

AMENDED IN ASSEMBLY MARCH 29, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1715

Introduced by Assembly Member Holden

January 26, 2016

An act to amend Sections 27 and 2920 of, to amend, repeal, and add Sections 2922, 2923, and 2927 of, to add Chapter 6.7 (commencing with Section 2999.10) to Division 2 of, and to repeal Sections 2999.20, 2999.26, 2999.31, and 2999.33 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1715, as amended, Holden. Healing arts: behavior analysis: licensing.

Existing law provides for the licensure and regulation of various healing arts licensees by various boards, ~~as defined,~~ within the Department of Consumer Affairs, including the Board of Psychology. Under existing law, until January 1, 2017, the board is vested with the power to enforce the Psychology Licensing Law, and *the board* consists of 9 members, 4 of whom are public members and 5 of whom are licensed psychologists. *Existing law specifies that a quorum of the board requires 5 members.* Existing law requires the board to post information on its ~~licensees, as specified, including, among others,~~ ~~psychological assistants.~~ Existing law ~~specifies that a quorum of the board requires 5 members.~~ *licensees, including the license status and address of record for a licensee, as specified.*

This bill would enact the Behavior Analyst Act and would, until January 1, 2022, vest the board with the power to enforce the act.

This bill would, on and after July 1, 2018, increase the number of members that constitute a quorum of the board to 6 members, and would require the Governor to appoint 2 additional members to the board that to meet certain requirements, including, but not limited to, that one member is licensed as a psychologist and *is* qualified to practice behavior analysis, as defined. *The bill would also additionally require the board to post license information regarding behavior analysts, assistant behavior analysts, behavior analysis technicians, and behavior analyst interns.*

~~This bill would establish the Behavior Analyst Act. The~~

This bill would require a person to apply for and obtain a license from the board prior to engaging in the practice of behavior analysis, as defined, either as a behavior analyst or an assistant behavior analyst. The bill would require these applicants to, among other things, meet certain educational and training requirements, and submit fingerprints for both a state and federal criminal background check. The bill would require an assistant behavior analyst applicant to provide proof to the board of ongoing supervision by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis, as specified. The bill would provide that those licenses expire 2 years after the date of issuance and would authorize the renewal of unexpired licenses if certain requirements are met, including the completion of specified continuing education. The bill would also require an applicant to certify, under penalty of perjury, that he or she is in compliance with that continuing education requirement. By expanding the crime of perjury, the bill would impose a state-mandated local program.

This bill would require the registration of a behavior analyst intern by the board and would require the intern to be supervised by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis. In order to be registered, the bill would require an intern applicant to meet certain educational requirements, submit fingerprints for a criminal background check, and pay an application fee, as provided. The bill would make these intern registrations subject to renewal every 2 years and would require the payment of a renewal fee.

This bill would also require a behavior analysis technician, as defined, who practices under the direction and supervision of a licensed behavior analyst, a licensed assistant behavior analyst, or a licensed psychologist who is qualified to practice behavior analysis, to submit, among other things, an application subject to board approval, fingerprints for a state

and federal criminal background check, and payment of an annual application fee. *The bill would make these approvals subject to renewal every 2 years and would require the payment of a renewal fee.*

~~This bill would, until January 1, 2022, vest the board with the power to enforce the Behavior Analyst Act, and would require the board to, among other things, post information regarding licensed behavior analysts and licensed assistant behavior analysts, as specified. The~~

This bill would, until January 1, 2022, create the Behavior Analyst Committee within the jurisdiction of the board, and would require the committee to be comprised composed of 5 members who shall be appointed as specified. The bill would authorize the committee to make recommendations to the board regarding the regulation of the practice of behavior analysis in the state. analysis.

~~This bill would define certain terms for these purposes. The~~

This bill would require the board to conduct disciplinary hearings, as specified. The bill, on and after July 1, 2019, would make it unlawful to, among other things, practice behavior analysis without being licensed by the board, except as specified.

This bill would make a licensee or health care facility, as defined, that fails or refuses to comply with an authorized client request or court order for the medical records of a client subject to a specified civil penalty, except as specified. The bill would also make a licensee or health care facility with multiple violations of those court orders subject to a crime. By creating a new crime, the bill would impose a state-mandated local program.

This bill would make a violation of any of these provisions the act a misdemeanor punishable by 6 months in the county jail or a fine not to exceed \$2,500, or by both imprisonment and a fine. By creating a new crime, this bill would result in the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 27 of the Business and Professions Code
2 is amended to read:

3 27. (a) Each entity specified in subdivisions (c), (d), and (e)
4 shall provide on the Internet information regarding the status of
5 every license issued by that entity in accordance with the California
6 Public Records Act (Chapter 3.5 (commencing with Section 6250)
7 of Division 7 of Title 1 of the Government Code) and the
8 Information Practices Act of 1977 (Chapter 1 (commencing with
9 Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).
10 The public information to be provided on the Internet shall include
11 information on suspensions and revocations of licenses issued by
12 the entity and other related enforcement action, including
13 accusations filed pursuant to the Administrative Procedure Act
14 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
15 Division 3 of Title 2 of the Government Code) taken by the entity
16 relative to persons, businesses, or facilities subject to licensure or
17 regulation by the entity. The information may not include personal
18 information, including home telephone number, date of birth, or
19 social security number. Each entity shall disclose a licensee’s
20 address of record. However, each entity shall allow a licensee to
21 provide a post office box number or other alternate address, instead
22 of his or her home address, as the address of record. This section
23 shall not preclude an entity from also requiring a licensee, who
24 has provided a post office box number or other alternative mailing
25 address as his or her address of record, to provide a physical
26 business address or residence address only for the entity’s internal
27 administrative use and not for disclosure as the licensee’s address
28 of record or disclosure on the Internet.

29 (b) In providing information on the Internet, each entity specified
30 in subdivisions (c) and (d) shall comply with the Department of
31 Consumer Affairs’ guidelines for access to public records.

32 (c) Each of the following entities within the Department of
33 Consumer Affairs shall comply with the requirements of this
34 section:

35 (1) The Board for Professional Engineers, Land Surveyors, and
36 Geologists shall disclose information on its registrants and
37 licensees.

1 (2) The Bureau of Automotive Repair shall disclose information
2 on its licensees, including auto repair dealers, smog stations, lamp
3 and brake stations, smog check technicians, and smog inspection
4 certification stations.

5 (3) The Bureau of Electronic and Appliance Repair, Home
6 Furnishings, and Thermal Insulation shall disclose information on
7 its licensees and registrants, including major appliance repair
8 dealers, combination dealers (electronic and appliance), electronic
9 repair dealers, service contract sellers, and service contract
10 administrators.

11 (4) The Cemetery and Funeral Bureau shall disclose information
12 on its licensees, including cemetery brokers, cemetery salespersons,
13 cemetery managers, crematory managers, cemetery authorities,
14 crematories, cremated remains disposers, embalmers, funeral
15 establishments, and funeral directors.

16 (5) The Professional Fiduciaries Bureau shall disclose
17 information on its licensees.

18 (6) The Contractors' State License Board shall disclose
19 information on its licensees and registrants in accordance with
20 Chapter 9 (commencing with Section 7000) of Division 3. In
21 addition to information related to licenses as specified in
22 subdivision (a), the board shall also disclose information provided
23 to the board by the Labor Commissioner pursuant to Section 98.9
24 of the Labor Code.

25 (7) The Bureau for Private Postsecondary Education shall
26 disclose information on private postsecondary institutions under
27 its jurisdiction, including disclosure of notices to comply issued
28 pursuant to Section 94935 of the Education Code.

29 (8) The California Board of Accountancy shall disclose
30 information on its licensees and registrants.

31 (9) The California Architects Board shall disclose information
32 on its licensees, including architects and landscape architects.

33 (10) The State Athletic Commission shall disclose information
34 on its licensees and registrants.

35 (11) The State Board of Barbering and Cosmetology shall
36 disclose information on its licensees.

37 (12) The State Board of Guide Dogs for the Blind shall disclose
38 information on its licensees and registrants.

39 (13) The Acupuncture Board shall disclose information on its
40 licensees.

