISM SPECTRUM DISORDER, AS DEFINED IN SECTION
2 25.5-4-436 (1)(b);

3 (III) A RANGE OF ISSUES AND DISORDERS FROM UNHEALTHY
4 STRESS, SUBCLINICAL CONDITIONS, AND NEURODIVERGENCE TO
5 DIAGNOSABLE AND TREATABLE DISEASES; AND

6 (IV) SERVICE SYSTEMS THAT ENCOMPASS THE PROMOTION OF
7 EMOTIONAL WELL-BEING AND PREVENTION AND TREATMENT SERVICES
8 ADDRESSING BEHAVIORAL HEALTH.

9 (8) (a) (I) "Day treatment ~~center~~ FACILITY" means a facility that:

10 (A) Except as provided in subsection (8)(a)(II) of this section,
11 provides ~~less than twenty-four-hour care~~ AT LEAST FOUR HOURS OF CARE
12 BUT LESS THAN TWENTY-FOUR HOURS OF CARE EACH BUSINESS DAY for
13 groups of ~~five~~ THREE or more children who are ~~three years of age~~ OLD
14 or older but less than twenty-one years ~~of age~~ OLD; and

15 (B) Provides a structured program ~~of various types of~~
16 ~~psycho-social and behavioral treatment to prevent or reduce the need for~~
17 ~~placement of the child out of the home or community~~ DESIGNED TO
18 ASSESS, TREAT, OR PROMOTE THE BEHAVIORAL HEALTH OF AN INDIVIDUAL
19 WHO IS AT LEAST ~~THREE YEARS~~ OLD BUT LESS THAN TWENTY-ONE YEARS
20 OLD.

21 (II) Nothing in this subsection (8) prohibits a day treatment ~~center~~
22 FACILITY from allowing ~~a person~~ AN INDIVIDUAL who reaches twenty-one
23 years ~~of age~~ OLD after the commencement of an academic year from
24 attending an educational program at the day treatment ~~center~~ FACILITY
25 through the end of the semester in which the twenty-first birthday occurs
26 or until the ~~person~~ INDIVIDUAL completes the educational program,
27 whichever comes first.

1 (b) ~~"Day treatment center" does not include special education~~
2 ~~programs operated by a public or private school system or programs that~~
3 ~~are licensed by the department of early childhood for less than~~
4 ~~twenty-four-hour care of children, such as a child care center. "DAY~~
5 ~~TREATMENT FACILITY" DOES NOT INCLUDE:~~

6 (I) A SPECIAL EDUCATION PROGRAM OR SPECIALIZED DAY SCHOOL
7 OPERATED BY A PUBLIC OR PRIVATE SCHOOL SYSTEM; OR

8 (II) A PROGRAM THAT IS LICENSED BY THE DEPARTMENT OF EARLY
9 CHILDHOOD OR THE DEPARTMENT OF EDUCATION PROVIDING LESS THAN
10 TWENTY-FOUR-HOUR CARE OF CHILDREN, SUCH AS A CHILD CARE CENTER.

11 (11) "Governing body" means the individual, partnership,
12 corporation, or association in which the ultimate authority and legal
13 responsibility is vested for the administration and operation of a
14 residential or day treatment child care facility, AN APPLIED BEHAVIOR
15 ANALYSIS CLINIC, or a child placement agency.

16 (17) "License" means a legal document issued pursuant to this part
17 9 granting permission to operate a residential or day treatment child care
18 facility, APPLIED BEHAVIOR ANALYSIS CLINIC, or child placement agency.
19 A license may be in the form of a provisional, probationary, permanent,
20 or time-limited license.

21 (17.5) "LICENSED BEHAVIOR ANALYST" HAS THE MEANING SET
22 FORTH IN SECTION 12-247-103 (6).

23 (19) "Licensing" means, except as otherwise provided in
24 subsection (10) of this section, the process by which the department
25 approves a facility or agency for the purpose of conducting business as a
26 residential or day treatment child care facility, or child placement agency,
27 OR APPLIED BEHAVIOR ANALYSIS CLINIC.

1 (30) "Residential or day treatment child care facility" or "facility"
2 means a residential child care facility, including a qualified residential
3 treatment program, psychiatric residential treatment program, shelter care
4 program, and homeless youth program; specialized group facility,
5 including a group home and group center; day treatment center FACILITY;
6 secure residential treatment center; respite child care center; or homeless
7 youth shelter, including a host family home.

8 **SECTION 9.** In Colorado Revised Statutes, 26-6-904, **amend**
9 (1)(c) and (1)(d); and **add** (1)(e) as follows:

10 **26-6-904. Applicability of part.**

11 (1) This part 9 does not apply to:

12 (c) Juvenile courts; ~~or~~

13 (d) Nursing homes that have children as residents; OR

14 (e) THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS IN HOMES,
15 SCHOOLS, COMMUNITY SETTINGS, OR OTHER NONCLINICAL SETTINGS.

16 **SECTION 10.** In Colorado Revised Statutes, 26-6-905, **amend**
17 (1)(a), (4), (8)(a)(I) introductory portion, and (10) as follows:

18 **26-6-905. Licenses - out-of-state notices and consent -**
19 **demonstration pilot program - report - rules - definition.**

20 (1) (a) Except as otherwise provided in subsection (1)(b) of this
21 section or elsewhere in this part 9, a person shall not operate a residential
22 or day treatment child care facility, ~~or~~ child placement agency, OR
23 APPLIED BEHAVIOR ANALYSIS CLINIC without first being licensed by the
24 state department to operate or maintain the facility or agency and paying
25 the prescribed fee. Except as otherwise provided in subsection (1)(c) of
26 this section, a license that the state department issues is permanent unless
27 otherwise revoked or suspended pursuant to section 26-6-914.

