

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1205

Introduced by Assembly Member Bill Berryhill

February 18, 2011

~~An act to amend Sections 4990.02, 4990.12, 4990.18, 4990.30, and 4990.38~~ *An act to amend Section 4990.18 of, and to add Chapter 5.2 (commencing with Section 2529.7.1) to Division 2 of, the Business and Professions Code, relating to healing arts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1205, as amended, Bill Berryhill. ~~Certified applied~~ *Licensed* behavior analysts.

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

This bill would, *commencing January 1, 2015*, prohibit a person from holding himself or herself out to be a ~~certified applied~~ behavior analyst or a ~~certified~~ *an assistant applied* behavior analyst unless licensed by the Board of Behavioral Sciences. The bill would require the board to issue a license to a person who meets certain educational requirements and passes an examination administered by *the board, the Behavior Analyst Certification Board, or another comparable accredited entity approved by the board, as specified*, and is certified by; the Behavior Analyst Certification Board, a nonprofit corporation, or another ~~similar comparable accredited~~ entity approved by the board, *as specified, and submits an application and pays fees established by the board. The bill*

would specify that a license shall expire no later than 24 months after its date of issue, as specified, and is subject to renewal upon the completion of various requirements, including the payment of a renewal fee and the completion of continuing education hours. The bill would describe the services that may be provided by a ~~certified applied~~ licensed behavior analyst and a ~~certified~~ licensed assistant ~~applied~~ behavior analyst, subject to specified supervision. The bill would authorize the board to regulate these licensees and to enforce these provisions.

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

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

1 SECTION 1. Chapter 5.2 (commencing with Section 2529.7.1)
2 is added to Division 2 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 5.2. ~~CERTIFIED-APPLIED-BEHAVIOR ANALYSTS~~

6
7 *Article 1. General Provisions*

8
9 2529.7.1. (a) The Board of Behavioral Sciences shall
10 administer and enforce the provisions of this chapter. For the
11 purposes of this chapter, it shall be designated as the board.

12 (b) Pursuant to Section 4990.20, the board may adopt
13 regulations to carry out the provisions of this chapter.

14
15 *Article 2. Licensure and Regulation*

16
17 2529.7.2. No person shall hold himself or herself out to be a
18 ~~certified-applied~~ behavior analyst unless the person is licensed by
19 the board pursuant to this chapter.

20 2529.7.3. (a) The board shall issue a ~~certified-applied~~ behavior
21 analyst license to an applicant who meets all of the following
22 requirements:

23 ~~(a) An applicant for examination shall, at a minimum, meet the~~
24 ~~following requirements:~~

25 (1) ~~Possess~~ *Possesses* a baccalaureate and a master's degree
26 *that is relevant to the field of behavior analysis, as determined by*
27 *the board*, from any of the following:

1 (A) A United States or Canadian institution of higher education
2 fully or provisionally accredited by a regional, state, provincial,
3 or national accrediting body.

4 (B) An institution of higher education located outside the United
5 States or Canada that, at the time the applicant was enrolled and
6 at the time the applicant graduated, maintained a standard of
7 training equivalent to the standards of training of those institutions
8 accredited in the United States.

9 ~~(2) Complete 225 classroom hours of related graduate level~~
10 ~~instruction.~~

11 ~~(3) Complete 1,500 hours of supervised independent fieldwork~~
12 ~~under the supervision of a certified applied behavior analyst or~~
13 ~~initially, until January 1, 2013, under the supervision of a person~~
14 ~~who otherwise meets all of the requirements for certification.~~

15 ~~(A) An applicant must be supervised at least 75 hours.~~

16 ~~(2) Has completed no fewer than 225 classroom hours of related~~
17 ~~graduate level instruction.~~

18 ~~(3) Has completed no fewer than 1,500 hours of supervised~~
19 ~~independent fieldwork under the supervision of a licensed behavior~~
20 ~~analyst.~~

21 ~~(A) An applicant shall have a minimum of 75 hours of direct~~
22 ~~supervisor contact. For the purposes of this section, "direct~~
23 ~~supervisor contact" means in-person and on an individual basis.~~

24 (B) Appropriate supervised independent fieldwork activities
25 include all of the following:

26 (i) Conducting assessment activities related to the need for
27 behavioral interventions.

28 (ii) Designing, implementing, and monitoring behavior analysis
29 programs for clients.

30 (iii) Overseeing the implementation of behavior analysis
31 programs by others.

