

AMENDED IN ASSEMBLY JULY 13, 2015

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 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 also require a ~~paraprofessional technician~~, *behavior analysis technician*, as defined, who practices under the supervision of a licensed behavior ~~analyst or 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.

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

1 information, including home telephone number, date of birth, or
2 social security number. Each entity shall disclose a licensee's
3 address of record. However, each entity shall allow a licensee to
4 provide a post office box number or other alternate address, instead
5 of his or her home address, as the address of record. This section
6 shall not preclude an entity from also requiring a licensee, who
7 has provided a post office box number or other alternative mailing
8 address as his or her address of record, to provide a physical
9 business address or residence address only for the entity's internal
10 administrative use and not for disclosure as the licensee's address
11 of record or disclosure on the Internet.

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

15 (c) Each of the following entities within the Department of
16 Consumer Affairs shall comply with the requirements of this
17 section:

18 (1) The Board for Professional Engineers, Land Surveyors, and
19 Geologists shall disclose information on its registrants and
20 licensees.

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

25 (3) The Bureau of Electronic and Appliance Repair, Home
26 Furnishings, and Thermal Insulation shall disclose information on
27 its licensees and registrants, including major appliance repair
28 dealers, combination dealers (electronic and appliance), electronic
29 repair dealers, service contract sellers, and service contract
30 administrators.

31 (4) The Cemetery and Funeral Bureau shall disclose information
32 on its licensees, including cemetery brokers, cemetery salespersons,
33 cemetery managers, crematory managers, cemetery authorities,
34 crematories, cremated remains disposers, embalmers, funeral
35 establishments, and funeral directors.

36 (5) The Professional Fiduciaries Bureau shall disclose
37 information on its licensees.

38 (6) The Contractors' State License Board shall disclose
39 information on its licensees and registrants in accordance with
40 Chapter 9 (commencing with Section 7000) of Division 3. In

1 addition to information related to licenses as specified in
2 subdivision (a), the board shall also disclose information provided
3 to the board by the Labor Commissioner pursuant to Section 98.9
4 of the Labor Code.

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

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

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

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

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

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

19 (13) The Acupuncture Board shall disclose information on its
20 licensees.

21 (14) The Board of Behavioral Sciences shall disclose
22 information on its licensees, including licensed marriage and family
23 therapists, licensed clinical social workers, licensed educational
24 psychologists, and licensed professional clinical counselors.

25 (15) The Dental Board of California shall disclose information
26 on its licensees.

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

31 (17) The Board of Psychology shall disclose information on its
32 licensees, including psychologists, psychological assistants,
33 registered psychologists, behavior analysts, and assistant behavior
34 analysts.

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

37 (e) The Structural Pest Control Board shall disclose information
38 on its licensees, including applicators, field representatives, and
39 operators in the areas of fumigation, general pest and wood

1 destroying pests and organisms, and wood roof cleaning and
2 treatment.

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

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

7 2920. (a) The Board of Psychology shall enforce and
8 administer this chapter and Chapter 6.7 (commencing with Section
9 2999.10). The board shall consist of 9 members, 4 of whom shall
10 be public members.

11 (b) On and after July 1, 2017, notwithstanding subdivision (a),
12 the board shall consist of 11 members, 5 of whom shall be public
13 members.

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

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

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

21 2922. (a) In appointing the members of the board, except the
22 public members, the Governor shall use his or her judgment to
23 select psychologists who represent, as widely as possible, the varied
24 professional interests of psychologists in California.

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

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

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

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

38 (b) The Governor shall appoint three of the public members and
39 the six licensed members of the board qualified as provided in

1 Section 2923. The Senate Committee on Rules and the Speaker of
2 the Assembly shall each appoint a public member.

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

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

6 2923. (a) Each member of the board shall have all of the
7 following qualifications:

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

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

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

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

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

18 2923. (a) Each member of the board shall be a resident of this
19 state.

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

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

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

27 (2) For subsequent appointments, the member shall be licensed
28 as a behavior analyst under Chapter 6.7 (commencing with Section
29 2999.10).

