

CHAPTER 299

HUMAN SERVICES - BEHAVIORAL HEALTH

HOUSE BILL 26-1425

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also SENATOR(S) Daugherty and Bright, Amabile, Ball, Bridges, Cutter, Danielson, Exum, Gonzales J., Hinrichsen, Kipp, Marchman, Mullica, Wallace, Coleman.

AN ACT

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

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

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

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

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

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

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

(c) The practice of behavior analysis in clinical settings where children may regularly be in therapy for several hours in a private facility warrants additional

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

oversight for facility safety and any nontherapeutic operations. Such oversight must, however, be subject to and coordinated with professional licensing rules and requirements to ensure efficiency and access to medically necessary care and compliance with other federal and state laws.

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

ARTICLE 247
Behavior Analysts and Assistant Behavior Analysts

12-247-101. Short title.

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

12-247-102. Applicability of common provisions.

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

12-247-103. Definitions.

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

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

(b) "APPLIED BEHAVIOR ANALYSIS" MAY INCLUDE:

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

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

(c) "APPLIED BEHAVIOR ANALYSIS" DOES NOT INCLUDE:

(I) DIAGNOSIS;

(II) PSYCHOLOGICAL TESTING;

(III) PSYCHOTHERAPY;

(IV) COGNITIVE THERAPY;

(V) PSYCHOANALYSIS;

(VI) MENTAL HEALTH COUNSELING;

(VII) PRACTICE WITH NONHUMANS;

(VIII) BUSINESS OR ORGANIZATIONAL CONSULTING, INCLUDING ORGANIZATIONAL BEHAVIOR MANAGEMENT SERVICES; OR

(IX) ANY PRACTICES REGULATED UNDER ARTICLE 245 OF THIS TITLE 12.

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

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

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

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

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

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

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

(I) THREE MEMBERS WHO ARE LICENSED BEHAVIOR ANALYSTS; (II) ONE LICENSED ASSISTANT BEHAVIOR ANALYST; AND

(III) ONE PUBLIC MEMBER.

(b) (I) THE LICENSED BEHAVIOR ANALYST AND LICENSED ASSISTANT BEHAVIOR ANALYST BOARD MEMBERS INITIALLY APPOINTED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION MUST MEET THE QUALIFICATIONS FOR LICENSURE UPON APPOINTMENT AND SHALL APPLY FOR LICENSURE AS SOON THE FIRST APPLICATION PERIOD BEGINS, AND THEY SHALL BE GRANTED APPLICABLE LICENSES UPON MEETING ALL QUALIFICATIONS OF SECTION 12-247-107 OR 12-247-108, AS APPLICABLE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) IN ADDITION TO ALL OTHER POWERS AND DUTIES CONFERRED UPON THE BOARD BY THIS ARTICLE 247, THE BOARD HAS THE FOLLOWING POWERS AND DUTIES:

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

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

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

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

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

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

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

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

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

(b) AN INDIVIDUAL SHALL NOT DESIGNATE THEMSELVES OR HOLD THEMSELF OUT AS A LICENSED ASSISTANT BEHAVIOR ANALYST UNLESS THE INDIVIDUAL IS LICENSED AS A LICENSED ASSISTANT BEHAVIOR ANALYST UNDER THIS ARTICLE 247.

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

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

12-247-107. Licensure of behavior analysts - qualifications - application.

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

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

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

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

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

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

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

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

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

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

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

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

(2) AN APPLICANT SHALL HAVE THE APPLICANT'S FINGERPRINTS TAKEN BY A LOCAL LAW ENFORCEMENT AGENCY OR ANY THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. THE APPLICANT SHALL AUTHORIZE THE ENTITY TAKING THE APPLICANT'S FINGERPRINTS TO SUBMIT, AND THE ENTITY SHALL SUBMIT, THE COMPLETE SET OF THE APPLICANT'S FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.

