STATE OF CALIFORNIA
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DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

BOARD OF PSYCHOLOGY – Administration
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MEMORANDUM

DATE	April 16, 2015
TO	Policy and Advocacy Committee Members
FROM	Jonathan Burke Administrative Services Coordinator
SUBJECT	**SB 479 (Bates) – Healing Arts: Applied Behavior Analysis**

Background:

Please see attached analysis for detail on the proposed legislation.

Action Requested:

The staff recommendation is to take a "support if amended" position on SB 479 (Bates).

Attachment A is the staff analysis of SB 479.
Attachment B is a synopsis of the language of the bill.
Attachment C is BACB Newsletter with pending CE changes.
Attachment D is the language of the bill.
Attachment E is an enforcement addendum to the analysis (hand carry)

CALIFORNIA STATE BOARD OF PSYCHOLOGY

BILL ANALYSIS

BILL NUMBER: SB 479 **VERSION:** AMENDED APRIL 6, 2015

AUTHOR: BATES **SPONSOR:** CALIFORNIA ASSOCIATION FOR BEHAVIOR ANALYSIS

BOARD POSITION: SUPPORT IF AMENDED

SUBJECT: HEALING ARTS: BEHAVIOR ANALYSIS: LICENSING

Overview

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 applicants to, among other things, meet certain educational and training requirements, and submit fingerprints for both a state and federal criminal background check.

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 implementation of the act.

Existing Law:

1) Requires that every health care service plan or insurance policy that provides hospital, medical or surgical coverage must also provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A). (Health and Safety Code (HSC) §1374.73(a), Insurance Code (IC) §10144.51(a))

2) Requires these health care service plans and health insurers subject to this provision to maintain an adequate network of qualified autism service providers. (HSC §1374.73(b), IC §10144.51(b))

3) Defines "behavioral health treatment" as professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs which develop or restore the functioning of an individual with pervasive developmental disorder or autism, and meets the following criteria (HSC §1374.73(c), IC §10144.51(c):

a) Is prescribed by a licensed physician and surgeon or is developed by a licensed psychologist;

b) Is provided under a treatment plan prescribed by a qualified autism service provider and administered by such a provider or by a qualified autism service professional under supervision and employment of a qualified autism service provider;

c) The treatment plan has measurable goals over a specific timeline and the plan is reviewed by the provider at least once every six months; and

d) Is not used for purposes of providing or for the reimbursement of respite, day care, or educational services.

4) Defines a "qualified autism service provider" as either (HSC §1374.73(c), IC §10144.51(c)):

a) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited and which designs, supervises, or provides treatment for pervasive developmental disorder or autism; or

b) A person who is licensed as a specified healing arts practitioner, including a psychologist, marriage and family therapist, educational psychologist, clinical social worker, or professional clinical counselor. The licensee must design, supervise, or provide treatment for pervasive developmental disorder or autism and be within his or her experience and competence.

5) Defines a "qualified autism service professional" as someone who meets all of the following (HSC §1374.73(c), IC §10144.51(c)):

a) Provides behavioral health treatment;

b) Is employed and supervised by a qualified autism service provider;

c) Provides treatment according to a treatment plan developed and approved by the qualified autism service provider.

d) Is a behavioral service provider approved by a regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program as defined in Section 54342 of Title 17 of the California Code of Regulations (CCR); and

e) Has training and experience providing services for pervasive developmental disorder or autism pursuant to the Lanterman Developmental Disabilities Services Act.

6) Defines a "qualified autism service paraprofessional" as an unlicensed and uncertified person who meets all of the following (HSC §1374.73(c), IC §10144.51(c)):

   a) Is employed and supervised by a qualified autism service provider;

   b) Provides treatment according to a treatment plan developed and approved by the qualified autism service provider;

   c) Meets criteria set forth in regulations regarding use of paraprofessionals in group practice providing behavioral intervention services; and

   d) Is certified by a qualified autism service provider as having adequate education, training, and experience.

7) Defines vendor service codes and sets requirements for regional to classify the following professions (CCR 17 §54342):

   a) Associate Behavior Analysts;

   b) Behavior Analysts;

   c) Behavior Management Assistants;

   d) Behavior Management Consultants; and

   e) Behavior Management Programs.

This Bill:

See Attachment B for synopsis of SB 479 (Bates)

Comments:

1) **ASPPB Position.** The Association of State and Provincial Psychology Boards' Position Statement Regarding Applied Behavior analysis is as follows:

   a) ASPPB adopts the position that applied behavior analysis (ABA) services must be state, provincially or territorially regulated in order to ensure consumer protection.
   b) ASPPB adopts the position that applied behavior analysis services should be regulated under the psychology boards with a defined scope of practice and title separate from that of psychologists.