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

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

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

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

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

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

3 2927. (a) Six members of the board shall at all times constitute
4 a quorum.

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

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

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CHAPTER 6.7. BEHAVIOR ANALYSTS

10

11

Article 1. General Provisions

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13 2999.10. This chapter shall be known and may be cited as the
14 Behavior Analyst Act.

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

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

26 2999.12. For purposes of this chapter, the following terms have
27 the following meanings:

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

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

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

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

36 (e) "Licensed assistant behavior analyst" means a person
37 licensed under this chapter to practice behavior analysis under the
38 supervision of a licensed behavior analyst.

39 (f) "Licensed behavior analyst" means a person licensed under
40 this chapter to practice behavior analysis.

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

7 (h) (1) “Practice of behavior analysis” or “to practice behavior
8 analysis” means the design, implementation, and evaluation of
9 instructional and environmental modifications to produce socially
10 significant improvements in human behavior and includes the
11 empirical identification of functional relations between behavior
12 and environmental factors, known as functional assessment and
13 analysis, interventions based on scientific research and the direct
14 observation and measurement of behavior and the environment,
15 and utilization of contextual factors, motivating operations,
16 antecedent stimuli, positive reinforcement, and other consequences
17 to help people develop new behaviors, increase or decrease existing
18 behaviors, and emit behaviors under specific environmental
19 conditions.

20 (2) The practice of behavior analysis does not include
21 psychological testing and assessment, diagnosis of a mental or
22 physical disorder, neuropsychology, psychotherapy, cognitive
23 therapy, sex therapy, psychoanalysis, hypnotherapy, counseling,
24 prescribing drugs, performing surgery, or administering
25 electroconvulsive therapy.

26 (3) The Legislature recognizes that the scopes of practice of
27 healing arts licensees regulated under this division sometimes
28 contain similar practices. However, nothing herein shall be
29 construed to allow a licensed behavior analyst or a licensed
30 assistant behavior analyst to engage in those ~~practices~~ *practices*,
31 *including, but not limited to, assessments*, other than specific to
32 their scope of practice within behavior analysis as described herein.
33 Any person practicing behavior analysis under this chapter who
34 violates this provision is subject to disciplinary action by both the
35 Board of Psychology and the board overseeing the relevant
36 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.

2999.23.5. 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.

2999.25. (a) The Behavior Analyst Committee is hereby created within the jurisdiction of the board to make

1 recommendations to the board regarding the regulation of the
2 practice of behavior analysis in the state in order to protect the
3 public from the unauthorized and unqualified practice of applied
4 behavior analysis, and unprofessional, unethical, or harmful
5 conduct by persons licensed to practice behavior analysis.

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

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

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

23 (1) The initial members appointed by the Governor shall be as
24 follows:

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

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

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

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

36 (3) The initial member appointed by the Speaker of the
37 Assembly shall be currently certified by a certifying entity as a
38 certified behavior analyst and shall serve an initial term of four
39 years.

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

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

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

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

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

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

19 2999.26. The committee shall do all of the following:

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

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

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

36 2999.27. (a) The committee may make recommendations to
37 the board regarding licensing and practice standards.

38 (b) The committee may make recommendations to the board
39 regarding the adoption, amendment, and repeal of regulations to
40 implement the requirements of this chapter including, but not

1 limited to, the setting of fees and the establishment of disciplinary
2 guidelines.

3
4 Article 3. Licensing
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6 2999.30. To qualify for licensure as a licensed behavior analyst
7 or a licensed assistant behavior analyst, each applicant shall meet
8 the board's regulatory requirements for behavior analyst or assistant
9 behavior analyst licensure, as applicable, including all of the
10 following:

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

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

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

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

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

27 2999.31. (a) In order to obtain a license as a behavior analyst,
28 an individual shall submit an application on a form approved by
29 the board accompanied by the fees required by the board as
30 specified in Section 2999.93.

31 ~~The board shall verify with the~~ *An applicant shall include,*
32 *with the application, verification from the certifying entity that*
33 *the applicant meets both of the following requirements:*

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

37 (2) Maintains an active status as a certified behavior analyst
38 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) This section shall become inoperative on July 1, 2018. An
 2 applicant who submits his or her application prior to July 1, 2018,
 3 shall be required to meet the requirements of this section to be
 4 licensed by the board.

