

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB789)

Received: **03/18/2010**

Received By: **csundber**

Wanted: **As time permits**

Companion to LRB:

For: **Gordon Hintz (608) 266-2254**

By/Representing: **Cecely Catillo**

May Contact:

Drafter: **csundber**

Subject: **Occupational Reg. - prof lic**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hintz@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Licensing certified behavior analysts

Instructions:

See attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|------------------------|------------------------|------------------------|----------------|-----------------------|-----------------------|-----------------|
| /? | csundber 03/19/2010 | kfollett 03/22/2010 | | _____ | | | |
| /P1 | csundber 03/23/2010 | kfollett 03/23/2010 | jfrantze 03/22/2010 | _____ | lparisi 03/22/2010 | | |
| /1 | | | mduchek 03/23/2010 | _____ | lparisi 03/23/2010 | lparisi 03/23/2010 | |

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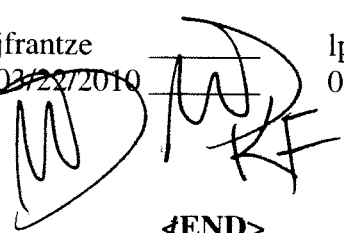
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| /? | csundber 03/19/2010 | kfollett 03/22/2010 | | _____ | | | |
| /P1 | | 11/jf 3/23 | jfrantze 03/22/2010 |  | lparisi 03/22/2010 | | |

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<END>

3/23

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|--------------|----------------|-----------------|---|-----------------------------|------------------|-----------------|-----------------|
| /? | csundber | IP/15f 3/22 |  3/22 | ND PH 3/22 | | | |

FE Sent For:

<END>

Sundberg, Christopher

From: Kahler, Pam
Sent: Thursday, March 18, 2010 11:11 AM
To: Sundberg, Christopher; Kuczenski, Tracy
Subject: FW: Rep. Hintz amendment request
Attachments: DRL BCBA Subchapter amnd draft 3-18.doc

Chris and Tracy:

This amendment request relates to reg and licensing.

Pam

From: Castillo, Cecely
Sent: Thursday, March 18, 2010 11:04 AM
To: Kahler, Pam
Cc: Stegall, Jennifer L - OCI
Subject: Rep. Hintz amendment request

Pam,

Attached is a draft for an amendment to the BCBA draft (AB 789)
Would it be possible to draft this for next week? Rep. Cullen's committee may be voting on this on March 24th so we are working under a short timeframe.

Thank you,
Cecely

Cecely Castillo
Office of Representative Gordon Hintz
322 West, State Capitol
608-266-2254 or
888-534-0054 toll-free
cecely.castillo@legis.wisconsin.gov

From: Stegall, Jennifer L - OCI [mailto:Jennifer.Stegall@wisconsin.gov]
Sent: Thursday, March 18, 2010 9:46 AM
To: Castillo, Cecely
Subject: FW: DRL BCBA Subchapter amnd draft 3-18.doc

Hi Cecely,

Here is an updated draft which reflects input from the national BCBA board. They had very minor edits. This should be the final version from our end.

Thanks!
-Jennifer

03/18/2010

Section 1. Section 440.03 (13) (b) 15m., is created to read:

440.03 (13) (b) The department may investigate whether an applicant for or holder of any of the following credentials has been charged with or convicted of a crime only pursuant to rules promulgated by the department under this paragraph, except as provided in par. (c):

1. Accountant, certified public.
2. Acupuncturist.
3. Advanced practice nurse prescriber.
4. Aesthetician.
5. Aesthetics instructor.
- 5m. Substance abuse counselor, clinical supervisor, or prevention specialist.
6. Appraiser, real estate, certified general.
7. Appraiser, real estate, certified residential.
8. Appraiser, real estate, licensed.
9. Architect.
10. Athletic trainer.
11. Auctioneer.
12. Audiologist.
13. Barber or cosmetologist.
14. Barbering or cosmetology instructor.
15. Barbering or cosmetology manager.
- 15m. Behavior Analyst, certified.
16. Boxer.
17. Cemetery preneed seller.
18. Cemetery salesperson.
- 18g. Chiropractic radiological technician.
- 18r. Chiropractic technician.
19. Chiropractor.
20. Dental hygienist.
21. Dentist.
22. Designer of engineering systems.
23. Dietitian.
24. Drug distributor.
25. Drug manufacturer.
26. Electrologist.
27. Electrology instructor.
28. Engineer, professional.
29. Fund-raising counsel.
30. Funeral director.

31. Hearing instrument specialist.
32. Home inspector.
33. Landscape architect.
34. Land surveyor.
35. Manicuring instructor.
36. Manicurist.
37. Marriage and family therapist.
38. Massage therapist or bodyworker.
39. Music, art, or dance therapist.
40. Nurse, licensed practical.
41. Nurse, registered.
42. Nurse-midwife.
43. Nursing home administrator.
44. Occupational therapist.
45. Occupational therapy assistant.
46. Optometrist.
47. Perfusionist.
48. Pharmacist.
49. Physical therapist.
50. Physical therapist assistant.
51. Physician.
52. Physician assistant.
53. Podiatrist.
54. Private detective.
55. Private practice school psychologist.
56. Private security person.
57. Professional counselor.
- 57m. Professional employer organization or professional employer group.
58. Professional fund-raiser.
59. Professional geologist.
60. Professional hydrologist.
61. Professional soil scientist.
62. Psychologist.
63. Real estate broker.
64. Real estate salesperson.
65. Registered interior designer.
66. Respiratory care practitioner.
- 66d. Sanitarian.
67. Social worker.
68. Social worker, advanced practice.
69. Social worker, independent.
70. Social worker, independent clinical.
71. Speech-language pathologist.
72. Time-share salesperson.
73. Veterinarian.