1 (14) The Board of Behavioral Sciences shall disclose
2 information on its licensees, including licensed marriage and family
3 therapists, licensed clinical social workers, licensed educational
4 psychologists, and licensed professional clinical counselors.

5 (15) The Dental Board of California shall disclose information
6 on its licensees.

7 (16) The State Board of Optometry shall disclose information
8 regarding certificates of registration to practice optometry,
9 statements of licensure, optometric corporation registrations, branch
10 office licenses, and fictitious name permits of its licensees.

11 (17) The Board of Psychology shall disclose information on its
12 licensees, including psychologists, psychological assistants,
13 registered psychologists, behavior analysts, ~~and~~ assistant behavior
14 ~~analysts~~; *analysts, behavior analysis technicians, and behavior*
15 *analyst interns.*

16 (d) The State Board of Chiropractic Examiners shall disclose
17 information on its licensees.

18 (e) The Structural Pest Control Board shall disclose information
19 on its licensees, including applicators, field representatives, and
20 operators in the areas of fumigation, general pest and wood
21 destroying pests and organisms, and wood roof cleaning and
22 treatment.

23 (f) The Bureau of Medical Marijuana Regulation shall disclose
24 information on its licensees.

25 (g) “Internet” for the purposes of this section has the meaning
26 set forth in paragraph (6) of subdivision (f) of Section 17538.

27 SEC. 2. Section 2920 of the Business and Professions Code is
28 amended to read:

29 2920. (a) The Board of Psychology shall enforce and
30 administer this chapter and Chapter 6.7 (commencing with Section
31 2999.10). The board shall consist of ~~9~~ *nine* members, ~~4~~ *four* of
32 whom shall be public members.

33 (b) On and after July 1, 2018, notwithstanding subdivision (a),
34 the board shall consist of 11 members, ~~5~~ *five* of whom shall be
35 public members.

36 (c) This section shall remain in effect only until January 1, 2017,
37 and as of that date is repealed.

38 (d) Notwithstanding any other law, the repeal of this section
39 renders the board subject to review by the appropriate policy
40 committees of the Legislature.

1 SEC. 3. Section 2922 of the Business and Professions Code is
2 amended to read:

3 2922. (a) In appointing the members of the board, except the
4 public members, the Governor shall use his or her judgment to
5 select psychologists who represent, as widely as possible, the varied
6 professional interests of psychologists in California.

7 (b) The Governor shall appoint two of the public members and
8 the five licensed members of the board qualified as provided in
9 Section 2923. The Senate Committee on Rules and the Speaker of
10 the Assembly shall each appoint a public member.

11 (c) This section shall become inoperative on July 1, 2018, and,
12 as of January 1, 2019, is repealed.

13 SEC. 4. Section 2922 is added to the Business and Professions
14 Code, to read:

15 2922. (a) In appointing the licensed members of the board,
16 the Governor shall use his or her judgment to select psychologists
17 and behavior analysts who represent, as widely as possible, the
18 varied professional interests of psychologists and behavior analysts
19 in California.

20 (b) The Governor shall appoint three of the public members and
21 the six licensed members of the board qualified as provided in
22 Section 2923. The Senate Committee on Rules and the Speaker of
23 the Assembly shall each appoint a public member.

24 (c) This section shall become operative on July 1, 2018.

25 SEC. 5. Section 2923 of the Business and Professions Code is
26 amended to read:

27 2923. (a) Each member of the board shall have all of the
28 following qualifications:

29 (1) He or she shall be a resident of this state.

30 (2) Each member appointed, except the public members, shall
31 be a licensed psychologist.

32 (b) The public members shall not be licentiates of the board or
33 of any board under this division or of any board referred to in the
34 Chiropractic Act or the Osteopathic Act.

35 (c) This section shall become inoperative on July 1, 2018, and,
36 as of January 1, 2019, is repealed.

37 SEC. 6. Section 2923 is added to the Business and Professions
38 Code, to read:

39 2923. (a) Each member of the board shall be a resident of this
40 state.

1 (b) Five members of the board shall be licensed as psychologists
2 under this chapter.

3 (c) One member shall be licensed as a psychologist and qualified
4 to practice behavior analysis, as defined in Section 2999.12, as
5 follows:

6 (1) For the first appointment after the operative date of this
7 section, the member shall hold a certificate as a certified behavior
8 analyst from a certifying entity, as defined in Section 2999.12.

9 (2) For subsequent appointments, the member shall be licensed
10 as a behavior analyst under Chapter 6.7 (commencing with Section
11 2999.10).

12 (d) The public members shall not be licentiates of the board or
13 of any board under this division or of any board referred to in the
14 Chiropractic Act or the Osteopathic Act.

15 (e) This section shall become operative on July 1, 2018.

16 SEC. 7. Section 2927 of the Business and Professions Code is
17 amended to read:

18 2927. (a) Five members of the board shall at all times
19 constitute a quorum.

20 (b) This section shall become inoperative on July 1, 2018, and,
21 as of January 1, 2019, is repealed.

22 SEC. 8. Section 2927 is added to the Business and Professions
23 Code, to read:

24 2927. (a) Six members of the board shall at all times constitute
25 a quorum.

26 (b) This section shall become operative on July 1, 2018.

27 SEC. 9. Chapter 6.7 (commencing with Section 2999.10) is
28 added to Division 2 of the Business and Professions Code, to read:

29
30 CHAPTER 6.7. BEHAVIOR ANALYSTS

31
32 Article 1. General Provisions

33
34 2999.10. This chapter shall be known, and may be cited, as the
35 Behavior Analyst Act.

36 2999.11. (a) The Legislature finds and declares that the practice
37 of behavior analysis in California affects the public health, safety,
38 and welfare, and is subject to regulation to protect the public from
39 the unauthorized and unqualified practice of behavior analysis,

1 and unprofessional, unethical, or harmful conduct by persons
2 licensed to practice behavior analysis.

3 (b) It is the intent of the Legislature that the board begin
4 accepting applications for behavior analyst ~~licensure and licensure~~,
5 assistant behavior analyst ~~licensure~~ *licensure, behavior analysis*
6 *technician approval, and behavior analyst intern registration* no
7 later than January 1, 2018, provided that the funds necessary to
8 implement this chapter have been appropriated by the Legislature
9 as specified in Section 2999.98.

10 2999.12. For purposes of this chapter, the following terms have
11 the following meanings:

12 (a) “Behavior analysis technician” means an individual who
13 works directly with a client to implement applied behavior analysis
14 services under the direction and supervision of a licensed behavior
15 analyst, a licensed assistant behavior analyst, or a licensed
16 psychologist who is qualified to practice behavior analysis, and
17 has successfully completed the application requirements described
18 in Section 2999.36.

19 (b) “Board” means the Board of Psychology.

20 (c) “Certifying entity” means the Behavior Analyst Certification
21 Board or its successor, or another national credentialing
22 organization with behavior analyst certification programs approved
23 by the board and accredited by the National Commission for
24 Certifying Agencies.

25 (d) “Committee” means the Behavior Analyst Committee.

26 (e) “Department” means the Department of Consumer Affairs.

27 (f) “Licensed assistant behavior analyst” means a person licensed
28 under this chapter to practice behavior analysis under the
29 supervision of a licensed behavior ~~analyst~~ *analyst or a licensed*
30 *psychologist who is qualified to practice behavior analysis*.

31 (g) “*Behavior analyst intern*” means a person registered under
32 *this chapter to practice behavior analysis under the supervision*
33 *of a licensed behavior analyst or a licensed psychologist who is*
34 *qualified to practice behavior analysis*.

35 ~~(g)~~

36 (h) “Licensed behavior analyst” means a person licensed under
37 this chapter to practice behavior analysis.

38 ~~(h)~~

39 (i) “Practice of behavior analysis” or “to practice behavior
40 analysis” means the design, implementation, and evaluation of

1 instructional and environmental modifications to produce socially
 2 significant improvements in human behavior and includes the
 3 empirical identification of functional relations between behavior
 4 and environmental factors, known as functional assessment and
 5 analysis, interventions based on scientific research and the direct
 6 observation and measurement of behavior and the environment,
 7 and utilization of contextual factors, motivating operations,
 8 antecedent stimuli, positive reinforcement, and other consequences
 9 to help people develop new behaviors, increase or decrease existing
 10 behaviors, and emit behaviors under specific environmental
 11 conditions.

