

SECOND REGULAR SESSION

[CORRECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 894

95TH GENERAL ASSEMBLY

4894L.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 103.089, RSMo, and to enact in lieu thereof twelve new sections relating to insurance coverage for Medicare participants in the state employee health insurance program and for the diagnosis and treatment of autism spectrum disorders, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 103.089, RSMo, is repealed and twelve new sections enacted in lieu thereof, to be known as sections 103.089, 337.300, 337.305, 337.310, 337.315, 337.320, 337.325, 337.330, 337.335, 337.340, 337.345, and 376.1224, to read as follows:

103.089. Participants in the program of medical benefits coverage provided by sections 103.003 to 103.175 who are eligible for Medicare benefits and who are not eligible for the program of medical benefits coverage provided under sections 103.083 to 103.098 to be their primary plan of coverage benefits shall be [provided the same benefits] **offered either the same benefits** provided participants who are not eligible for Medicare benefits, **or benefit products actuarially equivalent to such benefits**. Medical benefits coverage provided under sections 103.003 to 103.175 shall be coordinated with Medicare benefits for participants covered by part A or part B, or both, of Medicare benefits, or reduced by an amount determined by the claims administrator to provide a benefit equivalent to the amount which would be provided on a coordination of benefit basis for participants not covered by part A or part B, or both, of Medicare benefits. As used in sections 103.083 to 103.098, the term "Medicare benefits" shall include those medical benefits provided by Title XVIII, A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. section 301, et seq.) and amendments thereto. Any participating member agency having employees or eligible retirees not covered by

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 Medicare shall authorize the plan at its option to enroll those individuals for medical benefits as
16 provided by Title XVIII, A and B, Public Law 89-97, 1965 amendments to the federal Social
17 Security Act whenever they become eligible for such benefits and the plan shall pay the premium
18 for such enrollment on behalf of that person. The Medicare premium amounts shall be included
19 in the rate established by the actuary for providing medical benefits coverage to such a
20 participating member agency. Anyone not authorizing this Medicare enrollment shall be denied
21 coverage.

337.300. As used in sections 337.300 to 337.345, the following terms shall mean:

- 2 (1) **"Applied behavior analysis", the design, implementation, and evaluation of**
3 **environmental modifications, using behavioral stimuli and consequences, to produce**
4 **socially significant improvement in human behavior, including the use of direct**
5 **observation, measurement, and functional analysis of the relationships between**
6 **environment and behavior;**
- 7 (2) **"Board", the behavior analyst advisory board within the state committee of**
8 **psychologists;**
- 9 (3) **"Certifying entity", the nationally accredited Behavior Analyst Certification**
10 **Board, or other equivalent nationally accredited nongovernmental agency approved by the**
11 **committee which certifies individuals who have completed academic, examination, training,**
12 **and supervision requirements in applied behavior analysis;**
- 13 (4) **"Committee", the state committee of psychologists;**
- 14 (5) **"Division", the division of professional registration within the department of**
15 **insurance, financial institutions and professional registration;**
- 16 (6) **"Licensed assistant behavior analyst" or "LaBA", an individual who is certified**
17 **by the certifying entity as a certified assistant behavior analyst and meets the criteria in**
18 **section 337.315 and as established by committee rule;**
- 19 (7) **"Licensed behavior analyst" or "LBA", an individual who is certified by the**
20 **certifying entity as a certified behavior analyst and meets the criteria in section 337.315**
21 **and as established by committee rule;**
- 22 (8) **"Line therapist", an individual who provides supervision of an individual**
23 **diagnosed with an autism diagnosis and other neurodevelopmental disorders pursuant to**
24 **the prescribed treatment plan, and implements specific behavioral interventions as**
25 **outlined in the behavior plan under the direct supervision of a licensed behavior analyst**
26 **and meets the criteria in section 337.315 and as established by committee rule;**
- 27 (9) **"Practice of applied behavior analysis", the application of the principles,**
28 **methods, and procedures of the experimental analysis of behavior and applied behavior**
29 **analysis (including principles of operant and respondent learning) to assess and improve**

30 socially important human behaviors. It includes, but is not limited to, applications of those
31 principles, methods, and procedures to:

32 (a) The design, implementation, evaluation, and modification of treatment
33 programs to change behavior of individuals;

34 (b) The design, implementation, evaluation, and modification of treatment
35 programs to change behavior of groups; and

36 (c) Consultation to individuals and organizations.

37

38 Applied behavior analysis does not include cognitive therapies or psychological testing,
39 personality assessment, intellectual assessment, neuropsychological assessment,
40 psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, family
41 therapy, and long-term counseling as treatment modalities.

337.305. 1. There is hereby created under the state committee of psychologists
2 within the division of professional registration the "Behavior Analyst Advisory Board".
3 The behavior analyst advisory board shall consist of the following seven members: three
4 licensed behavior analysts, one licensed behavior analyst holding a doctoral degree, one
5 licensed assistant behavior analyst, one professional member of the committee, and one
6 public member.

7 2. Appointments to the board shall be made by the governor upon the
8 recommendations of the director of the division, upon the advice and consent of the senate.
9 The division, prior to submitting nominations, shall solicit nominees from professional
10 associations and licensed behavior analysts or licensed assistant behavior analysts in the
11 state.

12 3. The term of office for board members shall be five years. In making initial
13 appointments to the board, the governor shall stagger the terms of the appointees so that
14 one member serves an initial term of two years, three members shall serve an initial term
15 of three years, and three members serve initial terms of four years. Each member of the
16 board shall hold office until his or her successor has been qualified. A vacancy in the
17 membership of the board shall be filled for the unexpired term in the manner provided for
18 the original appointment. A member appointed for less than a full term may serve two full
19 terms in addition to such part of a full term.