74. Veterinary technician.

75. Any other profession or occupation specified by law that is regulated by the department or a credentialing board.

Section 2. Section 440.08 (2) (a) 20m., is amended to read:

440.08 Credential renewal. (2) RENEWAL DATES, FEES AND

APPLICATIONS. (a) Except as provided in par. (b) and in ss. 440.51, 442.04, 444.03, 444.11, 448.065, 447.04 (2) (c) 2., 449.17 (1m) (d), 449.18 (2) (d), and 461.02 (3) (a) and (b) and (4), the renewal dates for credentials are as follows:

1. Accountant, certified public: December 15 of each odd-numbered year.
3. Accounting corporation or partnership: December 15 of each odd-numbered year.
4. Acupuncturist: July 1 of each odd-numbered year.
- 4m. Advanced practice nurse prescriber: October 1 of each even-numbered year.
5. Aesthetics instructor: April 1 of each odd-numbered year.
6. Aesthetics establishment: April 1 of each odd-numbered year.
7. Aesthetics instructor: April 1 of each odd-numbered year.
8. Aesthetics school: April 1 of each odd-numbered year.
9. Aesthetics specialty school: April 1 of each odd-numbered year.
- 9m. Substance abuse counselor, clinical supervisor, or prevention specialist: except as limited in s. 440.88 (4), March 1 of each odd-numbered year.
11. Appraiser, real estate, certified general: December 15 of each odd-numbered year.
- 11m. Appraiser, real estate, certified residential: December 15 of each odd-numbered year.
12. Appraiser, real estate, licensed: December 15 of each odd-numbered year.
13. Architect: August 1 of each even-numbered year.
14. Architectural or engineering firm, partnership or corporation: February 1 of each even-numbered year.
- 14d. Athlete agent: July 1 of each even-numbered year.
- 14f. Athletic trainer: July 1 of each even-numbered year.
- 14g. Auction company: December 15 of each even-numbered year.
- 14r. Auctioneer: December 15 of each even-numbered year.
15. Audiologist: February 1 of each odd-numbered year.
16. Barbering or cosmetology establishment: April 1 of each odd-numbered year.
17. Barbering or cosmetology instructor: April 1 of each odd-numbered year.
18. Barbering or cosmetology manager: April 1 of each odd-numbered year.
19. Barbering or cosmetology school: April 1 of each odd-numbered year.
20. Barber or cosmetologist: April 1 of each odd-numbered year.

- 20m. Behavior analyst, certified: December 15 of each even-numbered year.
21. Cemetery authority, licensed: December 15 of each even-numbered year.
- 21m. Cemetery authority, registered: December 15 of each even-numbered year; \$10.
22. Cemetery preneed seller: December 15 of each even-numbered year.
23. Cemetery salesperson: December 15 of each even-numbered year.
- 23m. Charitable organization: August 1 of each year.
- 23p. Chiropractic radiological technician: December 15 of each even-numbered year.
- 23s. Chiropractic technician: December 15 of each even-numbered year.
24. Chiropractor: December 15 of each even-numbered year.
- 24m. Crematory authority: January 1 of each even-numbered year.
25. Dental hygienist: October 1 of each odd-numbered year.
26. Dentist: October 1 of each odd-numbered year.
- 26m. Dentist, faculty member: October 1 of each odd-numbered year.
27. Designer of engineering systems: February 1 of each even-numbered year.
- 27m. Dietitian: November 1 of each even-numbered year.
29. Drug manufacturer: June 1 of each even-numbered year.
30. Electrologist: April 1 of each odd-numbered year.
31. Electrology establishment: April 1 of each odd-numbered year.
32. Electrology instructor: April 1 of each odd-numbered year.
33. Electrology school: April 1 of each odd-numbered year.
34. Electrology specialty school: April 1 of each odd-numbered year.
35. Engineer, professional: August 1 of each even-numbered year.
- 35m. Fund-raising counsel: September 1 of each even-numbered year.
36. Funeral director: December 15 of each odd-numbered year.
37. Funeral establishment: June 1 of each odd-numbered year.
38. Hearing instrument specialist: February 1 of each odd-numbered year.
- 38g. Home inspector: December 15 of each even-numbered year.
- 38m. Landscape architect: August 1 of each even-numbered year.
39. Land surveyor: February 1 of each even-numbered year.
42. Manicuring establishment: April 1 of each odd-numbered year.
43. Manicuring instructor: April 1 of each odd-numbered year.
44. Manicuring school: April 1 of each odd-numbered year.
45. Manicuring specialty school: April 1 of each odd-numbered year.
46. Manicurist: April 1 of each odd-numbered year.
- 46m. Marriage and family therapist: March 1 of each odd-numbered year.
- 46r. Massage therapist or bodyworker: March 1 of each odd-numbered year.
- 46w. Midwife, licensed: July 1 of each even-numbered year.
48. Nurse, licensed practical: May 1 of each odd-numbered year.
49. Nurse, registered: March 1 of each even-numbered year.
50. Nurse-midwife: March 1 of each even-numbered year.
51. Nursing home administrator: July 1 of each even-numbered year.
52. Occupational therapist: June 1 of each odd-numbered year.
53. Occupational therapy assistant: June 1 of each odd-numbered year.
54. Optometrist: December 15 of each odd-numbered year.

- 54m. Perfusionist: March 1 of each even-numbered year.
55. Pharmacist: June 1 of each even-numbered year.
56. Pharmacy, in-state and out-of-state: June 1 of each even-numbered year.
57. Physical therapist: March 1 of each odd-numbered year.
- 57m. Physical therapist assistant: March 1 of each odd-numbered year.
58. Physician, other than a physician who possesses the degree of doctor of osteopathy: November 1 of each odd-numbered year.
- 58m. Physician who possesses the degree of doctor of osteopathy: March 1 of each even-numbered year.
59. Physician assistant: March 1 of each odd-numbered year.
60. Podiatrist: November 1 of each even-numbered year.
61. Private detective: September 1 of each even-numbered year.
62. Private detective agency: September 1 of each odd-numbered year.
63. Private practice school psychologist: October 1 of each odd-numbered year.
- 63g. Private security person: September 1 of each even-numbered year.
- 63m. Professional counselor: March 1 of each odd-numbered year.
- 63p. Professional employer organization or professional employer group: July 31 of each year.
- 63t. Professional fund-raiser: September 1 of each even-numbered year.
- 63u. Professional geologist: August 1 of each even-numbered year.
- 63v. Professional geology, hydrology or soil science firm, partnership or corporation: August 1 of each even-numbered year.
- 63w. Professional hydrologist: August 1 of each even-numbered year.
- 63x. Professional soil scientist: August 1 of each even-numbered year.
64. Psychologist: October 1 of each odd-numbered year.
65. Real estate broker: December 15 of each even-numbered year.
66. Real estate business entity: December 15 of each even-numbered year.
67. Real estate salesperson: December 15 of each even-numbered year.
- 67m. Registered interior designer: August 1 of each even-numbered year.
- 67v. Registered music, art or dance therapist: October 1 of each odd-numbered year.
- 67x. Registered music, art, or dance therapist with psychotherapy license: October 1 of each odd-numbered year.
68. Respiratory care practitioner: July 1 of each even-numbered year.
- 68b. Sanitarian: January 1 of each even-numbered year.
- 68d. Social worker: March 1 of each odd-numbered year.
- 68h. Social worker, advanced practice: March 1 of each odd-numbered year.
- 68p. Social worker, independent: March 1 of each odd-numbered year.
- 68t. Social worker, independent clinical: March 1 of each odd-numbered year.
- 68v. Speech-language pathologist: February 1 of each odd-numbered year.
69. Time-share salesperson: December 15 of each even-numbered year.
70. Veterinarian: December 15 of each odd-numbered year.
71. Veterinary technician: December 15 of each odd-numbered year.
72. Wholesale distributor of prescription drugs: June 1 of each even-numbered year.