1 (4) The department shall not issue a license for a residential or day
2 treatment child care facility OR AN APPLIED BEHAVIOR ANALYSIS CLINIC
3 until the facilities that the applicant or licensee will operate or maintain
4 are approved by the department of public health and environment as
5 conforming to the sanitary standards prescribed by the department
6 pursuant to section 25-1.5-101 (1)(h) and unless the facilities conform to
7 fire prevention and protection requirements of local fire departments in
8 the locality of the facility or, in lieu thereof, of the division of labor
9 standards and statistics.

10 (8) (a) (I) The state department shall not issue a license to operate
11 a residential or day treatment child care facility, ~~or~~ a child placement
12 agency, OR AN APPLIED BEHAVIOR ANALYSIS CLINIC, and any license or
13 certificate issued prior to August 7, 2006, is revoked or suspended if the
14 applicant for the license or certificate, an affiliate of the applicant, ~~a~~
15 ~~person~~ AN INDIVIDUAL employed by the applicant, or ~~a person~~ AN
16 INDIVIDUAL who resides with the applicant at the facility has been
17 convicted of:

18 (10) The state department shall not issue a license to operate a
19 residential or day treatment child care facility, foster care home, ~~or~~ child
20 placement agency, OR APPLIED BEHAVIOR ANALYSIS CLINIC if the person
21 applying for the license or an affiliate of the applicant, ~~a person~~ AN
22 INDIVIDUAL employed by the applicant, or ~~a person~~ AN INDIVIDUAL who
23 resides with the applicant at the facility has been determined to be insane
24 or mentally incompetent by a court of competent jurisdiction and, if the
25 court enters, pursuant to part 3 or ~~part~~ 4 of article 14 of title 15, or section
26 27-65-110 (4) or 27-65-127, an order specifically finding that the mental
27 incompetency or insanity is of such a degree that the applicant is

1 incapable of operating a residential or day treatment child care facility,
2 foster care home, APPLIED BEHAVIOR ANALYSIS CLINIC, or child placement
3 agency, the record of such determination and entry of such order being
4 conclusive evidence thereof.

5 **SECTION 11.** In Colorado Revised Statutes, 26-6-906, **amend**
6 (1) and (2) introductory portion as follows:

7 **26-6-906. Compliance with local government zoning**
8 **regulations - notice to local governments - provisional licensure.**

9 (1) The department shall require a residential or day treatment
10 child care facility OR AN APPLIED BEHAVIOR ANALYSIS CLINIC seeking a
11 license pursuant to section 26-6-905 to comply with any applicable
12 zoning and land use development regulations of the municipality, city and
13 county, or county where the facility is situated. Failure to comply with
14 applicable zoning and land use regulations constitutes grounds for the
15 denial of a license to a facility.

16 (2) The department shall ensure that timely written notice is
17 provided to the municipality, city and county, or county where a
18 residential or day treatment child care facility OR AN APPLIED BEHAVIOR
19 ANALYSIS CLINIC is situated, including the address of the facility OR
20 CLINIC and the population and number of ~~persons~~ INDIVIDUALS to be
21 served by the facility OR CLINIC, when any of the following occurs:

22 **SECTION 12.** In Colorado Revised Statutes, 26-6-907, **amend**
23 (1)(a) introductory portion, (1)(a)(V), (1)(a)(VI), (1)(a)(VII), and
24 (2)(b)(I)(A); and **add** (1)(a)(VIII) as follows:

25 **26-6-907. Fees - when original applications, reapplications,**
26 **and renewals for licensure are required - creation of child welfare**
27 **licensing cash fund.**

1 (1) (a) The state department is authorized to establish, pursuant to
2 rules ~~promulgated~~ ADOPTED by the state board, permanent, time-limited,
3 and provisional license fees and fees for continuation or renewal,
4 whichever is applicable, of a license for the following types of child care
5 arrangements:

6 (V) Day treatment ~~centers~~ FACILITIES;

7 (VI) Specialized group facilities; ~~and~~

8 (VII) Respite child care centers; AND

9 (VIII) APPLIED BEHAVIOR ANALYSIS CLINICS.

10 (2) (b) (I) An original application and fee are required:

11 (A) When an individual, partnership, corporation, or association
12 plans to open a foster care home, ~~or a residential or day treatment child~~
13 ~~care facility, or child placement agency, OR APPLIED BEHAVIOR ANALYSIS~~
14 ~~CLINIC;~~

15 **SECTION 13.** In Colorado Revised Statutes, 26-6-908, **amend**
16 (1)(a)(I) and (2) as follows:

17 **26-6-908. Application forms - criminal sanctions for perjury.**

18 (1) (a) (I) All applications for the licensure of a child placement
19 agency, ~~or a residential or day treatment child care facility, OR AN APPLIED~~
20 ~~BEHAVIOR ANALYSIS CLINIC or the certification of a foster care home or~~
21 ~~A kinship foster care home pursuant to this part 9 must include the notice~~
22 ~~to the applicant set forth in subsection (1)(b) of this section.~~

23 (2) ~~A person~~ AN INDIVIDUAL applying for the licensure of a
24 facility, ~~or agency, OR APPLIED BEHAVIOR ANALYSIS CLINIC or the~~
25 ~~certification of a foster care home or kinship foster care home pursuant~~
26 ~~to this part 9, or a person~~ AN INDIVIDUAL applying to work at a facility, ~~or~~
27 ~~agency, OR CLINIC as an employee, who knowingly or willfully makes a~~

1 false statement of any material fact or thing in the application commits
2 perjury in the second degree as defined in section 18-8-503 and, upon
3 conviction, shall be punished accordingly.