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

7 2999.32. (a) In order to obtain a license as a behavior analyst,
 8 an individual shall submit an application on a form approved by
 9 the board accompanied by the fees required by the board as
 10 specified in Section 2999.93.

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

16 (b) *An applicant shall include, with the application, verification*
 17 *from the certifying entity that the applicant meets both of the*
 18 *following requirements:*

19 (1) *Has passed the Board Certified Behavior Analyst*
 20 *examination or an equivalent examination administered by the*
 21 *certifying entity.*

22 (2) *Maintains an active status as a certified behavior analyst*
 23 *with the certifying entity.*

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

26 (d) The applicant shall possess a master’s degree or higher level
 27 of education from an institution, which meets the requirements
 28 described in Section 2999.35, that was conferred in behavior
 29 analysis, psychology, or education, or conferred in a degree
 30 program in which the applicant completed a ~~behavior-analytic~~
 31 *behavior analysis* course sequence approved by the certifying
 32 entity.

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

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

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

39 (i) Ethical and professional conduct coursework consisting of
 40 45 hours. The content must be taught in one or more freestanding

1 courses devoted to ethical and professional conduct of behavior
2 analysts.

3 (ii) Concepts and principles of behavior analysis consisting of
4 45 hours.

5 (iii) Research methods in behavior analysis, consisting of 25
6 hours of measurement, including data analysis, and 20 hours of
7 experimental design.

8 (iv) Applied behavior analysis, consisting of 45 hours of
9 fundamental elements of behavior change and specific behavior
10 change procedures, 30 hours of identification of the problem and
11 assessment, 10 hours of intervention and behavior change
12 considerations, 10 hours of behavior change systems, and 10 hours
13 of implementation, management, and supervision.

14 (v) Elective coursework in behavior analysis consisting of 30
15 hours.

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

17 (i) One thousand five hundred hours of independent field work
18 in behavior analysis supervised in accordance with the requirements
19 of the certifying entity.

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

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

28 (iv) A combination of the supervised experience in clause (i),
29 (ii), or (iii). Hours may be completed in any combination of the
30 categories of supervised experience. Hours accrued through a
31 combination of supervised experience shall be proportionately
32 calculated.

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

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

37 (B) Taught at least five sections or iterations of behavior-analytic
38 *analysis* coursework. An applicant shall have taught at least two
39 behavior-analytic *analysis* content areas, which are concepts and
40 principles of behavior, single-subject research methods, applied

1 behavior analysis, and ethics in behavior analysis, in separate
2 courses. Each course taught shall have been exclusively or
3 primarily devoted to behavior-analytic *analysis* content, and shall
4 have been taught at the graduate level. An applicant shall submit
5 proof of completion of the faculty appointment and teaching
6 requirements from a department head, including the syllabus for
7 each course taught, to the board.

8 (C) Published one article with all of the following
9 characteristics:

- 10 (i) Behavior analytic in nature.
11 (ii) Includes at least one experimental evaluation.
12 (iii) Published in a high-quality, peer reviewed journal.
13 (iv) The applicant is the first, second, or corresponding author.
14 (v) The article may have been published at any time during the
15 applicant's career.

16 (D) Obtained supervised experiential training by any of the
17 following:

18 (i) One thousand five hundred hours of independent field work
19 in behavior analysis supervised in accordance with the requirements
20 of the certifying entity.

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

25 (iii) Seven hundred fifty hours of supervised intensive practicum
26 in behavior analysis within a university practicum approved by
27 the certifying entity, taken for graduate credit, and completed with
28 a passing grade.

29 (iv) A combination of the supervised experience in clause (i),
30 (ii), or (iii). Hours may be completed in any combination of the
31 categories of supervised experience. Hours accrued through a
32 combination of supervised experience shall be proportionately
33 calculated.

34 (3) An individual shall have completed all of the following:

35 (A) A doctoral degree in behavior analysis, psychology, or
36 education from an accredited higher education institution.