   SB 479 (Bates) meets these two conditions.

2) **ABA Task Force Recommendations:** The Applied Behavior Analysis Task Force met in January 2015 and passed the following recommendations that were adopted by the full Board at its February Meeting:

   a) That any licensure bill contain an exemption for licensed psychologists and their supervisees,
   b) That any licensure bill exclude diagnosis in the ABA practitioners scope of practice and;
   c) That it be communicated that ABA is within the existing scope of practice for licensed psychologists.

   SB 479 (Bates) includes these three conditions.

3) **Increased Board Membership**. The bill would increase the number of Board members from 9 to 11. Both members of the new members would be licensed ABA practitioners with one also being a licensed psychologist. This appears to be in contradiction with proposed section (BPC 2999.37 (a)) which exempts psychologists from the need for BACB certification if they are competent in the field of ABA. It is unclear why the additional Psychology Board Member must also be a licensed ABA practitioner.

4) The bill establishes a **Behavior Analyst Committee (BAC)** staffed by civil service employees of the Board of Psychology. This five member body would meet at least four times per year and have authority to make recommendations to the Board for its approval. The Board would have the ability to reject or amend BAC recommendations before they came into effect. The five members would be drawn from the following categories:

   a) Licensed Behavior Analyst (GO appointed): 1 year term
   b) Licensed Assistant Behavior Analyst (GO appointed): 2 year term
   c) Licensed Psychologist who is also BACB certified (GO appointed): 3 year term
   d) Licensed Behavior Analyst (Assembly Speaker appointed): 4 year term
   e) Public member who is also a consumer of ABA services (Sen. Rules Com. Appointed) 4 year term.

   A potential issue with the Committee would be a high degree of membership turnover.

5) **Exemptions from licensure**:

- Not all Board of Behavioral Sciences licensees are exempt. Listed in proposed section BPC 2999.37 (b) are PT's, MFT's, and EP's. This means LCSW's and LPCC's would not be exempt. This will trigger opposition from their professional associations and/ or BBS.

SB 946 (Chapter 650, Statutes of 2011), which is the Steinberg bill requiring health plans to cover behavioral health treatment for autism, defines a "qualified autism service provider." That definition includes all of BBS's licensees, as follows:

> Health and Safety Code 1374.73(c):
> (3) "Qualified autism service provider" means either of the following:
>
> (A) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited by the National Commission for Certifying Agencies, and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person, entity, or group that is nationally certified.
>
> (B) A person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or audiologist pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee.

- Proposed section BPC 2999.37 (d) exempts the family member of a recipient of ABA services who acts under the authority of a Licensed ABA practitioner. As written this is extremely expansive and could be used to justify practice on anyone because of a familial relationship to a consumer of Behavioral Analysis services.

- Another exemption is in proposed section BPC 2999.37 (i): Vendorized individuals of Department of Developmental Services regional centers. This will exempt a whole new category of practitioner in light of AB 796 (Nazarian) which allows the vendorization of non ABA behavior analysts.

6) **Examinations** are referenced in proposed sections 2229.31 (b) (1) and 2229.33 (b) (1). These exams are the certification examinations offered by the BACB. The Board has learned from its counterparts in Arizona, Missouri, and New York that BACB has historically not released the examination for an occupational analysis to be conducted by the regulatory body. BPC 139 requires the Board to conduct an occupational analysis of all state and national examinations. The Board would be forced to incur the cost of developing its own ABA competency examinations in the event the BACB examinations are not released for review.

   The bill requires candidates for licensure to pass a Board administered law and ethics examination. This would need to be developed by the Board prior to the acceptance of

application in 2018. This would be two examinations for each category due to the differing competencies and scopes of the licenses.

7) **License or Registration.** Proposed section 2229.33 (d) LABA's are "licensed" yet require "ongoing supervision". A license implies ability to practice independently. Psychological Assistants and Registered Psychologists are registrant categories that require supervision from a fully licensed psychologist. Assistant Behavior Analysts should fall under the registrant category.

8) **Educational requirements:** includes "Engineering" and "field related to Behavioral Analysis". To what level these degrees are relevant to Behavioral Analysis would have to be determined by the Board. Potentially, Licensing Analysts will need the syllabus of each class taken by an applicant to calculate if the requirements of proposed section 2999.32 (b) (1a) (i)-(v). Currently the Board reviews transcripts not the specific course content of each class.

