

AMENDED IN ASSEMBLY JUNE 30, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 479

Introduced by Senator Bates

February 26, 2015

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, 2999.25, 2999.31, and 2999.33 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 479, as amended, Bates. 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 consists of 9 members, 4 of whom are public members and 5 of whom are licensed psychologists. 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.

This bill would, on and after July 1, 2017, increase the number of members on the board to 11, and would increase the number of members for a quorum to 6 members. The bill would require the 2 new members

to meet certain requirements, including, but not limited to, that one of the new members is qualified to practice behavior analysis, as defined.

This bill would establish the Behavior Analyst Act. The 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 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 also require a paraprofessional technician, as defined, who practices under the supervision of a licensed behavior analyst or a licensed assistant behavior analyst, 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.

This bill would, until January 1, 2021, 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 bill would, until January 1, 2021, create the Behavior Analyst Committee within the jurisdiction of the board, and would require the committee to be comprised 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.

This bill would define certain terms for these purposes. The bill would require the board to conduct disciplinary hearings, as specified. The bill, on and after July 1, 2018, 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 and 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 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 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

1 shall not preclude an entity from also requiring a licensee, who
2 has provided a post office box number or other alternative mailing
3 address as his or her address of record, to provide a physical
4 business address or residence address only for the entity's internal
5 administrative use and not for disclosure as the licensee's address
6 of record or disclosure on the Internet.

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

10 (c) Each of the following entities within the Department of
11 Consumer Affairs shall comply with the requirements of this
12 section:

13 (1) The Board for Professional Engineers, Land Surveyors, and
14 Geologists shall disclose information on its registrants and
15 licensees.

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

20 (3) The Bureau of Electronic and Appliance Repair, Home
21 Furnishings, and Thermal Insulation shall disclose information on
22 its licensees and registrants, including major appliance repair
23 dealers, combination dealers (electronic and appliance), electronic
24 repair dealers, service contract sellers, and service contract
25 administrators.

26 (4) The Cemetery and Funeral Bureau shall disclose information
27 on its licensees, including cemetery brokers, cemetery salespersons,
28 cemetery managers, crematory managers, cemetery authorities,
29 crematories, cremated remains disposers, embalmers, funeral
30 establishments, and funeral directors.

31 (5) The Professional Fiduciaries Bureau shall disclose
32 information on its licensees.

33 (6) The Contractors' State License Board shall disclose
34 information on its licensees and registrants in accordance with
35 Chapter 9 (commencing with Section 7000) of Division 3. In
36 addition to information related to licenses as specified in
37 subdivision (a), the board shall also disclose information provided
38 to the board by the Labor Commissioner pursuant to Section 98.9
39 of the Labor Code.

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

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

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

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

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

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

15 (13) The Acupuncture Board shall disclose information on its
16 licensees.

17 (14) The Board of Behavioral Sciences shall disclose
18 information on its licensees, including licensed marriage and family
19 therapists, licensed clinical social workers, licensed educational
20 psychologists, and licensed professional clinical counselors.

21 (15) The Dental Board of California shall disclose information
22 on its licensees.

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

27 (17) The Board of Psychology shall disclose information on its
28 licensees, including psychologists, psychological assistants,
29 registered psychologists, behavior analysts, and assistant behavior
30 analysts.

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

33 (e) The Structural Pest Control Board shall disclose information
34 on its licensees, including applicators, field representatives, and
35 operators in the areas of fumigation, general pest and wood
36 destroying pests and organisms, and wood roof cleaning and
37 treatment.

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

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

3 2920. (a) The Board of Psychology shall enforce and
4 administer this chapter and Chapter 6.7 (commencing with Section
5 2999.10). The board shall consist of ~~nine~~ 9 members, ~~four~~ 4 of
6 whom shall be public members.

7 (b) On and after July 1, 2017, notwithstanding subdivision (a),
8 the board shall consist of 11 members, ~~five~~ 5 of whom shall be
9 public members.

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

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

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

17 2922. (a) In appointing the members of the board, except the
18 public members, the Governor shall use his or her judgment to
19 select psychologists who represent, as widely as possible, the varied
20 professional interests of psychologists in California.

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

25 (c) This section shall become inoperative on July 1, 2017, and,
26 as of January 1, 2018, is repealed.

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

29 2922. (a) In appointing the licensed members of the board,
30 the Governor shall use his or her judgment to select psychologists
31 and behavior analysts who represent, as widely as possible, the
32 varied professional interests of psychologists and behavior analysts
33 in California.

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

38 (c) This section shall become operative on July 1, 2017.

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

1 2923. (a) Each member of the board shall have all of the
2 following qualifications:

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

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

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

9 (c) This section shall become inoperative on July 1, 2017, and,
10 as of January 1, 2018, is repealed.

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

13 2923. (a) Each member of the board shall be a resident of this
14 state.

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

17 (c) One member shall be qualified to practice behavior analysis,
18 as defined in Section 2999.12, as follows:

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

22 (2) For subsequent appointments, the member shall be licensed
23 as a behavior analyst under Chapter 6.7 (commencing with Section
24 2999.10).

25 ~~(d) One public member appointed by the Governor shall be a~~
26 ~~consumer of behavior analysis services.~~

27 ~~(e)~~

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

31 ~~(f)~~

32 (e) This section shall become operative on July 1, 2017.