4 **SECTION 14.** In Colorado Revised Statutes, 26-6-909, **amend**
5 (1) and (4) as follows:

6 **26-6-909. Standards for facilities and agencies - appeals**
7 **review panel - rules.**

8 (1) The department shall prescribe and publish standards for
9 licensing. The standards must be applicable to child placement agencies
10 and the various types of residential and day treatment child care facilities
11 regulated and licensed by this part 9; except that the department shall
12 prescribe and publish separate standards for the licensing of child
13 placement agencies operating for the purpose of adoptive placement and
14 adoption-related services AND SHALL PRESCRIBE AND PUBLISH SEPARATE
15 STANDARDS FOR THE LICENSING OF APPLIED BEHAVIOR ANALYSIS CLINICS
16 AS SET FORTH IN SECTION 26-6-909.5. The department shall seek the
17 advice and assistance of persons representative of the various types of
18 facilities and agencies in establishing the standards, including the advice
19 and assistance of the department of public safety and councils and
20 associations representing fire marshals and building code officials in the
21 ~~promulgation~~ ADOPTION of any rules related to adequate fire protection
22 and prevention, as allowed in subsection (2)(e) of this section. The
23 standards must be established by rules ~~promulgated~~ ADOPTED by the state
24 board and be issued, BE published, and become effective only in
25 conformity with article 4 of title 24.

26 (4) An applicant or ~~person~~ INDIVIDUAL licensed to operate a
27 facility or agency under ~~the provisions of~~ this part 9 has the right to

1 appeal any standard that, in the applicant's or ~~person's~~ INDIVIDUAL'S
2 opinion, creates an undue hardship or when, in the applicant's or ~~person's~~
3 INDIVIDUAL'S opinion, a standard has been too stringently applied by
4 representatives of the department. The department shall designate a panel
5 of ~~persons~~ INDIVIDUALS representing various state and local governmental
6 agencies with an interest in and concern for children to hear the appeal
7 and to make recommendations to the department. The membership of the
8 appeals review panel must include, but need not be limited to, a
9 representative from a twenty-four-hour child care facility; a representative
10 from a licensed child placement agency; a representative with child
11 placement experience from a county department; ~~and~~ A REPRESENTATIVE
12 FROM AN APPLIED BEHAVIOR ANALYSIS CLINIC; a representative from at
13 least one other state department, or from the division within the
14 department that is responsible for child welfare, who has education and
15 expertise in trauma-informed care and child welfare; AND A
16 REPRESENTATIVE FROM AT LEAST ONE OTHER STATE AGENCY WHO HAS
17 EDUCATION AND EXPERIENCE IN APPLIED BEHAVIOR ANALYSIS TREATMENT
18 AND THE MEDICAL AND BEHAVIORAL CONDITIONS TREATED BY AN APPLIED
19 BEHAVIOR ANALYSIS CLINIC. The executive director, or the executive
20 director's designee, shall appoint all members to the appeals review panel.
21 Representatives to the appeals review panel serve terms of no more than
22 three years and may serve successive terms.

23 **SECTION 15.** In Colorado Revised Statutes, **add** 26-6-909.5 as
24 follows:

25 **26-6-909.5. Standards for applied behavior analysis clinics -**
26 **rules.**

27 (1) (a) ON OR BEFORE JULY 1, 2029, THE DEPARTMENT SHALL

1 PRESCRIBE AND PUBLISH STANDARDS FOR LICENSING AND REGULATING
2 APPLIED BEHAVIOR ANALYSIS CLINICS, WITH A FOCUS ON THE HEALTH AND
3 SAFETY OF CHILDREN. THE STANDARDS MUST BE ESTABLISHED BY RULES
4 ADOPTED BY THE STATE BOARD AND BE ISSUED, BE PUBLISHED, AND
5 BECOME EFFECTIVE IN CONFORMITY WITH ARTICLE 4 OF TITLE 24.

6 (b) THE DEPARTMENT SHALL, IN COLLABORATION WITH THE
7 DEPARTMENT OF EARLY CHILDHOOD, CREATE REGULATORY STANDARDS
8 FOR APPLIED BEHAVIORAL ANALYSIS CLINICS THAT PROVIDE SERVICES TO
9 CHILDREN WHO ARE THREE YEARS OLD OR YOUNGER. THE STANDARDS
10 MUST BE ESTABLISHED BY RULES ADOPTED BY THE STATE BOARD AND BE
11 ISSUED, BE PUBLISHED, AND BECOME EFFECTIVE IN CONFORMITY WITH
12 ARTICLE 4 OF TITLE 24.

13 (2) IN ESTABLISHING THE STANDARDS FOR APPLIED BEHAVIOR
14 ANALYSIS CLINICS PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL
15 SEEK THE ADVICE AND ASSISTANCE OF PERSONS REPRESENTATIVE OF THE
16 VARIOUS TYPES OF APPLIED BEHAVIOR ANALYSIS CLINICS AND PROVIDERS,
17 INCLUDING THE ADVICE AND ASSISTANCE OF THE DEPARTMENT OF PUBLIC
18 SAFETY AND COUNCILS AND ASSOCIATIONS REPRESENTING FIRE MARSHALS
19 AND BUILDING CODE OFFICIALS IN THE ADOPTION OF ANY RULES RELATED
20 TO ADEQUATE FIRE PROTECTION AND PREVENTION.