9) **Continuing Education (CE):** The bill does not require any CE explicitly, but it is a requirement of renewal of the certification with BACB. The CE requirements for BACB certification can be seen on attachment C. The Board would be required to accept the terms BACB placed upon there certificate holders regarding CE unless language was inserted allowing the Board to additionally mandate CE topics and coursework.

10) **Fees associated with address changes:** Proposed section 2999.93 (h) imposes a $20.00 fee for changing a licensees address of record with the Board. The Board does not charge psychologists, assistant psychologists, or registered psychologists a fee for informing the Board of a change. A fee will make licensees even less likely to update their information with us.

11) **Listing of FBI and DOJ Fingerprint Procedures:** Proposed section BPC 2999.30 (1), (2), (3): list the FBI's and the DOJ's processes. These are performed automatically and do not require defining in the ABA Practice Act.

12) **BreEZe Impact.** The IT components of this bill will fall under the BreEZe system and are estimated to total $120,000 in FY 2017/18.

13) **Enforcement:** The enforcement language mirrors The Board's existing practices. However, proposed language BPC 2999.62 (o) does not mirror the proposed language in the Board's Disciplinary Guidelines. Recommended amendment below;

> Any act of sexual abuse or sexual relations with a patient or former patient within two years following termination of therapy, or sexual misconduct that is ~~substantially~~ related to the qualifications, functions, or duties of a licensed behavior analyst or a licensed assistant behavior analyst. (Proposed Section BPC 2999.62 (o))

4) Recommended Position: "Support if amended"

5) Support and Opposition.

None on file.

6) History

04/10/15	Set for hearing April 27.
04/09/15	Re-referred to Com. on B., P. & E.D.
04/06/15	From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
03/12/15	Referred to Com. on RLS.
02/27/15	From printer. May be acted upon on or after March 29.
02/26/15	Introduced. Read first time. To Com. on RLS. for assignment. To print.

Senate Bill No. 479 (Bates) Synopsis

Chapter 6.7 Behavior Analysts

This bill:

1) States that the practice of behavior analysis affects public health, safety, and welfare and therefore, is subject to regulation to protect the public from the unauthorized and unqualified or licensed unprofessional or unethical practice of behavior analysis. §2999.11(a)

2) The intent of the bill is for the Board to begin accepting applications for behavior analyst licensure and assistant behavior analyst licensure. §2999.11(b)

3) This bill would become effective January 1, 2018. §2999.11(b)

Definitions:

1) "Board" means the Board of Psychology. §2999.12(a)

2) "Certifying entity" means the Behavior Analyst Certification Board, its successor, or a national organization with a behavior analyst certification program approved by the Board and accredited by the National Commission for Certifying Agencies. §2999.12(b)

3) "Committee" means the Behavior Analyst Committee. §2999.12(c)

4) "Department" means the Department of Consumer Affairs. §2999.12(d)

5) "Licensed assistant behavior analyst" (LABA) means a person licensed under this chapter to practice behavior analysis under the supervision of a licensed behavior analyst. §2999.12(e)

6) "Licensed behavior analyst" (LBA) means a person licensed under this chapter to practice behavior analyst. §2999.12(f)

7) "Practice of behavior analysis" or "to practice behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. §2999.12(g)(1)

8) "Practice of behavior analysis" and "to practice behavior analysis" includes:

    a) Empirical identification of functional relations between behavior and environmental factors. §2999.12(g)(A)

    b) interventions based on scientific research and the direct observation and measurement of behavior and the environment. §2999.12(g)(B)

    c) utilization of contextual factors, motivation operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors increase or decrease existing behaviors and emit behaviors under specific environmental conditions. §2999.12(g)(C)

9) The practice of behavior analysis does not include psychological testing, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or counseling. §2999.12(g)(2)

Article 2. Administration

1) The Board is given power to administer provisions and requirements of this chapter and may make or enforce rules and regulations that are reasonably necessary. §2999.20(a)

2) This section only remains in effect until January 1st of 2021. §2999.20(b)

3) Protection of the public will be the highest priority for the Board in exercising licensing, regulatory, and disciplinary functions pursuant to this chapter. §2999.21

4) Upon the recommendation of the Committee, the Board shall adopt, amend, and repeal regulations to implement the requirements of this chapter. §2999.22

5) The Board may also employ employees as may be necessary to carry out the provisions under the direction of the executive officer of the Board. §2999.23