12 (1) The practice of behavior analysis does not include
 13 psychological testing and assessment, diagnosis of a mental or
 14 physical disorder, neuropsychology, psychotherapy, cognitive
 15 therapy, sex therapy, psychoanalysis, hypnotherapy, counseling,
 16 prescribing drugs, performing surgery, or administering
 17 electroconvulsive therapy.

18 (2) The Legislature recognizes that the scopes of practice of
 19 healing arts licensees regulated under this division sometimes
 20 contain similar practices. However, nothing herein shall be
 21 construed to allow a licensed behavior analyst or a licensed
 22 assistant behavior analyst to engage in those practices, including,
 23 but not limited to, assessments, other than specific to their scope
 24 of practice within behavior analysis as described herein. Any
 25 person practicing behavior analysis under this chapter who violates
 26 this provision is subject to disciplinary action by both the Board
 27 of Psychology and the board overseeing the relevant practice.

28
 29
 30

Article 2. Administration

31 2999.20. (a) The Board of Psychology is vested with the power
 32 to administer the provisions and requirements of this chapter, and
 33 may make and enforce rules and regulations that are reasonably
 34 necessary to carry out its provisions.

35 (b) This section shall remain in effect only until January 1, 2022,
 36 and as of that date is repealed. Notwithstanding any other law, the
 37 repeal of this section renders the board subject to review by the
 38 appropriate policy committees of the Legislature.

39 2999.21. Protection of the public shall be the highest priority
 40 for the board in exercising its licensing, regulatory, and disciplinary

1 functions pursuant to this chapter. Whenever the protection of the
2 public is inconsistent with other interests sought to be promoted,
3 the protection of the public shall be paramount.

4 2999.22. The board shall adopt, amend, and repeal regulations
5 to implement the requirements of this chapter. All regulations
6 adopted by the board shall comply with the provisions of Chapter
7 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
8 Title 2 of the Government Code.

9 2999.23. The board shall adopt a program of consumer and
10 professional education in matters relevant to the ethical practice
11 of behavior analysis. The board shall establish ~~as its standards of~~
12 ~~ethical conduct relating to the practice of behavior analysis, the~~
13 ~~“Professional and Ethical Compliance Code for Behavior Analysts”~~
14 ~~analysis that are based on current standards published by the~~
15 ~~Behavior Analyst Certification Board, a national credentialing~~
16 ~~organization with behavior analyst certification programs~~
17 ~~approved by the board and accredited by the National Commission~~
18 ~~for Certifying Agencies. These standards shall be applied by the~~
19 ~~board as the accepted standard of care ethics in all law and ethics~~
20 ~~licensing examination development and in all board enforcement~~
21 ~~policies and disciplinary case evaluations. evaluations involving~~
22 ~~the practice of behavior analysis.~~

23 2999.24. The board may employ, subject to civil service and
24 other laws, employees as may be necessary to carry out the
25 provisions of this chapter under the direction of the executive
26 officer of the board.

27 2999.25. The board shall maintain, and make available to the
28 public, a list of all licensees. The board shall make available on
29 its Internet Web site information regarding the status of every
30 license issued by the board under this chapter pursuant to Section
31 27.

32 2999.26. (a) The Behavior Analyst Committee is hereby
33 created within the jurisdiction of the board to make
34 recommendations to the board regarding the regulation of the
35 practice of behavior analysis in the state in order to protect the
36 public from the unauthorized and unqualified practice of applied
37 behavior analysis, and unprofessional, unethical, or harmful
38 conduct by persons licensed to practice behavior analysis.

39 (b) The committee shall consist of five members. Two members
40 shall be licensed behavior analysts, one of which shall also be a

1 member of the board. One member shall be a psychologist licensed
2 under Chapter 6.6 (commencing with Section 2900) and who holds
3 a current certification from a certifying entity as a behavior analyst.
4 One member shall be a licensed assistant behavior analyst. One
5 member shall be a public member who is not licensed under this
6 chapter, under any chapter within this division, or by any board
7 referred to in the Chiropractic Act or the Osteopathic Act.

8 (c) The Governor shall appoint one licensed behavior analyst
9 member, the licensed psychologist member, and the licensed
10 assistant behavior analyst member. The Senate Committee on
11 Rules shall appoint the public member, and the Speaker of the
12 Assembly shall appoint one licensed behavior analyst member.

13 (d) Notwithstanding subdivisions (b) and (c), the ~~initially~~ *initial*
14 appointed members of the committee shall be appointed as follows:

15 (1) The initial members appointed by the Governor shall be as
16 follows:

17 (A) One member shall be currently certified by a certifying
18 entity as a certified behavior analyst and shall serve an initial term
19 of one year.

20 (B) One member shall be currently certified by a certifying
21 entity as a certified assistant behavior analyst and shall serve an
22 initial term of two years.

23 (C) One member shall be a licensed psychologist who is
24 currently certified by a certifying entity as a certified behavior
25 analyst and shall serve an initial term of three years.

26 (2) The initial member appointed by the Senate Committee on
27 Rules shall serve a term of four years.

28 (3) The initial member appointed by the Speaker of the
29 Assembly shall be currently certified by a certifying entity as a
30 certified behavior analyst and shall serve an initial term of four
31 years.

32 (e) Except as provided in subdivision (d), each member of the
33 committee shall hold office for a term of four years, and shall serve
34 until the appointment of his or her successor or until one year has
35 elapsed since the expiration of the term for which he or she was
36 appointed, whichever occurs first. Vacancies shall be filled by the
37 appointing power for the unexpired portion of the terms in which
38 they occur. A member shall not serve for more than two
39 consecutive terms.

40 (f) All terms shall begin on July 1 and expire on June 30.

1 (g) Each member of the committee shall receive per diem and
2 expenses as provided in Sections 103 and 113.

3 (h) Three members of the committee shall at all times constitute
4 a quorum.

5 (i) This section shall become operative on July 1, 2018.

6 (j) This section shall remain in effect only until January 1, 2022,
7 and as of that date is repealed. ~~Notwithstanding any other law, the
8 repeal of this section renders the committee subject to review by
9 the appropriate policy committees of the Legislature.~~

10 2999.27. The committee shall do all of the following:

11 (a) Meet at least once per quarter. All meetings of the committee
12 shall be public meetings. Notice of each regular meeting of the
13 committee shall be given in accordance with the Bagley-Keene
14 Open Meeting Act (Article 9 (commencing with Section 11120)
15 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
16 Code).

17 (b) Committee meetings may be called upon reasonable notice
18 at the discretion of the chair, and shall be called at any time upon
19 reasonable notice by a written request of two committee members
20 to the chair.

21 (c) The committee shall elect a chair and a vice chair from
22 among its members at the first meeting held in each fiscal year.
23 The chair shall preside at all meetings of the committee and shall
24 work with the executive officer of the board to coordinate the
25 committee's business. If the chair is unable to attend a meeting,
26 the vice chair shall preside at the meeting.

27 2999.28. (a) The committee may make recommendations to
28 the board regarding licensing and practice standards.

29 (b) The committee may make recommendations to the board
30 regarding the adoption, amendment, and repeal of regulations to
31 implement the requirements of this chapter including, but not
32 limited to, the setting of fees and the establishment of disciplinary
33 guidelines.

34

35 Article 3. Licensing

36

37 2999.30. To qualify for licensure as a licensed behavior analyst
38 or a licensed assistant behavior analyst, each applicant shall meet
39 the board's regulatory requirements for behavior analyst or assistant

1 behavior analyst licensure, as applicable, including all of the
2 following:

3 (a) The applicant has not committed acts or crimes constituting
4 grounds for denial of licensure under Section 480.

5 (b) The board shall not issue a license or registration to any
6 person who has been convicted of a crime in this state, or another
7 state, or in a territory of the United States that involves sexual
8 abuse of a child, or who is required to register pursuant to Section
9 290 of the Penal Code or the equivalent in another state or territory.