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

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

(5) THE COLORADO BUREAU OF INVESTIGATION SHALL RETURN THE RESULTS OF ITS CRIMINAL HISTORY RECORD CHECK TO THE DEPARTMENT. THE DEPARTMENT SHALL USE THE INFORMATION RESULTING FROM THE CRIMINAL HISTORY RECORD CHECKS TO INVESTIGATE AND DETERMINE WHETHER AN APPLICANT IS QUALIFIED TO HOLD A LICENSE PURSUANT TO THIS ARTICLE 247.

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

(7) WHEN THE RESULTS OF A CRIMINAL HISTORY RECORD CHECK OF AN APPLICANT PERFORMED PURSUANT TO THIS ARTICLE 247 REVEAL A RECORD OF ARREST WITHOUT

A DISPOSITION, THE DEPARTMENT SHALL REQUIRE THE APPLICANT TO SUBMIT TO A NAME-BASED JUDICIAL RECORD CHECK, AS DEFINED IN SECTION 22-2-119.3 (6)(d).

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

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

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

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

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

(b) A LICENSE ISSUED PURSUANT TO THIS ARTICLE 247 IS SUBJECT TO A GRACE PERIOD AFTER THE EXPIRATION OF THE LICENSE PURSUANT TO SECTION 12-20-202 (1)(e).

12-247-111. Licensure by endorsement.

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

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

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

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

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

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

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

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

(2) A LICENSED BEHAVIORAL ANALYST SHALL SUPERVISE AN APPROPRIATE NUMBER OF ASSISTANT BEHAVIORAL ANALYSTS OR BEHAVIORAL TECHNICIANS AT A TIME AS DETERMINED BY THE BOARD.

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

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

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

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

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

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

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

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

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

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

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

(c) A CAREGIVER OF A RECIPIENT OF APPLIED BEHAVIOR ANALYSIS SERVICES WHO PROVIDES APPLIED BEHAVIOR ANALYSIS SERVICES UNDER THE AUTHORITY AND DIRECTION OF A LICENSED BEHAVIOR ANALYST OR A LICENSED ASSISTANT BEHAVIOR

ANALYST. THE CAREGIVER SHALL NOT REPRESENT THEMSELVES AS A LICENSED BEHAVIOR ANALYST OR LICENSED ASSISTANT BEHAVIOR ANALYST.

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

(e) UNLICENSED INDIVIDUALS FROM PURSUING EXPERIENCE IN APPLIED BEHAVIOR ANALYSIS CONSISTENT WITH THE EXPERIENCE REQUIREMENTS OF THE BOARD, PROVIDED THE EXPERIENCE IS SUPERVISED IN ACCORDANCE WITH THE REQUIREMENTS OF THE BOARD; AND

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

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

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

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

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

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

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

(3)(a) UNLESS OTHERWISE PUBLICLY AVAILABLE, RECORDS OF ASSESSMENTS OR OTHER DOCUMENTATION DEVELOPED OR SUBMITTED IN CONNECTION WITH PEER REVIEW ACTIVITIES ARE CONFIDENTIAL AND EXEMPT FROM PUBLIC INSPECTION UNDER SECTION 24-72-204 (3)(a)(IV) OR DISCOVERY IN CONNECTION WITH A CIVIL ACTION AGAINST A LICENSED BEHAVIOR ANALYST OR LICENSED ASSISTANT BEHAVIOR ANALYST. THE BOARD SHALL ONLY USE THE RECORDS OR DOCUMENTS FOR PURPOSES OF DETERMINING WHETHER A LICENSED BEHAVIOR ANALYST OR

LICENSED ASSISTANT BEHAVIOR ANALYST IS MAINTAINING CONTINUING PROFESSIONAL COMPETENCY TO ENGAGE IN THE PROFESSION.