Section 3. Subchapter 440.999 is created to read:

Subchapter 440.999 Certified Behavior Analyst

440.9991 Definitions. In this subchapter:

(1) "Certified behavior analyst" means a person who is certified by the nationally accredited Behavior Analyst Certification Board as a board-certified behavior analyst and has been granted a certificate under this subchapter to engage in the practice of behavior analysis.

(2) "Practice of applied behavior analysis" means the design, implementation, and evaluation of systematic instructional and environmental modifications by a behavior analyst to produce socially significant improvements in human behavior. It includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis.

Applied behavior analysis interventions are based on scientific research and the direct observation and measurement of behavior and environment. The practice of applied behavior analysis utilizes contextual factors, establishing operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions. The practice of behavior analysis does not include psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex therapy, marriage counseling, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities.

440.9992 Use of title; penalty. (1) No person may use the title “certified behavior analyst,” describe or imply that he or she is a certified behavior analyst, or represent himself or herself as a certified behavior analyst unless the person is certified by the Behavior Analyst Certification Board and granted a certificate under this subchapter. This section shall not restrict the practice of applied behavior analysis by other professionals provided the services are performed within the scope of their professions and services, and are performed commensurate with their training and experience, and they do not represent that they are applied behavior analysts.

(2) Any person who violates sub. (1) may be fined not more than \$250, imprisoned not more than 3 months, or both.

440.9993 Certification

(1) Except as provided in sub. (2), the department may issue a certificate to a person under this subchapter if all of the following apply:

- (a)** The person submits an application for the certificate to the department on a form provided by the department.
- (b)** The person pays the initial credential fee determined by the department under s. 440.03 (9) (a).
- (c)** The person submits evidence satisfactory to the department of documentation of a currently-valid certification by the Behavior Analyst Certification Board or its successor organization as a board-certified behavior analyst.

(2) The department may not grant a license under this subchapter to any person who has been convicted of an offense under s. 940.22, 940.225, 944.06, 944.15, 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.051, 948.06, 948.07, 948.075, 948.08, 948.09, 948.095, 948.10, 948.11, or 948.12 or under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

440.9994 Renewal of licensure. (1) The renewal date for licenses granted under this subchapter is specified in s. 440.08 (2) (a). Renewal applications shall be submitted to the department on a form provided by the department and shall include the renewal fee determined by the department under s. 440.03 (9) (a).

(2) A certified behavior analyst shall, at the time that he or she applies for renewal of a license under sub. (1), submit proof satisfactory to the department that he or she holds a currently-valid credential from the Behavior Analyst Certification Board or its successor organization as a board-certified behavior analyst.

440.9995 Rule making. (1) The department may promulgate rules necessary to administer this subchapter. Except as provided in subs. (2), (3), and (4), any rules regarding the practice of behavior analysis shall be consistent with standards regarding the practice of behavior analysis established by the Behavior Analyst Certification Board or its successor organization.

(2) The rules shall provide for the granting of temporary permits to practice behavior analysis pending qualification for certification; temporary permits shall require the practitioner to practice under the supervision of a certified behavior analyst certified under this subdivision.

(3) The department may promulgate rules of conduct consistent with Behavior Analyst Certification Board or its successor organization.

(4) The rules may not do any of the following:

(a) Require a certified behavior analyst to have a specific graduate degree other than as required by the Behavior Analyst Certification Board.

(b) Require a certified behavior analyst to practice behavior analysis under the supervision of, or in collaboration with, another health care provider.

(c) Require a certified behavior analyst to enter into an agreement, written or otherwise, with another health care provider.

(d) Limit the location where a certified behavior analyst may practice behavior analysis.

(5) Notwithstanding s. 227.24 (1) (a), (2) (b) and (3), the secretary is not required to provide evidence that promulgating a rule under this subdivision as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subdivision.

440.9996 Informed consent. A certified behavior analyst shall, at an initial consultation with a client, provide a copy of the rules promulgated by the department under this subchapter and disclose to the client orally and in writing all of the following:

(1) The certified behavior analyst's experience and training.

(2) Any other information required by department rule.

440.9997 Disciplinary proceedings and actions.

(1) Subject to the rules promulgated under s. 440.03 (1), the department may conduct investigations and hearings to determine whether a violation of this subchapter or any rule promulgated under this subchapter has occurred.

(2) Subject to the rules promulgated under s. 440.03 (1), the department may reprimand a certified behavior analyst or deny, limit, suspend, or revoke a certificate granted under this subchapter if the department finds that the applicant or the certified behavior analyst has done any of the following:

(a) Intentionally made a material misstatement in an application for a certificate or for renewal of a certificate.

(b) Subject to ss. 111.321, 111.322, and 111.34, practiced behavior analysis while his or her ability to engage in the practice was impaired by alcohol or other drugs.

(c) Advertised in a manner that is false or misleading.

(d) In the course of the practice of behavior analysis, made a substantial misrepresentation that was relied upon by a client.

(e) In the course of the practice of behavior analysis, engaged in conduct that evidences an inability to apply the principles or skills of behavior analysis.

(f) Obtained or attempted to obtain compensation through fraud or deceit.