37 (B) Ten years of postdoctoral experience practicing behavior
38 analysis. The duration of practice shall be at least 10 years,
39 cumulatively, of full-time practice. An applicant's practice shall

1 have occurred under a relevant state professional credential or
2 license.

3 (C) At least 500 hours of supplemental supervised experiential
4 training that meets current experience standards of the certifying
5 entity, commencing after the 10 years of postdoctoral experience
6 required in paragraph (b).

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

8 2999.33. (a) To obtain a license as an assistant behavior
9 analyst, an individual shall submit an application on a form
10 approved by the board accompanied by the fees required by the
11 board as specified in Section 2999.93.

12 (b) ~~The board shall verify with~~ *An applicant shall include, with*
13 *the application, verification from* the certifying entity that the
14 applicant meets all of the following requirements:

15 (1) Has passed the Board Certified Assistant Behavior Analyst
16 examination or equivalent examination administered by the
17 certifying entity.

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

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

22 (d) Each applicant shall provide proof to the board of ongoing
23 supervision by a licensed behavior analyst *or a licensed*
24 *psychologist who is qualified to practice behavior analysis* in a
25 manner consistent with the certifying entity's requirements for
26 supervision of assistant behavior analysts.

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

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

33 2999.34. (a) In order for an individual to be licensed as an
34 assistant behavior analyst under this chapter, he or she shall possess
35 a baccalaureate degree or higher level of education from an
36 institution that meets the requirements described in Section
37 2999.35.

38 (b) ~~An applicant shall maintain active status as a certified~~
39 ~~behavior analyst in good standing with a certifying entity. The~~
40 ~~board shall verify with the certifying entity that the applicant has~~

1 ~~passed the Board Certified Behavior Analyst Examination or an~~
2 ~~equivalent examination administered by the certifying entity.~~

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 Assistant Behavior Analyst*
7 *examination or an equivalent examination administered by the*
8 *certifying entity.*

9 (2) *Maintains an active status as a certified assistant behavior*
10 *analyst 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) Each applicant shall provide proof to the board of ongoing
14 supervision by a licensed behavior analyst *or a licensed*
15 *psychologist who is qualified to practice behavior analysis* in a
16 manner consistent with the certifying entity's requirements for
17 supervision of assistant behavior analysts.

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

21 (1) Completed a baccalaureate degree or higher level of
22 education from an institution that meets the requirements in Section
23 2999.35.

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

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

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

29 (ii) Concepts and principles of behavior analysis consisting of
30 45 hours.

31 (iii) Research methods in behavior analysis, consisting of 10
32 hours of measurement, including data analysis, and five hours of
33 experimental design.

34 (iv) Applied behavior analysis, consisting of 45 hours of
35 fundamental elements of behavior change and specific behavior
36 change procedures, 30 hours of identification of the problem and
37 assessment, five hours of intervention and behavior change
38 considerations, five hours of behavior change systems, and five
39 hours of implementation, management, and supervision.

1 (v) Elective coursework in behavior analysis consisting of 15
2 hours.

3 (B) Obtained supervised experiential training by any of the
4 following:

5 (i) One thousand hours of independent field work in behavior
6 analysis supervised in accordance with the requirements of the
7 certifying entity, taken for academic credit, and completed with a
8 passing grade.

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

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

17 (iv) A combination of the supervised experience in clause (i),
18 (ii), or (iii). Hours may be completed in any combination of the
19 categories of supervised experience. Hours accrued through a
20 combination of supervised experience shall be proportionately
21 calculated.

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

23 2999.35. The education required to obtain a behavior analyst
24 license or an assistant behavior analyst license shall be from any
25 of the following:

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

28 (b) A Canadian institution of higher education that is a member
29 of the Association of Universities and Colleges of Canada or the
30 Association of Canadian Community Colleges.