21 (3) STANDARDS PRESCRIBED BY STATE BOARD RULES GOVERNING
22 APPLIED BEHAVIOR ANALYSIS CLINICS ARE RESTRICTED TO:

23 (a) THE CHARACTER, SUITABILITY, AND QUALIFICATIONS OF AN
24 APPLICANT FOR A LICENSE AND OF OTHER PERSONS DIRECTLY RESPONSIBLE
25 FOR THE CARE AND WELFARE OF CHILDREN SERVED, INCLUDING WHETHER
26 AN AFFILIATE OF THE APPLICANT HAS BEEN THE SUBJECT OF A NEGATIVE
27 LICENSING ACTION;

1 (b) THE SAFETY, CLEANLINESS, AND GENERAL HABITABILITY OF
2 THE PREMISES, INCLUDING MAINTENANCE OF ADEQUATE FIRE PROTECTION
3 AND PREVENTION AND HEALTH STANDARDS IN CONFORMANCE WITH STATE
4 LAWS AND MUNICIPAL ORDINANCES, TO PROVIDE FOR THE PHYSICAL
5 COMFORT, CARE, WELL-BEING, AND SAFETY OF THE CHILDREN SERVED;

6 (c) STANDARDS FOR RESTRAINT OF A CHILD IN ACCORDANCE WITH
7 ARTICLE 20 OF THIS TITLE 26. THE STANDARDS MUST INCLUDE
8 REQUIREMENTS GOVERNING:

9 (I) FILING REPORTS WITH THE DEPARTMENT;

10 (II) THE BASIS FOR THE USE OF RESTRAINT IN ACCORDANCE WITH
11 SECTION 26-20-103;

12 (III) APPLIED BEHAVIOR ANALYSIS CLINIC STAFF;

13 (IV) DOCUMENTATION AND REVIEW OF THE RESTRAINTS;

14 (V) CERTIFICATION OR APPROVAL FROM THE DEPARTMENT PRIOR
15 TO THE UTILIZATION OF A RESTRAINT PROTOCOL; AND

16 (VI) REVOCATION OR SUSPENSION OF LICENSURE FOR FAILURE TO
17 COMPLY WITH THE STANDARDS SET FORTH IN THIS SUBSECTION (3)(c);

18 (d) EXCEPT AS PROVIDED IN SUBSECTION (3)(e) OF THIS SECTION,
19 PROVISIONS THAT ENSURE THAT APPLIED BEHAVIOR ANALYSIS CLINICS
20 VERIFY, IN ACCORDANCE WITH PART 9 OF ARTICLE 4 OF TITLE 25, THAT
21 EACH CHILD HAS RECEIVED APPROPRIATE IMMUNIZATIONS AGAINST
22 CONTAGIOUS DISEASES AS FOLLOWS:

23 (I) CHILDREN TWENTY-FOUR MONTHS OLD OR YOUNGER ARE
24 REQUIRED TO BE IMMUNIZED IN ACCORDANCE WITH THE "INFANT
25 IMMUNIZATION ACT", PART 17 OF ARTICLE 4 OF TITLE 25; OR

26 (II) CHILDREN OVER TWENTY-FOUR MONTHS OLD ARE REQUIRED
27 TO BE IMMUNIZED IN ACCORDANCE WITH PART 9 OF ARTICLE 4 OF TITLE 25;

1 (e) PROVISIONS THAT ALLOW AN APPLIED BEHAVIOR ANALYSIS
2 CLINIC TO ALLOW A CHILD TO ENROLL AND ATTEND THE CLINIC WITHOUT
3 OBTAINING VERIFICATION OF IMMUNIZATION FOR THE CHILD ON A
4 SHORT-TERM BASIS OF NO MORE THAN FIFTEEN DAYS IN A
5 FIFTEEN-CONSECUTIVE-DAY PERIOD AND NO MORE THAN TWICE IN A
6 CALENDAR YEAR, WITH EACH FIFTEEN-CONSECUTIVE-DAY PERIOD
7 SEPARATED BY AT LEAST SIXTY DAYS, AS PROVIDED IN SECTION 25-4-902.
8 AN APPLIED BEHAVIOR ANALYSIS CLINIC THAT ALLOWS CHILDREN TO
9 ENROLL AND ATTEND ON A SHORT-TERM BASIS PURSUANT TO THIS
10 SUBSECTION (3)(e) SHALL PROVIDE NOTIFICATION TO ALL PARENTS THAT
11 THE CLINIC ALLOWS CHILDREN TO ENROLL AND ATTEND ON A SHORT-TERM
12 BASIS WITHOUT OBTAINING PROOF OF IMMUNIZATION.