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

35 2927. (a) Five members of the board shall at all times
36 constitute a quorum.

37 (b) This section shall become inoperative on July 1, 2017, and,
38 as of January 1, 2018, is repealed.

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

1 2927. (a) Six members of the board shall at all times constitute
2 a quorum.

3 (b) This section shall become operative on July 1, 2017.

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

6
7 CHAPTER 6.7. BEHAVIOR ANALYSTS

8
9 Article 1. General Provisions

10
11 2999.10. This chapter shall be known and may be cited as the
12 Behavior Analyst Act.

13 2999.11. (a) The Legislature finds and declares that the practice
14 of behavior analysis in California affects the public health, safety,
15 and welfare, and is subject to regulation to protect the public from
16 the unauthorized and unqualified practice of behavior analysis,
17 and unprofessional, unethical, or harmful conduct by persons
18 licensed to practice behavior analysis.

19 (b) It is the intent of the Legislature that the board begin
20 accepting applications for behavior analyst licensure and assistant
21 behavior analyst licensure no later than January 1, 2018, provided
22 that the funds necessary to implement this chapter have been
23 appropriated by the Legislature as specified in Section 2999.98.

24 2999.12. For purposes of this chapter, the following terms have
25 the following meanings:

26 (a) "Board" means the Board of Psychology.

27 (b) "Certifying entity" means the Behavior Analyst Certification
28 Board or its successor, or another national credentialing
29 organization with behavior analyst certification programs approved
30 by the board and accredited by the National Commission for
31 Certifying Agencies.

32 (c) "Committee" means the Behavior Analyst Committee.

33 (d) "Department" means the Department of Consumer Affairs.

34 (e) "Licensed assistant behavior analyst" means a person
35 licensed under this chapter to practice behavior analysis under the
36 supervision of a licensed behavior analyst and who meets the
37 requirements of Section 2999.33: *analyst*.

38 (f) "Licensed behavior analyst" means a person licensed under
39 this chapter to practice behavior analysis and who meets the
40 requirements of Section 2999.31: *analysis*.

1 (g) “Paraprofessional technician” means an individual who
2 works directly with a client to implement applied behavior analysis
3 services under the direction and supervision of a licensed behavior
4 analyst or a licensed assistant behavior analyst and has
5 successfully completed the application requirements described in
6 Section 2999.36.

7 ~~(g)~~

8 (h) (1) “Practice of behavior analysis” or “to practice behavior
9 analysis” means the design, implementation, and evaluation of
10 instructional and environmental modifications to produce socially
11 significant improvements in human behavior and includes ~~all of~~
12 ~~the following:~~

13 ~~(A) The~~ the empirical identification of functional relations
14 between behavior and environmental factors, known as functional
15 assessment and ~~analysis:~~ *analysis,*

16 ~~(B) Interventions~~ *interventions* based on scientific research and
17 the direct observation and measurement of behavior and the
18 ~~environment:~~ *environment, and*

19 ~~(C) Utilization~~ *utilization* of contextual factors, motivating
20 operations, antecedent stimuli, positive reinforcement, and other
21 consequences to help people develop new behaviors, increase or
22 decrease existing behaviors, and emit behaviors under specific
23 environmental conditions.

24 (2) The practice of behavior analysis does not include
25 psychological testing and assessment, diagnosis of a mental or
26 physical disorder, neuropsychology, psychotherapy, cognitive
27 therapy, sex therapy, psychoanalysis, hypnotherapy, ~~or counseling~~
28 ~~as treatment modalities:~~ *counseling, prescribing drugs, performing*
29 *surgery, or administering electroconvulsive therapy.*

30 (3) *The Legislature recognizes that the scopes of practice of*
31 *healing arts licensees regulated under this division sometimes*
32 *contain similar practices. However, nothing herein shall be*
33 *construed to allow a licensed behavior analyst or a licensed*
34 *assistant behavior analyst to engage in those practices other than*
35 *specific to their scope of practice within behavior analysis as*
36 *described herein. Any person practicing behavior analysis under*
37 *this chapter who violates this provision is subject to disciplinary*
38 *action by both the Board of Psychology and the board overseeing*
39 *the relevant practice.*

Article 2. Administration

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

(b) This section shall remain in effect only until January 1, 2021, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

2999.21. Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions pursuant to this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

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

2999.23. The board shall adopt a program of consumer and professional education in matters relevant to the ethical practice of behavior analysis. The board shall establish as its standards of ethical conduct relating to the practice of behavior analysis, the “Professional and Ethical Compliance Code for Behavior Analysts” published by the Behavior Analyst Certification Board. These standards shall be applied by the board as the accepted standard of care in all licensing examination development and in all board enforcement policies and disciplinary case evaluations.

~~2999.23.~~
2999.23.5. The board may employ, subject to civil service and other laws, employees as may be necessary to carry out the provisions of this chapter under the direction of the executive officer of the board.

2999.24. The board shall maintain, and make available to the public, a list of all licensees. The board shall make available on its Internet Web site information regarding the status of every license issued by the board under this chapter pursuant to Section 27.