31 (c) An applicant for licensure trained in an educational
32 institution outside the United States or Canada shall demonstrate
33 to the satisfaction of the board that he or she possesses a degree
34 in a relevant subject that is equivalent to a degree earned from a
35 regionally accredited university in the United States or Canada.
36 Such an applicant shall provide to the board a comprehensive
37 evaluation of the degree performed by a foreign credential service
38 that is a member of the National Association of Credential
39 Evaluation Services (NACES), and any other documentation that
40 the board deems necessary.

1 2999.36. (a) ~~Paraprofessional~~ *Behavior analysis* technicians
2 practicing in this state under the supervision of an individual
3 licensed under this chapter *or a licensed psychologist who is*
4 *qualified to practice behavior analysis* shall satisfy all of the
5 following requirements:

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

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

9 (3) Submit fingerprint images to the California Department of
10 Justice for a state and federal criminal background report within
11 14 days from the date of application.

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

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

17 2999.36.5. On and after July 1, 2018, it shall be unlawful for
18 any 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 the title “licensed behavior
24 analyst,” or “licensed assistant behavior analyst” without being
25 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 2999.37. 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 experiential
13 training toward a license described in this chapter, provided such
14 training is conducted in accordance with the requirements of this
15 chapter.~~

16 ~~(d) A student, or post-graduate individual, pursuing supervised
17 experience in behavior analysis toward a license described in
18 subdivision (a) or (b). The experience shall be gained in accordance
19 with the experience and supervision requirements of the respective
20 licensure act in this division for the license described in subdivision
21 (a) or (b).~~

22 *(c) A student or other individual pursuing supervised experience
23 for any of the following:*

24 *(1) Experiential training toward a license described in this
25 chapter in accordance with this chapter.*

26 *(2) Experience in behavior analysis toward a license described
27 in subdivision (a) or (b) in accordance with the requirements of
28 the respective licensure act in this division.*

29 *(3) As part of a defined program of study, course, practicum,
30 internship, or postdoctoral program, provided that the behavior
31 analysis activities are directly supervised by a licensed behavior
32 analyst, a licensed psychologist, or by an instructor in a course
33 sequence approved by a certifying entity.*

34 ~~(e)~~

35 ~~(d) A parent or guardian of a recipient of behavior analysis
36 services who acts under the extended authority and direction of a
37 licensed behavior analyst or licensed assistant behavior analyst.~~

38 ~~(f) A matriculated college or university student who practices
39 behavior analysis as a part of a defined program of study, course,
40 practicum, internship, or postdoctoral trainee, provided that the~~

1 ~~behavior analysis activities are directly supervised by a licensed~~
2 ~~behavior analyst, a licensed psychologist, or by an instructor in a~~
3 ~~course sequence approved by the certifying entity.~~

4 ~~(g)~~

5 (e) An individual who teaches behavior analysis or conducts
6 ~~behavior-analytic~~ *analysis* research, provided that such teaching
7 or research does not involve the direct delivery of behavior analysis
8 services.

9 ~~(h)~~

10 (f) A behavior analyst licensed in another state or certified by
11 the certifying entity to practice independently, and who temporarily
12 provides behavior analysis services in California during a period
13 of not more than 90 days in a calendar year.

14 ~~(i)~~

15 (g) An individual who is vendorized by one or more regional
16 centers of the State Department of Developmental Services while
17 practicing behavior analysis services authorized under that
18 vendorization. That individual shall not represent himself or herself
19 as a licensed behavior analyst or licensed assistant behavior analyst
20 unless he or she holds a license under this chapter, and shall not
21 offer behavior analysis services to any person or entity other than
22 the regional centers with which he or she is vendorized or accept
23 remuneration for providing behavior analysis services other than
24 the remuneration received from those regional centers unless he
25 or she holds a license under this chapter.

26 ~~(j)~~

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

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

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

38 (b) To renew an unexpired license, the licensee shall, on or
39 before the date on which it would otherwise expire, apply for
40 renewal on a form provided by the board, accompanied by the

1 renewal fee set by the board. The licensee shall include verification
2 from the certifying entity that he or she maintains an active
3 certification status with the renewal form.