10 (c) The applicant has successfully passed a state and federal
11 level criminal offender record information search conducted
12 through the Department of Justice, as follows:

13 (1) The board shall request from the Department of Justice
14 subsequent arrest notification service, pursuant to Section 11105.2
15 of the Penal Code, for each person who submitted information
16 pursuant to this subdivision.

17 (2) The Department of Justice shall charge a fee sufficient to
18 cover the cost of processing the request described in this section.

19 2999.31. (a) In order to obtain a license as a behavior analyst,
20 an individual shall submit an application on a form approved by
21 the board accompanied by the fees required by the board as
22 specified in Section 2999.93.

23 (b) An applicant shall include, with the application, verification
24 from the certifying entity that the applicant meets both of the
25 following requirements:

26 (1) Has passed the Board Certified Behavior Analyst
27 examination or an equivalent examination administered by the
28 certifying entity.

29 (2) Maintains an active status as a certified behavior analyst
30 with the certifying entity.

31 (c) Each applicant shall obtain a passing score on a California
32 law and ethics examination administered by the board.

33 (d) This section shall become inoperative on July 1, 2019. An
34 applicant who submits his or her application prior to July 1, 2019,
35 shall be required to meet the requirements of this section to be
36 licensed by the board.

37 (e) This section shall remain in effect only until January 1, 2020,
38 and as of that date is repealed.

39 2999.32. (a) In order to obtain a license as a behavior analyst,
40 an individual shall submit an application on a form approved by

1 the board accompanied by the fees required by the board as
2 specified in Section 2999.93.

3 (b) An applicant shall include, with the application, verification
4 from the certifying entity that the applicant meets both of the
5 following requirements:

6 (1) Has passed the Board Certified Behavior Analyst
7 examination or an equivalent examination administered by the
8 certifying entity.

9 (2) Maintains an active status as a certified behavior analyst
10 with the certifying entity.

11 (c) Each applicant shall obtain a passing score on a California
12 law and ethics examination administered by the board.

13 (d) The applicant shall ~~possess~~ *meet one of the following*
14 *requirements:*

15 (1) ~~Possess~~ a master's degree or higher level of education from
16 an institution, which meets the requirements described in Section
17 2999.35, that was conferred in behavior analysis, psychology, or
18 education, ~~or conferred in a degree program in which the applicant~~
19 ~~completed a behavior analysis course sequence approved by the~~
20 ~~certifying entity or otherwise deemed an applicable equivalent by~~
21 ~~the certifying entity.~~ *education.*

22 (2) *Possess a master's degree or higher level of education,*
23 *which meets the requirements described in Section 2999.35, and*
24 *completed a behavior analysis course sequence approved by the*
25 *certifying entity.*

26 (e) In addition to subdivisions (a) to (d), inclusive, an individual
27 shall meet one of the following paragraphs in order to be licensed
28 under this chapter:

29 (1) An individual shall have completed both of the following:

30 (A) Two hundred seventy hours of classroom graduate-level
31 instruction in all of the following content areas:

32 (i) Ethical and professional conduct coursework consisting of
33 45 hours. The content must be taught in one or more freestanding
34 courses devoted to ethical and professional conduct of behavior
35 analysts.

36 (ii) Concepts and principles of behavior analysis consisting of
37 45 hours.

38 (iii) Research methods in behavior analysis, consisting of 25
39 hours of measurement, including data analysis, and 20 hours of
40 experimental design.

1 (iv) Applied behavior analysis, consisting of 45 hours of
2 fundamental elements of behavior change and specific behavior
3 change procedures, 30 hours of identification of the problem and
4 assessment, 10 hours of intervention and behavior change
5 considerations, 10 hours of behavior change systems, and 10 hours
6 of implementation, management, and supervision.

7 (v) Elective coursework in behavior analysis consisting of 30
8 hours.

9 (B) Supervised experiential training by any of the following:

10 (i) One thousand five hundred hours of independent field work
11 in behavior analysis supervised in accordance with the requirements
12 of the certifying entity.

13 (ii) One thousand hours of supervised practicum in behavior
14 analysis within a university practicum approved by the certifying
15 entity, taken for graduate academic credit, and completed with a
16 passing grade.

17 (iii) Seven hundred fifty hours of supervised intensive practicum
18 in behavior analysis within a university practicum approved by
19 the certifying entity, taken for graduate academic credit, and
20 completed with a passing grade.

21 (iv) A combination of the supervised experience in clause (i),
22 (ii), or (iii). Hours may be completed in any combination of the
23 categories of supervised experience. Hours accrued through a
24 combination of supervised experience shall be proportionately
25 calculated.

26 (2) An individual shall meet all of the following requirements:

27 (A) Have a faculty appointment of at least three years,
28 cumulatively, of full-time work as a faculty member at a fully
29 accredited higher education institution within a five-year period.

30 (B) Taught at least five sections or iterations of behavior analysis
31 coursework. An applicant shall have taught at least two behavior
32 analysis content areas, which are concepts and principles of
33 behavior, single-subject research methods, applied behavior
34 analysis, and ethics in behavior analysis, in separate courses. Each
35 course taught shall have been exclusively or primarily devoted to
36 behavior analysis content, and shall have been taught at the
37 graduate level. An applicant shall submit proof of completion of
38 the faculty appointment and teaching requirements from a
39 department head, including the syllabus for each course taught, to
40 the board.

- 1 (C) Published one article with all of the following
2 characteristics:
- 3 (i) Behavior analytic in nature.
 - 4 (ii) Includes at least one experimental evaluation.
 - 5 (iii) Published in a high-quality, peer reviewed journal.
 - 6 (iv) The applicant is the first, second, or corresponding author.
 - 7 (v) The article may have been published at any time during the
8 applicant's career.
- 9 (D) Obtained supervised experiential training by any of the
10 following:
- 11 (i) One thousand five hundred hours of independent field work
12 in behavior analysis supervised in accordance with the requirements
13 of the certifying entity.
 - 14 (ii) One thousand hours of supervised practicum in behavior
15 analysis within a university practicum approved by the certifying
16 entity, taken for graduate academic credit, and completed with a
17 passing grade.
 - 18 (iii) Seven hundred fifty hours of supervised intensive practicum
19 in behavior analysis within a university practicum approved by
20 the certifying entity, taken for graduate credit, and completed with
21 a passing grade.
 - 22 (iv) A combination of the supervised experience in clause (i),
23 (ii), or (iii). Hours may be completed in any combination of the
24 categories of supervised experience. Hours accrued through a
25 combination of supervised experience shall be proportionately
26 calculated.
- 27 (3) An individual shall have completed all of the following:
- 28 (A) A doctoral degree in behavior analysis, psychology, or
29 education from an accredited higher education institution.
 - 30 (B) Ten years of postdoctoral experience practicing behavior
31 analysis. The duration of practice shall be at least 10 years,
32 cumulatively, of full-time practice. An applicant's practice shall
33 have occurred under a relevant state professional credential or
34 license.
 - 35 (C) At least 500 hours of supplemental supervised experiential
36 training that meets current experience standards of the certifying
37 entity, commencing after the 10 years of postdoctoral experience
38 required in paragraph (b).
 - 39 (f) This section shall become operative on July 1, 2019.

1 2999.33. (a) To obtain a license as an assistant behavior
2 analyst, an individual shall submit an application on a form
3 approved by the board accompanied by the fees required by the
4 board as specified in Section 2999.93.

5 (b) An applicant shall include, with the application, verification
6 from the certifying entity that the applicant meets all of the
7 following requirements:

8 (1) Has passed the Board Certified Assistant Behavior Analyst
9 examination or equivalent examination administered by the
10 certifying entity.

11 (2) Maintains an active status as a certified assistant behavior
12 analyst with the certifying entity.

13 (c) Each applicant shall obtain a passing score on a California
14 law and ethics examination administered by the board.

15 (d) Each applicant shall provide proof to the board of ongoing
16 supervision by a licensed behavior analyst or a licensed
17 psychologist who is qualified to practice behavior analysis in a
18 manner consistent with the certifying entity’s requirements for
19 supervision of assistant behavior analysts.