(g) Allowed another person to use a certificate granted under this subchapter.

(h) Violated any law of this state or federal law that substantially relates to the practice of behavior analysis, violated this subchapter, or violated any rule promulgated under this subchapter.

(i) Engages in unprofessional conduct.

(3) Subject to the rules promulgated under s. 440.03 (1), the department shall revoke a certificate granted under this subchapter if the certified behavior analyst is convicted of any of the offenses specified in 440.982 (2).

440.9998 Advisory committee. The department may appoint an advisory committee under s. 440.042 to advise the department on matters relating to the regulation of certified behavior analysts.

Section 4. Initial Applicability.

The treatment of sections 440.03 (13) (c), 440.08 (2), and subc. 440.999 of the statutes first applies on the first day of the 3rd month beginning after publication.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT,

TO 2009 ASSEMBLY BILL 789

LPS:
check
spacing
throughout
please

d-note

#. Page 1, line 3: after "treatment" insert
, providing an exemption from emergency
rule procedures, requiring the exercise of
rule-making authority, and
providing a penalty

INS 1-4

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 3: before "insurance" insert "certification and regulation of
behavior analysts and".

3
4 2. Page 2, line 1: delete that line and substitute:

5 SECTION 1a. 440.03 (13) (b) of the statutes is created to read:

6 440.03 (13) (b) Behavior analyst, certified.

7 SECTION 1b. 440.08 (2) (a) 20m. of the statutes is created to read:

8 440.08 (2) (a) 20m. Behavior analyst, certified: December 15 of each
9 even-numbered year.

10 SECTION 1c. Subchapter III of chapter 440 [precedes 440.41] of the statutes is
11 renumbered subch. IV of ch. 440.

change
companion

step no change

1 **SECTION 1d.** Subchapter IV of chapter 440 [precedes 440.51] of the statutes is
2 renumbered subch. V of ch. 440.

3 **SECTION 1e.** Subchapter V of chapter 440 [precedes 440.60] of the statutes is
4 renumbered subch. VI of ch. 440.

5 **SECTION 1f.** Subchapter VI of chapter 440 [precedes 440.70] of the statutes is
6 renumbered subch. VII of ch. 440.

7 **SECTION 1g.** Subchapter VII of chapter 440 [precedes 440.88] of the statutes
8 is renumbered subch. VIII of ch. 440.

9 **SECTION 1h.** Subchapter VIII of chapter 440 [precedes 440.90] of the statutes
10 is renumbered subch. IX of ch. 440.

11 **SECTION 1i.** Subchapter IX of chapter 440 [precedes 440.96] of the statutes is
12 renumbered subch. X of ch. 440.

13 **SECTION 1j.** Subchapter X of chapter 440 [precedes 440.97] of the statutes is
14 renumbered subch. XI of ch. 440.

15 **SECTION 1k.** Subchapter XI of chapter 440 [precedes 440.98] of the statutes is
16 renumbered subch. XII of ch. 440.

17 **SECTION 1L.** Subchapter XII of chapter 440 [precedes 440.9805] of the statutes
18 is renumbered subch. XIII of ch. 440.

19 **SECTION 1m.** Subchapter XIII of chapter 440 [precedes 440.99] of the statutes
20 is renumbered subch. XIV of ch. 440.

21 **SECTION 1n.** Subchapter III of chapter 440 [precedes 440.310] of the statutes
22 is created to read:

CHAPTER 440

SUBCHAPTER III

CERTIFIED BEHAVIOR ANALYSTS

440.310 Definitions. In this subchapter:

Handwritten notes on the left margin:
- "MAY 2-20" in a box
- "move all" with an arrow pointing to line 20
- "to p. 1" written vertically
- "bm" written near line 21
- "31" written near line 21

1 (1) "Certified behavior analyst" means a person who is certified by the
 2 nationally accredited Behavior Analyst Certification Board as a board-certified
 3 behavior analyst and has been granted a certificate under this subchapter to engage
 4 in the practice of behavior analysis.

****NOTE: It is somewhat confusing to use a certificate as the credential issued by DRL, because the primary qualification for certification by DRL is certification by the Behavior Analyst Certification Board. Compare DRL's certification of public accountants under s. 442.04, for which the primary qualification is 150 credit hours of education with an accounting concentration.

5 (2) "Practice of behavior analysis" means the design, implementation, and
 6 evaluation of systematic instructional and environmental modifications to produce
 7 socially significant improvements in human behavior, including the empirical
 8 identification of functional relations between behavior and environmental factors,
 9 known as functional assessment and analysis. Applied behavior analysis
 10 interventions are based on scientific research and the direct observation and
 11 measurement of behavior and environment. The practice of applied behavior
 12 analysis utilizes contextual factors, establishing operations, antecedent stimuli,
 13 positive reinforcement, and other consequences to help people develop new
 14 behaviors, increase or decrease existing behaviors, and emit behaviors under specific
 15 environmental conditions. "Practice of behavior analysis" does not include
 16 psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex
 17 therapy, marriage counseling, psychoanalysis, hypnotherapy, and long-term
 18 counseling as treatment modalities.

****NOTE: The end of the first sentence above places a definition of "functional assessment and analysis" inside the definition of "practice of behavior analysis." Because the term "functional assessment and analysis" does not appear elsewhere in the draft, the definition appears to be descriptive only and should be deleted.

****NOTE: The above definition contains some material that doesn't quite fit. The second sentence is descriptive of interventions, but it's not clear how interventions relate to the definition of "practice of behavior analysis." The third sentence seems to describe

more
all



*** Note: For consistency, I have changed "applied behavior analysis" to "behavior analysis" throughout this draft.

X how behavior analysis as defined in the first sentence is (or perhaps should be) carried out, but it does not define "practice of behavior analysis".