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

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

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

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

(b) (I) FAILING TO NOTIFY THE BOARD, AS REQUIRED BY SECTION 12-30-108 (1), OF A PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL, MENTAL HEALTH, OR SUBSTANCE USE DISORDER THAT IMPACTS THE LICENSEE'S ABILITY TO PROVIDE APPLIED BEHAVIOR ANALYSIS SERVICES WITH REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER THE HEALTH OR SAFETY OF INDIVIDUALS RECEIVING SERVICES;

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

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

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

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

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

(d) BEING CONVICTED OF OR PLEADING GUILTY OR NOLO CONTENDERE TO A FELONY OR COMMITTING AN ACT SPECIFIED IN SECTION 12-247-106. IN CONSIDERING THE DISCIPLINARY ACTION, THE BOARD IS GOVERNED BY SECTIONS 12-20-202 (5) AND 24-5-101.

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

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

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

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

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

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

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

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

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

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

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

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

(8) THE BOARD MAY SEND A LETTER OF ADMONITION TO A LICENSEE UNDER THE CIRCUMSTANCES SPECIFIED IN AND IN ACCORDANCE WITH SECTION 12-20-404 (4).

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

(10) IN ADDITION TO DISCIPLINARY ACTIONS AUTHORIZED BY SECTION 12-20-404, THE BOARD MAY IMPOSE PROBATIONARY STATUS ON A LICENSEE. IF THE BOARD PLACES A LICENSEE ON PROBATION, THE BOARD MAY INCLUDE CONDITIONS FOR CONTINUED PRACTICE THAT THE BOARD DEEMS APPROPRIATE TO ASSURE THAT THE LICENSEE IS PHYSICALLY, MENTALLY, AND OTHERWISE QUALIFIED TO PRACTICE IN ACCORDANCE WITH GENERALLY ACCEPTED PROFESSIONAL STANDARDS OF PRACTICE, INCLUDING ANY OF THE FOLLOWING:

(a) ORDER A LICENSEE TO SUBMIT TO AN EXAMINATION TO DETERMINE THE LICENSEE'S PHYSICAL OR MENTAL CONDITION OR PROFESSIONAL QUALIFICATIONS;

(b) PARTICIPATION IN THERAPY OR COURSES OF TRAINING OR EDUCATION THE BOARD DETERMINES NECESSARY TO CORRECT DEFICIENCIES FOUND EITHER IN A HEARING OR BY AN EXAMINATION;

(c) REVIEW OR SUPERVISION OF THE LICENSEE'S PRACTICE AS MAY BE NECESSARY TO DETERMINE THE QUALITY OF, AND CORRECT ANY DEFICIENCIES IN, THAT PRACTICE; AND

(d) THE IMPOSITION OF RESTRICTIONS UPON THE NATURE OF THE LICENSEE'S PRACTICE TO ASSURE THAT THE LICENSEE DOES NOT PRACTICE BEYOND THE LIMITS OF THE LICENSEE'S CAPABILITIES.

(11) ANY LICENSEE AGAINST WHOM A MALPRACTICE CLAIM IS SETTLED OR A JUDGMENT IS RENDERED IN A COURT OF COMPETENT JURISDICTION SHALL NOTIFY THE BOARD OF THE SETTLEMENT OR JUDGMENT WITHIN SIXTY DAYS AFTER THE DISPOSITION.

(12) ANY LICENSEE WHO HAS DIRECT KNOWLEDGE THAT A LICENSEE HAS VIOLATED THIS ARTICLE 247 HAS A DUTY TO REPORT THE VIOLATION TO THE BOARD UNLESS REPORTING THE VIOLATION WOULD VIOLATE THE PROHIBITION AGAINST DISCLOSURE OF CONFIDENTIAL INFORMATION WITHOUT CLIENT CONSENT.

12-247-118. Unauthorized practice - penalties.

AN INDIVIDUAL WHO PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE APPLIED BEHAVIOR ANALYSIS WITHOUT AN ACTIVE LICENSE AS REQUIRED BY AND ISSUED UNDER THIS ARTICLE 247 IS SUBJECT TO PENALTIES PURSUANT TO SECTION 12-20-407 (1)(b).

12-247-119. Rules.