20 4. Each board member shall be a resident of this state for a period of one year and
21 a registered voter, shall be a United States citizen, and shall, other than the public member,
22 have been a licensed behavior analyst or licensed assistant behavior analyst in this state for
23 at least three years prior to appointment except for the original members of the board who
24 shall have experience in the practice of applied behavior analysis.

25 **5. The public member shall be a person who is not and never was a member of any**
26 **profession licensed or regulated under sections 337.300 to 337.345 or the spouse of such**
27 **person; and a person who does not have and never has had a material financial interest in**
28 **either the providing of the professional services regulated by sections 337.300 to 337.345,**
29 **or an activity or organization directly related to any profession licensed or regulated under**
30 **sections 337.300 to 337.345.**

31 **6. The board shall meet at least quarterly. At one of its regular meetings, the board**
32 **shall select from among its members a chairperson and a vice chairperson. A quorum of**
33 **the committee shall consist of a majority of its members. In the absence of the chairperson,**
34 **the vice chairperson shall conduct the office of the chairperson.**

35 **7. Each member of the board shall receive as compensation an amount set by the**
36 **division not to exceed fifty dollars for each day devoted to the affairs of the board and shall**
37 **be entitled to reimbursement for necessary and actual expenses incurred in the**
38 **performance of the member's official duties.**

39 **8. Staff for the board shall be provided by the director of the division of**
40 **professional registration.**

41 **9. The governor may remove any member of the board for misconduct, inefficiency,**
42 **incompetency, or neglect of office. All vacancies shall be filled by appointment of the**
43 **governor with the advice and consent of the senate, and the member so appointed shall**
44 **serve for the unexpired term.**

337.310. 1. The behavior analyst advisory board is authorized to:

2 **(1) Review all applications for licensure and temporary licensure for behavior**
3 **analysts and assistant behavior analysts and any supporting documentation submitted with**
4 **the application to the committee and make recommendations to the committee regarding**
5 **the resolution of the application;**

6 **(2) Review all applications for registration and temporary permits for line**
7 **therapists and any supporting documentation submitted with the application to the**
8 **committee and make recommendations to the committee regarding the resolution of the**
9 **application;**

10 **(3) Review all complaints made relating to the practice of behavior analysis and**
11 **make recommendations to the committee regarding investigation of the complaint, referral**
12 **for discipline or other resolution of the complaint; and**

13 **(4) Review any entities responsible for certifying behavior analysts and make**
14 **recommendations to the committee as to approval or disapproval of the certifying entity**
15 **based on qualifications established by the committee.**

16 **2. The board may recommend to the committee rules to be promulgated pertaining**
17 **to:**

18 **(1) The form and content of license and registration applications required and the**
19 **procedures for filing an application for an initial, temporary or renewal license, temporary**
20 **permit, and registration in this state;**

21 **(2) The establishment of fees;**

22 **(3) The educational and training requirements for licensed behavior analysts,**
23 **licensed assistant behavior analysts, and line therapists;**

24 **(4) The roles, responsibilities and duties of licensed behavior analysts, licensed**
25 **assistant behavior analysts, and line therapists;**

26 **(5) The characteristics of supervision and supervised clinical practicum experience**
27 **for the licensed behavior analyst and the licensed assistant behavior analyst;**

28 **(6) The supervision of licensed assistant behavior analysts and line therapists;**

29 **(7) The requirements for continuing education for licensed behavior analysts and**
30 **licensed assistant behavior analysts;**

31 **(8) Establishment and promulgation of procedures for investigating, hearing and**
32 **determining grievances and violations occurring under sections 337.300 to 337.345;**

33 **(9) Development of an appeal procedure for the review of decisions and rules of**
34 **administrative agencies existing pursuant to the constitution or laws of this state;**

35 **(10) A code of conduct; and**

36 **(11) Any other policies or procedures necessary to the fulfillment of the**
37 **requirements of sections 337.300 to 337.345.**

38 **3. The committee shall make all final decisions, and only upon the board's**
39 **recommendation related to licensing, registration, complaint resolution, approval of**
40 **certifying entities, and rules unless otherwise authorized by sections 337.300 to 337.345.**

41 **4. Notwithstanding the provisions of subsection 3 of this section, until such time as**
42 **the governor appoints the board and the board has a quorum, the committee shall review**
43 **and resolve all applications for licensure as a licensed behavior analyst or licensed assistant**
44 **behavior analyst and line therapists.**

45 **5. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
46 **created under the authority delegated in this section shall become effective only if it**
47 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
48 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
49 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
50 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**

51 grant of rulemaking authority and any rule proposed or adopted after August 28, 2010,
52 shall be invalid and void.

337.315. 1. An applied behavior analysis intervention shall produce socially
2 significant improvements in human behavior through skill acquisition, increase or decrease
3 in behaviors under specific environmental conditions and the reduction of problematic
4 behavior. An applied behavior analysis intervention shall:

5 (1) Be based on empirical research and the identification of functional relations
6 between behavior and environment, contextual factors, antecedent stimuli and
7 reinforcement operations through the direct observation and measurement of behavior,
8 arrangement of events and observation of effects on behavior, as well as other information
9 gathering methods such as record review and interviews; and

10 (2) Utilize changes and arrangements of contextual factors, antecedent stimuli,
11 positive reinforcement, and other consequences to produce behavior change.

12 2. Each person wishing to practice as a licensed behavior analyst shall:

13 (1) Submit a complete application on a form approved by the committee;

14 (2) Pay all necessary fees as set by the committee;

15 (3) Submit a two-inch or three-inch photograph or passport photograph taken no
16 more than six months prior to the application date;

17 (4) Provide two classified sets of fingerprints for processing by the Missouri state
18 highway patrol under section 43.543. One set of fingerprints shall be used by the highway
19 patrol to search the criminal history repository and the second set shall be forwarded to
20 the Federal Bureau of Investigation for searching the federal criminal history files;

21 (5) Have passed an examination and been certified as a board certified behavior
22 analyst by a certifying entity, as defined in section 337.300;

23 (6) Provide evidence of active status as a board certified behavior analyst; and

24 (7) If the applicant holds a license as a behavior analyst in another state, a
25 statement from all issuing states verifying licensure and identifying any disciplinary action
26 taken against the license holder by that state.