4 (c) To renew an assistant behavior analyst license, in addition
5 to the requirements in subdivision (b), the licensee shall submit
6 proof of ongoing supervision by a licensed behavior analyst or a
7 licensed psychologist who is qualified to practice behavior analysis
8 in a manner consistent with the board's requirements for
9 supervision of assistant behavior analysts. ~~A licensed assistant
10 behavior analyst shall be supervised by a licensed behavior analyst
11 for at least 2 percent of the hours of behavior-analytic services
12 they provide per month.~~

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

20 (b) Except as provided in Section 2999.46.5, a license that is
21 not renewed within three years of its expiration shall not be
22 renewed, restored, or reinstated, and the license shall be canceled
23 immediately upon expiration of the three-year period.

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

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

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

1 (d) The board may recognize continuing education courses that
2 have been approved by one or more private nonprofit organizations
3 that have at least 10 years' experience managing continuing
4 education programs for behavior analysts.

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

7 2999.46.5. (a) A suspended license is subject to expiration
8 and shall be renewed as provided in this article, but such renewal
9 does not entitle the licensee, while the license remains suspended,
10 and until it is reinstated, to engage in the licensed activity or in
11 any other activity or conduct in violation of the order or judgment
12 by which the license was suspended.

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

19
20
21

Article 4. Enforcement

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

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

35 2999.62. The board may deny a license application, may issue
36 a license with terms and conditions, may suspend or revoke a
37 license, or may place a license on probation if the applicant or
38 licensee has been guilty of unprofessional conduct. Unprofessional
39 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 former patient within two years following termination of therapy,
3 or sexual misconduct that is related to the qualifications, functions,
4 or duties of a licensed behavior analyst or a licensed assistant
5 behavior analyst.

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

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

11 (r) Repeated acts of negligence.

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

14 2999.63. (a) Except as provided in subdivisions (b), (c), and
15 (e), any accusation filed against a licensee pursuant to Section
16 11503 of the Government Code shall be filed within three years
17 from the date the board discovers the alleged act or omission that
18 is the basis for disciplinary action, or within seven years from the
19 date the alleged act or omission that is the basis for disciplinary
20 action occurred, whichever occurs first.

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

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

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

34 (e) An accusation filed against a licensee pursuant to Section
35 11503 of the Government Code alleging sexual misconduct shall
36 be filed within three years after the board discovers the act or
37 omission alleged as the ground for disciplinary action, or within
38 10 years after the act or omission alleged as the ground for
39 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, within two years following
13 termination of services, shall contain an order of revocation. The
14 revocation shall not be stayed by the administrative law judge.

15 2999.66. The board may deny an application for, or issue
16 subject to terms and conditions, or suspend or revoke, or impose
17 probationary conditions upon, a license or registration after a
18 hearing as provided in Section 2999.70.

19 2999.67. A plea or verdict of guilty or a conviction following
20 a plea of nolo contendere made to a charge which is substantially
21 related to the qualifications, functions, and duties of a licensed
22 behavior analyst or licensed assistant behavior analyst is deemed
23 to be a conviction within the meaning of this article. The board
24 may order the license suspended or revoked, or may decline to
25 issue a license when the time for appeal has elapsed, the judgment
26 of conviction has been affirmed on appeal, or when an order
27 granting probation is made suspending the imposition of sentence,
28 irrespective of a subsequent order under Section 1203.4 of the
29 Penal Code allowing the person to withdraw his or her plea of
30 guilty and to enter a plea of not guilty, or setting aside the verdict
31 of guilty, or dismissing the accusation, information, or indictment.

32 2999.68. Any person required to register as a sex offender
33 pursuant to Section 290 of the Penal Code, is not eligible for
34 licensure by the board.

35 2999.69. An administrative disciplinary decision that imposes
36 terms of probation may include, among other things, a requirement
37 that the licensee who is being placed on probation pay the monetary
38 costs associated with monitoring the probation.

39 2999.70. The proceedings under this article shall be conducted
40 by the board in accordance with Chapter 5 (commencing with

1 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
2 Code.

3 2999.80. A person who violates any of the provisions of this
4 chapter is guilty of a misdemeanor punishable by imprisonment
5 in a county jail not exceeding six months or by a fine not exceeding
6 two thousand five hundred dollars (\$2,500), or by both that fine
7 and imprisonment.