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

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

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

(2) IN AN ORDER REQUIRING A LICENSEE TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION, THE BOARD SHALL STATE THE BASIS OF THE BOARD'S REASONABLE CAUSE TO BELIEVE THAT THE LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY. FOR THE PURPOSE OF A DISCIPLINARY PROCEEDING AUTHORIZED UNDER THIS ARTICLE 247, THE LICENSEE IS DEEMED TO HAVE WAIVED ALL OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING PHYSICIAN'S OR LICENSED HEALTH-CARE PROFESSIONAL'S TESTIMONY OR EXAMINATION REPORTS ON THE GROUNDS THAT THEY ARE PRIVILEGED COMMUNICATION.

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

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

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

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

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

(1) AN INDIVIDUAL LICENSED UNDER THIS ARTICLE 247 SHALL NOT PRACTICE APPLIED BEHAVIOR ANALYSIS UNLESS THE INDIVIDUAL IS COVERED BY PROFESSIONAL LIABILITY INSURANCE IN AN AMOUNT DETERMINED BY THE BOARD BY RULE THAT COVERS ALL ACTS WITHIN THE SCOPE OF PRACTICE OF THE LICENSED BEHAVIOR ANALYST OR LICENSED ASSISTANT BEHAVIOR ANALYST.

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

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

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

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

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

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

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

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

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

(Y) APPLIED BEHAVIOR ANALYSIS, AS REGULATED UNDER ARTICLE 247 OF THIS TITLE 12.

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

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

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

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

SECTION 5. In Colorado Revised Statutes, **add** 25.5-4-437 as follows:

25.5-4-437. Registered behavior technicians - reimbursement - definitions.

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

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

(b) "AUTISM SPECTRUM DISORDER":

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

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

(A) AUTISM SPECTRUM DISORDER;

(B) AUTISTIC DISORDER;

(C) ASPERGER'S DISORDER; AND

(D) ATYPICAL AUTISM AS A DIAGNOSIS WITHIN PERVASIVE DEVELOPMENTAL DISORDER NOT OTHERWISE SPECIFIED.

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

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

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

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

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

- (I) A LICENSED PSYCHOLOGIST;
- (II) A BOARD CERTIFIED BEHAVIOR ANALYST;
- (III) A BOARD CERTIFIED BEHAVIOR ANALYST-DOCTORAL; OR
- (IV) A BOARD CERTIFIED ASSISTANT BEHAVIOR ANALYST.

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

(3) (a) SUBJECT TO FEDERAL APPROVAL, THE STATE DEPARTMENT SHALL REIMBURSE THE APPLICABLE APPLIED BEHAVIOR ANALYSIS PROVIDER FOR APPLIED BEHAVIOR ANALYSIS SERVICES PROVIDED BY A BEHAVIOR TECHNICIAN, WHICH BEHAVIOR TECHNICIAN IS REQUIRED BY THE STATE DEPARTMENT TO BE CERTIFIED BY A CERTIFYING ENTITY BUT WHO IS NOT CERTIFIED AT THE TIME OF SERVICES, DURING ONE TEMPORARY PERIOD OF NOT LESS THAN FORTY-FIVE DAYS WHILE THE BEHAVIOR TECHNICIAN IS PURSUING THE CERTIFICATION IF THE ENTITY REQUESTING REIMBURSEMENT PROVIDES THE STATE DEPARTMENT WITH QUARTERLY ROSTERS OF THE ENTITY'S EMPLOYED BEHAVIOR TECHNICIANS, INCLUDING WHETHER OR NOT EACH INDIVIDUAL HAS COMPLETED MINIMUM TRAINING REQUIREMENTS AND RECEIVED THEIR CERTIFICATION FROM A CERTIFYING ENTITY.

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

(c) IF A BEHAVIOR TECHNICIAN DOES NOT BECOME CERTIFIED AT THE END OF THE FORTY-FIVE-DAY PERIOD DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION, THE ENTITY REQUESTING REIMBURSEMENT SHALL STOP THE REIMBURSEMENT REQUEST UNTIL THE BEHAVIOR TECHNICIAN BECOMES CERTIFIED.