1 2999.25. (a) The Behavior Analyst Committee is hereby
2 created within the jurisdiction of the board to make
3 recommendations to the board regarding the regulation of the
4 practice of behavior analysis in the state in order to protect the
5 public from the unauthorized and unqualified practice of applied
6 behavior analysis, and unprofessional, unethical, or harmful
7 conduct by persons licensed to practice behavior analysis.

8 (b) The committee shall consist of five members. Two members
9 shall be licensed behavior analysts, one of which shall also be a
10 member of the board. One member shall be a psychologist licensed
11 under Chapter 6.6 (commencing with Section 2900) and who holds
12 a current certification from a certifying entity as a behavior analyst.
13 One member shall be a licensed assistant behavior analyst. One
14 member shall be a public member who is a consumer of behavior
15 analysis services and who is not licensed under this chapter, under
16 any chapter within this division, or by any board referred to in the
17 Chiropractic Act or the Osteopathic Act.

18 (c) The Governor shall appoint one licensed behavior analyst
19 member, the licensed psychologist member, and the licensed
20 assistant behavior analyst member. The Senate Committee on
21 Rules shall appoint the public member, and the Speaker of the
22 Assembly shall appoint one licensed behavior analyst member.

23 (d) Notwithstanding subdivisions (b) and (c), the initially
24 appointed members of the committee shall be appointed as follows:

25 (1) The initial members appointed by the Governor shall be as
26 follows:

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

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

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

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

38 (3) The initial member appointed by the Speaker of the
39 Assembly shall be currently certified by a certifying entity as a

1 certified behavior analyst and shall serve an initial term of four
2 years.

3 (e) Except as provided in subdivision (d), each member of the
4 committee shall hold office for a term of four years, and shall serve
5 until the appointment of his or her successor or until one year has
6 elapsed since the expiration of the term for which he or she was
7 appointed, whichever occurs first. Vacancies shall be filled by the
8 appointing power for the unexpired portion of the terms in which
9 they occur. A member shall not serve for more than two
10 consecutive terms.

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

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

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

16 (i) This section shall become operative on July 1, 2017.

17 (j) This section shall remain in effect only until January 1, 2021,
18 and as of that date is repealed. Notwithstanding any other law, the
19 repeal of this section renders the committee subject to review by
20 the appropriate policy committees of the Legislature.

21 2999.26. The committee shall do all of the following:

22 (a) Meet at least once per quarter. All meetings of the committee
23 shall be public meetings. Notice of each regular meeting of the
24 committee shall be given in accordance with the Bagley-Keene
25 Open Meeting Act (Article 9 (commencing with Section 11120)
26 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
27 Code).

28 (b) Committee meetings may be called upon reasonable notice
29 at the discretion of the chair, and shall be called at any time upon
30 reasonable notice by a written request of two committee members
31 to the chair.

32 (c) The committee shall elect a chair and a vice chair from
33 among its members at the first meeting held in each fiscal year.
34 The chair shall preside at all meetings of the committee and shall
35 work with the executive officer of the board to coordinate the
36 committee's business. If the chair is unable to attend a meeting,
37 the vice chair shall preside at the meeting.

38 2999.27. (a) The committee may make recommendations to
39 the board regarding licensing and practice standards.

1 (b) The committee may make recommendations to the board
2 regarding the adoption, amendment, and repeal of regulations to
3 implement the requirements of this chapter including, but not
4 limited to, the setting of fees and the establishment of disciplinary
5 ~~standards:~~ *guidelines*.

6
7 Article 3. Licensing
8

9 2999.30. To qualify for licensure as a licensed behavior analyst
10 or a licensed assistant behavior analyst, each applicant shall meet
11 the board's regulatory requirements for behavior analyst or assistant
12 behavior analyst licensure, as applicable, including all of the
13 following:

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

16 (b) The board shall not issue a license or registration to any
17 person who has been convicted of a crime in this state, or another
18 state, or in a territory of the United States that involves sexual
19 abuse of a child, or who is required to register pursuant to Section
20 290 of the Penal Code or the equivalent in another state or territory.

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

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

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

30 2999.31. (a) In order to obtain a license as a behavior analyst,
31 an individual shall submit an application on a form approved by
32 the board accompanied by the fees required by the board as
33 specified in Section 2999.93.

34 (b) The board shall verify with the certifying entity that the
35 applicant meets both of the following requirements:

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

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

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

3 (d) This section shall become inoperative on July 1, 2018. An
4 applicant who submits his or her application prior to July 1, 2018,
5 shall be required to meet the requirements of this section to be
6 licensed by the board.

7 (e) This section shall remain in effect only until January 1, 2019,
8 and as of that date is repealed.

9 2999.32. (a) In order to obtain a license as a behavior analyst,
10 an individual shall submit an application on a form approved by
11 the board accompanied by the fees required by the board as
12 specified in Section 2999.93.

13 (b) An applicant shall maintain active status as a certified
14 behavior analyst in good standing with a certifying entity. The
15 board shall verify with the certifying entity that the applicant has
16 passed the Board Certified Behavior Analyst Examination or an
17 equivalent examination administered by the certifying entity.

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

20 (d) The applicant shall possess a master's degree or higher level
21 of education from an institution, which meets the requirements
22 described in Section 2999.35, that was conferred in behavior
23 analysis, psychology, or education, or conferred in a degree
24 program in which the applicant completed a behavior-analytic
25 course sequence approved by the certifying entity.