20 (e) This section shall become inoperative on July 1, 2019. An
21 applicant who submits his or her application prior to July 1, 2019,
22 shall be required to meet the requirements of this section to be
23 licensed by the board.

24 (f) This section shall remain in effect only until January 1, 2020,
25 and as of that date is repealed.

26 2999.34. (a) In order for an individual to be licensed as an
27 assistant behavior analyst under this chapter, he or she shall possess
28 a baccalaureate degree or higher level of education from an
29 institution that meets the requirements described in Section
30 2999.35.

31 (b) An applicant shall include, with the application, verification
32 from the certifying entity that the applicant meets both of the
33 following requirements:

34 (1) Has passed the Board Certified Assistant Behavior Analyst
35 examination or an equivalent examination administered by the
36 certifying entity.

37 (2) Maintains an active status as a certified assistant behavior
38 analyst with the certifying entity.

39 (c) Each applicant shall obtain a passing score on a California
40 law and ethics examination administered by the board.

1 (d) Each applicant shall provide proof to the board of ongoing
2 supervision by a licensed behavior analyst or a licensed
3 psychologist who is qualified to practice behavior analysis in a
4 manner consistent with the certifying entity's requirements for
5 supervision of assistant behavior analysts.

6 (e) In addition to subdivisions (a) to (d), inclusive, an individual
7 shall meet all of the following requirements in order to be licensed
8 under this chapter:

9 (1) Completed a baccalaureate degree or higher level of
10 education from an institution that meets the requirements in Section
11 2999.35.

12 (2) An applicant shall meet both of the following:

13 (A) Completed 180 classroom hours of undergraduate or
14 graduate level instruction in all of the following content areas:

15 (i) Ethical and professional conduct coursework of behavior
16 analysis consisting of 15 hours.

17 (ii) Concepts and principles of behavior analysis consisting of
18 45 hours.

19 (iii) Research methods in behavior analysis, consisting of 10
20 hours of measurement, including data analysis, and five hours of
21 experimental design.

22 (iv) Applied behavior analysis, consisting of 45 hours of
23 fundamental elements of behavior change and specific behavior
24 change procedures, 30 hours of identification of the problem and
25 assessment, five hours of intervention and behavior change
26 considerations, five hours of behavior change systems, and five
27 hours of implementation, management, and supervision.

28 (v) Elective coursework in behavior analysis consisting of 15
29 hours.

30 (B) Obtained supervised experiential training by any of the
31 following:

32 (i) One thousand hours of independent field work in behavior
33 analysis supervised in accordance with the requirements of the
34 certifying entity, taken for academic credit, and completed with a
35 passing grade.

36 (ii) Six hundred seventy hours of supervised practicum in
37 behavior analysis within a university practicum approved by the
38 certifying entity, taken for academic credit, and completed with a
39 passing grade.

1 (iii) Five hundred hours of supervised intensive practicum in
 2 behavior analysis within a university practicum approved by the
 3 certifying entity, taken for academic credit, and completed with a
 4 passing grade.

5 (iv) A combination of the supervised experience in clause (i),
 6 (ii), or (iii). Hours may be completed in any combination of the
 7 categories of supervised experience. Hours accrued through a
 8 combination of supervised experience shall be proportionately
 9 calculated.

10 (f) This section shall become operative on July 1, 2019.

11 2999.35. The education required to obtain a behavior analyst
 12 license or an assistant behavior analyst license shall be from any
 13 of the following:

14 (a) A United States institution of higher education listed by the
 15 Council for Higher Education Accreditation.

16 (b) A Canadian institution of higher education that is a member
 17 of the Association of Universities and Colleges of Canada or the
 18 Association of Canadian Community Colleges.

19 (c) An applicant for licensure trained in an educational
 20 institution outside the United States or Canada shall demonstrate
 21 to the satisfaction of the board that he or she possesses a degree
 22 in a relevant subject that is equivalent to a degree earned from a
 23 regionally accredited university in the United States or Canada.
 24 Such an applicant shall provide to the board a comprehensive
 25 evaluation of the degree performed by a foreign credential service
 26 that is a member of the National Association of Credential
 27 Evaluation Services (NACES), and any other documentation that
 28 the board deems necessary.

29 2999.35.5. *(a) A person other than a licensed behavior analyst,*
 30 *licensed assistant behavior analyst, or approved behavior analysis*
 31 *technician may be registered as a behavior analyst intern by the*
 32 *board in order to prepare for licensure as a behavior analyst. The*
 33 *behavior analyst intern shall be supervised in accordance with*
 34 *the board’s regulations by a licensed behavior analyst or a licensed*
 35 *psychologist who is qualified to practice behavior analysis in order*
 36 *to perform behavior analysis services provided that all of the*
 37 *following apply:*

38 (1) *The person’s title is “behavior analyst intern.”*

39 (2) *The person meets one of the following requirements:*

1 (A) *Is enrolled in a defined program of study, course, practicum,*
2 *internship, or postdoctoral program that meets the requirements*
3 *of subdivision (d) of Section 2999.32.*

4 (B) *Has completed a defined program of study, course, or*
5 *postdoctoral traineeship that meets the requirements of subdivision*
6 *(d) of Section 2999.32 and is currently completing supervised*
7 *experiential training in accordance with this chapter.*

8 (b) *The behavior analyst intern's supervisor shall be responsible*
9 *for ensuring that the extent, kind, and quality of the behavior*
10 *analysis services the behavior analyst intern performs are*
11 *consistent with his or her training and experience and shall be*
12 *responsible for the behavior analyst intern's compliance with this*
13 *chapter and regulations duly adopted hereunder, including those*
14 *provisions set forth in Section 2999.62.*

15 (c) *The behavior analyst intern shall be registered by the board.*
16 *In order to register as a behavior analyst intern an individual*
17 *shall:*

18 (1) *Submit fingerprint images to the California Department of*
19 *Justice for a state and federal criminal background report within*
20 *14 days from the date of application.*

21 (2) *Pay an application fee, in an amount not to exceed a*
22 *reasonable regulatory cost, to be determined by the board.*

23 (3) *Renew his or her application every two years by submitting*
24 *to the board verification of continued practice, as specified in this*
25 *section, and by paying to the board a renewal fee in an amount*
26 *that is 50 percent of the application fee.*

27 (4) *An individual may only practice as a behavior analyst intern*
28 *for up to six years from the date of initial registration.*

29 (d) *No licensed behavior analyst or licensed psychologist who*
30 *is qualified to practice behavior analysis may supervise more than*
31 *four behavior analyst interns at any given time unless specifically*
32 *authorized to do so by the board. No behavior analyst intern may*
33 *provide behavior analysis services to the public except as a*
34 *supervisee of a licensed behavior analyst or licensed psychologist*
35 *who is qualified to practice behavior analysis.*

36 2999.36. (a) *Behavior analysis technicians practicing in this*
37 *state under the direction and supervision of an individual licensed*
38 *under this chapter or a licensed psychologist who is qualified to*
39 *practice behavior analysis shall satisfy all of the following*
40 *requirements:*

1 (1) Be at least 18 years of age and possess a minimum of a high
2 school diploma or its equivalent.

3 (2) Submit an application on a form approved by the board.

4 (3) Submit fingerprint images to the California Department of
5 Justice for a state and federal criminal background report within
6 14 days from the date of application.

7 (4) ~~Annually pay~~ Pay an application fee, in an amount not to
8 exceed a reasonable regulatory cost, to be determined by the board.

9 (5) *Renew his or her application every two years by submitting*
10 *to the board verification of continued practice as a behavior*
11 *analysis technician and by paying to the board a renewal fee in*
12 *an amount that is 50 percent of the application fee.*

13 (b) The board may deny or revoke acceptance of an application
14 *or the renewal of an application* under this section if it is
15 determined to be in the best interest of public safety and welfare,
16 as described in Section 2999.21.

17 2999.37. On and after July 1, 2019, it shall be unlawful for any
18 person to engage in any of the following acts:

19 (a) Engage in the practice of behavior analysis, as defined in
20 Section 2999.12, without first having complied with the provisions
21 of this chapter and without holding a current, valid, and active
22 license as required by this chapter.