(d) BEFORE PROVIDING APPLIED BEHAVIOR ANALYSIS SERVICES TO AN INDIVIDUAL AND SEEKING REIMBURSEMENT PURSUANT TO SUBSECTIONS (2) AND (3) OF THIS SECTION, A BEHAVIOR TECHNICIAN SHALL SATISFY THE FOLLOWING CONDITIONS:

- (I) OBTAIN A NAME-BASED JUDICIAL RECORD CHECK, AS DEFINED IN SECTION 22-2-119.3 (6)(d);
- (II) COMPLETE ALL TRAINING REQUIRED FOR CERTIFICATION BY A CERTIFYING ENTITY; AND
- (III) COMPLETE ABUSE AND NEGLECT REPORTING TRAINING.

(e) THE FORTY-FIVE-DAY PERIOD DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION BEGINS UPON A BEHAVIOR TECHNICIAN'S COMPLETION OF THE REQUIREMENTS DESCRIBED IN SUBSECTION (3)(d) OF THIS SECTION.

(f) BEGINNING IN JANUARY 2027, AND IN JANUARY EVERY YEAR THEREAFTER, THE STATE DEPARTMENT SHALL INCLUDE, AS PART OF ITS PRESENTATION DURING ITS "SMART ACT" HEARING REQUIRED BY SECTION 2-7-203, A DETERMINATION OF THE EFFICACY OF THIS SUBSECTION (3) AND RECOMMENDATIONS ON THE BEST WAY TO MOVE FORWARD WHILE ENSURING PATIENT SAFETY AND PROVIDER SUSTAINABILITY, INCLUDING DATA ON THE NUMBER OF BEHAVIOR TECHNICIANS OBTAINING CERTIFICATION IN THE PRECEDING SIX MONTHS.

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

26-6-901. Short title.

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

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

26-6-902. Legislative declaration.

(1) The general assembly finds that:

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

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

(2) In balancing the needs of children and their families with the needs of child placement agencies, APPLIED BEHAVIOR ANALYSIS CLINICS, and the residential and day treatment child care industry, the general assembly also recognizes the financial demands the department of human services faces in its attempt to ensure a safe and sanitary environment for children of the state of Colorado who are in foster care with child placement agencies or in residential and day treatment child care facilities. In an effort to reduce the risk to children placed outside their homes while recognizing the financial constraints placed on the department, it is the intent of the general assembly that the limited resources available are focused primarily on residential and day treatment child care facilities, APPLIED BEHAVIOR ANALYSIS CLINICS, and agencies that have demonstrated that children in their care may be at higher risk.

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

26-6-903. Definitions - repeal.

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

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

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

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

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

(b) "BEHAVIORAL HEALTH" INCLUDES:

(I) INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

(II) AUTISM SPECTRUM DISORDER, AS DEFINED IN SECTION 25.5-4-437 (1)(b);

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

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

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

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

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

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

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

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

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

(III) (A) ON OR BEFORE JULY 1, 2028, A LICENSED APPLIED BEHAVIOR ANALYSIS CLINIC, IF THE DEPARTMENT HAS PRESCRIBED AND PUBLISHED STANDARDS FOR LICENSING AND REGULATING APPLIED BEHAVIOR ANALYSIS CLINICS PURSUANT TO SECTION 26-6-909.5.

(B) THIS SUBSECTION (8)(b)(III) IS REPEALED, EFFECTIVE JULY 1, 2029.

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

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

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

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

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

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

26-6-904. Applicability of part.

(1) This part 9 does not apply to:

(c) Juvenile courts; ~~or~~

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

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

SECTION 10. In Colorado Revised Statutes, 26-6-905, **amend** (1)(a), (4), (8)(a)(I) introductory portion, and (10); and **add** (1.5) as follows:

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

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

(1.5) (a) A FACILITY THAT IS NOT A DAY TREATMENT FACILITY, AS THAT TERM IS DEFINED ON MAY 1, 2026, BUT IS A DAY TREATMENT FACILITY, AS THAT TERM IS DEFINED ON THE EFFECTIVE DATE OF THIS SUBSECTION (1.5), SHALL SUBMIT AN APPLICATION ON OR BEFORE AUGUST 1, 2026.

