

AMENDED IN SENATE APRIL 28, 2010

AMENDED IN SENATE MARCH 23, 2010

SENATE BILL

No. 1282

Introduced by Senator Steinberg

February 19, 2010

An act to add *and repeal* Chapter 5.2 (commencing with Section 2529.50) ~~to~~ of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1282, as amended, Steinberg. Applied behavior analysis services: California Behavioral Certification Organization.

Existing law provides for the licensure and regulation of various healing arts practitioners, including, but not limited to, marriage and family therapists, clinical social workers, educational psychologists, and professional clinical counselors, by the Board of Behavioral Sciences in the Department of Consumer Affairs.

This bill would, *commencing September 1, 2011, and until January 1, 2017*, provide for the certification ~~or registration~~ of specified applied behavior ~~analysis practitioners~~ *analysts and applied behavior analyst assistants* by a California Behavioral Certification Organization, which would be a nonprofit organization meeting specified requirements, and would impose certain duties on the organization. The bill would ~~specify which individuals would be considered as qualified to practice applied behavior analysis services, and would prohibit an individual from holding himself or herself out as a practitioner unless he or she has complied with the act or another applicable licensing provision or is otherwise certified by certain nationally recognized entities. The bill would authorize the organization to establish specified curriculum and~~

~~continuing education standards, and establish a certification and registration process, in conjunction with the California Association for Behavior Analysis (CalABA). The bill would require CalABA to implement the certification or registration process until the organization is established. The bill would set forth other disciplinary standards and hearing requirements require applicants for certification to meet specified requirements, to pay fees required by the organization, and to submit fingerprints to the organization for purposes of obtaining background information, and would authorize the organization to take certain disciplinary action against certificate holders for specified reasons. The bill would make it an unfair business practice for a person to state, advertise, or represent that he or she is certified or licensed by a governmental agency as an applied behavior analyst or an applied behavior analyst assistant, or to use certain titles or other terms implying that he or she is certified under these provisions unless he or she is so certified. The bill would make its provisions subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in enacting this
2 act to provide state recognition of educated, trained, and
3 experienced individuals that provide applied behavior analysis
4 services to individuals with medical conditions such as autism
5 spectrum disorder and other conditions that are responsive to
6 behavior analysis. This act recognizes those professionals
7 practicing with existing licenses issued by the state and those
8 certified by nationally accredited organizations, and is intended
9 to create an additional pathway for certification through the
10 establishment of a private nonprofit organization that will enable
11 consumers to identify qualified providers of applied behavior
12 analysis services. These pathways for recognition of qualified
13 providers will ensure that providers have completed sufficient
14 training at approved institutions of higher education and follow
15 nationally recognized standards for recognition of these
16 professionals upon which consumers and those who pay for applied
17 behavior analysis services, including private entities, governmental

1 entities, nonprofit organizations, health care service plans, or
2 insurers, may rely.

3 SEC. 2. Chapter 5.2 (commencing with Section 2529.50) is
4 added to Division 2 of the Business and Professions Code, to read:

5

6

CHAPTER 5.2. APPLIED BEHAVIOR ANALYSIS SERVICES

7

8 2529.50. For purposes of this chapter, the following terms have
9 the following meanings:

10 (a) *“Applicant” means a person who applies for certification*
11 *pursuant to this chapter.*

12 (b) *“Applied behavior analyst” means a person who provides*
13 *applied behavior analysis services and who may be certified by*
14 *the CBCO.*

15 (c) *“Applied behavior analyst assistant” means a person who*
16 *provides applied behavior analysis services under the supervision*
17 *of an applied behavioral analyst and who may be certified by the*
18 *CBCO.*

19 (a)

20 (d) *“ANSI” means the American National Standards Institute.*

21 (b)

22 (e) *“BACB” means the Behavior Analyst Certification Board.*

23 ~~(e) “CalABA” means the California Association for Behavior~~
24 ~~Analysis.~~

25 (d)

26 (f) *“CBCO” or “organization” means the California Behavioral*
27 *Certification Organization established by this chapter.*

28 (e)

29 (g) *“NCCA” means the National Commission for Certifying*
30 *Agencies.*

31 ~~2529.55.— (a) A person who is qualified to provide applied~~
32 ~~behavior analysis services, as enumerated in Section 2529.6, may~~
33 ~~do all of the following:~~

34 2529.55. (a) *For purposes of this chapter, “applied behavior*
35 *analysis services” means any of the following functions:*

36 (1) ~~Design, implement, and evaluate~~ *Designing, implementing,*
37 *and evaluating* systematic instructional and environmental
38 modifications to produce social improvements in the behavior of
39 individuals or groups.

1 (2) ~~Apply~~ *Applying* the principles, methods, and procedures of
2 behavior analysis.

3 (3) ~~Utilize~~ *Utilizing* contextual factors and ~~establish~~ *establishing*
4 operations, antecedent stimuli, positive reinforcement, other
5 consequences, and other behavior analysis procedures to help
6 people develop new behaviors, increase or decrease existing
7 behaviors, and emit behaviors under specific environmental
8 conditions.