23 (b) Represent himself or herself by *using* the title “licensed
24 behavior analyst,” or “licensed assistant behavior analyst” without
25 being duly licensed according to the provisions of this chapter.

26 (c) Make any use of any title, words, letters, or abbreviations
27 that may reasonably be confused with a designation provided by
28 this chapter to denote a standard of professional or occupational
29 competence without being duly licensed.

30 (d) Materially refuse to furnish the board information or records
31 required or requested pursuant to this chapter.

32 2999.38. This chapter does not apply to any of the following:

33 (a) An individual licensed to practice psychology in this state
34 under Chapter 6.6 (commencing with Section 2900), if the practice
35 of behavior analysis engaged in by the licensed psychologist is
36 within the licensed psychologist’s training and competence.

37 (b) A speech-language pathologist or an audiologist licensed
38 under Chapter 5.3 (commencing with Section 2530), an
39 occupational therapist licensed under Chapter 5.6 (commencing
40 with Section 2570), a physical therapist licensed under Chapter

1 5.7 (commencing with Section 2600), a marriage and family
2 therapist licensed under Chapter 13 (commencing with Section
3 4980), an educational psychologist licensed under Chapter 13.5
4 (commencing with Section 4989.10), a clinical social worker
5 licensed under Chapter 14 (commencing with Section 4991), or a
6 professional clinical counselor licensed under Chapter 16
7 (commencing with Section 4999.10), if the services provided by
8 any of those licensees are within his or her licensed scope of
9 practice and within the scope of his or her training and competence,
10 provided that he or she does not represent himself or herself as a
11 licensed behavior analyst or licensed assistant behavior analyst.

12 ~~(e) A student or other individual pursuing supervised experience
13 for any of the following:~~

14 ~~(1) Experiential training toward a license described in this
15 chapter in accordance with this chapter.~~

16 ~~(2) Experience in behavior analysis toward a license described
17 in subdivision (a) or (b) in accordance with the requirements of
18 the respective licensure act in this division.~~

19 ~~(3) As part of a defined program of study, course, practicum,
20 internship, or postdoctoral program, provided that the behavior
21 analysis activities are directly supervised by a licensed behavior
22 analyst, a licensed psychologist, or by an instructor in a course
23 sequence approved by a certifying entity.~~

24 ~~(d)~~

25 ~~(c) A parent or guardian guardian, or his or her designee, of a
26 recipient of behavior analysis services who acts under the direction
27 of a licensed behavior analyst or licensed assistant behavior analyst.
28 an individual exempt pursuant to subdivision (a) or (b) for that
29 recipient.~~

30 ~~(e)~~

31 ~~(d) An individual who teaches behavior analysis or conducts
32 behavior analysis research, provided that such teaching or research
33 does not involve the direct delivery of behavior analysis services.~~

34 ~~(f)~~

35 ~~(e) A behavior analyst licensed in another state or certified by
36 the certifying entity to practice independently, and who temporarily
37 provides behavior analysis services in California during a period
38 of not more than 90 days in a calendar year.~~

39 ~~(g)~~

1 (f) An individual who is vendorized by one or more regional
2 centers of the State Department of Developmental Services while
3 practicing behavior analysis services authorized under that
4 vendorization. That individual shall not represent himself or herself
5 as a licensed behavior analyst or licensed assistant behavior analyst
6 unless he or she holds a license under this chapter, and shall not
7 offer behavior analysis services to any person or entity other than
8 the regional centers with which he or she is vendorized or accept
9 remuneration for providing behavior analysis services other than
10 the remuneration received from those regional centers unless he
11 or she holds a license under this chapter.

12 ~~(h) An individual employed by a local educational agency for~~
13 ~~the purpose of assisting students with behavioral and developmental~~
14 ~~issues when in classroom and other school settings.~~

15 (g) *An individual employed or contracted by a local educational*
16 *agency, or a nonpublic agency or school with a contract with a*
17 *local educational agency, for the purpose of serving students with*
18 *behavioral and developmental issues when in classroom and other*
19 *school settings. This individual shall not represent himself or*
20 *herself as a licensed behavior analyst or licensed assistant*
21 *behavior analyst unless he or she holds a license under this*
22 *chapter, and shall not offer behavior analysis services to any*
23 *person or entity other than the local education agencies with which*
24 *he or she has a contract or accept remuneration for providing*
25 *behavior analysis services other than the remuneration received*
26 *from those local education agencies unless he or she holds a*
27 *license under this chapter.*

28 2999.41. A licensee shall give written notice to the board of a
29 name change within 30 days after each change, giving both the
30 old and new names. A copy of the legal document authorizing the
31 name change, such as a court order or marriage certificate, shall
32 be submitted with the notice.

33 2999.44. (a) A license shall expire and become invalid two
34 years after it is issued at 12 midnight on the last day of the month
35 in which it was issued, if not renewed.

36 (b) To renew an unexpired license, the licensee shall, on or
37 before the date on which it would otherwise expire, apply for
38 renewal on a form provided by the board, accompanied by the
39 renewal fee set by the board. The licensee shall include verification

1 from the certifying entity that he or she maintains an active
2 certification status with the renewal form.

3 (c) To renew an assistant behavior analyst license, in addition
4 to the requirements in subdivision (b), the licensee shall submit
5 proof of ongoing supervision by a licensed behavior analyst or a
6 licensed psychologist who is qualified to practice behavior analysis
7 in a manner consistent with the board's requirements for
8 supervision of assistant behavior analysts.

9 2999.45. (a) A license that has expired may be renewed at any
10 time within three years after its expiration by applying for renewal
11 on a form provided by the board, payment of all accrued and unpaid
12 renewal fees, and the delinquency fee specified in Section 2999.93.
13 The licensee shall include verification from the certifying entity
14 that he or she maintains an active certification status with the
15 renewal form.

16 (b) Except as provided in Section 2999.47, a license that is not
17 renewed within three years of its expiration shall not be renewed,
18 restored, or reinstated, and the license shall be canceled
19 immediately upon expiration of the three-year period.

20 2999.46. (a) The board shall not issue any renewal license, a
21 new license after expiration of an expired license, or a reinstatement
22 license unless the applicant submits proof that he or she has
23 completed not less than 32 hours of approved continuing education
24 in the preceding two-year licensure cycle for licensed behavior
25 analysts and 20 hours of approved continuing education in the
26 preceding two-year licensure cycle for licensed assistant behavior
27 analysts.

28 (b) Each person renewing or reinstating his or her license or
29 obtaining a new license after expiration of a prior license issued
30 pursuant to this chapter shall submit proof of compliance with this
31 section to the board.

32 (c) A person applying for renewal, a new license after expiration
33 of a prior license, or reinstatement to an active license status shall
34 certify under penalty of perjury that he or she is in compliance
35 with this section.

36 (d) The board may recognize continuing education courses that
37 have been approved by ~~one or more private nonprofit organizations~~
38 ~~that have at least 10 years' experience managing continuing~~
39 ~~education programs for behavior analysts.~~ *the certifying entity.*

1 (e) The board shall adopt regulations as necessary for
2 implementation of this section.

3 2999.47. (a) A suspended license is subject to expiration and
4 shall be renewed as provided in this article, but such renewal does
5 not entitle the licensee, while the license remains suspended, and
6 until it is reinstated, to engage in the licensed activity or in any
7 other activity or conduct in violation of the order or judgment by
8 which the license was suspended.

9 (b) A license revoked on disciplinary grounds is subject to
10 expiration as provided in this article, but it may not be renewed.
11 If it is reinstated after its expiration, the licensee, as a condition
12 of reinstatement, shall pay a reinstatement fee in an amount equal
13 to the renewal fee, plus the delinquency fee, and any fees accrued
14 at the time of its revocation.

15
16 Article 4. Enforcement
17

18 2999.60. The board may on its own, and shall, upon the receipt
19 of a complaint from any person, investigate the actions of any
20 licensee. The board shall review a licensee’s alleged violation of
21 statute, regulation, or any other law and any other complaint
22 referred to it by the public, a public agency, or the department,
23 and may upon a finding of a violation take disciplinary action
24 under this article.