(b) A FACILITY THAT IS NOT A DAY TREATMENT FACILITY, AS THAT TERM IS DEFINED ON MAY 1, 2026, BUT IS A DAY TREATMENT FACILITY, AS THAT TERM IS DEFINED ON THE EFFECTIVE DATE OF THIS SUBSECTION (1.5), SHALL NOT OPERATE WITHOUT A LICENSE ISSUED BY THE STATE DEPARTMENT PURSUANT TO THIS PART 9 ON OR AFTER AUGUST 1, 2027.

(c) THIS SUBSECTION (1.5) IS REPEALED, EFFECTIVE AUGUST 1, 2028.

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

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

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

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

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

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

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

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

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

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

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

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

(VII) Respite child care centers; AND

(VIII) APPLIED BEHAVIOR ANALYSIS CLINICS.

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

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

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

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

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

(2) ~~A person~~ AN INDIVIDUAL applying for the licensure of a facility, ~~or agency,~~ OR APPLIED BEHAVIOR ANALYSIS CLINIC or the certification of a foster care home or kinship foster care home pursuant to this part 9, ~~or a person~~ AN INDIVIDUAL applying to work at a facility, ~~or agency, OR CLINIC~~ as an employee, who knowingly or willfully makes a false statement of any material fact or thing in the application commits perjury in the second degree as defined in section 18-8-503 and, upon conviction, shall be punished accordingly.

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

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

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

(b)(I) THE DEPARTMENT MAY PROVIDE AN APPLICANT FOR LICENSURE PURSUANT TO THIS SECTION WITH DOCUMENTATION THAT THE APPLICANT HAS SUBMITTED AN APPLICATION.

(II) THIS SUBSECTION (1)(b) IS REPEALED, EFFECTIVE JULY 1, 2028.

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

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

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

(1)(a)(I) ON OR BEFORE JULY 1, 2029, THE DEPARTMENT SHALL PRESCRIBE AND PUBLISH STANDARDS FOR LICENSING AND REGULATING APPLIED BEHAVIOR ANALYSIS CLINICS, WITH A FOCUS ON THE HEALTH AND SAFETY OF CHILDREN. THE STANDARDS MUST BE ESTABLISHED BY RULES ADOPTED BY THE STATE BOARD AND BE ISSUED, BE PUBLISHED, AND BECOME EFFECTIVE IN CONFORMITY WITH ARTICLE 4 OF TITLE 24.

(II) AN APPLIED BEHAVIOR ANALYSIS CLINIC IS A CLINIC WHERE INDIVIDUALS RECEIVE APPLIED BEHAVIOR ANALYSIS FROM LICENSED AND CERTIFIED PROFESSIONALS.

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

(2) IN ESTABLISHING THE STANDARDS FOR APPLIED BEHAVIOR ANALYSIS CLINICS PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL SEEK THE ADVICE AND

ASSISTANCE OF PERSONS REPRESENTATIVE OF THE VARIOUS TYPES OF APPLIED BEHAVIOR ANALYSIS CLINICS AND PROVIDERS, INCLUDING THE ADVICE AND ASSISTANCE OF THE DEPARTMENT OF PUBLIC SAFETY AND COUNCILS AND ASSOCIATIONS REPRESENTING FIRE MARSHALS AND BUILDING CODE OFFICIALS IN THE ADOPTION OF ANY RULES RELATED TO ADEQUATE FIRE PROTECTION AND PREVENTION.

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

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

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

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

(I) FILING REPORTS WITH THE DEPARTMENT;

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

(III) APPLIED BEHAVIOR ANALYSIS CLINIC STAFF;

(IV) DOCUMENTATION AND REVIEW OF THE RESTRAINTS;

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

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

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

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

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

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

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

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

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

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

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

(k) RECORD KEEPING PERTAINING TO THE ADMISSIONS, PROGRESS, HEALTH, AND DISCHARGE OF CHILDREN, INCLUDING PROVISIONS TO ENSURE THE RECORD-KEEPING REQUIREMENTS DO NOT CONFLICT WITH FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES REGULATIONS;

(l) FILING OF REPORTS WITH THE DEPARTMENT;

(m) STANDARDS FOR CARE OF CHILDREN WHO RECEIVE LESS THAN FOUR HOURS OF CARE EACH BUSINESS DAY AT AN APPLIED BEHAVIOR ANALYSIS CLINIC;

(n) DISCIPLINE OF CHILDREN; AND

(o) STORAGE REQUIREMENTS FOR MEDICATION.