8 2999.81. In addition to other proceedings provided in this
9 chapter, whenever any person has engaged, or is about to engage,
10 in any acts or practices that constitute, or will constitute, an offense
11 against this chapter, the superior court in and for the county
12 wherein the acts or practices take place, or are about to take place,
13 may issue an injunction or other appropriate order restraining that
14 conduct on application of the board, the Attorney General, or the
15 district attorney of the county. Proceedings under this section shall
16 be governed by Chapter 3 (commencing with Section 525) of Title
17 7 of Part 2 of the Code of Civil Procedure, except that it shall be
18 presumed that there is no adequate remedy at law and that
19 irreparable damage will occur if the continued violation is not
20 restrained or enjoined. On the written request of the board, or on
21 its own motion, the board may commence an action in the superior
22 court under this section.

23 2999.83. (a) (1) A licensee who fails or refuses to comply
24 with a request for the medical records of a client, that is
25 accompanied by that client’s written authorization for release of
26 those records to the board, within 15 days of receiving the request
27 and authorization, shall pay to the board a civil penalty of one
28 thousand dollars (\$1,000) per day for each day that the documents
29 have not been produced after the 15th day, unless the licensee is
30 unable to provide the documents within this time period for good
31 cause.

32 (2) A health care facility shall comply with a request for the
33 medical records of a client that is accompanied by that client’s
34 written authorization for release of records to the board together
35 with a notice citing this section and describing the penalties for
36 failure to comply with this section. Failure to provide the
37 authorizing client’s medical records to the board within 30 days
38 of receiving the request, authorization, and notice shall subject the
39 health care facility to a civil penalty, payable to the board, of up
40 to one thousand dollars (\$1,000) per day for each day that the

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

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

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

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

39 (4) Any health care facility that fails or refuses to comply with
40 a court order, issued in the enforcement of a subpoena, mandating

1 the release of records to the board, shall be subject to a civil
2 penalty, payable to the board, of not to exceed five thousand dollars
3 (\$5,000). Any statute of limitations applicable to the filing of an
4 accusation by the board against a licensee shall be tolled during
5 the period the health care facility is out of compliance with the
6 court order and during any related appeals.

7 (c) Multiple acts by a licensee in violation of subdivision (b)
8 shall be a misdemeanor punishable by a fine not to exceed five
9 thousand dollars (\$5,000) or by imprisonment in a county jail not
10 exceeding six months, or by both that fine and imprisonment.

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

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

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

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

29
30 Article 5. Revenue

31
32 2999.90. The board shall report each month to the Controller
33 the amount and source of all revenue received pursuant to this
34 chapter and at the same time deposit the entire amount thereof in
35 the State Treasury for credit to the Psychology Fund established
36 by Section 2980.

37 2999.91. (a) The moneys credited to the Psychology Fund
38 under Section 2999.90 shall, upon appropriation by the Legislature,
39 be used for the purposes of carrying out and enforcing the
40 provisions of this chapter.

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

6 2999.93. The board shall establish fees for the application for
7 and the issuance and renewal of licenses to cover, but not exceed,
8 the reasonable regulatory costs of the board related to administering
9 this chapter. The fees shall be fixed by the board in regulations
10 that are duly adopted under this chapter. Fees assessed pursuant
11 to this section shall not exceed the following:

12 (a) The delinquency fee shall be 50 percent of the biennial
13 renewal fee.

14 (b) The fee for rescoring an examination shall be twenty dollars
15 (\$20).

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

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

20 2999.94. (a) A person licensed under this chapter is exempt
21 from the payment of the renewal fee in any one of the following
22 instances:

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

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

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

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

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

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

6 2999.98. The licensing and regulatory program under this
7 chapter shall be supported from fees assessed to applicants and
8 licensees. Startup funds to implement this program shall be derived,
9 as a loan, from the Psychology Fund, subject to an appropriation
10 by the Legislature in the annual Budget Act. The board shall not
11 implement this chapter until funds have been appropriated.

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