25 2999.61. A license issued under this chapter may be denied,
26 revoked, or otherwise sanctioned upon demonstration of
27 ineligibility for licensure, including, but not limited to, failure to
28 maintain active certification by the certifying entity or falsification
29 of documentation submitted to the board for licensure or submitted
30 to the certifying authority for certification.

31 ~~2999.62. The board may deny a license application, may issue~~
32 ~~a license with terms and conditions, may suspend or revoke a~~
33 ~~license, or may place a license on probation if the applicant or~~
34 ~~licensee has been guilty of unprofessional conduct. *refuse to issue*~~
35 ~~*a registration or license, or may issue a registration or license*~~
36 ~~*with terms and conditions, or may suspend or revoke the*~~
37 ~~*registration or license of any registrant or licensee if the applicant,*~~
38 ~~*registrant, or licensee has been guilty of unprofessional conduct.*~~
39 Unprofessional conduct shall include, but not be limited to:

- 1 (a) Conviction of a crime substantially related to the
2 qualifications, functions, or duties of a licensed behavior analyst
3 or a licensed assistant behavior analyst.
- 4 (b) Use of any controlled substance as defined in Division 10
5 (commencing with Section 11000) of the Health and Safety Code,
6 dangerous drug, or any alcoholic beverage to an extent or in a
7 manner dangerous to himself or herself, any other person, or the
8 public, or to an extent that this use impairs his or her ability to
9 safely perform the practice of behavior analysis.
- 10 (c) Fraudulently or neglectfully misrepresenting the type or
11 status of a license actually held.
- 12 (d) Impersonating another person holding a license or allowing
13 another person to use his or her license.
- 14 (e) Use of fraud or deception in applying for a license or in
15 passing any examination required by this chapter.
- 16 (f) Paying, offering to pay, accepting, or soliciting any
17 consideration, compensation, or remuneration, whether monetary
18 or otherwise, for the referral of clients.
- 19 (g) Violating Section 17500.
- 20 (h) Willful, unauthorized communication of information
21 received in professional confidence.
- 22 (i) Violating any rule of professional conduct promulgated by
23 the board and set forth in regulations duly adopted under this
24 chapter.
- 25 (j) Being grossly negligent in the practice of his or her
26 profession.
- 27 (k) Violating any of the provisions of this chapter or regulations
28 duly adopted thereunder.
- 29 (l) The aiding or abetting of any person to engage in the unlawful
30 practice of behavior analysis.
- 31 (m) The suspension, revocation, or imposition of probationary
32 conditions or other disciplinary action by another state or country
33 of a license, certificate, or registration to practice behavior analysis
34 issued by that state or country to a person also holding a license
35 issued under this chapter if the act for which the disciplinary action
36 was taken constitutes a violation of this section. A certified copy
37 of the decision or judgment of the other state or country shall be
38 conclusive evidence of that action.
- 39 (n) The commission of any dishonest, corrupt, or fraudulent act.

1 (o) Any act of sexual abuse or sexual relations with a ~~patient or~~
2 *patient, with a former-patient patient, or with a patient's parent,*
3 *guardian, or caregiver* within two years following termination of
4 therapy, or sexual misconduct that is related to the qualifications,
5 functions, or duties of a licensed behavior analyst or a licensed
6 assistant behavior analyst.

7 (p) Functioning outside of his or her particular field or fields of
8 competence as established by his or her education, training, and
9 experience.

10 (q) Willful failure to submit, on behalf of an applicant for
11 licensure, verification of supervised experience to the board.

12 (r) Repeated acts of negligence.

13 (s) Failure to comply with all ethical and disciplinary standards
14 published by the certifying entity.

15 2999.63. (a) Except as provided in subdivisions (b), (c), and
16 (e), any accusation filed against a licensee pursuant to Section
17 11503 of the Government Code shall be filed within three years
18 from the date the board discovers the alleged act or omission that
19 is the basis for disciplinary action, or within seven years from the
20 date the alleged act or omission that is the basis for disciplinary
21 action occurred, whichever occurs first.

22 (b) An accusation filed against a licensee pursuant to Section
23 11503 of the Government Code alleging the procurement of a
24 license by fraud or misrepresentation is not subject to the
25 limitations set forth in subdivision (a).

26 (c) The limitation provided for by subdivision (a) shall be tolled
27 for the length of time required to obtain compliance when a report
28 required to be filed by the licensee or registrant with the board
29 pursuant to Article 11 (commencing with Section 800) of Chapter
30 1 is not filed in a timely fashion.

31 (d) If an alleged act or omission involves a minor, the seven-year
32 limitations period provided for by subdivision (a) and the 10-year
33 limitations period provided for by subdivision (e) shall be tolled
34 until the minor reaches the age of majority.

35 (e) An accusation filed against a licensee pursuant to Section
36 11503 of the Government Code alleging sexual misconduct shall
37 be filed within three years after the board discovers the act or
38 omission alleged as the ground for disciplinary action, or within
39 10 years after the act or omission alleged as the ground for
40 disciplinary action occurs, whichever occurs first.

1 (f) The limitations period provided by subdivision (a) shall be
2 tolled during any period if material evidence necessary for
3 prosecuting or determining whether a disciplinary action would
4 be appropriate is unavailable to the board due to an ongoing
5 criminal investigation.

6 2999.64. Notwithstanding Section 2999.62, any proposed
7 decision or decisions issued under this chapter in accordance with
8 the procedures set forth in Chapter 5 (commencing with Section
9 11500) of Part 1 of Division 3 of Title 2 of the Government Code
10 that contains any finding of fact that the licensee engaged in any
11 act of sexual contact, as defined in Section 728, when that act is
12 with a patient, ~~or~~ with a former patient, *or with a patient's parent,*
13 *guardian, or caregiver* within two years following termination of
14 services, shall contain an order of revocation. The revocation shall
15 not be stayed by the administrative law judge.

16 2999.66. The board may deny an application for, or issue
17 subject to terms and conditions, or suspend or revoke, or impose
18 probationary conditions upon, a license or registration after a
19 hearing as provided in Section 2999.70.

20 2999.67. A plea or verdict of guilty or a conviction following
21 a plea of nolo contendere made to a charge which is substantially
22 related to the qualifications, functions, and duties of a licensed
23 behavior analyst or licensed assistant behavior analyst is deemed
24 to be a conviction within the meaning of this article. The board
25 may order the license suspended or revoked, or may decline to
26 issue a license when the time for appeal has elapsed, the judgment
27 of conviction has been affirmed on appeal, or when an order
28 granting probation is made suspending the imposition of sentence,
29 irrespective of a subsequent order under Section 1203.4 of the
30 Penal Code allowing the person to withdraw his or her plea of
31 guilty and to enter a plea of not guilty, or setting aside the verdict
32 of guilty, or dismissing the accusation, information, or indictment.

33 2999.68. Any person required to register as a sex offender
34 pursuant to Section 290 of the Penal Code, is not eligible for
35 licensure by the board.

36 2999.69. An administrative disciplinary decision that imposes
37 terms of probation may include, among other things, a requirement
38 that the licensee who is being placed on probation pay the monetary
39 costs associated with monitoring the probation.

1 2999.70. The proceedings under this article shall be conducted
2 by the board in accordance with Chapter 5 (commencing with
3 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
4 Code.

5 2999.80. A person who violates any of the provisions of this
6 chapter is guilty of a misdemeanor punishable by imprisonment
7 in a county jail not exceeding six months or by a fine not exceeding
8 two thousand five hundred dollars (\$2,500), or by both that fine
9 and imprisonment.

10 2999.81. In addition to other proceedings provided in this
11 chapter, whenever any person has engaged, or is about to engage,
12 in any acts or practices that constitute, or will constitute, an offense
13 against this chapter, the superior court in and for the county
14 wherein the acts or practices take place, or are about to take place,
15 may issue an injunction or other appropriate order restraining that
16 conduct on application of the board, the Attorney General, or the
17 district attorney of the county. Proceedings under this section shall
18 be governed by Chapter 3 (commencing with Section 525) of Title
19 7 of Part 2 of the Code of Civil Procedure, except that it shall be
20 presumed that there is no adequate remedy at law and that
21 irreparable damage will occur if the continued violation is not
22 restrained or enjoined. On the written request of the board, or on
23 its own motion, the board may commence an action in the superior
24 court under this section.