26 (e) In addition to subdivisions ~~(a) through (d)~~, (a) to (d),
27 *inclusive*, an individual shall meet one of the following paragraphs
28 in order to be licensed 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 analytic
31 coursework. An applicant shall have taught at least two behavior
32 analytic 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 analytic 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 ~~clauses~~
23 *clause* (i), (ii), or (iii). Hours may be completed in any combination
24 of the categories of supervised experience. Hours accrued through
25 a 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, 2018.

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) The board shall verify with the certifying entity that the
6 applicant meets all of the following requirements:

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

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

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

14 (d) Each applicant shall provide proof to the board of ongoing
15 supervision by a licensed behavior analyst in a manner consistent
16 with the certifying entity's requirements for supervision of assistant
17 behavior analysts.

18 (e) This section shall become inoperative on July 1, 2018. An
19 applicant who submits his or her application prior to July 1, 2018,
20 shall be required to meet the requirements of this section to be
21 licensed by the board.

22 (f) This section shall remain in effect only until January 1, 2019,
23 and as of that date is repealed.

24 2999.34. (a) In order for an individual to be licensed as an
25 assistant behavior analyst under this chapter, he or she shall possess
26 a baccalaureate degree or higher level of education from an
27 institution that meets the requirements described in Section
28 2999.35.

29 (b) An applicant shall maintain active status as a certified
30 behavior analyst in good standing with a certifying entity. The
31 board shall verify with the certifying entity that the applicant has
32 passed the Board Certified Behavior Analyst Examination or an
33 equivalent examination administered by the certifying entity.

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

36 (d) Each applicant shall provide proof to the board of ongoing
37 supervision by a licensed behavior analyst in a manner consistent
38 with the certifying entity's requirements for supervision of assistant
39 behavior analysts.

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

4 (1) Completed a baccalaureate degree or higher level of
5 education from an institution that meets the requirements in Section
6 2999.35.

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

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

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

12 (ii) Concepts and principles of behavior analysis consisting of
13 45 hours.

14 (iii) Research methods in behavior analysis, consisting of 10
15 hours of measurement, including data analysis, and five hours of
16 experimental design.

17 (iv) Applied behavior analysis, consisting of 45 hours of
18 fundamental elements of behavior change and specific behavior
19 change procedures, 30 hours of identification of the problem and
20 assessment, five hours of intervention and behavior change
21 considerations, five hours of behavior change systems, and five
22 hours of implementation, management, and supervision.

23 (v) Elective coursework in behavior analysis consisting of 15
24 hours.

25 (B) Obtained supervised experiential training by any of the
26 following:

27 (i) One thousand hours of independent field work in behavior
28 analysis supervised in accordance with the requirements of the
29 certifying entity, taken for academic credit, and completed with a
30 passing grade.

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

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

39 (iv) A combination of the supervised experience in clause (i),
40 (ii), or (iii). Hours may be completed in any combination of the

1 categories of supervised experience. Hours accrued through a
2 combination of supervised experience shall be proportionately
3 calculated.

4 (f) This section shall become operative on July 1, 2018.

5 2999.35. The education required to obtain a behavior analyst
6 license or an assistant behavior analyst license shall be from any
7 of the following:

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

10 (b) A Canadian institution of higher education that is a member
11 of the Association of Universities and Colleges of Canada or the
12 Association of Canadian Community Colleges.

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

23 2999.36. (a) *Paraprofessional technicians practicing in this*
24 *state under the supervision of an individual licensed under this*
25 *chapter shall satisfy all of the following requirements:*

26 (1) *Be at least eighteen years of age and possess a minimum of*
27 *a high school diploma or its equivalent.*

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

29 (3) *Submit fingerprint images to the California Department of*
30 *Justice for a state and federal criminal background report within*
31 *fourteen days from the date of application.*

32 (4) *Annually pay an application fee, in an amount not to exceed*
33 *a reasonable regulatory cost, to be determined by the board.*

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

37 ~~2999.36.~~

38 2999.36.5. On and after July 1, 2018, it shall be unlawful for
39 any person to engage in any of the following acts:

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

5 (b) Represent himself or herself by the title “licensed behavior
 6 analyst,” or “licensed assistant behavior analyst” without being
 7 duly licensed according to the provisions of this chapter.

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

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

14 2999.37. This chapter does not apply to any of the following:

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

19 (b) A speech-language pathologist or an audiologist licensed
 20 under Chapter 5.3 (commencing with Section 2530), an
 21 occupational therapist licensed under Chapter 5.6 (commencing
 22 with Section 2570), a physical therapist licensed under Chapter
 23 5.7 (commencing with Section 2600), a marriage and family
 24 therapist licensed under Chapter 13 (commencing with Section
 25 4980), an educational psychologist licensed under Chapter 13.5
 26 (commencing with Section ~~4980.10~~; *4989.10*), a clinical social
 27 worker licensed under Chapter 14 (commencing with Section
 28 ~~4990.1~~; *4991*), or a professional clinical counselor licensed under
 29 Chapter 16 (commencing with Section ~~4999.10~~ *4999.10*), if the
 30 ~~behavior analysis engaged in~~ *services provided by any of those*
 31 ~~licensees is~~ *are* within his or her licensed scope of practice and
 32 within the scope of his or her training and competence, provided
 33 that he or she does not represent himself or herself as a licensed
 34 behavior analyst or licensed assistant behavior analyst.