13 (f) THE OPERATION AND CONDUCT OF THE ENTITIES REQUIRED TO
14 BE LICENSED UNDER THIS PART 9 AND THE RESPONSIBILITY THE ENTITIES
15 ASSUME FOR THE TREATMENT AND CARE OF CHILDREN;

16 (g) THE GENERAL FINANCIAL ABILITY AND COMPETENCE OF AN
17 APPLICANT FOR A LICENSE TO PROVIDE NECESSARY TREATMENT FOR
18 CHILDREN AND TO MAINTAIN PRESCRIBED STANDARDS;

19 (h) THE NUMBER OF INDIVIDUALS REQUIRED TO ENSURE ADEQUATE
20 TREATMENT AND CARE OF THE CHILDREN SERVED;

21 (i) RECORD KEEPING FOR FOOD, CLOTHING, EQUIPMENT, AND
22 INDIVIDUAL SUPPLIES;

23 (j) PROVISIONS TO SAFEGUARD THE LEGAL RIGHTS OF THE
24 CHILDREN SERVED;

25 (k) RECORD KEEPING PERTAINING TO THE ADMISSIONS, PROGRESS,
26 HEALTH, AND DISCHARGE OF CHILDREN, INCLUDING PROVISIONS TO
27 ENSURE THE RECORD-KEEPING REQUIREMENTS DO NOT CONFLICT WITH

1 FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES REGULATIONS;

2 (l) FILING OF REPORTS WITH THE DEPARTMENT;

3 (m) DISCIPLINE OF CHILDREN; AND

4 (n) STORAGE REQUIREMENTS FOR MEDICATION.

5

6 (4) AN APPLIED BEHAVIOR ANALYSIS CLINIC THAT PROVIDES CHILD
7 CARE EXCLUSIVELY TO SCHOOL-AGE CHILDREN AND OPERATES ON THE
8 PROPERTY OF A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR
9 INSTITUTE CHARTER SCHOOL MAY SATISFY ANY FIRE OR RADON
10 INSPECTION REQUIREMENT REQUIRED BY LAW BY PROVIDING A COPY OF A
11 SATISFACTORY FIRE OR RADON INSPECTION REPORT OF THE PROPERTY OF
12 A SCHOOL DISTRICT, DISTRICT CHARTER SCHOOL, OR INSTITUTE CHARTER
13 SCHOOL WHERE THE CHILD CARE IS PROVIDED IF THE FIRE OR RADON
14 INSPECTION REPORT WAS COMPLETED WITHIN THE PRECEDING TWELVE
15 MONTHS. THE DEPARTMENT SHALL NOT REQUIRE A DUPLICATE FIRE OR
16 RADON INSPECTION IF A SATISFACTORY FIRE OR RADON INSPECTION
17 REPORT OF THE PROPERTY WAS COMPLETED WITHIN THE PRECEDING
18 TWELVE MONTHS.

19 (5) IF ALL OF THE REQUIREMENTS OF SECTION 22-1-119.5 AND ANY
20 ADDITIONAL RULES OF THE STATE BOARD ARE MET, A CHILD ENROLLED IN
21 AN APPLIED BEHAVIOR ANALYSIS CLINIC MAY POSSESS AND
22 SELF-ADMINISTER MEDICATION FOR ASTHMA, A FOOD ALLERGY, OR
23 ANAPHYLAXIS. THE STATE BOARD MAY ADOPT ADDITIONAL RULES
24 CONCERNING POSSESSING AND SELF-ADMINISTERING MEDICATION FOR
25 ASTHMA, A FOOD ALLERGY, OR ANAPHYLAXIS.

26 (6) THE EXECUTIVE DIRECTOR MAY DIRECT THE ADMINISTRATION
27 OR MONITORING OF MEDICATIONS TO INDIVIDUALS IN APPLIED BEHAVIOR

1 ANALYSIS CLINICS PURSUANT TO PART 3 OF ARTICLE 1.5 OF TITLE 25.

2 **SECTION 16.** In Colorado Revised Statutes, 26-6-912, **amend**
3 (1)(a)(I)(A), (1)(a)(I)(B), (1)(a)(I)(C), (1)(a)(III), (2)(a)(I), (2)(b), (3), and
4 (6) as follows:

5 **26-6-912. Investigations and inspections - local authority -**
6 **reports - rules.**

7 (1) (a) (I) (A) The state department shall investigate and pass on
8 each application for issuance of a license, each application for a
9 permanent or time-limited license following the issuance of a
10 probationary or provisional license, and each application for renewal of
11 a license to operate a facility, A CLINIC, or an agency prior to granting the
12 license or renewal. As part of the investigation, the state department shall
13 require each individual, including but not limited to the applicant, an
14 owner, an employee, a newly hired employee, a licensee, and an adult
15 who is eighteen years ~~of age~~ OLD or older and resides in the licensed
16 facility OR CLINIC, to obtain a fingerprint-based criminal history record
17 check by reviewing any record that is used to assist the state department
18 in ascertaining whether the person being investigated has been convicted
19 of any of the criminal offenses specified in section 26-6-905 (8) or any
20 other felony. The state board shall ~~promulgate~~ ADOPT rules that define
21 and identify what the criminal history record check entails.

22 (B) Rules ~~promulgated~~ ADOPTED by the state board pursuant to
23 this subsection (1)(a)(I) must require the fingerprint-based criminal
24 history record check in all circumstances, other than those identified in
25 subsection (1)(a)(I)(C) of this section, to include a fingerprint-based
26 criminal history record check using the records of the Colorado bureau of
27 investigation and the federal bureau of investigation and to apply to any

1 new owner, new applicant, newly hired employee, new licensee, or
2 individual who begins residing in the licensed facility OR CLINIC. As part
3 of the investigation, the records and reports of child abuse or neglect
4 maintained by the state department must be accessed to determine
5 whether the owner, applicant, employee, newly hired employee, licensee,
6 or individual who resides in the licensed facility OR CLINIC being
7 investigated has been found to be responsible in a confirmed report of
8 child abuse or neglect. Information is made available pursuant to section
9 19-1-307 (2)(j) and rules ~~promulgated~~ ADOPTED by the state board
10 pursuant to section 19-3-313.5 (4). Except as provided in subsection
11 (1)(a)(I)(C) of this section, any change in ownership of a licensed facility,
12 CLINIC, or agency or addition of a new resident adult or newly hired
13 employee to the licensed facility OR CLINIC requires a new investigation
14 as provided in this section.