25 2999.83. (a) (1) A licensee who fails or refuses to comply
26 with a request for the medical records of a client, that is
27 accompanied by that client's written authorization for release of
28 those records to the board, within 15 days of receiving the request
29 and authorization, shall pay to the board a civil penalty of one
30 thousand dollars (\$1,000) per day for each day that the documents
31 have not been produced after the 15th day, unless the licensee is
32 unable to provide the documents within this time period for good
33 cause.

34 (2) A health care facility shall comply with a request for the
35 medical records of a client that is accompanied by that client's
36 written authorization for release of records to the board together
37 with a notice citing this section and describing the penalties for
38 failure to comply with this section. Failure to provide the
39 authorizing client's medical records to the board within 30 days
40 of receiving the request, authorization, and notice shall subject the

1 health care facility to a civil penalty, payable to the board, of up
2 to one thousand dollars (\$1,000) per day for each day that the
3 documents have not been produced after the 30th day, up to ten
4 thousand dollars (\$10,000), unless the health care facility is unable
5 to provide the documents within this time period for good cause.
6 This paragraph shall not require health care facilities to assist the
7 board in obtaining the client’s authorization. The board shall pay
8 the reasonable costs of copying the medical records.

9 (b) (1) A licensee who fails or refuses to comply with a court
10 order, issued in the enforcement of a subpoena, mandating the
11 release of records to the board shall pay to the board a civil penalty
12 of one thousand dollars (\$1,000) per day for each day that the
13 documents have not been produced after the date by which the
14 court order requires the documents to be produced, unless it is
15 determined that the order is unlawful or invalid. Any statute of
16 limitations applicable to the filing of an accusation by the board
17 shall be tolled during the period the licensee is out of compliance
18 with the court order and during any related appeals.

19 (2) Any licensee who fails or refuses to comply with a court
20 order, issued in the enforcement of a subpoena, mandating the
21 release of records to the board, shall be subject to a civil penalty,
22 payable to the board, in an amount not to exceed five thousand
23 dollars (\$5,000). The amount of the penalty shall be added to the
24 licensee’s renewal fee if it is not paid by the next succeeding
25 renewal date. Any statute of limitations applicable to the filing of
26 an accusation by the board shall be tolled during the period the
27 licensee is out of compliance with the court order and during any
28 related appeals.

29 (3) A health care facility that fails or refuses to comply with a
30 court order, issued in the enforcement of a subpoena, mandating
31 the release of client records to the board, that is accompanied by
32 a notice citing this section and describing the penalties for failure
33 to comply with this section, shall pay to the board a civil penalty
34 of up to one thousand dollars (\$1,000) per day for each day that
35 the documents have not been produced, up to ten thousand dollars
36 (\$10,000), after the date by which the court order requires the
37 documents to be produced, unless it is determined that the order
38 is unlawful or invalid. Any statute of limitations applicable to the
39 filing of an accusation by the board against a licensee shall be

1 tolled during the period the health care facility is out of compliance
2 with the court order and during any related appeals.

3 (4) Any health care facility that fails or refuses to comply with
4 a court order, issued in the enforcement of a subpoena, mandating
5 the release of records to the board, shall be subject to a civil
6 penalty, payable to the board, in an amount not to exceed five
7 thousand dollars (\$5,000). Any statute of limitations applicable to
8 the filing of an accusation by the board against a licensee shall be
9 tolled during the period the health care facility is out of compliance
10 with the court order and during any related appeals.

11 (c) Multiple acts by a licensee in violation of subdivision (b)
12 shall be a misdemeanor punishable by a fine not to exceed five
13 thousand dollars (\$5,000) or by imprisonment in a county jail not
14 exceeding six months, or by both that fine and imprisonment.
15 Multiple acts by a health care facility in violation of subdivision
16 (b) shall be a misdemeanor punishable by a fine not to exceed five
17 thousand dollars (\$5,000) and shall be reported to the State
18 Department of Health Care Services and shall be considered as
19 grounds for disciplinary action with respect to licensure, including
20 suspension or revocation of the license or certificate.

21 (d) A failure or refusal of a licensee to comply with a court
22 order, issued in the enforcement of a subpoena, mandating the
23 release of records to the board constitutes unprofessional conduct
24 and is grounds for suspension or revocation of his or her license.

25 (e) The imposition of the civil penalties authorized by this
26 section shall be in accordance with the Administrative Procedure
27 Act (Chapter 5 (commencing with Section 11500) of Part 1 of
28 Division 3 of Title 2 of the Government Code).

29 (f) For purposes of this section, “health care facility” means a
30 clinic or health facility licensed or exempt from licensure pursuant
31 to Division 2 (commencing with Section 1200) of the Health and
32 Safety Code.

33

34 Article 5. Revenue

35

36 2999.90. The board shall report each month to the Controller
37 the amount and source of all revenue received pursuant to this
38 chapter and at the same time deposit the entire amount thereof in
39 the State Treasury for credit to the Psychology Fund established
40 by Section 2980.

1 2999.91. (a) The moneys credited to the Psychology Fund
2 under Section 2999.90 shall, upon appropriation by the Legislature,
3 be used for the purposes of carrying out and enforcing the
4 provisions of this chapter.

5 (b) The board shall keep records that will reasonably ensure
6 that funds expended in the administration of each licensing
7 category bear a reasonable relation to the revenue derived from
8 each category, and shall so notify the department no later than
9 May 31 of each year.

10 2999.93. The board shall establish fees for the application for
11 and the issuance and renewal of licenses to cover, but not exceed,
12 the reasonable regulatory costs of the board related to administering
13 this chapter. The fees shall be fixed by the board in regulations
14 that are duly adopted under this chapter. Fees assessed pursuant
15 to this section shall not exceed the following:

16 (a) The delinquency fee shall be 50 percent of the biennial
17 renewal fee.

18 (b) The fee for rescoring an examination shall be twenty dollars
19 (\$20).

20 (c) The fee for issuance of a replacement license shall be twenty
21 dollars (\$20).

22 (d) The fee for issuance of a certificate or letter of good standing
23 shall be twenty-five dollars (\$25).

24 2999.94. (a) A person licensed under this chapter is exempt
25 from the payment of the renewal fee in any one of the following
26 instances:

27 (1) While engaged in full-time active service in the United States
28 Army, Navy, Air Force, or Marine Corps.

29 (2) While in the United States Public Health Service.

30 (3) While a volunteer in the Peace Corps or AmeriCorps VISTA.

31 (b) Every person exempted from the payment of the renewal
32 fee by this section shall not engage in any private practice and
33 shall become liable for the fee for the current renewal period upon
34 the completion of his or her period of full-time active service and
35 shall have a period of 60 days after becoming liable within which
36 to pay the fee before the delinquency fee becomes applicable. Any
37 person who completes his or her period of full-time active service
38 within 60 days of the end of a renewal period is exempt from the
39 payment of the renewal fee for that period.

1 (c) The time spent in that full-time active service or full-time
2 training and active service shall not be included in the computation
3 of the three-year period for renewal of an expired license specified
4 in Section 2999.45.

5 (d) The exemption provided by this section shall not be
6 applicable if the person engages in any practice for compensation
7 other than full-time service in the United States Army, Navy, Air
8 Force, or Marine Corps, in the United States Public Health Service,
9 or the Peace Corps or AmeriCorps VISTA.

10 2999.98. The licensing and regulatory program under this
11 chapter shall be supported from fees assessed to applicants and
12 licensees. Startup funds to implement this program shall be derived,
13 as a loan, from the Psychology Fund, subject to an appropriation
14 by the Legislature in the annual Budget Act. The board shall not
15 implement this chapter until funds have been appropriated.

16 SEC. 10. No reimbursement is required by this act pursuant
17 to Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.