35 ~~(e) An individual, including a paraprofessional technician,~~
 36 ~~student, or postdoctoral trainee acting under the authority and~~
 37 ~~direction of a licensed behavior analyst, a licensed assistant~~
 38 ~~behavior analyst, or an individual described in subdivision (a) or~~
 39 ~~(b).~~

1 (c) A student or other individual pursuing supervised
2 experiential training toward a license described in this chapter,
3 provided such training is conducted in accordance with the
4 requirements of this chapter.

5 ~~(d) A family member of a recipient of behavior analysis services~~
6 ~~who acts under the extended authority and direction of a licensed~~
7 ~~behavior analyst or a licensed assistant behavior analyst.~~

8 (d) A student, or post-graduate individual, pursuing supervised
9 experience in behavior analysis toward a license described in
10 subdivision (a) or (b). The experience shall be gained in
11 accordance with the experience and supervision requirements of
12 the respective licensure act in this division for the license described
13 in subdivision (a) or (b).

14 (e) A parent or guardian of a recipient of behavior analysis
15 services who acts under the extended authority and direction of a
16 licensed behavior analyst or licensed assistant behavior analyst.

17 ~~(e)~~

18 (f) A matriculated college or university student who practices
19 behavior analysis as a part of a defined program of study, course,
20 practicum, internship, or postdoctoral trainee, provided that the
21 behavior analysis activities are directly supervised by a licensed
22 behavior analyst, a licensed psychologist, or by an instructor in a
23 course sequence approved by the certifying entity.

24 ~~(f) An unlicensed individual pursuing supervised experience in~~
25 ~~behavior analysis consistent with the experience requirements of~~
26 ~~the certifying entity, provided such experience is supervised in~~
27 ~~accordance with the requirements of the certifying entity.~~

28 (g) An individual who teaches behavior analysis or conducts
29 behavior analytic research, provided that such teaching or research
30 does not involve the direct delivery of behavior analysis services.

31 (h) A behavior analyst licensed in another state or certified by
32 the certifying entity to practice independently, and who temporarily
33 provides behavior analysis services in California during a period
34 of not more than 90 days in a calendar year.

35 (i) An individual who is vendorized by one or more regional
36 centers of the State Department of Developmental Services while
37 practicing behavior analysis services authorized under that
38 vendorization. That individual shall not represent himself or herself
39 as a licensed behavior analyst or licensed assistant behavior analyst
40 unless he or she holds a license under this chapter, and shall not

1 offer behavior analysis services to any person or entity other than
2 the regional centers with which he or she is vendorized or accept
3 remuneration for providing behavior analysis services other than
4 the remuneration received from those regional centers *unless he*
5 *or she holds a license under this chapter.*

6 (j) An individual employed by a school board performing the
7 duties of his or her position, provided that he or she shall only
8 offer behavior analysis services within the scope of that
9 employment by the school board. *local educational agency for the*
10 *purpose of assisting students with behavioral and developmental*
11 *issues when in classroom and other school settings.*

12 2999.41. A licensee shall give written notice to the board of a
13 name change within 30 days after each change, giving both the
14 old and new names. A copy of the legal document authorizing the
15 name change, such as a court order or marriage certificate, shall
16 be submitted with the notice.

17 2999.44. (a) A license shall expire and become invalid two
18 years after it is issued at 12 midnight on the last day of the month
19 in which it was issued, if not renewed.

20 (b) To renew an unexpired license, the licensee shall, on or
21 before the date on which it would otherwise expire, apply for
22 renewal on a form provided by the board, accompanied by the
23 renewal fee set by the board. ~~The board shall obtain verification~~
24 ~~from the certifying entity that the renewal applicant maintains an~~
25 ~~active certification status with the certifying entity.~~ *The licensee*
26 *shall include verification from the certifying entity that he or she*
27 *maintains an active certification status with the renewal form.*

28 (c) To renew an assistant behavior analyst license, in addition
29 to the requirements in subdivision (b), the licensee shall submit
30 proof of ongoing supervision by a licensed behavior analyst *or a*
31 *licensed psychologist who is qualified to practice behavior analysis*
32 in a manner consistent with the board's requirements for
33 supervision of assistant behavior analysts. *A licensed assistant*
34 *behavior analyst shall be supervised by a licensed behavior analyst*
35 *for at least 2 percent of the hours of behavior-analytic services*
36 *they provide per month.*

37 2999.45. (a) A license that has expired may be renewed at any
38 time within three years after its expiration by applying for renewal
39 on a form provided by the board, payment of all accrued and unpaid
40 renewal fees, and the delinquency fee specified in Section 2999.93.

1 ~~The board shall obtain verification from the certifying entity of~~
2 ~~the licensee's active certification status with the certifying entity.~~
3 *The licensee shall include verification from the certifying entity*
4 *that he or she maintains an active certification status with the*
5 *renewal form.*

6 (b) Except as provided in Section ~~2999.46~~, 2999.46.5, a license
7 that is not renewed within three years of its expiration shall not be
8 renewed, restored, or reinstated, and the license shall be canceled
9 immediately upon expiration of the three-year period.