****NOTE: The exclusions in the last sentence refer to certain kinds of action, but these actions are not defined. If the intent is to limit the sorts of actions that a behavior analyst may engage in in the course of the practice of behavior analysis, the actions should be described more specifically. It is unclear, for example, what the difference is between neuropsychology or psychological testing, which are not included in "practice of behavior analysis," and evaluation of systematic instructional and environmental modifications, which is. If the intent is to clarify that the prohibition on the practice of behavior analysis does not apply to actions taken by certain professionals who are licensed and regulated under current law, I suggest creating a new substantive section that explicitly exempts certain professionals identified by the statutory provisions under which those professionals are licensed, e.g., "This subchapter does not apply to a marriage and family therapist licensed under s. 457.10."

move all

1 **440.311 Use of title; penalty.** (1) No person may use the title "certified
2 behavior analyst" or represent or imply that he or she is a certified behavior analyst
3 unless the person is granted a certificate under this subchapter. This section may
4 not be construed to restrict the practice of applied behavior analysis by other
5 professionals provided the services are performed within the scope of their
6 professions and services, and are performed commensurate with their training and
7 experience, and they do not represent that they are applied behavior analysts.

8 (2) Any person who violates sub. (1) may be fined not more than \$250,
9 imprisoned not more than 3 months in the county jail, or both.

10 **440.312 Certification.** (1) Except as provided in sub. (2), the department
11 shall grant a certificate as a certified behavior analyst to a person under this
12 subchapter if all of the following apply:

13 (a) The person submits an application to the department on a form provided by
14 the department.

15 (b) The person pays the initial credential fee determined by the department
16 under s. 440.03 (9) (a).

17 (c) The person submits evidence satisfactory to the department that the person
18 is certified by the Behavior Analyst Certification Board or its successor organization.

1 (2) The department may not grant a certificate under this subchapter to any
 2 person who has been convicted of an offense under s. 940.22, 940.225, 944.06, 944.15,
 3 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.051, 948.06,
 4 948.07, 948.075, 948.08, 948.09, 948.095, 948.10, 948.11, 948.12, or 940.302 (2) (a)
 5 1. b.

6 **440.313 Renewal.** (1) The renewal date for certificates granted under this
 7 subchapter is specified in s. 440.08 (2) (a). Renewal applications shall be submitted
 8 to the department on a form provided by the department and shall include the
 9 renewal fee determined by the department under s. 440.03 (9) (a).

10 (2) A certified behavior analyst shall, at the time that he or she applies for
 11 renewal of a license under sub. (1), submit proof satisfactory to the department that
 12 he or she holds is certified the Behavior Analyst Certification Board or its successor
 13 organization.

14 **440.314 Rules.** (1) The department may promulgate rules necessary to
 15 administer this subchapter, including rules of conduct by certified behavior analysts
 16 and by holders of temporary permits under sub. (2). Except as provided in subs. (2),
 17 (3), and (4), any rules regarding the practice of behavior analysis shall be consistent
 18 with standards established by the Behavior Analyst Certification Board or its
 19 successor organization.

20 (2) (a) The department shall promulgate rules providing for temporary permits
 21 authorizing the practice of behavior analysis by the permit holder under the
 22 supervision of a certified behavior analyst certified under s. 440.312 (1).

****NOTE: The instructions indicate that a temporary permit should be available only to persons for whom qualification for a certificate from DRL is "pending." Does this mean persons who are enrolled in a course of study for behavior analysis, persons who have completed the required course of study, or something else?

23 (3) The rules may not do any of the following:

move
9/11



1 (a) Require an applicant for a certificate under this subchapter to have
2 education in addition to the education required by the Behavior Analyst
3 Certification Board or its successor organization.

4 (b) Require a certified behavior analyst to practice behavior analysis under the
5 supervision of, or in collaboration with, another health care provider.

6 (c) Require a certified behavior analyst to enter into an agreement, written or
7 otherwise, with another health care provider.

8 (d) Limit the location where a certified behavior analyst may practice behavior
9 analysis.

10 **440.315 Informed consent.** A certified behavior analyst shall, at an initial
11 consultation with a client, provide a copy of the rules promulgated by the department
12 under this subchapter and shall disclose to the client orally and in writing all of the
13 following:

14 (1) A summary of the certified behavior analyst's experience and training.

15 (2) Any other information required by the department by rule.

16 **440.316 Disciplinary proceedings and actions.** (1) Subject to the rules
17 promulgated under s. 440.03 (1), the department may conduct investigations and
18 hearings to determine whether a violation of this subchapter or any rule
19 promulgated under this subchapter has occurred.

20 (2) Subject to the rules promulgated under s. 440.03 (1), the department may
21 reprimand a certified behavior analyst or deny, limit, suspend, or revoke a certificate
22 granted under this subchapter if the department finds that the applicant or the
23 certified behavior analyst has done any of the following:

24 (a) Intentionally made a material misstatement in an application for a
25 certificate or for renewal of a certificate.

move
a/1

1 (b) Subject to ss. 111.321, 111.322, and 111.34, practiced behavior analysis while
2 his or her ability to engage in the practice was impaired by alcohol or other drugs.

3 (c) Advertised in a manner that is false or misleading.

4 (d) In the course of the practice of behavior analysis, made a substantial
5 misrepresentation that was relied upon by a client.

6 (e) In the course of the practice of behavior analysis, engaged in conduct that
7 evidences an inability to apply the principles or skills of behavior analysis.

8 (f) Obtained or attempted to obtain compensation through fraud or deceit.

9 (g) Allowed another person to use a certificate granted under this subchapter.

10 (h) Violated any law of this state or federal law that substantially relates to the
11 practice of behavior analysis, violated this subchapter, or violated any rule
12 promulgated under this subchapter.

13 (i) Engaged in unprofessional conduct.

14 (3) Subject to the rules promulgated under s. 440.03 (1), the department shall
15 revoke a certificate granted under this subchapter if the certified behavior analyst
16 is convicted of any of the offenses specified in 440.312 (2).

17 **440.317 Advisory committee.** The department may appoint an advisory
18 committee under s. 440.042 to advise the department on matters relating to the
19 regulation of certified behavior analysts.

move

20 "SECTION 1r. 632.895 (12m) (b) 3m. of the statutes is created to read."

21 **3.** Page 2, line 8: after that line insert:

22 "**SECTION 2m. Nonstatutory provisions.**

23 (1) The department of regulation may promulgate rules under section 440.314
24 of the statutes, as created by this act, as emergency rules under section 227.24 of the

Page 2, line 1: delete that line and substitute "SECTION 1r." and substitute "SECTION 1." and substitute "SECTION 1r."