27 3. Each person wishing to practice as a licensed assistant behavior analyst shall:

28 (1) Submit a complete application on a form approved by the committee;

29 (2) Pay all necessary fees as set by the committee;

30 (3) Submit a two-inch or three-inch photograph or passport photograph taken no
31 more than six months prior to the application date;

32 (4) Submit to a background check and/or provide fingerprints;

33 (5) Have passed an examination and been certified as a board certified assistant
34 behavior analyst by a certifying entity, as defined in section 337.300;

35 **(6) Provide evidence of active status as a board certified assistant behavior analyst;**

36 **(7) If the applicant holds a license as an assistant behavior analyst in another state,**
37 **a statement from all issuing states verifying licensure and identifying any disciplinary**
38 **action taken against the license holder by that state; and**

39 **(8) Submit documentation satisfactory to the committee that the applicant will be**
40 **directly supervised by a licensed behavior analyst in a manner consistent with the**
41 **certifying entity.**

42 **4. Each person wishing to practice as a line therapist shall:**

43 **(1) Submit a complete application on a form approved by the committee;**

44 **(2) Pay all necessary fees as set by the committee;**

45 **(3) Submit a two-inch or three-inch photograph or passport photograph taken no**
46 **more than six months prior to the application date;**

47 **(4) Submit evidence satisfactory to the committee that the applicant is eighteen**
48 **years of age or older;**

49 **(5) Submit a copy of a high school diploma, or its equivalent;**

50 **(6) Submit documentation of successful passage of a background check through the**
51 **Missouri family care safety registry; and**

52 **(7) Submit documentation satisfactory to the committee that the applicant will be**
53 **directly supervised by a licensed behavior analyst.**

54 **5. The committee shall be authorized to issue a temporary license to an applicant**
55 **for a behavior analyst license or assistant behavior analyst license upon receipt of a**
56 **complete application for behavior analyst or assistant behavior analyst or a showing of**
57 **valid licensure as a behavior analyst in another state, only if the applicant has submitted**
58 **fingerprints and no disqualifying criminal history appears on the family care safety**
59 **registry.**

60 **6. The committee is authorized to issue a temporary permit to an applicant as a line**
61 **therapist upon receipt of a complete application for a line therapist only if the applicant**
62 **is awaiting documentation of successful passage of a background check through the**
63 **Missouri family care safety registry. The temporary license and temporary permit shall**
64 **expire upon issuance of a license or denial of the application but no later than ninety days**
65 **from issuance of the temporary license or temporary permit. Upon written request to the**
66 **committee, the holder of a temporary license or temporary permit shall be entitled to one**
67 **extension of ninety days of the temporary license or temporary permit.**

68 **7. No person shall hold himself or herself out to be licensed behavior analysts or**
69 **LBA, licensed assistant behavior analysts or LaBA, or registered line therapist in the state**
70 **of Missouri unless they meet the applicable requirements.**

71 **8. No persons shall engage in the practice of applied behavior analysis when**
72 **provided under section 376.1224 unless they are:**

73 **(1) Licensed behavior analysts;**

74 **(2) Licensed assistant behavior analysts working under the supervision of a licensed**
75 **behavior analyst;**

76 **(3) An individual who has a bachelor's or graduate degree and completed course**
77 **work for licensure as a behavior analyst and is obtaining supervised field experience under**
78 **a licensed behavior analyst pursuant to required supervised work experience for licensure**
79 **at the behavior analyst or assistant behavior analyst level; or**

80 **(4) Licensed psychologists practicing within the rules and standards of practice for**
81 **psychologists in the state of Missouri and whose practice is commensurate with their level**
82 **of training and experience.**

83 **9. Notwithstanding the provisions in subsection 7 of this section:**

84 **(1) A registered line therapist, under the direct supervision of a licensed behavior**
85 **analyst, may:**

86 **(a) Provide general supervision of an individual diagnosed with a autism spectrum**
87 **disorder diagnosis and other neurodevelopmental disorders, or serve as a line therapist**
88 **under the supervision of a licensed behavior analyst;**

89 **(b) Provide protective oversight of the individual; and**

90 **(c) Implement specific behavioral interventions, including applied behavior**
91 **analysis, as outlined in the behavior plan;**

92 **(2) Any licensed or certified professional may practice components of applied**
93 **behavior analysis, if he or she is acting within his or her applicable scope of practice and**
94 **ethical guidelines.**

95 **10. All licensed behavior analysts and licensed assistant behavior analysts and line**
96 **therapists shall be bound by the code of conduct adopted by the committee by rule.**

97 **11. Licensed assistant behavior analysts and line therapists shall work under the**
98 **direct supervision of a licensed behavior analyst as established by committee rule.**

99 **12. No line therapist may conduct behavior evaluations or establish or alter the**
100 **behavior plan or the intervention.**

101 **13. Persons who provide services under the Individuals with Disabilities Education**
102 **Act (IDEA), 20 U.S.C. Section 1400 et seq. or Section 504 of the federal Rehabilitation Act**
103 **of 1973, 20 U.S.C. Section 794, or are enrolled in a course of study at a recognized**
104 **educational institution through which the person provides applied behavior analysis as**
105 **part of supervised clinical experience shall be exempt from the requirements of this section.**

106 **14. The individual's immediate family, including natural, half, or step relationships**
107 **with parent, child, sibling, or spouse or as otherwise defined by rule, providing services**
108 **defined in section 337.300 shall not be considered as a line therapist and exempt from**
109 **registration as a line therapist.**