32 (iv) Other activities normally performed by a behavior analyst
33 that are directly related to behavior analysis, ~~such as, but not~~
34 ~~limited to, attending planning meetings regarding the behavior~~
35 ~~analysis program, researching the literature related to the program,~~
36 ~~and talking to individuals about the program.~~

37 ~~(b) An applicant for examination may, subject to approval by~~
38 ~~the board, take the examination if the applicant can demonstrate~~
39 ~~the equivalent completion of the requirements in subdivision (a).~~

1 ~~(e) Has successfully passed an examination administered by the~~
2 ~~Behavior Analyst Certification Board, a nonprofit corporation~~
3 ~~pursuant to Section 501(c)(3) of the Internal Revenue Code, or~~
4 ~~another similar entity approved by the board.~~

5 ~~(d) Is certified by the Behavior Analyst Certification Board, a~~
6 ~~nonprofit corporation pursuant to Section 501(c)(3) of the Internal~~
7 ~~Revenue Code, or another similar entity approved by the board.~~

8 *(4) Has successfully passed an examination administered by*
9 *the board, the Behavior Analyst Certification Board, or another*
10 *comparable entity approved by the board and accredited by the*
11 *National Commission for Certifying Agencies.*

12 *(5) Is certified by the Behavior Analyst Certification Board or*
13 *another comparable entity approved by the board and accredited*
14 *by the National Commission for Certifying Agencies.*

15 *(6) Pays fees described in Section 2529.7.7.*

16 *(b) None of the hours of experience described in subdivision*
17 *(a) may be accrued more than six years prior to the date the*
18 *application for licensure is filed.*

19 2529.7.4. No person shall hold himself or herself out to be a
20 certified assistant applied an assistant behavior analyst unless the
21 person is licensed by the board pursuant to this chapter.

22 2529.7.5. The board shall issue a certified assistant applied an
23 assistant behavior analyst license to an applicant who meets all of
24 the following requirements:

25 ~~(a) An applicant for examination shall, at a minimum, meet the~~
26 ~~following requirements:~~

27 ~~(1) Possess a baccalaureate and a master's degree from any of~~

28 *(a) Possesses at least a baccalaureate degree from any of the*
29 *following:*

30 ~~(A)~~

31 *(1) A United States or Canadian institution of higher education*
32 *fully or provisionally accredited by a regional, state, provincial,*
33 *or national accrediting body.*

34 ~~(B)~~

35 *(2) An institution of higher education located outside the United*
36 *States or Canada that, at the time the applicant was enrolled and*
37 *at the time the applicant graduated, maintained a standard of*
38 *training equivalent to the standards of training of those institutions*
39 *accredited in the United States.*

- 1 ~~(2) Complete 135 classroom hours of related instruction through~~
2 ~~any of the following:~~
- 3 ~~(b) Has completed no fewer than 135 classroom hours of related~~
4 ~~instruction as required by the board, the Behavior Analyst~~
5 ~~Certification Board, or another comparable entity approved by~~
6 ~~the board and accredited by the National Commission for~~
7 ~~Certifying Agencies through any of the following:~~
- 8 ~~(A)~~
- 9 ~~(1) College or university courses in behavior analysis, that are~~
10 ~~taken from an institution that meets either of the requirements~~
11 ~~described in paragraph (1) of subdivision (b) subdivision (a).~~
- 12 ~~(B)~~
- 13 ~~(2) Noncollege or university courses offered by an educational~~
14 ~~institution and approved for this purpose.~~
- 15 ~~(C)~~
- 16 ~~(3) A combination of college or university courses.~~
- 17 ~~(3) Complete 1,000 hours of supervised independent fieldwork~~
18 ~~under the supervision of a certified applied behavior analyst or~~
19 ~~initially, until January 1, 2013, under the supervision of a person~~
20 ~~who otherwise meets all of the requirements for certification:~~
- 21 ~~(A) An applicant must be supervised at least 50 hours.~~
- 22 ~~(c) Has completed no fewer than 1,000 hours of supervised~~
23 ~~independent fieldwork under the supervision of a licensed behavior~~
24 ~~analyst.~~
- 25 ~~(1) An applicant shall have a minimum of 50 hours direct~~
26 ~~supervisor contact.~~
- 27 ~~(B)~~
- 28 ~~(2) Appropriate supervised independent fieldwork activities~~
29 ~~include all of the following:~~
- 30 ~~(i)~~
- 31 ~~(A) Conducting assessment activities related to the need for~~
32 ~~behavioral interventions.~~
- 33 ~~(ii)~~
- 34 ~~(B) Designing, implementing, and monitoring behavior analysis~~
35 ~~programs for clients.~~
- 36 ~~(iii)~~
- 37 ~~(C) Overseeing the implementation of behavior analysis~~
38 ~~programs by others individuals described in paragraph (6) of~~
39 ~~subdivision (a) of Section 2529.7.6.~~
- 40 ~~(iv)~~