10 2999.46. (a) *The board shall not issue any renewal license, a*
11 *new license after expiration of an expired license, or a*
12 *reinstatement license unless the applicant submits proof that he*
13 *or she has completed not less than 32 hours of approved continuing*
14 *education in the preceding two-year licensure cycle for licensed*
15 *behavior analysts and 20 hours of approved continuing education*
16 *in the preceding two-year licensure cycle for licensed assistant*
17 *behavior analysts.*

18 (b) *Each person renewing or reinstating his or her license or*
19 *obtaining a new license after expiration of a prior license issued*
20 *pursuant to this chapter shall submit proof of compliance with this*
21 *section to the board.*

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

26 (d) *The board may recognize continuing education courses that*
27 *have been approved by one or more private nonprofit organizations*
28 *that have at least 10 years' experience managing continuing*
29 *education programs for behavior analysts.*

30 (e) *The board shall adopt regulations as necessary for*
31 *implementation of this section.*

32 ~~2999.46.~~

33 2999.46.5. (a) A suspended license is subject to expiration
34 and shall be renewed as provided in this article, but such renewal
35 does not entitle the licensee, while the license remains suspended,
36 and until it is reinstated, to engage in the licensed activity or in
37 any other activity or conduct in violation of the order or judgment
38 by which the license was suspended.

39 (b) A license revoked on disciplinary grounds is subject to
40 expiration as provided in this article, but it may not be renewed.

1 If it is reinstated after its expiration, the licensee, as a condition
2 of reinstatement, shall pay a reinstatement fee in an amount equal
3 to the renewal fee, plus the delinquency fee, and any fees accrued
4 at the time of its revocation.

5

6

Article 4. Enforcement

7

8 2999.60. The board may on its own, and shall, upon the receipt
9 of a complaint from any person, investigate the actions of any
10 licensee. The board shall review a licensee’s alleged violation of
11 statute, regulation, or any other law and any other complaint
12 referred to it by the public, a public agency, or the department,
13 and may upon a finding of a violation take disciplinary action
14 under this article.

15 2999.61. A license issued under this chapter may be denied,
16 revoked, or otherwise sanctioned upon demonstration of
17 ineligibility for licensure, including, but not limited to, failure to
18 maintain active certification by the certifying entity or falsification
19 of documentation submitted to the board for licensure or submitted
20 to the certifying authority for certification.

21 2999.62. The board may deny a license application, may issue
22 a license with terms and conditions, may suspend or revoke a
23 license, or may place a license on probation if the applicant or
24 licensee has been guilty of unprofessional conduct. Unprofessional
25 conduct shall include, but not be limited to:

26 (a) Conviction of a crime substantially related to the
27 qualifications, functions, or duties of a licensed behavior analyst
28 or a licensed assistant behavior analyst.

29 (b) Use of any controlled substance as defined in Division 10
30 (commencing with Section 11000) of the Health and Safety Code,
31 dangerous drug, or any alcoholic beverage to an extent or in a
32 manner dangerous to himself or herself, any other person, or the
33 public, or to an extent that this use impairs his or her ability to
34 safely perform the practice of behavior analysis.

35 (c) Fraudulently or neglectfully misrepresenting the type or
36 status of a license actually held.

37 (d) Impersonating another person holding a license or allowing
38 another person to use his or her license.

39 (e) Use of fraud or deception in applying for a license or in
40 passing any examination required by this chapter.

- 1 (f) Paying, offering to pay, accepting, or soliciting any
2 consideration, compensation, or remuneration, whether monetary
3 or otherwise, for the referral of clients.
- 4 (g) Violating Section 17500.
- 5 (h) Willful, unauthorized communication of information
6 received in professional confidence.
- 7 (i) Violating any rule of professional conduct promulgated by
8 the board and set forth in regulations duly adopted under this
9 chapter.
- 10 (j) Being grossly negligent in the practice of his or her
11 profession.
- 12 (k) Violating any of the provisions of this chapter or regulations
13 duly adopted thereunder.
- 14 (l) The aiding or abetting of any person to engage in the unlawful
15 practice of behavior analysis.
- 16 (m) The suspension, revocation, or imposition of probationary
17 conditions or other disciplinary action by another state or country
18 of a license, certificate, or registration to practice behavior analysis
19 issued by that state or country to a person also holding a license
20 issued under this chapter if the act for which the disciplinary action
21 was taken constitutes a violation of this section. A certified copy
22 of the decision or judgment of the other state or country shall be
23 conclusive evidence of that action.
- 24 (n) The commission of any dishonest, corrupt, or fraudulent act.
- 25 (o) Any act of sexual abuse or sexual relations with a patient or
26 former patient within two years following termination of therapy,
27 or sexual misconduct that is related to the qualifications, functions,
28 or duties of a licensed behavior analyst or a licensed assistant
29 behavior analyst.
- 30 (p) Functioning outside of his or her particular field or fields of
31 competence as established by his or her education, training, and
32 experience.
- 33 (q) Willful failure to submit, on behalf of an applicant for
34 licensure, verification of supervised experience to the board.
- 35 (r) Repeated acts of negligence.
- 36 (s) Failure to comply with all ethical and disciplinary standards
37 published by the certifying entity.
- 38 2999.63. (a) Except as provided in subdivisions (b), (c), and
39 (e), any accusation filed against a licensee pursuant to Section
40 11503 of the Government Code shall be filed within three years

1 from the date the board discovers the alleged act or omission that
2 is the basis for disciplinary action, or within seven years from the
3 date the alleged act or omission that is the basis for disciplinary
4 action occurred, whichever occurs first.