9 (4) ~~Assess~~ *Assessing* functional relations between behavior and
10 environmental factors, known as functional assessment and
11 functional analysis.

12 (5) ~~Use~~ *Using* procedures based on scientific research and the
13 direct observation and measurement of behavior and environment.

14 (6) ~~Determine whether a nonlicensed or noncertified individual~~
15 ~~shall be deemed as qualified to provide applied behavior analysis~~
16 ~~services, exclusive of paragraph (7), subject to his or her~~
17 ~~supervision and solely for the purpose of implementing the services~~
18 ~~of applied behavior analysis developed by a person described in~~
19 ~~subdivision (a) of Section 2529.6.~~

20 (7) ~~Supervise the delivery of applied behavior analysis services~~
21 ~~by nonlicensed or noncertified individuals as described in~~
22 ~~paragraph (6).~~

23 (b) ~~The practice of applied behavior analysis excludes~~

24 (6) *Determining whether a nonlicensed or noncertified*
25 *individual shall be deemed as qualified to perform all of the*
26 *functions under this subdivision, subject to his or her supervision.*

27 (b) *“Applied behavior analysis services” do not include*
28 *psychological testing, neuropsychology, psychotherapy, sex*
29 *therapy, psychoanalysis, hypnotherapy,—and or long-term*
30 *counseling.*

31 (c) *The definition in this section shall apply regardless of the*
32 *source of payment or reimbursement.*

33 2529.6. (a) ~~The following persons shall be recognized as~~
34 ~~qualified to provide applied behavior analysis services as described~~
35 ~~in Section 2529.55:~~

36 (1) ~~Licensed professionals, including, but not limited to,~~
37 ~~physicians and surgeons, psychologists, social workers, marriage~~
38 ~~and family therapists, speech-language pathologists, occupational~~
39 ~~therapists, physical therapists, or counselors, when acting within~~

1 the scope of their license, formal training, experience, and accepted
2 standards of their profession.

3 ~~(2) An individual with certification in applied behavior analysis~~
4 ~~from the BACB or another organization that is accredited by the~~
5 ~~NCCA or ANSI whose mission is to meet professional~~
6 ~~credentialing needs identified by behavior analysts, governments,~~
7 ~~and consumers of behavior analysis services.~~

8 ~~(3) An individual specializing in the treatment of autism~~
9 ~~spectrum disorder who meets all of the following requirements if~~
10 ~~verified on or before December 31, 2014, by one of the~~
11 ~~organizations specified in Section 2529.8:~~

12 ~~(A) Possesses a master's or doctorate degree in applied behavior~~
13 ~~analysis or a related field.~~

14 ~~(B) Demonstrates three years of experience in the last five years~~
15 ~~of providing, on a consistent rather than an episodic basis, applied~~
16 ~~behavior analysis services to individuals with autism spectrum~~
17 ~~disorder, either as an independent professional or as an employee~~
18 ~~of an organization providing services to those with autism spectrum~~
19 ~~disorder.~~

20 ~~(C) Submits references from at least two individuals who meet~~
21 ~~the requirements of paragraph (1) or (2).~~

22 ~~(4) An individual certified by the CBCO pursuant to subdivision~~
23 ~~(f) of Section 2529.7.~~

24 ~~(5) An individual who holds a bachelor's degree and meets the~~
25 ~~requirements of subparagraphs (B) and (C) of paragraph (3), subject~~
26 ~~to registration by one of the organizations specified in Section~~
27 ~~2529.8.~~

28 ~~(b) The following persons shall be recognized as qualified to~~
29 ~~provide applied behavior analysis services as described in Section~~
30 ~~2529.55, so long as supervised by a person described in paragraph~~
31 ~~(1), (2), (3), or (4) of subdivision (a):~~

32 ~~(1) A person who is certified as an Assistant Behavior Analyst~~
33 ~~by the BACB.~~

34 ~~(2) A person who is certified as a California certified assistant~~
35 ~~services professional by the CBCO pursuant to subdivision (g) of~~
36 ~~Section 2529.7.~~

37 ~~(e) (1) Pursuant to subdivisions (a) and (b), all of the following~~
38 ~~shall apply:~~

39 ~~(A) Persons meeting the requirements of paragraph (1) of~~
40 ~~subdivision (a) may hold themselves out as licensed professionals~~

1 according to the conditions of their professional license and shall
2 be deemed by the state as qualified to provide the services set forth
3 in Section 2529.55. These persons may also hold themselves out
4 as certified behavior analysis professionals if they meet any of the
5 criteria specified in paragraph (2), (3), or (4) of subdivision (a).