15 (C) When two or more individually licensed facilities OR CLINICS
16 are wholly owned, operated, and controlled by a common ownership
17 group or school district, a fingerprint-based criminal history record check
18 and a check of the records and reports of child abuse or neglect
19 maintained by the department, completed for one of the licensed facilities
20 OR CLINICS of the common ownership group or school district pursuant to
21 this section for an individual for whom the check is required pursuant to
22 this part 9, may satisfy the record check requirement for any other
23 licensed facility OR CLINIC under the same common ownership group or
24 school district. A new fingerprint-based criminal history record check or
25 new check of the records and reports of child abuse or neglect maintained
26 by the department is not required of such an individual if the common
27 ownership group or school district maintains a central records

1 management system for employees of all its licensed facilities OR CLINICS,
2 takes action as required pursuant to section 26-6-905 when informed of
3 the results of a fingerprint-based criminal history record check or check
4 of the records and reports of child abuse or neglect maintained by the
5 department that requires action pursuant to this part 9, and informs the
6 department whenever an additional licensed facility OR CLINIC comes
7 under or is no longer under its ownership or control.

8 (III) If the operator of a facility, CLINIC, or agency refuses to hire
9 an applicant as a result of information disclosed in the investigation of the
10 applicant pursuant to subsection (1)(a)(I) of this section, the facility,
11 CLINIC, or agency is not subject to civil liability for the refusal to hire. If
12 a former employer of the applicant releases information requested by the
13 facility, CLINIC, or agency pertaining to the applicant's former
14 performance, the former employer is not subject to civil liability for the
15 information given.

16 (2) (a) (I) Except as otherwise provided in subsection (2)(a)(II) of
17 this section, the state department may authorize or contract with a county
18 department, the county department of health, or another publicly or
19 privately operated organization that has a declared interest in children and
20 experience working with children or on behalf of children to investigate
21 and inspect the facilities OR CLINICS applying for an original or renewal
22 license or applying for a permanent license following the issuance of a
23 probationary or provisional license pursuant to this part 9 and may accept
24 reports on the investigations and inspections from the agencies or
25 organizations as a basis for licensing. When contracting for investigations
26 and inspections, the state department shall ensure that the contractor is
27 qualified by training and experience and has no conflict of interest with

1 respect to the facilities OR CLINICS to be inspected.

2 (b) A city, county, or city and county may impose and enforce
3 higher standards and requirements for facilities OR CLINICS licensed
4 pursuant to this part 9 than the standards and requirements specified
5 pursuant to this part 9.

6 (3) Every facility, CLINIC, and agency licensed pursuant to this
7 part 9 shall keep and maintain such records as the department may
8 prescribe pertaining to the admission, progress, health, and discharge of
9 children under the care of the facility, CLINIC, or agency and shall report
10 ~~relative thereto~~ THE RECORDS to the department whenever called for, upon
11 forms prescribed by the department. ~~Both~~ The facility, CLINIC, or agency
12 and the department shall keep confidential all records regarding children
13 and all facts learned about children and their relatives.

14 (6) When the state department receives a serious complaint about
15 a facility, CLINIC, or agency licensed pursuant to this part 9 alleging the
16 immediate risk to the health or safety of the children cared for in the
17 facility, CLINIC, OR AGENCY, the state department shall respond to the
18 complaint and conduct an on-site investigation concerning the complaint
19 within forty-eight hours after its receipt.

20 **SECTION 17.** In Colorado Revised Statutes, 26-6-914, **amend**
21 (2) introductory portion, (2)(d), (2)(h), (2)(j), (2)(n), (4), (6)(a)(I)(C), and
22 (7) as follows:

23 **26-6-914. Denial of license - suspension - revocation -**
24 **probation - refusal to renew license - fines - definitions.**

25 (2) The department may deny an application, or suspend, revoke,
26 or make probationary the license, of any facility, CLINIC, or agency
27 regulated and licensed pursuant to this part 9 or assess a fine against the

1 licensee pursuant to section 26-6-921 if the licensee, an affiliate of the
2 licensee, ~~a person~~ AN INDIVIDUAL employed by the licensee, or ~~a person~~
3 AN INDIVIDUAL who resides with the licensee at the facility, CLINIC, or
4 agency:

5 (d) Uses any controlled substance, as defined in section 18-18-102
6 (5), including retail marijuana, or consumes any alcoholic beverage
7 during the operating hours of the facility, CLINIC, or agency or is under the
8 influence of a controlled substance or alcoholic beverage during the
9 operating hours of the facility, CLINIC, or agency; or

10 (h) Refuses to submit to the department any reports or refuses to
11 make available to the department any records required by ~~it~~ THE
12 DEPARTMENT in making investigation of the facility, CLINIC, or agency for
13 licensing purposes; or

14 (j) Fails to provide, maintain, equip, and keep in safe and sanitary
15 condition premises established or used for child care pursuant to
16 standards prescribed by the department of public health and environment
17 and the department of human services or by ordinances or regulations
18 applicable to the location of such facility OR CLINIC; or

19 (n) Admits to an act of child abuse or if substantial evidence is
20 found that the licensee, ~~person~~ INDIVIDUAL employed by the licensee, or
21 ~~person~~ INDIVIDUAL who resides with the licensee in the licensed facility,
22 CLINIC, or agency has committed an act of child abuse. As used in this
23 subsection (2)(n), "child abuse" has the same meaning as ~~that ascribed to~~
24 ~~the term~~ "abuse" or "child abuse or neglect" in section 19-1-103 (1).