5 (b) An accusation filed against a licensee pursuant to Section
6 11503 of the Government Code alleging the procurement of a
7 license by fraud or misrepresentation is not subject to the
8 limitations set forth in subdivision (a).

9 (c) The limitation provided for by subdivision (a) shall be tolled
10 for the length of time required to obtain compliance when a report
11 required to be filed by the licensee or registrant with the board
12 pursuant to Article 11 (commencing with Section 800) of Chapter
13 1 is not filed in a timely fashion.

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

18 (e) An accusation filed against a licensee pursuant to Section
19 11503 of the Government Code alleging sexual misconduct shall
20 be filed within three years after the board discovers the act or
21 omission alleged as the ground for disciplinary action, or within
22 10 years after the act or omission alleged as the ground for
23 disciplinary action occurs, whichever occurs first.

24 (f) The limitations period provided by subdivision (a) shall be
25 tolled during any period if material evidence necessary for
26 prosecuting or determining whether a disciplinary action would
27 be appropriate is unavailable to the board due to an ongoing
28 criminal investigation.

29 2999.64. Notwithstanding Section 2999.62, any proposed
30 decision or decisions issued under this chapter in accordance with
31 the procedures set forth in Chapter 5 (commencing with Section
32 11500) of Part 1 of Division 3 of Title 2 of the Government Code
33 that contains any finding of fact that the licensee engaged in any
34 act of sexual contact, as defined in Section 728, when that act is
35 with a patient, or with a former patient, within two years following
36 termination of services, shall contain an order of revocation. The
37 revocation shall not be stayed by the administrative law judge.

38 2999.66. The board may deny an application for, or issue
39 subject to terms and conditions, or suspend or revoke, or impose

1 probationary conditions upon, a license or registration after a
2 hearing as provided in Section 2999.70.

3 2999.67. A plea or verdict of guilty or a conviction following
4 a plea of nolo contendere made to a charge which is substantially
5 related to the qualifications, functions, and duties of a licensed
6 behavior analyst or licensed assistant behavior analyst is deemed
7 to be a conviction within the meaning of this article. The board
8 may order the license suspended or revoked, or may decline to
9 issue a license when the time for appeal has elapsed, the judgment
10 of conviction has been affirmed on appeal, or when an order
11 granting probation is made suspending the imposition of sentence,
12 irrespective of a subsequent order under Section 1203.4 of the
13 Penal Code allowing the person to withdraw his or her plea of
14 guilty and to enter a plea of not guilty, or setting aside the verdict
15 of guilty, or dismissing the accusation, information, or indictment.

16 2999.68. Any person required to register as a sex offender
17 pursuant to Section 290 of the Penal Code, is not eligible for
18 licensure by the board.

19 2999.69. An administrative disciplinary decision that imposes
20 terms of probation may include, among other things, a requirement
21 that the licensee who is being placed on probation pay the monetary
22 costs associated with monitoring the probation.

23 2999.70. The proceedings under this article shall be conducted
24 by the board in accordance with Chapter 5 (commencing with
25 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
26 Code.

27 2999.80. A person who violates any of the provisions of this
28 chapter is guilty of a misdemeanor punishable by imprisonment
29 in a county jail not exceeding six months or by a fine not exceeding
30 two thousand five hundred dollars (\$2,500), or by both that fine
31 and imprisonment.

32 2999.81. In addition to other proceedings provided in this
33 chapter, whenever any person has engaged, or is about to engage,
34 in any acts or practices that constitute, or will constitute, an offense
35 against this chapter, the superior court in and for the county
36 wherein the acts or practices take place, or are about to take place,
37 may issue an injunction or other appropriate order restraining that
38 conduct on application of the board, the Attorney General, or the
39 district attorney of the county. Proceedings under this section shall
40 be governed by Chapter 3 (commencing with Section 525) of Title

1 7 of Part 2 of the Code of Civil Procedure, except that it shall be
2 presumed that there is no adequate remedy at law and that
3 irreparable damage will occur if the continued violation is not
4 restrained or enjoined. On the written request of the board, or on
5 its own motion, the board may commence an action in the superior
6 court under this section.

7 2999.83. (a) (1) *A licensee who fails or refuses to comply
8 with a request for the medical records of a client, that is
9 accompanied by that client's written authorization for release of
10 those records to the board, within 15 days of receiving the request
11 and authorization, shall pay to the board a civil penalty of one
12 thousand dollars (\$1,000) per day for each day that the documents
13 have not been produced after the 15th day, unless the licensee is
14 unable to provide the documents within this time period for good
15 cause.*

16 (2) *A health care facility shall comply with a request for the
17 medical records of a client that is accompanied by that client's
18 written authorization for release of records to the board together
19 with a notice citing this section and describing the penalties for
20 failure to comply with this section. Failure to provide the
21 authorizing client's medical records to the board within 30 days
22 of receiving the request, authorization, and notice shall subject
23 the health care facility to a civil penalty, payable to the board, of
24 up to one thousand dollars (\$1,000) per day for each day that the
25 documents have not been produced after the 30th day, up to ten
26 thousand dollars (\$10,000), unless the health care facility is unable
27 to provide the documents within this time period for good cause.
28 This paragraph shall not require health care facilities to assist
29 the board in obtaining the client's authorization. The board shall
30 pay the reasonable costs of copying the medical records.*