6 ~~(B) Persons meeting the requirements of paragraph (2), (3), or~~
7 ~~(4) of subdivision (a) may hold themselves out as certified behavior~~
8 ~~analysis professionals and shall be deemed by the state as qualified~~
9 ~~to provide the services set forth in Section 2529.55.~~

10 ~~(C) Persons meeting the requirements of paragraph (5) of~~
11 ~~subdivision (a) may hold themselves out as registered behavior~~
12 ~~analysis professionals and shall be deemed by the state as qualified~~
13 ~~to provide the services set forth in Section 2529.55.~~

14 ~~(D) Persons meeting the requirements of subdivision (b) may~~
15 ~~hold themselves out as certified assistant behavior analysis~~
16 ~~professionals and shall be deemed by the state as qualified to~~
17 ~~provide the services set forth in Section 2529.55.~~

18 ~~(E) Persons meeting the requirements of paragraph (6) of Section~~
19 ~~2529.55 may hold themselves out as qualified by the state solely~~
20 ~~for the purpose of implementing the services of applied behavior~~
21 ~~analysis, as set forth in Section 2529.55.~~

22 ~~(2) Paragraph (1) shall apply regardless of whether the services~~
23 ~~provided by those persons are paid for by private entities,~~
24 ~~governmental entities, nonprofit organizations, health care service~~
25 ~~plans, or insurers.~~

26 ~~2529.7. (a) There is hereby established a California~~
27 ~~Behavioral Certification Organization, which shall be a nonprofit~~
28 ~~corporation exempt from taxation under Section 501(c)(3) of the~~
29 ~~Internal Revenue Code and subdivision (d) of Section 23701 of~~
30 ~~the Revenue and Taxation Code.~~

31 ~~(b) The organization may commence activities as authorized~~
32 ~~by this chapter once it has submitted a request to the Internal~~
33 ~~Revenue Service and the Franchise Tax Board seeking tax~~
34 ~~exemption. The tax exempt application shall include information~~
35 ~~necessary to illustrate that the organization will operate in a manner~~
36 ~~consistent with the requirements imposed upon, and authority~~
37 ~~given to, the organization pursuant to this chapter.~~

38 ~~(c) The organization shall have until January 1, 2016, to receive~~
39 ~~accreditation from either ANSI or NCCA.~~

- 1 ~~(d) If the organization does not obtain national accreditation by~~
2 ~~January 1, 2016, it may not certify any additional individuals.~~
3 ~~However, any individuals certified during the five-year period~~
4 ~~commencing with the enactment of this section may retain their~~
5 ~~certification indefinitely provided they continue to meet any~~
6 ~~requirements established by the organization for certification~~
7 ~~maintenance and ethical compliance.~~
- 8 ~~(e) The CBCO board of directors shall be comprised of 12~~
9 ~~members who shall be residents of the state.~~
- 10 ~~(f) The CBCO board of directors shall determine through a~~
11 ~~process involving public input the specific standards necessary to~~
12 ~~receive certification as a certified behavior analysis professional,~~
13 ~~as described in paragraph (4) of subdivision (a) of Section 2529.6.~~
14 ~~However, in the interest of consumer protection, the specific~~
15 ~~standards shall include one of the following:~~
- 16 ~~(1) Option one, which minimum requirements shall include all~~
17 ~~of the following:~~
- 18 ~~(A) A doctoral or master's degree in applied behavior analysis~~
19 ~~or a related field from a nationally accredited institution of higher~~
20 ~~learning and a course sequence in applied behavior analysis that~~
21 ~~is approved by the CBCO. The course sequence shall be at least~~
22 ~~equivalent to or more rigorous than an approved course sequence~~
23 ~~of the BACB.~~
- 24 ~~(B) The successful completion of an approved practicum or~~
25 ~~supervised experience in the practice of applied behavior analysis,~~
26 ~~totaling at least 1,500 hours over a period of not less than one~~
27 ~~calendar year, of which at least 75 hours are in direct one-to-one~~
28 ~~contact with the supervisor, or which is equivalent to or more~~
29 ~~rigorous than the approved practicum requirements of the BACB.~~
- 30 ~~(C) To ensure mastery of the material, successful completion~~
31 ~~of an examination administered by the BACB or the CBCO, which~~
32 ~~is at least as rigorous or equivalent to the examination administered~~
33 ~~by the BACB.~~
- 34 ~~(2) Option two, which minimum requirements shall include all~~
35 ~~of the following:~~
- 36 ~~(A) A doctoral or master's degree from a recognized educational~~
37 ~~program accredited by the Association for Behavior Analysis~~
38 ~~International, or from a program at a recognized educational~~
39 ~~institution that is approved by the third organization and that~~
40 ~~substantially meets the educational standards of the accreditation~~

1 board of the Association for Behavior Analysis International. The
2 program shall also include an approved course sequence of the
3 BACB.

4 (B) The successful completion of an approved practicum or
5 supervised experience in the practice of applied behavior analysis,
6 totaling at least 1,500 hours over a period of not less than one
7 calendar year, of which at least 75 hours are in direct one-to-one
8 contact with the supervisor.