1 statutes. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency
 2 rules promulgated under this subsection may remain in effect until the effective date
 3 of permanent rules promulgated by the department under section 440.314 of the
 4 statutes, as created by this act. Notwithstanding section 227.24 (1) (a) and (3) of the
 5 statutes, the department is not required to provide evidence that promulgating a rule
 6 under this subsection as an emergency rule is necessary for the preservation of the
 7 public peace, health, safety, or welfare and is not required to provide a finding of
 8 emergency for a rule promulgated under this subsection.”.

****NOTE: I have assumed that the intent of proposed s. 440.9995 (5) in the drafting instructions was to authorize the promulgation of emergency rules for the period before permanent rules take effect, not to authorize the department to utilize emergency rule-making procedures at any time to promulgate rules applicable to behavior analysts. Correct?

9 4. Page 2, line 13: after that line insert:

10 “SECTION 4. ^mEffective dates. This act takes effect on the day after publication,

11 except as follows:

12 (1) The creation of subchapter III of ch. 440 of the statutes takes effect on the
 13 first day of the 3rd month beginning after publication.”.

****NOTE: I have assumed that the intent of the initial applicability provision in the drafting instructions was to delay the effective date of the behavior analyst licensure provisions (as opposed to the insurance coverage provisions contained in AB 789. Correct?

****NOTE: Should AB 789 be modified to require coverage of the services of a behavior analyst licensed by DRL (as opposed to services provided by a behavior analyst who is only certified by the BACB)?

14 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1864/P1ins
CTS:.....

1 **Insert 1-4:**

2 "SECTION 1a. 157.055 (2) (intro.) of the statutes [✓] is amended to read:

3 157.055 (2) (intro.) Notwithstanding ss. 69.18 (4), 445.04 (2), 445.14, 979.01 (3),
4 (3m), and (4), 979.02, and 979.10, and subch. [✓] ~~VI~~ [✓] VII of ch. 440, during a period of a
5 state of emergency related to public health declared by the governor under s. 323.10,
6 a public health authority may do all of the following:

7 **Insert 2-20:**

8 **SECTION 1n.** 441.15 (2m) of the statutes is amended to read:

9 441.15 (2m) Subsection (2) does not apply to a person granted a license to
10 practice midwifery under subch. [✓] ~~XII~~ [✓] XIII of ch. 440.

11 **SECTION 1p.** 448.03 (2) (a) of the statutes [✓] is amended to read:

12 448.03 (2) (a) Any person lawfully practicing within the scope of a license,
13 permit, registration, certificate or certification granted to practice midwifery under
14 subch. [✓] ~~XII~~ [✓] XIII of ch. 440, to practice professional or practical nursing or
15 nurse-midwifery under ch. 441, to practice chiropractic under ch. 446, to practice
16 dentistry or dental hygiene under ch. 447, to practice optometry under ch. 449, to
17 practice acupuncture under ch. 451 or under any other statutory provision, or as
18 otherwise provided by statute."

1. as affected by Wisconsin 2009 Act 42)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1864/P1dn

CTS:.....*kf*

Date

Representative Hintz:

This is a preliminary draft. Please review it carefully to ensure it is consistent with your intent, and note that I have included several questions and comments in the draft.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail:
christopher.sundberg@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1864/P1dn
CTS:kjf:jf

March 22, 2010

Representative Hintz:

This is a preliminary draft. Please review it carefully to ensure it is consistent with your intent, and note that I have included several questions and comments in the draft.

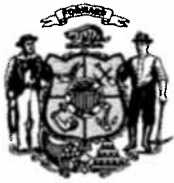
Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail:
christopher.sundberg@legis.wisconsin.gov

3/23/10

DCI comments re 2008a 1864/PI

* 2 and DRL (From Jennifer Stegall)

1. DRL's OK with using "licensed" rather than "certified"
2. Temp. permit (p. 5 L. 9) should be available only for applicants who are cert'd by BACB.
3. Delete delayed effective date.
4. Will send revised def. for "practice of behavior analysis."
5. 30 day licensure delayed eff. date.
6. Amend bill to require part for BA licensed by DRL.



~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

**ASSEMBLY AMENDMENT ,
TO 2009 ASSEMBLY BILL 789**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 2: before "insurance" insert certification and regulation of
3 behavior analysts,". *licensure*

4 **2.** Page 1, line 3: after "treatment" insert ", providing an exemption from
5 emergency rule procedures, *granting* requiring the exercise of rule-making authority, and
6 providing a penalty".

7 **3.** Page 2, line 1: before that line insert:

8 "SECTION 1a. 157.055 (2) (intro.) of the statutes, as affected by 2009 Wisconsin
9 Act 42, is amended to read:

10 157.055 (2) (intro.) Notwithstanding ss. 69.18 (4), 445.04 (2), 445.14, 979.01 (3),
11 (3m), and (4), 979.02, and 979.10, and subch. ~~VI~~ VII of ch. 440, during a period of a

1 state of emergency related to public health declared by the governor under s. 323.10,
2 a public health authority may do all of the following:

3 SECTION 1b. 440.03 (13) (b) 15m. of the statutes is created to read:

4 440.03 (13) (b) 15m. Behavior analyst, certified.

5 SECTION 1bg. 440.08 (2) (a) 20m. of the statutes is created to read:

6 440.08 (2) (a) 20m. Behavior analyst, certified. December 15 of each
7 even-numbered year.

8 SECTION 1bm. Subchapter III of chapter 440 [precedes 440.310] of the statutes
9 is created to read:

10 CHAPTER 440

11 SUBCHAPTER III

12 CERTIFIED BEHAVIOR ANALYSTS

13 440.310 Definitions. In this subchapter:

14 (1) "Certified behavior analyst" means a person who is certified by the
15 nationally accredited Behavior Analyst Certification Board as a board-certified
16 behavior analyst and has been granted a certificate under this subchapter to engage
17 in the practice of behavior analysis. license

****NOTE: It is somewhat confusing to use a certificate as the credential issued by DRL, because the primary qualification for certification by DRL is certification by the Behavior Analyst Certification Board. Compare DRL's certification of public accountants under s. 442.04, for which the primary qualification is 150 credit hours of education with an accounting concentration.