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

SATISFACTORY FIRE OR RADON INSPECTION REPORT OF THE PROPERTY WAS COMPLETED WITHIN THE PRECEDING TWELVE MONTHS.

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

(6) THE EXECUTIVE DIRECTOR MAY DIRECT THE ADMINISTRATION OR MONITORING OF MEDICATIONS TO INDIVIDUALS IN APPLIED BEHAVIOR ANALYSIS CLINICS PURSUANT TO PART 3 OF ARTICLE 1.5 OF TITLE 25.

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

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

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

(B) Rules ~~promulgated~~ ADOPTED by the state board pursuant to this subsection (1)(a)(I) must require the fingerprint-based criminal history record check in all circumstances, other than those identified in subsection (1)(a)(I)(C) of this section, to include a fingerprint-based criminal history record check using the records of the Colorado bureau of investigation and the federal bureau of investigation and to apply to any new owner, new applicant, newly hired employee, new licensee, or individual who begins residing in the licensed facility OR CLINIC. As part of the investigation, the records and reports of child abuse or neglect maintained by the state department must be accessed to determine whether the owner, applicant, employee, newly hired employee, licensee, or individual who resides in the licensed facility OR CLINIC being investigated has been found to be responsible in a confirmed report of child abuse or neglect. Information is made available pursuant to section 19-1-307 (2)(j) and rules ~~promulgated~~ ADOPTED by the state board pursuant to section 19-3-313.5 (4). Except as provided in subsection (1)(a)(I)(C) of this section, any change in ownership of a licensed facility, CLINIC, or agency or addition of a new resident adult or newly hired employee to the licensed facility OR CLINIC requires a new investigation as provided in this section.

(C) When two or more individually licensed facilities OR CLINICS are wholly owned, operated, and controlled by a common ownership group or school district, a fingerprint-based criminal history record check and a check of the records and reports of child abuse or neglect maintained by the department, completed for one of the licensed facilities OR CLINICS of the common ownership group or school district pursuant to this section for an individual for whom the check is required pursuant to this part 9, may satisfy the record check requirement for any other licensed facility OR CLINIC under the same common ownership group or school district. A new fingerprint-based criminal history record check or new check of the records and reports of child abuse or neglect maintained by the department is not required of such an individual if the common ownership group or school district maintains a central records management system for employees of all its licensed facilities OR CLINICS, takes action as required pursuant to section 26-6-905 when informed of the results of a fingerprint-based criminal history record check or check of the records and reports of child abuse or neglect maintained by the department that requires action pursuant to this part 9, and informs the department whenever an additional licensed facility OR CLINIC comes under or is no longer under its ownership or control.

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

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

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

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

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

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

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

(2) The department may deny an application, or suspend, revoke, or make probationary the license, of any facility, CLINIC, or agency regulated and licensed pursuant to this part 9 or assess a fine against the licensee pursuant to section 26-6-921 if the licensee, an affiliate of the licensee, ~~a person~~ AN INDIVIDUAL employed by the licensee, or ~~a person~~ AN INDIVIDUAL who resides with the licensee at the facility, CLINIC, or agency:

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

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

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

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

(4) The state department may deny an application for a facility, CLINIC, or agency license pursuant to this part 9 if the applicant is a relative affiliate of a licensee of a facility, CLINIC, or agency licensed pursuant to this part 9, which licensee is the subject of a previous negative licensing action or is the subject of a pending investigation by the state department that may result in a negative licensing action.