9 (C) To ensure mastery of the material, successful completion
10 of an examination administered by the BACB or the CBCO, which
11 is at least as rigorous or equivalent to the examination administered
12 by the BACB.

13 (g) The CBCO board of directors shall determine through a
14 process involving public input the specific standards necessary to
15 receive certification as a California certified assistant services
16 professional, as described in paragraph (2) of subdivision (b) of
17 Section 2529.6. However, in the interest of consumer protection,
18 the specific standards shall meet all the following minimum
19 requirements:

20 (1) A bachelor's degree from a nationally accredited institution
21 of higher learning and a course sequence in applied behavior
22 analysis that is approved by the CBCO. The course sequence shall
23 be at least equivalent to or more rigorous than an approved course
24 sequence for an Assistant Behavior Analyst from the BACB.

25 (2) The successful completion of an approved practicum or
26 supervised experience in the practice of applied behavior analysis,
27 totaling at least 1,000 hours over a period of not less than six
28 months, of which at least 50 hours are in direct one-to-one contact
29 with the supervisor, or which is equivalent to or more rigorous
30 than the approved practicum requirements for an Assistant
31 Behavior Analyst from the BACB.

32 (3) To ensure mastery of the material, successful completion of
33 an examination administered by the CBCO, which is equivalent
34 to or more rigorous than the examination for an Assistant Behavior
35 Analyst administered by the BACB.

36 (h) The CBCO may charge applicants a fee not to exceed the
37 costs of implementation of the chapter.

38 2529.8.— (a) (1) Until December 31, 2014, the CBCO shall
39 have the primary responsibility for verifying the qualifications of

1 persons submitting the information set forth in paragraph (3) of
2 subdivision (a) of Section 2529.6.

3 (2) The CBCO shall have the primary responsibility for verifying
4 the qualifications of persons submitting the information set forth
5 in paragraph (5) of subdivision (a) of Section 2529.6.

6 (b) (1) Prior to the establishment and operation of the CBCO
7 or through December 31, 2014, whichever is earlier, CalABA or
8 its designee shall be authorized to verify the qualifications of
9 persons submitting the information set forth in paragraph (3) of
10 subdivision (a) of Section 2529.6.

11 (2) Prior to the establishment and operation of the CBCO,
12 CalABA or its designee shall be authorized to verify the
13 qualifications of persons submitting the information set forth in
14 paragraph (5) of subdivision (a) of Section 2529.6.

15 (c) (1) Prior to December 31, 2014, an individual meeting the
16 requirements of paragraph (3) of subdivision (a) of Section 2529.6
17 may submit to the CBCO, or to CalABA, if the latter is accepting
18 submissions, information necessary to establish that the individual
19 meets the requirements set forth in paragraph (3) of subdivision
20 (a) of Section 2529.6.

21 (2) If submitted to CalABA under subdivision (b), CalABA
22 shall issue to an individual that meets the qualifications a certificate
23 of temporary certification as a California Certified Behavior
24 Services Professional, which shall be valid for one year or until
25 the CBCO is accepting submissions from those seeking certification
26 pursuant to paragraph (3) of subdivision (a) of Section 2529.6,
27 whichever is later. Once the CBCO commences accepting
28 applications, CalABA shall finish processing all the submissions
29 it has received and shall notify the CBCO of all individuals
30 previously receiving certification from CalABA. Those individuals
31 shall automatically receive CBCO certification.

32 (3) If an individual submits information to the CBCO, the CBCO
33 shall issue to an individual that meets the qualifications,
34 certification as a California Certified Behavior Services
35 Professional.

36 (d) (1) An individual meeting the requirements of paragraph
37 (5) of subdivision (a) of Section 2529.6 may submit to the CBCO,
38 or to CalABA, if the latter is accepting submissions, information
39 necessary to establish that the individual meets the requirements
40 set forth in paragraph (5) of subdivision (a) of Section 2529.6.

1 ~~(2) If submitted to CalABA under subdivision (b), CalABA~~
2 ~~shall issue to an individual that meets the qualifications a certificate~~
3 ~~of temporary registration as a California applied behavior analysis~~
4 ~~professional, which shall be valid for one year or until the CBCO~~
5 ~~is accepting submissions from those seeking registration pursuant~~
6 ~~to paragraph (5) of subdivision (a) of Section 2529.6, whichever~~
7 ~~is later. Once the CBCO commences accepting applications,~~
8 ~~CalABA shall finish processing all the submissions it has received~~
9 ~~and shall notify the CBCO of all individuals previously receiving~~
10 ~~registration from CalABA. Those individuals shall automatically~~
11 ~~receive CBCO registration, which shall be valid for five years from~~
12 ~~the original date of issuance by CalABA.~~

13 ~~(3) If an individual submits information to the CBCO, the CBCO~~
14 ~~shall issue to an individual who meets the qualifications,~~
15 ~~registration as a California applied behavior analysis professional,~~
16 ~~which shall be valid for five years.~~