18 (2) "Practice of behavior analysis" means the design, implementation, and
19 evaluation of systematic instructional and environmental modifications to produce
20 socially significant improvements in human behavior, including the empirical
21 identification of functional relations between behavior and environmental factors,
22 known as functional assessment and analysis. Behavior analysis interventions are

, including

1 based on scientific research and the direct observation and measurement of behavior
 2 and environment. The practice of behavior analysis utilizes contextual factors,
 3 establishing operations, antecedent stimuli, positive reinforcement, and other
 4 consequences to help people develop new behaviors, increase or decrease existing
 5 behaviors, and emit behaviors under specific environmental conditions. "Practice of
 6 behavior analysis" does not include psychological testing, neuropsychology,
 7 psychotherapy, cognitive therapy, sex therapy, marriage counseling, psychoanalysis,
 8 hypnotherapy, and long-term counseling as treatment modalities.

****NOTE: The end of the first sentence above places a definition of "functional assessment and analysis" inside the definition of "practice of behavior analysis." Because the term "functional assessment and analysis" does not appear elsewhere in the draft, the definition appears to be descriptive only and should be deleted.

****NOTE: The above definition contains some material that doesn't quite fit. The second sentence is descriptive of interventions, but it's not clear how interventions relate to the definition of "practice of behavior analysis." The third sentence seems to describe how behavior analysis as defined in the first sentence is (or perhaps should be) carried out, but it does not define "practice of behavior analysis."

****NOTE: The exclusions in the last sentence refer to certain kinds of action, but these actions are not defined. If the intent is to limit the sorts of actions that a behavior analyst may engage in in the course of the practice of behavior analysis, the actions should be described more specifically. It is unclear, for example, what the difference is between neuropsychology or psychological testing, which are not included in "practice of behavior analysis," and evaluation of systematic instructional and environmental modifications, which is. If the intent is to clarify that the prohibition on the practice of behavior analysis does not apply to actions taken by certain professionals who are licensed and regulated under current law, I suggest creating a new substantive section that explicitly exempts certain professionals identified by the statutory provisions under which those professionals are licensed, e.g., "This subchapter does not apply to a marriage and family therapist licensed under s. 457.10."

****NOTE: For consistency, I have changed "applied behavior analysis" to "behavior analysis" throughout this draft.

9 **440.311 Use of title; penalty.** (1) No person may use the title "certified"
 10 behavior analyst" or represent or imply that he or she is a certified behavior analyst
 11 unless the person is granted a certificate under this subchapter. This section may
 12 not be construed to restrict the practice of behavior analysis by other professionals
 13 provided the services are performed within the scope of their professions and
 who is not a behavior analyst, if the professional's practice

(1) services and are performed commensurate with their training and experience, and
 (2) they do not represent that they are behavior analysts. *the professional's*

3 (2) Any person who violates sub. (1) may be fined not more than \$250,
 4 imprisoned not more than 3 months in the county jail, or both.

(5) **440.312 Certification.** (1) Except as provided in sub. (2), the department
 shall grant a certificate as a certified behavior analyst to a person under this
 subchapter if all of the following apply:

8 (a) The person submits an application to the department on a form provided
 9 by the department.

10 (b) The person pays the initial credential fee determined by the department
 11 under s. 440.03 (9) (a).

12 (c) The person submits evidence satisfactory to the department that the person
 13 is certified by the Behavior Analyst Certification Board or its successor organization.

(14) (2) The department may not grant a certificate under this subchapter to any
 person who has been convicted of an offense under s. 940.22, 940.225, 944.06, 944.15,
 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.051, 948.06,
 948.07, 948.075, 948.08, 948.09, 948.095, 948.10, 948.11, 948.12, or 940.302 (2) (a)
 18 1. b.

(19) **440.313 Renewal.** (1) The renewal date for certificates granted under this
 subchapter is specified in s. 440.08 (2) (a). Renewal applications shall be submitted
 21 to the department on a form provided by the department and shall include the
 22 renewal fee determined by the department under s. 440.03 (9) (a).

(23) (2) A certified behavior analyst shall, at the time that he or she applies for
 24 renewal of a license under sub. (1), submit proof satisfactory to the department that

to a person who is certified by the Behavior Analyst Certification Board (or its successor organization, Inc.)

1 he or she is currently certified by the Behavior Analyst Certification Board (or its
2 successor organization, *at the time he or she applies for renewal,*

3 **440.314 Rules.** (1) The department may promulgate rules necessary to
4 administer this subchapter, including rules of conduct by certified behavior analysts
5 and by holders of temporary permits under sub. (2). Except as provided in subs. (2),
6 (3), and (4), any rules regarding the practice of behavior analysis shall be consistent
7 with standards established by the Behavior Analyst Certification Board or its
8 successor organization. *authorizing the department to issue a*

9 (2) (a) The department *may* ~~shall~~ promulgate rules providing for temporary permits
10 authorizing the practice of behavior analysis by the permit holder under the
11 supervision of a certified behavior analyst certified under s. 440.312 (1). *licensed person*

****NOTE: The instructions indicate that a temporary permit should be available only to persons for whom qualification for a certificate from DRL is "pending." Does this mean persons who are enrolled in a course of study for behavior analysis, persons who have completed the required course of study, or something else?

12 (3) The rules may not do any of the following:
13 (a) Require an applicant for a certificate under this subchapter to have
14 education in addition to the education required by the Behavior Analyst
15 Certification Board *, Inc.,* or its successor organization.

16 (b) Require a certified behavior analyst to practice behavior analysis under the
17 supervision of, or in collaboration with, another health care provider.

18 (c) Require a certified behavior analyst to enter into an agreement, written or
19 otherwise, with another health care provider.

20 (d) Limit the location where a certified behavior analyst may practice behavior
21 analysis.

22 **440.315 Informed consent.** A certified behavior analyst shall, at an initial
23 consultation with a client, provide a copy of the rules promulgated by the department

1 under this subchapter and shall disclose to the client orally and in writing all of the
2 following:

③ (1) A summary of the ~~certified~~ behavior analyst's experience and training.

4 (2) Any other information required by the department by rule.

5 **440.316 Disciplinary proceedings and actions.** (1) Subject to the rules
6 promulgated under s. 440.03 (1), the department may conduct investigations and
7 hearings to determine whether a violation of this subchapter or any rule
8 promulgated under this subchapter has occurred.