1 (D) Other activities normally performed by a behavior analyst
2 that are directly related to behavior analysis, ~~such as, but not~~
3 ~~limited to, attending planning meetings regarding the behavior~~
4 ~~analysis program, researching the literature related to the program,~~
5 ~~and talking to individuals about the program.~~

6 ~~(b) An applicant for examination may, subject to approval by~~
7 ~~the board, take the examination if the applicant can demonstrate~~
8 ~~the equivalent completion of the requirements in subdivision (a):~~

9 ~~(c) Has successfully passed an examination administered by the~~
10 ~~Behavior Analyst Certification Board, a nonprofit corporation~~
11 ~~pursuant to Section 501(c)(3) of the Internal Revenue Code, or~~
12 ~~another similar entity approved by the board.~~

13 ~~(d) Is certified by the Behavior Analyst Certification Board, a~~
14 ~~nonprofit corporation pursuant to Section 501(c)(3) of the Internal~~
15 ~~Revenue Code, or another similar entity approved by the board.~~

16 *(d) Has successfully passed an examination administered by*
17 *the board, the Behavior Analyst Certification Board, or another*
18 *comparable entity approved by the board and accredited by the*
19 *National Commission for Certifying Agencies.*

20 *(e) Is certified by the Behavior Analyst Certification Board or*
21 *another comparable entity approved by the board and accredited*
22 *by the National Commission for Certifying Agencies.*

23 *(f) Pays fees described in Section 2529.7.7.*

24 2529.7.6. (a) ~~A certified applied licensed~~ behavior analyst
25 may provide all of the following services:

26 (1) Design, implement, and evaluate systematic instructional
27 and environmental modifications to produce socially significant
28 improvements in human behavior of individuals or groups.

29 (2) Apply principles, methods, and procedures of operant and
30 responding learning.

31 (3) Utilize contextual factors, establishing operations, antecedent
32 stimuli, position reinforcement, and other consequences to help
33 people develop new behaviors, increase or decrease existing
34 behaviors, and emit behaviors under specific environmental
35 conditions.

36 (4) Assess functional relations between behavioral and
37 environmental factors.

38 (5) Apply interventions based on scientific research and the
39 direct observation and measurement of behavior and environment.

1 (6) Supervise unlicensed individuals who implement treatment
2 plans and interventions designed and maintained by the licensed
3 behavior analyst. This includes, but is not limited to, delivering
4 procedures and methods such as prompting, reinforcement,
5 shaping, fading, and differential reinforcement. The supervised
6 unlicensed individuals may also gather behavioral data that is
7 used to evaluate the effectiveness of the treatment plan.

8 ~~(6)~~

9 (b) The practice of ~~applied~~ behavior analysis excludes the
10 practice of psychological testing, neuropsychology, psychotherapy,
11 cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and
12 long-term counseling.

13 ~~(b) A certified applied~~

14 (c) A licensed assistant behavior analyst may provide the
15 services in subdivision (a) under the supervision of a ~~certified~~
16 ~~applied~~ licensed behavior analyst.

17 2529.7.7. The board shall establish application and license
18 fees in an amount sufficient to cover the reasonable regulatory
19 costs of carrying out the provisions of this chapter.

20 2529.7.8. The board shall not issue a license to a person who
21 has been convicted of a crime in this or any other state or in a
22 territory of the United States that involves sexual abuse of children
23 or who is required to register pursuant to Section 290 of the Penal
24 Code or the equivalent in another state or territory of the United
25 States.

26 2529.7.9. The board may refuse to issue a license to an
27 applicant if it appears he or she may be unable to practice safely
28 due to mental illness or chemical dependency. The procedures set
29 forth in Article 12.5 (commencing with Section 820) of Chapter 1
30 shall apply to a denial of a license pursuant to this section.

31 2529.7.10. The board may deny an application for licensure
32 or may suspend the license of a licensee if the applicant or licensee
33 is or has been guilty of unprofessional conduct, as described in
34 Section 4982.