25 (4) The state department may deny an application for a facility,
26 CLINIC, or agency license pursuant to this part 9 if the applicant is a
27 relative affiliate of a licensee of a facility, CLINIC, or agency licensed

1 pursuant to this part 9, which licensee is the subject of a previous
2 negative licensing action or is the subject of a pending investigation by
3 the state department that may result in a negative licensing action.

4 (6) (a) (I) The state department shall deny an application for a
5 license under the circumstances described in section 26-6-905 (8). The
6 state department shall revoke or suspend a license previously issued if:

7 (C) The licensee, an affiliate of the licensee, ~~a person~~ AN
8 INDIVIDUAL employed by the licensee, or ~~a person~~ AN INDIVIDUAL who
9 resides with the licensee at the facility, CLINIC, or agency has been
10 determined to be insane or mentally incompetent by a court of competent
11 jurisdiction and a court has entered, pursuant to part 3 or part 4 of article
12 14 of title 15, or section 27-65-110 (4) or 27-65-127, an order specifically
13 finding that the mental incompetency or insanity is of such a degree that
14 the licensee is incapable of operating a facility, CLINIC, or agency, the
15 record of such determination and entry of such order being conclusive
16 evidence thereof.

17 (7) The state department shall deny an application for a facility,
18 CLINIC, or agency licensed pursuant to this part 9 and shall revoke the
19 license of a facility, CLINIC, or agency licensed pursuant to this part 9 if
20 the facility, CLINIC, or agency cultivates marijuana pursuant to the
21 authority in section 16 of article XVIII of the state constitution.

22 **SECTION 18.** In Colorado Revised Statutes, 26-6-915, **amend**
23 (1)(a), (1)(b), (1)(d), and (2) as follows:

24 **26-6-915. Notice of negative licensing action - filing of**
25 **complaints - rules.**

26 (1) (a) When a facility, CLINIC, or agency licensed pursuant to this
27 part 9 has been notified by the department of a negative licensing action

1 or the imposition of a fine pursuant to section 26-6-914 (2) and (8), it
2 shall, within ten days after receiving the notice, provide the department
3 with the names and mailing addresses of the parents or legal guardians of
4 each child cared for at the facility, CLINIC, or agency. The department
5 shall maintain the confidentiality of the names and mailing addresses
6 provided to it pursuant to this subsection (1).

7 (b) Within twenty days after receiving the names and addresses of
8 parents and legal guardians pursuant to subsection (1)(a) of this section,
9 the department shall send a written notice to each such parent or legal
10 guardian identifying the negative licensing action or the fine imposed and
11 providing a description of the basis for the action as it relates to the
12 impact on the health, safety, and welfare of the children in the care of the
13 facility, CLINIC, or agency. The department shall send the notice to the
14 parents and legal guardians by first-class mail.

15 (d) This subsection (1) does not preclude the state department or
16 a county department from notifying parents or legal guardians of serious
17 violations of any of the standards prescribed and published by the
18 department or any of the provisions of this part 9 that could impact the
19 health, safety, or welfare of a child cared for at the facility, CLINIC,
20 AGENCY, or home.

21 (2) The state board shall ~~promulgate~~ ADOPT rules requiring
22 facilities, CLINICS, and agencies to provide written notice to the parents
23 and legal guardians of the children cared for in the facilities, CLINICS, and
24 agencies of the procedures by which to file a complaint against the
25 facility, CLINIC, or agency or an employee of the facility, CLINIC, or
26 agency with the division within the department that is responsible for
27 facility, CLINIC, and agency licensing. The rules must specify the

1 information that the notice must contain and must require that the notice
2 include the current mailing address and telephone number of the division
3 within the department that is responsible for facility, CLINIC, and agency
4 licensing.

5 **SECTION 19.** In Colorado Revised Statutes, **amend** 26-6-918 as
6 follows:

7 **26-6-918. Injunctive proceedings.**

8 The department, in the name of the people of the state of Colorado,
9 through the attorney general of the state, must apply for an injunction in
10 any court of competent jurisdiction to enjoin a person from operating a
11 facility, CLINIC, or agency without a license that is required to be licensed
12 pursuant to this part 9. If the person does not have a valid license pursuant
13 to this part 9, the person's license has been revoked pursuant to section
14 26-6-914, or the person does not meet the licensing exemption criteria set
15 forth in section 26-6-904, yet provides child care and has a pattern of
16 providing the child care without a valid license as required by this part 9,
17 and despite having received notification from the department that the
18 person, facility, CLINIC, or agency is in violation of the law, then the
19 person, facility, CLINIC, or agency is providing unlicensed and illegal
20 child care. At the time the department applies for an injunction, the
21 department shall notify law enforcement of the injunction proceedings.
22 If it is established that the defendant has been or is operating the facility,
23 CLINIC, or agency without a valid license, the court shall enter a decree
24 enjoining the defendant from further operating the facility, CLINIC, OR
25 AGENCY unless and until the person obtains a license as required by this
26 part 9. In case of a violation of an injunction issued pursuant to this
27 section, the court may summarily try and punish the offender for

1 contempt of court. Injunctive proceedings pursuant to this section are in
2 addition to and not in lieu of the penalty provided in section 26-6-919.