17 ~~(e) No later than January 1, 2016, individuals who have received~~
18 ~~certification pursuant to subdivision (c), shall maintain that~~
19 ~~certification only if they meet the requirements established by the~~
20 ~~CBCO for compliance with continuing education and ethical~~
21 ~~standards. If the CBCO is not in operation, those previously~~
22 ~~certified by the CBCO shall no longer be able to represent~~
23 ~~themselves as California Certified Behavior Services Professionals,~~
24 ~~but may represent that they are recognized by the state as qualified~~
25 ~~to provide applied behavior analysis services.~~

26 ~~2529.9. (a) It shall be unlawful for any person to hold himself~~
27 ~~or herself out as a Board Certified Behavior Analyst (BCBA)~~
28 ~~unless the person is currently certified as a Board Certified~~
29 ~~Behavior Analyst by the BACB.~~

30 ~~(b) It shall be unlawful for any person to hold himself or herself~~
31 ~~out as a Board Certified Assistant Behavior Analyst (BCaBA)~~
32 ~~unless the person is currently certified as a Board Certified~~
33 ~~Assistant Behavior Analyst by the BACB.~~

34 ~~(e) It shall be unlawful to claim to have state recognition,~~
35 ~~certification, or registration as a California Certified Behavior~~
36 ~~Services Professional, California applied behavior analysis~~
37 ~~professional, or California certified assistant services professional~~
38 ~~by CalABA, the CBCO, or the BACB, unless the person is~~
39 ~~otherwise recognized, certified, or registered by that entity.~~

- 1 ~~2529.10. The CBCO shall implement this chapter in conformity~~
2 ~~with accepted standards for professional credentialing programs,~~
3 ~~including, but not limited to, doing all of the following:~~
- 4 ~~(a) Conducting certification activities in a manner that upholds~~
5 ~~standards for the competent practice of the profession of behavior~~
6 ~~analysis.~~
 - 7 ~~(b) Structuring and governing the certification program in ways~~
8 ~~that are appropriate for the profession of behavior analysis and~~
9 ~~ensure autonomy in decision making over certification activities.~~
 - 10 ~~(c) Including certified behavior analysts and at least one~~
11 ~~consumer or public member on the CBCO board of directors.~~
 - 12 ~~(d) Having adequate financial and human resources to conduct~~
13 ~~effective and thorough certification, registration, recertification,~~
14 ~~and reregistration activities.~~
 - 15 ~~(e) Establishing, publishing, applying, and reviewing policies~~
16 ~~and procedures for key certification or registration activities, such~~
17 ~~as determining eligibility criteria, applying for certification or~~
18 ~~registration, administering assessment instruments, establishing~~
19 ~~performance domains, appeals confidentiality, certification and~~
20 ~~registration statistics, and discipline, and complying with applicable~~
21 ~~laws.~~
 - 22 ~~(f) Publishing a description of the assessment instruments used~~
23 ~~to make certification and registration decisions and the research~~
24 ~~methods used to ensure that the assessment instruments are valid.~~
 - 25 ~~(g) Awarding certification or registration only after the~~
26 ~~applicant's knowledge and skill have been evaluated and found to~~
27 ~~be acceptable.~~
 - 28 ~~(h) Maintaining a publicly available list of certified behavior~~
29 ~~analysts and verifying their certification.~~
 - 30 ~~(i) Analyzing, defining, and publishing performance domains~~
31 ~~and tasks and associated knowledge and skills for the practice of~~
32 ~~behavior analysis, and using them to develop the assessment~~
33 ~~instruments.~~
 - 34 ~~(j) Using assessment instruments that are derived from the job~~
35 ~~or practice analysis and are consistent with accepted psychometric~~
36 ~~principles and procedures, such as for setting passing scores,~~
37 ~~scoring and interpreting assessment results, ensuring reliability of~~
38 ~~scores, or establishing that different forms of the assessment~~
39 ~~instruments are equivalent.~~