35 2529.7.11. The board may place a license on probation.

36 2529.7.12. A license issued under this chapter shall expire no
37 later than 24 months after its date of issue. The expiration date of
38 the original license shall be set by the board.

Article 3. License Renewal

1
 2
 3 2529.7.13. To renew an unexpired license, the licensee shall,
 4 on or before the expiration date of the license, take all of the
 5 following actions:
 6 (a) Apply for renewal on a form prescribed by the board.
 7 (b) Pay a renewal fee to be determined by the board by
 8 regulation. The renewal fee shall be in an amount sufficient to
 9 cover the reasonable regulatory costs of carrying out the renewal
 10 provisions of this chapter.
 11 (c) Inform the board of whether he or she has been convicted,
 12 as defined in Section 490, of any misdemeanor or felony and
 13 whether any disciplinary action has been taken by a regulatory or
 14 licensing board in this or any other state after the prior issuance
 15 or renewal of his or her license.
 16 (d) Maintain compliance with the requirements of Section
 17 2529.7.3 if applying for renewal as a licensed behavior analyst
 18 and Section 2529.7.5 if applying for renewal as a licensed assistant
 19 behavior analyst.
 20 (e) Complete the continuing education requirements described
 21 in Section 2529.7.17.
 22 2529.7.14. A suspended license is subject to expiration as
 23 provided in Section 2529.7.12 and may be renewed as provided
 24 in this article.
 25 2529.7.15. A revoked license is subject to expiration as
 26 provided in Section 2529.7.12, but it shall not be renewed.
 27 2529.7.16. A license that is not renewed within three years
 28 after its date of expiration may not be renewed, restored,
 29 reinstated, or reissued; however, the licensee may apply for and
 30 obtain a new license if the following criteria are satisfied:
 31 (a) No fact, circumstance, or condition exists that, if the license
 32 were issued, would constitute grounds for its revocation or
 33 suspension.
 34 (b) He or she submits an application for examination eligibility
 35 and the fee for that application.
 36 (c) He or she takes and passes the current licensing examination.
 37 (d) He or she submits the fee for initial license issuance.
 38 2529.7.17. (a) Except as provided in subdivision (c), the board
 39 shall not renew any license pursuant to this chapter unless the

1 licensee certifies to the board, on a form prescribed by the board,
2 that he or she has completed the following:

3 (1) For a licensed behavior analyst, no fewer than 36 hours of
4 continuing education.

5 (2) For a licensed assistant behavior analyst, no fewer than 24
6 hours of continuing education.

7 (b) The board shall have the right to audit the records of any
8 licensee to verify the completion of the applicable continuing
9 education requirement. Licensees shall maintain records of
10 completion of required continuing education coursework for a
11 minimum of two years and shall make these records available to
12 the board for auditing purposes upon request by the board.

13 (c) The board may establish exceptions from the continuing
14 education requirements for good cause, as defined by the board
15 by regulation.

16 (d) The continuing education shall be obtained from sources to
17 be determined by the board by regulation.

18

19

Article 4. Miscellaneous

20

21 2529.7.18. The board shall report each month to the Controller
22 the amount and source of all revenue received pursuant to this
23 chapter and at the same time pay the entire amount thereof into
24 the State Treasury for credit to the Behavioral Sciences Fund.

25 2529.7.19. Nothing in this chapter shall be construed to limit,
26 impair, or otherwise apply to the practice of any person licensed
27 and regulated under any other chapter of Division 2 (commencing
28 with Section 500).

29

30

Article 5. Operation

31

32 2529.7.25. This chapter shall become operative on January 1,
33 2015.

34 ~~SEC. 2. Section 4990.02 of the Business and Professions Code~~
35 ~~is amended to read:~~

36 ~~4990.02. "Board," as used in this chapter, Chapter 5.2~~
37 ~~(commencing with Section 2529.7.1), Chapter 13 (commencing~~
38 ~~with Section 4980), Chapter 13.5 (commencing with Section~~
39 ~~4989.10), Chapter 14 (commencing with Section 4991), and~~

1 Chapter 16 (commencing with Section 4999.10) means the Board
 2 of Behavioral Sciences:

3 ~~SEC. 3. Section 4990.12 of the Business and Professions Code~~
 4 ~~is amended to read:~~