110 **15. A violation of this section shall be punishable by probation, suspension, or loss**
111 **of any license or registration held by the violator.**

337.320. 1. The division shall mail a renewal notice to the last known address of
2 **each licensee or registrant prior to the renewal date.**

3 **2. Each person wishing to renew the behavior analyst license or the assistant**
4 **behavior analyst license shall:**

5 **(1) Submit a complete application on a form approved by the committee;**

6 **(2) Pay all necessary fees as set by the committee; and**

7 **(3) Submit proof of active certification and fulfillment of all requirements for**
8 **renewal and recertification with the certifying entity.**

9 **3. Each person wishing to renew the line therapist registration shall:**

10 **(1) Submit a complete application on a form approved by the committee;**

11 **(2) Pay all necessary fees as set by the committee; and**

12 **(3) Submit documentation satisfactory to the committee that the applicant is not**
13 **on the Missouri family care safety registry.**

14 **4. Failure to provide the division with documentation required by subsection 2 or**
15 **3 of this section or other information required for renewal shall effect a revocation of the**
16 **license or registration after a period of sixty days from the renewal date.**

17 **5. Each person wishing to restore the license, within two years of the renewal date,**
18 **shall:**

19 **(1) Submit a complete application on a form approved by the committee;**

20 **(2) Pay the renewal fee and a delinquency fee as set by the committee; and**

21 **(3) Submit proof of current certification from a certifying body approved by the**
22 **committee.**

23 **6. Each person wishing to restore the registration, within two years of the renewal**
24 **date, shall:**

25 **(1) Submit a complete application on a form approved by the committee;**

26 **(2) Pay the renewal fee and a delinquency fee as set by the committee; and**

27 **(3) Submit documentation satisfactory to the committee that the applicant has no**
28 **disqualifying information on the Missouri family care safety registry.**

29 **7. A new license or registration to replace any certificate lost, destroyed, or**
30 **31 mutilated may be issued subject to the rules of the committee, upon payment of a fee**
31 **established by the committee.**

32 **8. The committee shall set the amount of the fees authorized by sections 337.300 to**
33 **337.345 and required by rules promulgated under section 536.021. The fees shall be set at**
34 **a level to produce revenue which shall not substantially exceed the cost and expense of**
35 **administering sections 337.300 to 337.345.**

36 **9. The committee is authorized to issue an inactive license or registration to any**
37 **licensee or registrant who makes written application for such license or registration on a**
38 **form provided by the committee and remits the fee for an inactive license or registration**
39 **established by the committee. An inactive license or registration may be issued only to a**
40 **person who has previously been issued a license to practice as a licensed behavior analyst,**
41 **licensed assistant behavior analyst, or registration to practice as a line therapist, who is no**
42 **longer regularly engaged in such practice and who does not hold himself or herself out to**
43 **the public as being professionally engaged in such practice in this state. Each inactive**
44 **license or registration shall be subject to all provisions of this chapter, except as otherwise**
45 **specifically provided. Each inactive license or registration may be renewed by the**
46 **committee subject to all provisions of this section and all other provisions of this chapter.**
47 **The inactive licensee or registrant shall not be required to submit evidence of completion**
48 **of continuing education as required by this chapter.**

49 **10. An inactive licensee or registrant may apply for a license or registration to**
50 **regularly engage in the practice of behavioral analysis by:**

- 51 **(1) Submitting a complete application on a form approved by the committee;**
52 **(2) Paying the reactivation fee as set by the committee; and**
53 **(3) Submitting proof of current certification from a certifying body approved by**
54 **the committee.**

55 **11. An inactive registrant may apply for a line therapist registration by:**

- 56 **(1) Submitting a complete application on a form approved by the committee;**
57 **(2) Paying the reactivation fee as set by the committee; and**
58 **(3) Submitting documentation satisfactory to the committee that the applicant is**
59 **not on the Missouri family care safety registry.**

337.325. 1. A licensed behavior analyst and licensed assistant behavior analyst
2 **shall limit his or her practice to demonstrated areas of competence as documented by**
3 **relevant professional education, training, and experience. A licensed behavior analyst,**
4 **licensed assistant behavior analyst and line therapist trained in one area shall not practice**

5 in another area without obtaining additional relevant professional education, training, and
6 experience.

7 **2. A line therapist shall limit his or her practice as defined in section 337.300 and**
8 **as established by the committee by rule. A line therapist trained in one area shall not**
9 **practice in another area without obtaining professional education or additional relevant**
10 **training as established in section 337.315 and by the committee by rule.**

337.330. 1. The committee may refuse to issue any license or registration required
2 **under this chapter for one or any combination of causes stated in subsection 2 of this**
3 **section. The committee shall notify the applicant in writing of the reasons for the refusal**
4 **and shall advise the applicant of the applicant's right to file a complaint with the**
5 **administrative hearing commission as provided by chapter 621.**

6 **2. The committee may cause a complaint to be filed with the administrative hearing**
7 **commission, as provided by chapter 621, against any holder of any license or registration**
8 **required by this chapter or any person who has failed to renew or has surrendered the**
9 **person's license or registration for any one or any combination of the following causes:**

10 **(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage**
11 **to an extent that such use impairs a person's ability to perform the work of any profession**
12 **licensed or regulated by this chapter;**

13 **(2) The person has been finally adjudicated and found guilty, or entered a plea of**
14 **guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the**
15 **United States, for any offense reasonably related to the qualifications, functions, or duties**
16 **of any profession licensed or regulated under this chapter, for any offense an essential**
17 **element of which is fraud, dishonesty or an act of violence, or for any offense involving**
18 **moral turpitude, whether or not sentence is imposed;**

19 **(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate**
20 **of registration or authority, permit or license issued under this chapter or in obtaining**
21 **permission to take any examination given or required under sections 337.300 to 337.345;**