31 (b) (1) *A licensee who fails or refuses to comply with a court
32 order, issued in the enforcement of a subpoena, mandating the
33 release of records to the board shall pay to the board a civil
34 penalty of one thousand dollars (\$1,000) per day for each day that
35 the documents have not been produced after the date by which the
36 court order requires the documents to be produced, unless it is
37 determined that the order is unlawful or invalid. Any statute of
38 limitations applicable to the filing of an accusation by the board
39 shall be tolled during the period the licensee is out of compliance
40 with the court order and during any related appeals.*

1 (2) Any licensee who fails or refuses to comply with a court
2 order, issued in the enforcement of a subpoena, mandating the
3 release of records to the board, shall be subject to a civil penalty,
4 payable to the board, of not to exceed five thousand dollars
5 (\$5,000). The amount of the penalty shall be added to the licensee's
6 renewal fee if it is not paid by the next succeeding renewal date.
7 Any statute of limitations applicable to the filing of an accusation
8 by the board shall be tolled during the period the licensee is out
9 of compliance with the court order and during any related appeals.

10 (3) A health care facility that fails or refuses to comply with a
11 court order, issued in the enforcement of a subpoena, mandating
12 the release of client records to the board, that is accompanied by
13 a notice citing this section and describing the penalties for failure
14 to comply with this section, shall pay to the board a civil penalty
15 of up to one thousand dollars (\$1,000) per day for each day that
16 the documents have not been produced, up to ten thousand dollars
17 (\$10,000), after the date by which the court order requires the
18 documents to be produced, unless it is determined that the order
19 is unlawful or invalid. Any statute of limitations applicable to the
20 filing of an accusation by the board against a licensee shall be
21 tolled during the period the health care facility is out of compliance
22 with the court order and during any related appeals.

23 (4) Any health care facility that fails or refuses to comply with
24 a court order, issued in the enforcement of a subpoena, mandating
25 the release of records to the board, shall be subject to a civil
26 penalty, payable to the board, of not to exceed five thousand dollars
27 (\$5,000). Any statute of limitations applicable to the filing of an
28 accusation by the board against a licensee shall be tolled during
29 the period the health care facility is out of compliance with the
30 court order and during any related appeals.

31 (c) Multiple acts by a licensee in violation of subdivision (b)
32 shall be a misdemeanor punishable by a fine not to exceed five
33 thousand dollars (\$5,000) or by imprisonment in a county jail not
34 exceeding six months, or by both that fine and imprisonment.
35 Multiple acts by a health care facility in violation of subdivision
36 (b) shall be a misdemeanor punishable by a fine not to exceed five
37 thousand dollars (\$5,000) and shall be reported to the State
38 Department of Health Care Services and shall be considered as
39 grounds for disciplinary action with respect to licensure, including
40 suspension or revocation of the license or certificate.

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

5 (e) The imposition of the civil penalties authorized by this section
6 shall be in accordance with the Administrative Procedure Act
7 (Chapter 5 (commencing with Section 11500) of Part 1 of Division
8 3 of Title 2 of the Government Code).

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

13
14 Article 5. Revenue

15
16 2999.90. The board shall report each month to the Controller
17 the amount and source of all revenue received pursuant to this
18 chapter and at the same time deposit the entire amount thereof in
19 the State Treasury for credit to the Psychology Fund established
20 by Section 2980.

21 2999.91. (a) The moneys credited to the Psychology Fund
22 under Section 2999.90 shall, upon appropriation by the Legislature,
23 be used for the purposes of carrying out and enforcing the
24 provisions of this chapter.

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

30 2999.93. The board shall establish fees for the application for
31 and the issuance and renewal of licenses to cover, but not exceed,
32 the reasonable regulatory costs of the board related to administering
33 this chapter. The fees shall be fixed by the board in regulations
34 that are duly adopted under this chapter. Fees assessed pursuant
35 to this section shall not exceed the following:

36 (a) The delinquency fee shall be 50 percent of the biennial
37 renewal fee.

38 (b) The fee for rescoring an examination shall be twenty dollars
39 (\$20).

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

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

5 2999.94. (a) A person licensed under this chapter is exempt
6 from the payment of the renewal fee in any one of the following
7 instances:

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

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

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

12 (b) Every person exempted from the payment of the renewal
13 fee by this section shall not engage in any private practice and
14 shall become liable for the fee for the current renewal period upon
15 the completion of his or her period of full-time active service and
16 shall have a period of 60 days after becoming liable within which
17 to pay the fee before the delinquency fee becomes applicable. Any
18 person who completes his or her period of full-time active service
19 within 60 days of the end of a renewal period is exempt from the
20 payment of the renewal fee for that period.

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

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

30 2999.98. The licensing and regulatory program under this
31 chapter shall be supported from fees assessed to applicants and
32 licensees. Startup funds to implement this program shall be derived,
33 as a loan, from the Psychology Fund, subject to an appropriation
34 by the Legislature in the annual Budget Act. The board shall not
35 implement this chapter until funds have been appropriated.

36 SEC. 10. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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