5 ~~4990.12. The duty of administering and enforcing this chapter,~~
 6 ~~Chapter 5.2 (commencing with Section 2529.7.1), Chapter 13~~
 7 ~~(commencing with Section 4980), Chapter 13.5 (commencing with~~
 8 ~~Section 4989.10), Chapter 14 (commencing with Section 4991),~~
 9 ~~and Chapter 16 (commencing with Section 4999.10) is vested in~~
 10 ~~the board and the executive officer subject to, and under the~~
 11 ~~direction of, the board. In the performance of this duty, the board~~
 12 ~~and the executive officer have all the powers and are subject to all~~
 13 ~~the responsibilities vested in, and imposed upon, the head of a~~
 14 ~~department by Chapter 2 (commencing with Section 11150) of~~
 15 ~~Part 1 of Division 3 of Title 2 of the Government Code.~~

16 ~~SEC. 4.~~

17 ~~SEC. 2. Section 4990.18 of the Business and Professions Code~~
 18 ~~is amended to read:~~

19 ~~4990.18. It is the intent of the Legislature that the board employ~~
 20 ~~its resources for each and all of the following functions:~~

21 ~~(a) The licensure of certified applied behavior analysts, certified~~
 22 ~~assistant applied behavior analysts, marriage and family therapists,~~
 23 ~~clinical social workers, professional clinical counselors, and~~
 24 ~~educational psychologists.~~

25 ~~(b) The development and administration of licensure~~
 26 ~~examinations and examination procedures consistent with~~
 27 ~~prevailing standards for the validation and use of licensing and~~
 28 ~~certification tests. Examinations shall measure knowledge and~~
 29 ~~abilities demonstrably important to the safe, effective practice of~~
 30 ~~the profession.~~

31 ~~(c) Enforcement of laws designed to protect the public from~~
 32 ~~incompetent, unethical, or unprofessional practitioners.~~

33 ~~(d) Consumer education.~~

34 ~~(e) Commencing January 1, 2015, the licensure of behavior~~
 35 ~~analysts and assistant behavior analysts.~~

36 ~~SEC. 5. Section 4990.30 of the Business and Professions Code~~
 37 ~~is amended to read:~~

38 ~~4990.30. (a) A licensed marriage and family therapist, marriage~~
 39 ~~and family therapist intern, licensed clinical social worker,~~
 40 ~~associate clinical social worker, licensed professional clinical~~

1 counselor, ~~professional clinical counselor intern, licensed~~
2 ~~educational psychologist, certified applied behavior analyst, or~~
3 ~~certified assistant applied behavior analyst whose license or~~
4 ~~registration has been revoked, suspended, or placed on probation,~~
5 ~~may petition the board for reinstatement or modification of the~~
6 ~~penalty, including modification or termination of probation. The~~
7 ~~petition shall be on a form provided by the board and shall state~~
8 ~~any facts and information as may be required by the board~~
9 ~~including, but not limited to, proof of compliance with the terms~~
10 ~~and conditions of the underlying disciplinary order. The petition~~
11 ~~shall be verified by the petitioner who shall file an original and~~
12 ~~sufficient copies of the petition, together with any supporting~~
13 ~~documents, for the members of the board, the administrative law~~
14 ~~judge, and the Attorney General.~~

15 (b) ~~The licensee or registrant may file the petition on or after~~
16 ~~the expiration of the following timeframes, each of which~~
17 ~~commences on the effective date of the decision ordering the~~
18 ~~disciplinary action or, if the order of the board, or any portion of~~
19 ~~it, is stayed by the board itself or by the superior court, from the~~
20 ~~date the disciplinary action is actually implemented in its entirety:~~

21 (1) ~~Three years for reinstatement of a license or registration that~~
22 ~~was revoked for unprofessional conduct, except that the board~~
23 ~~may, in its sole discretion, specify in its revocation order that a~~
24 ~~petition for reinstatement may be filed after two years.~~

25 (2) ~~Two years for early termination of any probation period of~~
26 ~~three years or more.~~

27 (3) ~~One year for modification of a condition, reinstatement of~~
28 ~~a license or registration revoked for mental or physical illness, or~~
29 ~~termination of probation of less than three years.~~

30 (e) ~~The petition may be heard by the board itself or the board~~
31 ~~may assign the petition to an administrative law judge pursuant to~~
32 ~~Section 11512 of the Government Code.~~

33 (d) ~~The petitioner may request that the board schedule the~~
34 ~~hearing on the petition for a board meeting at a specific city where~~
35 ~~the board regularly meets.~~