22 **(4) Obtaining or attempting to obtain any fee, charge, tuition, or other**
23 **compensation by fraud, deception or misrepresentation;**

24 **(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or**
25 **dishonesty in the performance of the functions or duties of any profession licensed or**
26 **regulated by sections 337.300 to 337.345;**

27 **(6) Violation of, or assisting or enabling any person to violate, any provision of**
28 **sections 337.300 to 337.345, or of any lawful rule adopted thereunder;**

29 **(7) Impersonation of any person holding a certificate of registration or authority,**
30 **permit or license or allowing any person to use his or her certificate of registration or**
31 **authority, permit, license, or diploma from any school;**

32 **(8) Disciplinary action against the holder of a license or other right to practice any**
33 **profession regulated by sections 337.300 to 337.345 granted by another state, territory,**
34 **federal agency, or country upon grounds for which revocation or suspension is authorized**
35 **in this state;**

36 **(9) A person is finally adjudged insane or incapacitated by a court of competent**
37 **jurisdiction;**

38 **(10) Assisting or enabling any person to practice or offer to practice any profession**
39 **licensed or regulated by sections 337.300 to 337.345 who is not registered and currently**
40 **eligible to practice as provided in sections 337.300 to 337.345;**

41 **(11) Issuance of a certificate of registration or authority, permit, or license based**
42 **upon a material mistake of fact;**

43 **(12) Failure to display a valid certificate or license if so required by sections 337.300**
44 **to 337.345 or any rule promulgated thereunder;**

45 **(13) Violation of any professional trust or confidence;**

46 **(14) Use of any advertisement or solicitation which is false, misleading, or deceptive**
47 **to the general public or persons to whom the advertisement or solicitation is primarily**
48 **directed;**

49 **(15) Being guilty of unethical conduct as defined in "Ethical Rules of Conduct" as**
50 **adopted by the committee and filed with the secretary of state.**

51 **3. After the filing of such complaint, the proceedings shall be conducted in**
52 **accordance with the provisions of chapter 621. Upon a finding by the administrative**
53 **hearing commission that the grounds, provided in subsection 2 of this section, for**
54 **disciplinary action are met, the committee may, singly or in combination, censure or place**
55 **the person named in the complaint on probation on such terms and conditions as the**
56 **department deems appropriate for a period not to exceed five years, or may suspend, for**
57 **a period not to exceed three years, or revoke the license, certificate, or permit.**

337.335. 1. Any person found guilty of violating any provision of sections 337.300
2 **to 337.345 is guilty of a class A misdemeanor and upon conviction thereof shall be punished**
3 **as provided by law.**

4 **2. All fees or other compensation received for services rendered in violation of**
5 **sections 337.300 to 337.345 shall be refunded.**

6 **3. The committee shall inquire as to any violation of any provision of sections**
7 **337.300 to 337.345 and may institute actions for penalties herein prescribed, and shall**
8 **enforce generally the provisions of sections 337.300 to 337.345.**

9 **4. Any person, organization, association or corporation who reports or provides**
10 **information to the committee or the division under sections 337.300 to 337.345 and who**
11 **does so in good faith shall not be subject to an action for civil damages as a result thereof.**

12 **5. Upon application by the committee the attorney general may on behalf of the**
13 **committee request that a court of competent jurisdiction grant an injunction, restraining**
14 **order, or other order as may be appropriate to enjoin a person from:**

15 **(1) Offering to engage or engaging in the performance of any acts or practices for**
16 **which a certificate of registration or authority, permit, or license is required upon a**
17 **showing that such acts or practices were performed or offered to be performed without a**
18 **certificate of registration or authority, permit or license; or**

19 **(2) Engaging in any practice or business authorized by a certificate of registration**
20 **or authority, permit, or license issued under sections 337.300 to 337.345 upon a showing**
21 **that the holder presents a substantial probability of serious harm to the health, safety, or**
22 **welfare of any resident of this state or client or patient of the licensee.**

23 **6. Any action brought under the provisions of this section shall be commenced**
24 **either in the county in which such conduct occurred or in the county in which the**
25 **defendant resides.**

26 **7. Any action brought under this section may be in addition to or in lieu of any**
27 **penalty provided by sections 337.300 to 337.380 and may be brought concurrently with**
28 **other actions to enforce sections 337.300 to 337.345.**

337.340. All fees authorized under sections 337.300 to 337.345 shall be collected by
2 **the director of the division of professional registration and shall be transmitted to the**
3 **department of revenue for deposit in the state treasury to the credit of the state committee**
4 **of psychologists fund.**

337.345. 1. Prior to August 28, 2012, each person desiring to obtain a provisional
2 **license shall make application to the committee upon such forms and in such manner as**
3 **may be prescribed by the committee and shall pay the required application fee. The**
4 **application fee shall not be refundable. Each application shall contain a statement that it**
5 **is made under oath or affirmation and that its representations are true and correct to the**
6 **best knowledge and belief of the person signing the application, subject to the penalties of**
7 **making a false affidavit or declaration.**

8 **2. For a provisional behavioral analyst license, the applicant shall:**

9 **(1) Submit a two-inch or three-inch photograph or passport photograph taken no**
10 **more than six months prior to the application date, and only if the applicant has submitted**
11 **fingerprints and no disqualifying criminal history appears on the family care safety**
12 **registry;**

13 **(2) Have passed an examination and been certified as a board certified behavior**
14 **analyst by the Behavior Analyst Certification Board or a certifying entity listed in**
15 **subdivision (3) of section 337.300; and**

16 **(3) Provide evidence of active status as a board certified behavior analyst.**

17 **3. For a provisional assistant behavioral analyst license, the applicant shall:**