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

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

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

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

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

(1)(a) When a facility, CLINIC, or agency licensed pursuant to this part 9 has been notified by the department of a negative licensing action or the imposition of a fine pursuant to section 26-6-914 (2) and (8), it shall, within ten days after receiving the notice, provide the department with the names and mailing addresses of the parents or legal guardians of each child cared for at the facility, CLINIC, or agency. The department shall maintain the confidentiality of the names and mailing addresses provided to it pursuant to this subsection (1).

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

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

(2) The state board shall ~~promulgate~~ ADOPT rules requiring facilities, CLINICS, and agencies to provide written notice to the parents and legal guardians of the children cared for in the facilities, CLINICS, and agencies of the procedures by which to file a complaint against the facility, CLINIC, or agency or an employee of the facility, CLINIC, or agency with the division within the department that is responsible for facility, CLINIC, and agency licensing. The rules must specify the information that the notice must contain and must require that the notice include the current mailing address and telephone number of the division within the department that is responsible for facility, CLINIC, and agency licensing.

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

26-6-918. Injunctive proceedings.

The department, in the name of the people of the state of Colorado, through the attorney general of the state, must apply for an injunction in any court of competent jurisdiction to enjoin a person from operating a facility, CLINIC, or agency without a license that is required to be licensed pursuant to this part 9. If the person does not have a valid license pursuant to this part 9, the person's license has been revoked pursuant to section 26-6-914, or the person does not meet the licensing exemption criteria set forth in section 26-6-904, yet provides child care and has a pattern of providing the child care without a valid license as required by this part 9, and despite having received notification from the department that the person, facility, CLINIC, or agency is in violation of the law, then the person, facility, CLINIC, or agency is providing unlicensed and illegal child care. At the time the department applies for an injunction, the department shall notify law enforcement of the injunction proceedings. If it is established that the defendant has been or is operating the facility, CLINIC, or agency without a valid license, the court shall enter a decree enjoining the defendant from further operating the facility, CLINIC, OR AGENCY unless and until the person obtains a license as required by this part 9. In case of a violation of an injunction issued pursuant to this section, the court may summarily try and punish the offender for contempt of court. Injunctive proceedings pursuant to this section are in addition to and not in lieu of the penalty provided in section 26-6-919.

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

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

At least every five years, the department shall conduct a comprehensive review of the licensing and certification rules for foster care homes, kinship foster care homes, **and** child placement agencies, AND APPLIED BEHAVIOR ANALYSIS CLINICS and the procedures relating to and governing foster care homes, kinship foster care homes, **and** CHILD PLACEMENT agencies, AND APPLIED BEHAVIOR ANALYSIS CLINICS, including procedures for the review of backgrounds of employees and owners. In conducting the periodic review, the department shall consult with foster care providers, kinship foster care providers, child placement agencies, county departments, the department of public health and environment, LICENSED BEHAVIOR ANALYSTS, and other interested parties throughout the state. The periodic review must include an examination of the rules applicable to foster care homes, kinship foster care homes, **and** child placement agencies, AND APPLIED BEHAVIOR ANALYSIS CLINICS; the process of licensing foster care homes, **and** child placement agencies, AND APPLIED BEHAVIOR ANALYSIS CLINICS; the certification process for foster care homes and kinship foster care homes; THE uniformity of standards or lack thereof in the licensing process; statewide standardization of investigations and enforcement of licensing by the department; duplication and conflicts in rules, requirements, or procedures between the department and the department of public health and environment; and recommendations for streamlining and unifying the licensing process. The review must also include an examination of rules and procedures regarding the general physical and mental health of foster care providers, kinship foster care providers, LICENSED BEHAVIOR ANALYSTS, employees, and owners. At

the conclusion of each review, the department shall report its findings and conclusions and its recommendations for administrative changes and for legislation to the state board.

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

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

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

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

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

(2) For the 2026-27 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$50,000 in federal funds for medicaid management information system maintenance and projects to implement this act. The appropriation in subsection (1) of this section is based on the assumption that the department will receive this amount of federal funds, which is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year.

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

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

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

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

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

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

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

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

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

Approved: June 2, 2026