- 1 ~~(k) Developing, adhering to, and publishing appropriate,~~
2 ~~standardized, and secure procedures for developing and~~
3 ~~administering the assessment instruments and for retaining all~~
4 ~~evidence of the validity and reliability of the assessment~~
5 ~~instruments, assessment results, and scores of all candidates.~~
6 ~~(l) Requiring periodic recertification and establishing,~~
7 ~~publishing, applying, and periodically reviewing policies and~~
8 ~~procedures for recertification or reregistration.~~
9 ~~(m) Requiring adequate continuing education.~~
10 ~~(n) Monitoring the practicing of applied behavioral analysis~~
11 ~~services consistent with the accepted standards of their respective~~
12 ~~professions and that the practice of applied behavior analysis is~~
13 ~~commensurate with their level of formal training and experience.~~
14 ~~(o) Maintaining accreditation by demonstrating continued~~
15 ~~compliance with accreditation standards.~~
16 ~~(p) Demonstrating that recertification or reregistration~~
17 ~~requirements measure or enhance the competence of those certified~~
18 ~~or registered.~~
19 ~~(q) Developing appropriate supervision guidelines for the~~
20 ~~provision of applied behavior analysis services.~~
21 ~~(r) (1) Establishing and maintaining a process to receive, review,~~
22 ~~and take corrective action, when necessary, with regard to~~
23 ~~complaints by consumers of applied behavior analysis or other~~
24 ~~interested parties against certificate holders or registrants and to~~
25 ~~make available to the public current status of those persons, such~~
26 ~~as whether they are in good standing or their certificate or~~
27 ~~registration has been suspended or revoked and details of any~~
28 ~~complaints or corrective action taken.~~
29 ~~(2) Maintaining on the organization's Internet Web site~~
30 ~~information updated annually related to implementation of this~~
31 ~~chapter.~~
32 ~~(s) Establishing a disciplinary and hearing process pursuant to~~
33 ~~Sections 2529.11 and 2529.12.~~
34 ~~(t) Requiring an applicant for certification or registration to~~
35 ~~submit fingerprint images to the CBCO, and establishing a~~
36 ~~procedure consistent with state law to obtain background~~
37 ~~information on the applicant.~~
38 ~~2529.6. (a) A California Behavioral Certification Organization~~
39 ~~(SCBCO) shall be created as a nonprofit corporation exempt from~~
40 ~~taxation under Section 501(c)(3) of the Internal Revenue Code~~

1 *and subdivision (d) of Section 23701 of the Revenue and Taxation*
2 *Code. The CBCO may commence activities as authorized by this*
3 *chapter after it has submitted a request to the Internal Revenue*
4 *Service and the Franchise Tax Board seeking that exemption.*

5 *(b) The CBCO shall have the responsibilities and duties as set*
6 *forth in this chapter and may take any reasonable actions to carry*
7 *out the responsibilities and duties set forth in this chapter,*
8 *including, but not limited to, hiring staff and entering into*
9 *contracts.*

10 *(c) (1) The CBCO shall be governed by a board of directors*
11 *made up of two representatives selected by each professional*
12 *society, association, or other entity whose membership is comprised*
13 *of applied behavior analysts, unless any of those entities choose*
14 *not to exercise this right of selection. To qualify, a professional*
15 *society, association, or other entity shall have a dues-paying*
16 *membership in California or on a national basis of at least 1,000*
17 *individuals for the last three years, and shall have bylaws that*
18 *require its membership to comply with a code of ethics. The board*
19 *of directors shall also include additional persons as established*
20 *by the bylaws of the CBCO. Additional members of the board of*
21 *directors may include certified behavior analysts, consumers, and*
22 *public members.*

23 *(2) The initial board of directors shall establish the CBCO,*
24 *initiate the request for tax-exempt status from the Internal Revenue*
25 *Service and the Franchise Tax Board, and solicit input from the*
26 *applied behavior analyst community concerning the operations of*
27 *the organization. The initial board of directors, in its discretion,*
28 *may immediately undertake to issue the certificates authorized by*
29 *this chapter after adopting the necessary bylaws or other rules,*
30 *or may establish by adoption of bylaws the permanent governing*
31 *structure of the CBCO prior to issuing certificates.*

32 *(d) The board of directors shall establish fees reasonably related*
33 *to the cost of providing services and carrying out its ongoing*
34 *responsibilities and duties. Initial and renewal fees shall be*
35 *established by the board of directors annually.*

36 *(e) The meetings of the CBCO shall be subject to the rules of*
37 *the Bagley-Keene Open Meetings Act (Article 9 (commencing with*
38 *Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of*
39 *the Government Code). Section 11130.7 of the Government Code*
40 *shall not apply to the CBCO board of directors.*

1 2529.8. (a) *The CBCO shall issue a certificate under this*
2 *chapter to an applicant who satisfies the requirements of this*
3 *chapter.*

4 (b) *In order to obtain certification as an applied behavior*
5 *analyst, an applicant shall submit a written application, pay all*
6 *fees required by the CBCO, and provide the CBCO with*
7 *satisfactory evidence of either of the following:*

8 (1) *That he or she holds a current, valid certification in applied*
9 *behavior analysis from the BACB or another organization that is*
10 *accredited by the NCCA or ANSI whose mission is to meet*
11 *professional credentialing needs identified by behavior analysts,*
12 *governments, and consumers of applied behavior analysis services.*

13 (2) *That he or she meets all of the following requirements:*

14 (A) *Possesses a master's or doctorate degree in applied*
15 *behavior analysis or a related field.*

16 (B) *Demonstrates three years of experience in the last five years*
17 *of providing those functions specified in subdivision (a) of Section*
18 *2529.55 to individuals, either as an independent professional or*
19 *as an employee of an organization.*

20 (c) *In order to obtain certification as an applied behavior*
21 *analyst assistant, an applicant shall submit a written application,*
22 *pay all fees required by the CBCO, and provide the CBCO with*
23 *satisfactory evidence of either of the following:*