9 (2) Subject to the rules promulgated under s. 440.03 (1), the department may
10 reprimand a ~~certified~~ behavior analyst or deny, limit, suspend, or revoke a ~~certificate~~^{license}
11 granted under this subchapter if the department finds that the applicant or the
12 ~~certified~~ behavior analyst has done any of the following:

13 (a) Intentionally made a material misstatement in an application for a
14 ~~certificate~~ or for renewal of a ~~certificate~~^{license}.

15 (b) Subject to ss. 111.321, 111.322, and 111.34, practiced behavior analysis
16 while his or her ability to engage in the practice was impaired by alcohol or other
17 drugs.

18 (c) Advertised in a manner that is false or misleading.

19 (d) In the course of the practice of behavior analysis, made a substantial
20 misrepresentation that was relied upon by a client.

21 (e) In the course of the practice of behavior analysis, engaged in conduct that
22 evidences an inability to apply the principles or skills of behavior analysis.

23 (f) Obtained or attempted to obtain compensation through fraud or deceit.

⑭ (g) Allowed another person to use a ~~certificate~~^{license} granted under this subchapter.

1 (h) Violated any law of this state or federal law that substantially relates to the
2 practice of behavior analysis, violated this subchapter, or violated any rule
3 promulgated under this subchapter.

4 (i) Engaged in unprofessional conduct.

5 (3) Subject to the rules promulgated under s. 440.03 (1), the department shall
6 revoke a ~~certificate~~ granted under this subchapter if the ~~certified~~ behavior analyst
7 is convicted of any of the offenses specified in 440.312 (2).
license

8 **440.317 Advisory committee.** The department may appoint an advisory
9 committee under s. 440.042 to advise the department on matters relating to the
10 regulation of ~~certified~~ behavior analysts.

11 **SECTION 1c.** Subchapter III of chapter 440 [precedes 440.41] of the statutes is
12 renumbered subch. IV of ch. 440.

13 **SECTION 1d.** Subchapter IV of chapter 440 [precedes 440.51] of the statutes is
14 renumbered subch. V of ch. 440.

15 **SECTION 1e.** Subchapter V of chapter 440 [precedes 440.60] of the statutes is
16 renumbered subch. VI of ch. 440.

17 **SECTION 1f.** Subchapter VI of chapter 440 [precedes 440.70] of the statutes is
18 renumbered subch. VII of ch. 440.

19 **SECTION 1g.** Subchapter VII of chapter 440 [precedes 440.88] of the statutes
20 is renumbered subch. VIII of ch. 440.

21 **SECTION 1h.** Subchapter VIII of chapter 440 [precedes 440.90] of the statutes
22 is renumbered subch. IX of ch. 440.

23 **SECTION 1i.** Subchapter IX of chapter 440 [precedes 440.96] of the statutes is
24 renumbered subch. X of ch. 440.

1 **SECTION 1j.** Subchapter X of chapter 440 [precedes 440.97] of the statutes is
2 renumbered subch. XI of ch. 440.

3 **SECTION 1k.** Subchapter XI of chapter 440 [precedes 440.98] of the statutes is
4 renumbered subch. XII of ch. 440.

5 **SECTION 1L.** Subchapter XII of chapter 440 [precedes 440.9805] of the statutes
6 is renumbered subch. XIII of ch. 440.

7 **SECTION 1m.** Subchapter XIII of chapter 440 [precedes 440.99] of the statutes
8 is renumbered subch. XIV of ch. 440.

9 **SECTION 1n.** 441.15 (2m) of the statutes is amended to read:

10 441.15 (2m) Subsection (2) does not apply to a person granted a license to
11 practice midwifery under subch. ~~XII~~ XIII of ch. 440.

12 **SECTION 1p.** 448.03 (2) (a) of the statutes is amended to read:

13 448.03 (2) (a) Any person lawfully practicing within the scope of a license,
14 permit, registration, certificate or certification granted to practice midwifery under
15 subch. ~~XII~~ XIII of ch. 440, to practice professional or practical nursing or
16 nurse-midwifery under ch. 441, to practice chiropractic under ch. 446, to practice
17 dentistry or dental hygiene under ch. 447, to practice optometry under ch. 449, to
18 practice acupuncture under ch. 451 or under any other statutory provision, or as
19 otherwise provided by statute.”

20 **4.** Page 2, line 1: delete “**SECTION 1**” and substitute “**SECTION 1r**”.

21 **5.** Page 2, line 8: after that line insert:

22 “**SECTION 2m. Nonstatutory provisions.**

23 (1) The department of regulation may promulgate rules under section 440.314
24 of the statutes, as created by this act, as emergency rules under section 227.24 of the

INS 8-20

1 statutes. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency
 2 rules promulgated under this subsection may remain in effect until the effective date
 3 of permanent rules promulgated by the department under section 440.314 of the
 4 statutes, as created by this act. Notwithstanding section 227.24 (1) (a) and (3) of the
 5 statutes, the department is not required to provide evidence that promulgating a rule
 6 under this subsection as an emergency rule is necessary for the preservation of the
 7 public peace, health, safety, or welfare and is not required to provide a finding of
 8 emergency for a rule promulgated under this subsection.”.

****NOTE: I have assumed that the intent of proposed s. 440.9995 (5) in the drafting instructions was to authorize the promulgation of emergency rules for the period before permanent rules take effect, not to authorize the department to utilize emergency rule-making procedures at any time to promulgate rules applicable to behavior analysts. Correct?

9 **6.** Page 2, line 13: after that line insert:

10 **“SECTION 4m. Effective dates.** This act takes effect on the day after
 11 publication, except as follows:

12 (1) The creation of subchapter III of ch. 440 of the statutes takes effect on the
 13 first day of the 3rd month beginning after publication.”

****NOTE: I have assumed that the intent of the initial applicability provision in the drafting instructions was to delay the effective date of the behavior analyst licensure provisions (as opposed to the insurance coverage provisions contained in AB 789. Correct?

****NOTE: Should AB 789 be modified to require coverage of the services of a behavior analyst licensed by DRL (as opposed to services provided by a behavior analyst who is only certified by the BACB)?

14

(END)

30th

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1864/lins
CTS:.....

1

Insert 8-20: ✓

2

1. Page 2, line 2: delete lines 2 to 4 and substitute:

3

“632.895 (12m) (b) 3m. A behavior analyst who is licensed under s. 440.312.”. ✓
05