18 **(1) Submit a two-inch or three-inch photograph or passport photograph taken no**
19 **more than six months prior to the application date, and only if the applicant has submitted**
20 **fingerprints and no disqualifying criminal history appears on the family care safety**
21 **registry;**

22 **(2) Have passed an examination and been certified as a board certified assistant**
23 **behavior analyst by a certifying entity listed in subdivision (3) of section 337.300;**

24 **(3) Provide evidence of active status as a board certified assistant behavior analyst;**
25 **and**

26 **(4) Submit documentation satisfactory to the board that the applicant will be**
27 **directly supervised by a licensed behavior analyst in a manner consistent with the**
28 **certifying entity.**

29 **4. For a provisional line therapist registration, the applicant shall:**

30 **(1) Submit a two-inch or three-inch photograph or passport photograph taken no**
31 **more than six months prior to the application date, and only if the applicant has submitted**
32 **fingerprints and no disqualifying criminal history appears on the family care safety**
33 **registry;**

34 **(2) Submit evidence satisfactory to the committee that the applicant is eighteen**
35 **years of age or older; and**

36 **(3) Submit documentation satisfactory to the committee that the applicant will be**
37 **directly supervised by a licensed behavior analyst.**

38 **5. Each applicant for provisional licensure or registration shall meet the applicable**
39 **requirements of section 337.315 within three months of the date of issuance of the**
40 **provisional license or registration.**

41 **6. The provisional license or registration shall be effective only until the board shall**
42 **have had the opportunity to investigate the qualifications for licensure or registration**
43 **under subsection 5 of this section and to notify the applicant that his or her application for**
44 **a license or registration has been either granted or rejected. In no event shall such**

45 **provisional license or registration be in effect for more than three months after the date of**
46 **its issuance nor shall a provisional license or registration be reissued to the same applicant.**
47 **The holder of a provisional license or registration which has not expired, been suspended,**
48 **or revoked, shall be deemed to be the holder of a license or registration issued under**
49 **section 337.315 until such provisional license or registration expires, is suspended, or**
50 **revoked.**

376.1224. 1. For purposes of this section, the following terms shall mean:

2 (1) **"Applied behavior analysis", the design, implementation, and evaluation of**
3 **environmental modifications, using behavioral stimuli and consequences, to produce**
4 **socially significant improvement in human behavior, including the use of direct**
5 **observation, measurement, and functional analysis of the relationships between**
6 **environment and behavior;**

7 (2) **"Autism service provider":**

8 (a) **Any person, entity or group that provides diagnostic or treatment services for**
9 **autism spectrum disorders who is licensed or certified by the state of Missouri;**

10 (b) **Any person who is certified as a board certified behavior analyst by the**
11 **behavior analyst certification board; or**

12 (c) **Any person, if not licensed or certified, who is supervised by a person who is**
13 **certified as a board certified behavior analyst by the Behavior Analyst Certification Board,**
14 **whether such board certified behavior analyst supervises as an individual or as an**
15 **employee of or in association with an entity or group; provided however, the definition of**
16 **autism service provider shall specifically exclude parents and siblings of autistic children**
17 **to the extent such parents or siblings are providing diagnostic or treatment services to their**
18 **child or sibling;**

19 (3) **"Autism spectrum disorder" or "ASD", a neurobiological disorder, an illness**
20 **of the nervous system, which includes:**

21 (a) **"Autistic Disorder", which is:**

22 a. **Six or more items from items (i), (ii), and (iii), of this subparagraph with at least**
23 **two items from item (i) of this subparagraph, and one item each from items (ii) and (iii) of**
24 **this subparagraph:**

25 (i) **Qualitative impairment in social interaction, as manifested by at least two of the**
26 **following:**

27 i. **Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye**
28 **gaze, facial expression, body postures, and gestures to regulate social interaction;**

29 ii. **Failure to develop peer relationships appropriate to developmental level;**

- 30 iii. A lack of spontaneous seeking to share enjoyment, interests, or achievements
31 with other people;
- 32 iv. Lack of social or emotional reciprocity;
- 33 (ii) Qualitative impairments in communication as manifested by at least one of the
34 following:
- 35 i. Delay in, or total lack of, the development of spoken language;
- 36 ii. In individuals with adequate speech, marked impairment in the ability to initiate
37 or sustain a conversation with others;
- 38 iii. Stereotyped and repetitive use of language or idiosyncratic language;
- 39 iv. Lack of varied, spontaneous make-believe play or social imitative play
40 appropriate to developmental level;
- 41 (iii) Restricted repetitive and stereotyped patterns of behavior, interests, and
42 activities, as manifested by at least one of the following:
- 43 i. Encompassing preoccupation with one or more stereotyped and restricted
44 patterns of interest that is abnormal either in intensity or focus;
- 45 ii. Apparently inflexible adherence to specific, nonfunctional routines or rituals;
- 46 iii. Stereotyped and repetitive motor mannerisms;
- 47 iv. Persistent preoccupation with parts of objects;
- 48 b. Delays or abnormal functioning in at least one of the following areas, with onset
49 prior to age three years including social interaction, language as used in social
50 communication, or symbolic or imaginative play;
- 51 c. The disturbance is not better accounted for by Rett's Disorder or Childhood
52 Disintegrative Disorder;
- 53 (b) "Asperger's Disorder":
- 54 a. Qualitative impairment in social interaction, as manifested by at least two of the
55 following:
- 56 (i) Marked impairment in the use of multiple nonverbal behaviors such as
57 eye-to-eye gaze, facial expression, body postures, and gestures to regulate social
58 interaction;
- 59 (ii) Failure to develop peer relationships appropriate to developmental level;
- 60 (iii) A lack of spontaneous seeking to share enjoyment, interests, or achievements
61 with other people; and
- 62 (iv) Lack of social or emotional reciprocity;
- 63 b. Restricted repetitive and stereotyped patterns of behavior, interests, and
64 activities, as manifested by at least one of the following:

- 65 (i) Encompassing preoccupation with one or more stereotyped and restricted
66 patterns of interest that is abnormal either in intensity or focus;
- 67 (ii) Apparently inflexible adherence to specific, nonfunctional routines or rituals;
- 68 (iii) Stereotyped and repetitive motor mannerisms; and
- 69 (iv) Persistent preoccupation with parts of objects;
- 70 c. The disturbance causes clinically significant impairment in social, occupational,
71 or other important areas of functioning;
- 72 d. There is no clinically significant general delay in language;
- 73 e. There is no clinically significant delay in cognitive development or in the
74 development of age-appropriate self-help skills, adaptive behavior (other than in social
75 interaction), and curiosity about the environment in childhood;
- 76 f. Criteria are not met for another specific Pervasive Developmental Disorder or
77 Schizophrenia;
- 78 (c) "Pervasive Developmental Disorder Not Otherwise Specified", a severe and
79 pervasive impairment in the development of reciprocal social interaction associated with
80 impairment in either verbal or nonverbal communication skills or with the presence of
81 stereotyped behavior, interests, and activities, but the criteria are not met for a specific
82 Pervasive Developmental Disorder, Schizophrenia, Schizotypal Personality Disorder, or
83 Avoidant Personality Disorder;
- 84 (d) "Rett's Disorder", includes:
- 85 a. All of the following:
- 86 (i) Apparently normal prenatal and perinatal development;
- 87 (ii) Apparently normal psychomotor development through the first five months
88 after birth;
- 89 (iii) Normal head circumference at birth;
- 90 b. Onset of all of the following after the period of normal development:
- 91 (i) Deceleration of head growth between ages five and forty-eight months;
- 92 (ii) Loss of previously acquired purposeful hand skills between ages five and thirty
93 months with the subsequent development of stereotyped hand movements;
- 94 (iii) Loss of social engagement early in the course;
- 95 (iv) Appearance of poorly coordinated gait or trunk movements;
- 96 (v) Severely impaired expressive and receptive language development with severe
97 psychomotor retardation; or
- 98 (e) "Childhood Disintegrative Disorder", is:

- 99 **a. Apparently normal development for at least the first two years after birth as**
100 **manifested by the presence of age-appropriate verbal and nonverbal communication, social**
101 **relationships, play, and adaptive behavior;**
- 102 **b. Clinically significant loss of previously acquired skills in at least two of the**
103 **following areas: expressive or receptive language, social skills or adaptive behavior, bowel**
104 **or bladder control, play, and motor skills;**
- 105 **c. Abnormalities of functioning in at least two of the following areas: qualitative**
106 **impairment in social interaction, qualitative impairments in communication, restricted,**
107 **repetitive, and stereotyped patterns of behavior, interests, and activities, including motor**
108 **stereotypies and mannerisms; and**
- 109 **d. The disturbance is not better accounted for by another specific Pervasive**
110 **Developmental Disorder or by Schizophrenia;**
- 111 **(4) "Diagnosis of autism spectrum disorders", medically necessary assessments,**
112 **evaluations, or tests in order to diagnose whether an individual has an autism spectrum**
113 **disorder;**
- 114 **(5) "Habilitative or rehabilitative care", professional, counseling, and guidance**
115 **services and treatment programs, including applied behavior analysis, that are necessary**
116 **to develop the functioning of an individual;**
- 117 **(6) "Health benefit plan", shall have the same meaning ascribed to it as in section**
118 **376.1350;**
- 119 **(7) "Health carrier", shall have the same meaning ascribed to it as in section**
120 **376.1350;**
- 121 **(8) "Pharmacy care", medications used to address symptoms of an autism spectrum**
122 **disorder prescribed by a licensed physician, and any health-related services deemed**
123 **medically necessary to determine the need or effectiveness of the medications only to the**
124 **extent that such medications are included in the insured's health benefit plan;**
- 125 **(9) "Psychiatric care", direct or consultative services provided by a psychiatrist**
126 **licensed in the state in which the psychiatrist practices;**
- 127 **(10) "Psychological care", direct or consultative services provided by a psychologist**
128 **licensed in the state in which the psychologist practices;**
- 129 **(11) "Therapeutic care", services provided by licensed speech therapists,**
130 **occupational therapists, or physical therapists;**
- 131 **(12) "Treatment for autism spectrum disorders", care prescribed or ordered for**
132 **an individual diagnosed with an autism spectrum disorder by a licensed physician or**
133 **licensed psychologist, provided by an autism service provider, and pursuant to the powers**

134 granted under such licensed physician's or licensed psychologist's license, including, but
135 not limited to:

136 (a) Psychiatric care;

137 (b) Psychological care;

138 (c) Habilitative or rehabilitative care, including applied behavior analysis therapy;

139 (d) Therapeutic care; or

140 (e) Pharmacy care.

141 2. All group health benefit plans that are delivered, issued for delivery, continued,
142 or renewed on or after January 1, 2011, if written inside the state of Missouri, or written
143 outside the state of Missouri but insuring Missouri residents, shall provide coverage for the
144 diagnosis and treatment of autism spectrum disorders to the extent that such diagnosis and
145 treatment is not already covered by the health benefit plan.

146 3. The director of the department of insurance, financial institutions and
147 professional registration shall grant a small employer with a group health plan, as that
148 term is defined in section 379.930, a waiver from the provisions of this section if the small
149 employer demonstrates to the director by actual experience over any consecutive twelve
150 month period that compliance with this section has increased the cost of the health
151 insurance plan by an amount that results in at least a two and one-half percent increase
152 over the period of a calendar year in premium costs to the small employer.

153 4. With regards to a health benefit plan, a health carrier shall not deny or refuse
154 to issue coverage on, refuse to contract with, or refuse to renew or refuse to reissue or
155 otherwise terminate or restrict coverage on an individual or their dependent because the
156 individual is diagnosed with autism spectrum disorder.