24 (1) *That he or she holds a current, valid certification as an*
25 *applied behavior analyst assistant from the BACB or another*
26 *organization that is accredited by the NCCA or ANSI whose*
27 *mission is to meet professional credentialing needs identified by*
28 *behavior analysts, governments, and consumers of applied*
29 *behavior analysis services.*

30 (2) *That he or she meets all of the following requirements:*

31 (A) *Possesses a bachelor's degree.*

32 (B) *Demonstrates three years of experience in the last five years*
33 *of providing those functions specified in subdivision (a) of Section*
34 *2529.55 to individuals, either as an independent professional or*
35 *as an employee of an organization.*

36 (d) *A certificate issued pursuant to this chapter shall be subject*
37 *to renewal every two years in a manner prescribed by the CBCO,*
38 *and shall expire unless renewed in that manner. The CBCO may*
39 *provide for late renewal of a certificate.*

1 (e) For purposes of this section and any other provision of this
2 chapter for which the CBCO is authorized to receive factual
3 information as a condition of taking any action, the CBCO shall
4 have the authority to conduct oral interviews of the applicant and
5 others or to make any investigation deemed necessary to establish
6 that the information received is accurate and satisfies any criteria
7 established by this chapter.

8 (f) Individuals who have received certification pursuant to
9 subdivision (b) may maintain that certification only if they meet
10 the requirements established by the CBCO for compliance with
11 continuing education and ethical standards.

12 2529.9. The CBCO shall not issue certificates pursuant to this
13 chapter prior to September 1, 2011.

14 2529.10. (a) The CBCO shall establish a procedure consistent
15 with state law to obtain background information on each applicant.

16 (b) Prior to issuing a certificate to an applicant, the CBCO
17 shall require each applicant to submit fingerprint images to the
18 CBCO for purposes of obtaining background information on the
19 applicant.

20 2529.11. (a) The CBCO may discipline a certificate holder or
21 registrant by any, or a combination, of the following methods:

22 (1) Placing the certificate holder or registrant on probation.

23 (2) Suspending the certificate or registration and the rights
24 conferred by this chapter on a certificate holder or registrant for a
25 period not to exceed one year.

26 (3) Revoking the certificate or registration.

27 (4) Suspending or staying the disciplinary order, or portions of
28 it, with or without conditions.

29 (5) Taking other action as the organization, as authorized by
30 this chapter or its bylaws, deems proper.

31 (b) The CBCO may issue an initial certificate or registration on
32 probation, with specific terms and conditions, to any applicant.

33 2529.12. It is a violation of this chapter for a certificate holder
34 to commit, and the CBCO may deny an application for a certificate
35 or discipline a certificate holder for, any of the following:

36 (a) Unprofessional conduct, including, but not limited to, denial
37 of licensure, revocation, suspension, restriction, or any other
38 disciplinary action against a certificate holder by another state
39 or territory of the United States, by any other government agency,
40 or by a California health care professional licensing board. A

1 *certified copy of the decision, order, or judgment shall be*
2 *conclusive evidence of these actions.*

3 *(b) Procuring a certificate by fraud, misrepresentation, or*
4 *mistake.*

5 *(c) Violating or attempting to violate, directly or indirectly, or*
6 *assisting in or abetting the violation of, or conspiring to violate,*
7 *any provision or term of this chapter or any rule or bylaw adopted*
8 *by the CBCO.*

9 *(d) Conviction of any felony, or conviction of a misdemeanor*
10 *that is substantially related to the qualifications or duties of a*
11 *certificate holder, in which event the record of the conviction shall*
12 *be conclusive evidence of the crime.*

13 *(e) Impersonating an applicant or acting as a proxy for an*
14 *applicant in any examination referred to under this chapter for*
15 *the issuance of a certificate.*

16 *(f) Impersonating a certified applied behavior analyst or*
17 *certified applied behavior analyst assistant, or permitting or*
18 *allowing an uncertified person to use a certificate.*

19 *(g) Committing any fraudulent, dishonest, or corrupt act that*
20 *is substantially related to the qualifications or duties of a certificate*
21 *holder.*

22 *(h) Committing any act punishable as a sexually related crime.*
23 ~~2529.12.~~

24 2529.13. (a) No certificate holder, registrant, or applicant may
25 be disciplined or denied a certificate or registration pursuant to
26 Section ~~2529.11~~ 2529.12 except according to procedures satisfying
27 the requirements of this section. A denial or discipline not in accord
28 with this section shall be void and without effect.

29 (b) Any applicant denial or discipline shall be done in good
30 faith and in a fair and reasonable manner. Any procedure that
31 conforms to the requirements of subdivision (c) is fair and
32 reasonable, but a court may also find other procedures to be fair
33 and reasonable when the full circumstances of the denial or
34 discipline are considered.

35 (c) A procedure is fair and reasonable if all of the following
36 apply:

37 (1) The provisions of the procedure have been set forth in the
38 CBCO articles or bylaws, or copies of those provisions are sent
39 annually to certificate holders or registrants if required by the
40 articles or bylaws.