3 **SECTION 20.** In Colorado Revised Statutes, **amend** 26-6-920 as
4 follows:

5 **26-6-920. Periodic review of licensing and certification rules**
6 **and procedures.**

7 At least every five years, the department shall conduct a
8 comprehensive review of the licensing and certification rules for foster
9 care homes, kinship foster care homes, ~~and~~ child placement agencies,
10 AND APPLIED BEHAVIOR ANALYSIS CLINICS and the procedures relating to
11 and governing foster care homes, kinship foster care homes, ~~and~~ CHILD
12 PLACEMENT agencies, AND APPLIED BEHAVIOR ANALYSIS CLINICS,
13 including procedures for the review of backgrounds of employees and
14 owners. In conducting the periodic review, the department shall consult
15 with foster care providers, kinship foster care providers, child placement
16 agencies, county departments, the department of public health and
17 environment, LICENSED BEHAVIOR ANALYSTS, and other interested parties
18 throughout the state. The periodic review must include an examination of
19 the rules applicable to foster care homes, kinship foster care homes, ~~and~~
20 child placement agencies, AND APPLIED BEHAVIOR ANALYSIS CLINICS; the
21 process of licensing foster care homes, ~~and~~ child placement agencies, and
22 APPLIED BEHAVIOR ANALYSIS CLINICS; the certification process for foster
23 care homes and kinship foster care homes; THE uniformity of standards
24 or lack thereof in the licensing process; statewide standardization of
25 investigations and enforcement of licensing by the department;
26 duplication and conflicts in rules, requirements, or procedures between
27 the department and the department of public health and environment; and

1 recommendations for streamlining and unifying the licensing process. The
2 review must also include an examination of rules and procedures
3 regarding the general physical and mental health of foster care providers,
4 kinship foster care providers, LICENSED BEHAVIOR ANALYSTS, employees,
5 and owners. At the conclusion of each review, the department shall report
6 its findings and conclusions and its recommendations for administrative
7 changes and for legislation to the state board.

8 **SECTION 21.** In Colorado Revised Statutes, 42-4-236, **amend**
9 (1)(a) as follows:

10 **42-4-236. Child restraint systems required - definitions -**
11 **exemptions - penalty.**

12 (1) As used in this section, unless the context otherwise requires:

13 (a) "Child care center" means a facility required to be licensed
14 under the "Foster Care, Kinship Foster Care, Residential, Day Treatment,
15 and Child Placement Agency AND APPLIED BEHAVIOR ANALYSIS CLINIC
16 Licensing and Certification Act", part 9 of article 6 of title 26, or the
17 "Child Care Licensing Act", part 3 of article 5 of title 26.5.

18 **SECTION 22. Appropriation.** (1) For the 2026-27 state fiscal
19 year, \$50,000 is appropriated to the department of health care policy and
20 financing. This appropriation is from the general fund. To implement this
21 act, the department may use this appropriation for medicaid management
22 information system maintenance and projects.

23 (2) For the 2026-27 state fiscal year, the general assembly
24 anticipates that the department of health care policy and financing will
25 receive \$50,000 in federal funds for medicaid management information
26 system maintenance and projects to implement this act. The appropriation
27 in subsection (1) of this section is based on the assumption that the

1 department will receive this amount of federal funds, which is subject to
2 the "(I)" notation as defined in the annual general appropriation act for the
3 same fiscal year.

4 (3) For the 2026-27 state fiscal year, \$1,294,460 is appropriated
5 to the department of human services for use by the division of child
6 welfare. This appropriation is from the general fund and is based on an
7 assumption that the division will require an additional 15.0 FTE. To
8 implement this act, the division may use this appropriation for
9 administration.

10 (4) For the 2026-27 state fiscal year, the general assembly
11 anticipates that the department of human services will receive \$176,517
12 in federal funds for administration related to the division of child welfare
13 to implement this act. The appropriation in subsection (3) of this section
14 is based on the assumption that the division will receive this amount of
15 federal funds, which is subject to the "(I)" notation as defined in the
16 annual general appropriation act for the same fiscal year.

17 (5) For the 2026-27 state fiscal year, \$261,833 is appropriated to
18 the department of regulatory agencies. This appropriation is from the
19 division of professions and occupations cash fund created in section
20 12-20-105 (3), C.R.S. To implement this act, the department may use this
21 appropriation as follows:

22 (a) \$176,038 for use by the division of professions and
23 occupations for personal services, which amount is based on an
24 assumption that the division will require an additional 2.0 FTE;

25 (b) \$16,560 for use by the division of professions and occupations
26 for operating expenses; and

27 (c) \$69,235 for the purchase of legal services.

1 (6) For the 2026-27 state fiscal year, \$69,235 is appropriated to
2 the department of law. This appropriation is from reappropriated funds
3 received from the department of regulatory agencies under subsection
4 (5)(c) of this section and is based on an assumption that the department
5 of law will require an additional 0.3 FTE. To implement this act, the
6 department of law may use this appropriation to provide legal services for
7 the department of regulatory agencies.

8 **SECTION 23. Effective date.** This act takes effect upon passage;
9 except that sections 12-247-106, 12-247-110, 12-247-112, and
10 12-247-118, Colorado Revised Statutes, as enacted in section 2 of this
11 act, take effect July 1, 2028.

12 **SECTION 24. Safety clause.** The general assembly finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety or for appropriations for
15 the support and maintenance of the departments of the state and state
16 institutions.