157 5. (1) Coverage provided under this section is limited to medically necessary
158 treatment that is ordered by the insured's treating licensed physician or licensed
159 psychologist, pursuant to the powers granted under such licensed physician's or licensed
160 psychologist's license, in accordance with a treatment plan.

161 (2) The treatment plan upon request by the health benefit plan or health carrier
162 shall include all elements necessary for the health benefit plan or health carrier to pay
163 claims. Such elements include, but are not limited to, a diagnosis, proposed treatment by
164 type, frequency and duration of treatment, and goals.

165 (3) Except for inpatient services, if an individual is receiving treatment for an
166 autism spectrum disorder, a health carrier shall have the right to review the treatment plan
167 not more than once every three months unless the health carrier and the individual's
168 treating physician or psychologist agree that a more frequent review is necessary. The cost

169 of obtaining any review shall be borne by the health benefit plan or health carrier, as
170 applicable.

171 **6. Coverage provided under this section for applied behavior analysis shall be**
172 **subject to a maximum total benefit of thirty-six thousand dollars per year for individuals**
173 **through eighteen years of age. No coverage for applied behavior analysis shall be required**
174 **for individuals older than eighteen years of age. Payments made by a health carrier on**
175 **behalf of a covered individual for any care, treatment, intervention, service or item, the**
176 **provision of which was for the treatment of a health condition unrelated to the covered**
177 **individual's autism spectrum disorder, shall not be applied toward any maximum benefit**
178 **established under this subsection.**

179 **7. Subject to the provisions set forth in subdivision (3) of subsection 5 of this section,**
180 **coverage provided under this section shall not be subject to any limits on the number of**
181 **visits an individual may make to a ASD service provider; except that, the maximum benefit**
182 **total benefit for applied behavior analysis set forth in subsection 6 of this section shall**
183 **apply to this subsection.**

184 **8. This section shall not be construed as limiting benefits which are otherwise**
185 **available to an individual under a health benefit plan. The health care services required**
186 **by this section shall not be subject to any greater deductible, coinsurance or co-payment**
187 **than other physical health care services provided by a health benefit plan. Coverage of**
188 **services may be subject to other general exclusions and limitations of the contract or**
189 **benefit plan, such as coordination of benefits, services provided by family or household**
190 **members, and utilization review of health care services, including review of medical**
191 **necessity and care management; however, coverage for treatment under this section shall**
192 **not be denied on the basis that it is educational or habilitative in nature.**

193 **9. To the extent any payments or reimbursements are being made for applied**
194 **behavior analysis, such payments or reimbursements shall be made to the autism service**
195 **providers except for line therapists as defined in section 337.300; the person who is**
196 **supervising an autism service provider who is also certified as a board certified behavior**
197 **analyst and licensed by the state of Missouri; or any entity or group for whom such**
198 **supervising person, who is certified as a board certified behavior analyst by the Behavior**
199 **Analyst Certification Board, works or is associated.**

200 **10. If a request for qualifications is made by a health carrier of a person who is not**
201 **licensed as an autism service provider, such person shall provide documented evidence of**
202 **education and professional training, if any, in applied behavior analysis.**

203 **11. The provisions of this section shall apply to any health care plans issued to**
204 **employees and their dependents under the Missouri consolidated health care plan**

205 established under chapter 103, that are delivered, issued for delivery, continued, or
206 renewed in this state on or after January 1, 2011. The terms "employees" and "health care
207 plans" shall have the same meaning ascribed to them in section 103.003.

208 **12. The provisions of this section shall also apply to the following types of plans that**
209 **are established, extended, modified, or renewed on or after January 1, 2011:**

210 **(1) All self-insured governmental plans, as that term is defined in 29 U.S.C. Section**
211 **1002(32);**

212 **(2) All self-insured group arrangements, to the extent not preempted by federal**
213 **law;**

214 **(3) All plans provided through a multiple employer welfare arrangement, or plans**
215 **provided through another benefit arrangement, to the extent permitted by the Employee**
216 **Retirement Income Security Act of 1974, or any waiver or exception to that act provided**
217 **under federal law or regulation; and**

218 **(4) All self-insured school district health plans.**

219 **13. The provisions of this section shall not apply:**

220 **(1) To the MO HealthNet program as described in chapter 208; or**

221 **(2) To a supplemental insurance policy, including a life care contract, accident-only**
222 **policy, specified disease policy, hospital policy providing a fixed daily benefit only,**
223 **Medicare supplement policy, long-term care policy, short-term major medical policy of six**
224 **months or less duration, or any other supplemental policy.**

225 **14. Any health carrier or other entity subject to the provisions of this section shall**
226 **not be required to provide reimbursement for the services delivered by any school-based**
227 **service.**

228 **15. The provisions of sections 376.1350 to 376.1399, 376.383, and 376.384 shall**
229 **apply to this section.**

230 **16. The provisions of this section shall not automatically apply to an individually**
231 **underwritten health benefit plan, but shall be offered as an option to any such plan.**

232 **17. (1) By February 1, 2012, and every February first thereafter, the department**
233 **of insurance, financial institutions and professional registration shall submit a report to**
234 **the general assembly regarding the implementation of the coverage required under this**
235 **section. The report shall include, but shall not be limited to, the following:**

236 **(a) The total number of insureds diagnosed with autism spectrum disorder;**

237 **(b) The total cost of all claims paid out in the immediately preceding calendar year**
238 **for PDD;**

239 **(c) The cost of such coverage per insured per month; and**

240 **(d) The average cost per insured for coverage of applied behavior analysis.**

241 **(2) All health carriers and health benefit plans subject to the provisions of this**
242 **section shall provide the department with the data requested by the department for**
243 **inclusion in the annual report.**

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