36 (e) ~~The petitioner and the Attorney General shall be given timely~~
37 ~~notice by letter of the time and place of the hearing on the petition~~
38 ~~and an opportunity to present both oral and documentary evidence~~
39 ~~and argument to the board or the administrative law judge.~~

- 1 ~~(f) The petitioner shall at all times have the burden of production~~
2 ~~and proof to establish by clear and convincing evidence that he or~~
3 ~~she is entitled to the relief sought in the petition.~~
- 4 ~~(g) The board, when it is hearing the petition itself, or an~~
5 ~~administrative law judge sitting for the board, may consider all~~
6 ~~activities of the petitioner since the disciplinary action was taken,~~
7 ~~the offense for which the petitioner was disciplined, the petitioner's~~
8 ~~activities during the time his or her license or registration was in~~
9 ~~good standing, and the petitioner's rehabilitative efforts, general~~
10 ~~reputation for truth, and professional ability.~~
- 11 ~~(h) The hearing may be continued from time to time as the board~~
12 ~~or the administrative law judge deems appropriate but in no case~~
13 ~~may the hearing on the petition be delayed more than 180 days~~
14 ~~from its filing without the consent of the petitioner.~~
- 15 ~~(i) The board itself, or the administrative law judge if one is~~
16 ~~designated by the board, shall hear the petition and shall prepare~~
17 ~~a written decision setting forth the reasons supporting the decision.~~
18 ~~In a decision granting a petition reinstating a license or modifying~~
19 ~~a penalty, the board itself, or the administrative law judge, may~~
20 ~~impose any terms and conditions that the agency deems reasonably~~
21 ~~appropriate, including those set forth in Sections 823 and 4990.40.~~
22 ~~If a petition is heard by an administrative law judge sitting alone,~~
23 ~~the administrative law judge shall prepare a proposed decision and~~
24 ~~submit it to the board. The board may take action with respect to~~
25 ~~the proposed decision and petition as it deems appropriate.~~
- 26 ~~(j) The petitioner shall pay a fingerprinting fee and provide a~~
27 ~~current set of his or her fingerprints to the board. The petitioner~~
28 ~~shall execute a form authorizing release to the board or its designee,~~
29 ~~of all information concerning the petitioner's current physical and~~
30 ~~mental condition. Information provided to the board pursuant to~~
31 ~~the release shall be confidential and shall not be subject to~~
32 ~~discovery or subpoena in any other proceeding, and shall not be~~
33 ~~admissible in any action, other than before the board, to determine~~
34 ~~the petitioner's fitness to practice as required by Section 822.~~
- 35 ~~(k) The board may delegate to its executive officer authority to~~
36 ~~order investigation of the contents of the petition.~~
- 37 ~~(l) No petition shall be considered while the petitioner is under~~
38 ~~sentence for any criminal offense, including any period during~~
39 ~~which the petitioner is on court-imposed probation or parole or~~
40 ~~the petitioner is required to register pursuant to Section 290 of the~~

1 ~~Penal Code. No petition shall be considered while there is an~~
2 ~~accusation or petition to revoke probation pending against the~~
3 ~~petitioner.~~

4 ~~(m) Except in those cases where the petitioner has been~~
5 ~~disciplined for violation of Section 822, the board may in its~~
6 ~~discretion deny without hearing or argument any petition that is~~
7 ~~filed pursuant to this section within a period of two years from the~~
8 ~~effective date of a prior decision following a hearing under this~~
9 ~~section.~~

10 ~~SEC. 6. Section 4990.38 of the Business and Professions Code~~
11 ~~is amended to read:~~

12 ~~4990.38. The board may deny an application or may suspend~~
13 ~~or revoke a license or registration issued under the chapters it~~
14 ~~administers and enforces for any disciplinary action imposed by~~
15 ~~another state or territory or possession of the United States, or by~~
16 ~~a governmental agency on a license, certificate or registration to~~
17 ~~practice marriage and family therapy, clinical social work,~~
18 ~~educational psychology, professional clinical counseling, applied~~
19 ~~behavior analysis, or any other healing art. The disciplinary action,~~
20 ~~which may include denial of licensure or revocation or suspension~~
21 ~~of the license or imposition of restrictions on it, constitutes~~
22 ~~unprofessional conduct. A certified copy of the disciplinary action~~
23 ~~decision or judgment shall be conclusive evidence of that action.~~