1 (2) It provides the giving of 15 days prior notice of the denial
2 or discipline and the reasons therefor.

3 (3) It provides an opportunity for the applicant or certificate
4 holder or registrant to be heard, orally or in writing, not less than
5 five days before the effective date of the denial or discipline by a
6 person or body authorized to decide that the proposed denial or
7 discipline not take place.

8 (d) Any notice required under this section may be given by any
9 method reasonably calculated to provide actual notice. Any notice
10 given by mail must be given by first-class or certified mail sent to
11 the last address of the applicant or certificate holder or registrant
12 shown on the organization's records.

13 (e) Any action challenging a denial or discipline, including any
14 claim alleging defective notice, shall be commenced within one
15 year after the date of the denial or discipline. If the action is
16 successful, the court may order any relief, including reinstatement,
17 that it finds equitable under the circumstances.

18 (f) This section governs only the procedures for denial or
19 discipline and not the substantive grounds therefor. A denial or
20 discipline based upon substantive grounds that violates contractual
21 or other rights or is otherwise unlawful is not made valid by
22 compliance with this section.

23 (g) An applicant or certificate holder or registrant who is denied
24 or disciplined shall be liable for any charges incurred, services or
25 benefits actually rendered, dues, assessments, or fees incurred
26 before the denial or discipline or arising from contract or otherwise.

27 ~~2529.13. (a) Nothing in this chapter shall be interpreted to~~
28 ~~prohibit individuals not recognized in Section 2529.6 from~~
29 ~~providing the services defined as applied behavior analysis~~
30 ~~services, as set forth in Section 2529.55, provided those individuals~~
31 ~~do not hold themselves out to be Certified Behavior Analysts or~~
32 ~~claim to have state recognition or certification by the CBCO or~~
33 ~~CalABA pursuant to this chapter.~~

34 ~~(b) Nothing in this chapter shall be construed to prevent~~
35 ~~2529.14. It is an unfair business practice for a person to state~~
36 ~~or advertise or put out any sign or card or other device, or to~~
37 ~~represent to the public through any print or electronic media, that~~
38 ~~he or she is certified, registered, or licensed by a governmental~~
39 ~~agency as an applied behavior analyst or an applied behavior~~
40 ~~analyst assistant.~~

1 2529.15. *It is an unfair business practice for any person to*
2 *hold himself or herself out or to use the title of “certified applied*
3 *behavior analyst” or “certified applied behavior analyst assistant”*
4 *or any other term, such as “licensed,” “registered,” “CABA,” or*
5 *“CABAA,” that implies or suggests that the person is certified as*
6 *a applied behavior analyst or applied behavior analyst assistant*
7 *without having a certificate issued pursuant to Section 2529.8.*

8 2529.16. *The superior court in and for the county in which any*
9 *person acts in violation of the provisions of this chapter, may,*
10 *upon a petition by any person, issue an injunction or other*
11 *appropriate order restraining the conduct. The proceedings under*
12 *this paragraph shall be governed by Chapter 3 (commencing with*
13 *Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.*

14 2529.17. *The CBCO shall make available to the public the*
15 *current status of certificate holders, including, but not limited to,*
16 *whether they are in good standing or their certificate has been*
17 *suspended or revoked and the details of any disciplinary action*
18 *taken. The CBCO shall maintain on its Internet Web site*
19 *information updated annually related to implementation of this*
20 *chapter.*

21 2529.18. (a) *Nothing in this chapter shall be construed to*
22 *prevent behavior analysis service providers who are vendorized*
23 *by one of the California Regional Centers or hold state accredited*
24 *nonpublic agency status from developing, providing, or supervising*
25 *applied behavior analysis consistent with the requirements of their*
26 *Regional Center vendorization or nonpublic agency certification*
27 *or accreditation, provided their practice of behavior analysis is*
28 *commensurate with their level of training and experience, and they*
29 *do not hold themselves out to the public by any title or description*
30 *stating or implying that they are Certified Behavior Analysts, that*
31 *they are “certified” to practice behavior analysis if they are not in*
32 *fact certified, or that they are recognized or certified by the state*
33 *to practice applied behavior analysis.*

34 (e)

35 (b) *Nothing in this chapter shall be construed to require*
36 *certification, licensure, recognition, or authorization to provide*
37 *applied behavior analysis services nor to add to or increase*
38 *requirements for providing those services.*

39 ~~SEC. 3.— Nothing in this act shall be construed as interpreting~~
40 ~~an existing statutory or regulatory requirement.~~

1 2529.19. *This chapter shall be subject to the review required*
2 *by Division 1.2 (commencing with Section 473).*
3 2529.20. *This chapter shall remain in effect only until January*
4 *1, 2017, and as of that date is repealed, unless a later enacted*
5 *statute, that is enacted before January 1, 2017, deletes or extends*
6 *that date.*

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