6) The Board will maintain and make available to the public a list of all licensees. The Board will also make available on its Internet Website information regarding the status of every license issued by the Board. §2999.24

7) The Behavior Analyst Committee is hereby created within the jurisdiction of the Board to protect the public from the unauthorized and unqualified practice of applied behavior analysis, and unprofessional, unethical, or harmful licensed practice. This Committee will consist of five (5) members. Two members must be licensed behavior analysts. One member must be a licensed psychologist as well as a LBA. One member must be a LABA. One member must be a public member who is unlicensed and is a consumer of behavior analysis services. The Governor will appoint one LBA member, the licensed psychologist member, and the LABA member. The Senate Committee on Rules will appoint the public member. §2999.25, §2999.25(a), §2999.25(b), §2999.25(c), §2999.25(d)

    a) The LBA will serve an initial term of one year, the LABA will serve an initial term of two years, the licensed psychologist and behavior analyst will serve an initial term of three years, the public member will serve an initial term of four years, and the initial member appointed by the Speaker of the Assembly will hold a certificate as a certified behavior analyst and serve an initial term of four years. Except for the afore mentioned conditions, each member of the Committee will hold office for a term of four years and will serve until the appointment of his or her successor or

until one year has elapsed since the expiration of the term for which he or she was appointed. Vacancies are filled by appointing power for the unexpired portion of the terms in which they occur. §2999.25(1), §2999.25(1)(A), §2999.25(1)(B), §2999.25(1)(C), §2999.25(2), §2999.25(3), §2999.25(3)(e)

b) All terms will begin on July 1st and expire on June 30th. All members will receive per diem and expenses. Three members of the Committee constitute a quorum. §2999.25(3)(f)

8) This section goes into effect on July 1st, 2017 and remains in effect until January 1st, 2021 where this section is subject to review by the appropriate policy committees of the Legislature. §2999.25(3)(i), §2999.25(3)(j)

9) The Committee will do all of the following:

a) Meet at least once per quarter and give notice of such meetings. §2999.26(a)

b) Meetings may be called upon with reasonable notice at the discretion of the chair and will be called upon at any time upon reasonable notice by a written request of two committee members to the chair. §2999.26(b)

c) Committee will elect a chair and a vice chair from among its members at the first meeting held in each fiscal year, and if the chair in unable to attend a meeting, the vice chair will preside at the meeting. §2999.26(c)

10) The Committee may make recommendations to the Board regarding licensing and practice standards. The Committee may also make recommendations to the Board regarding the adoption, amendment, and repeal of regulations to implement the

requirements of this chapter including the setting of fees and the establishment of disciplinary actions. §2999.27(a), §2999.27(b)

Article 3. Licensing

1) To qualify for licensure as a LBA or LABA, each applicant must meet the Board's regulatory requirements including:

    a) The applicant has no committed acts or crimes constituting grounds for denial of licensure. §2999.30(a)

    b) The Board will not issue a licensure or registration to any person who has been convicted of a crime in this state, another state, or in a territory of the United States that involved sexual abuse of a child. §2999.30(b)

    c) The applicant has successfully passed a state and federal level criminal offender record information search conducted through the Department of Justice. §2999.30(c)

2) The criminal offender record search conducted by the Department of Justice is as follows:

    a) The Board directs applicants to electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information regarding conviction and arrests. §2999.30(1)

    b) The Department of Justice forwards the fingerprint images and related information to the Federal Bureau of Investigation and request a federal summary for criminal history. §2999.30(2)

c) The Department of Justice will review the information returned from the Federal Bureau of Investigation and compile a response to the Board. §2999.30(3)

d) The Board will request from the Department of Justice subsequent arrest notification service for each person submitted. §2999.30(4)

e) The Department of Justice will charge a fee sufficient to cover the cost of processing the request. §2999.30(5)

3) To obtain a license as a LBA, an individual will submit an application on a form approved by the Board accompanied by the fees required by the Board. §2999.31(a)

The Board will verify that the applicant has met the following requirements:

a) He or she has passed the Board Certified Behavior Analyst Examination. §2999.31(b)(1)

b) Maintains an active status as a certified behavior analyst. §2999.31(b)(2)

c) Is in compliance with all ethical and disciplinary standards published by the certifying entity. §2999.31(b)(3)

4) In order for an individual to be licensed as a LBA, he or she must possess a master's degree or higher level of education from an institution that was conferred in behavior analysis, or other natural science, education, human services, engineering, medicine, or a field related to behavior analysis and approved by the certifying entity. In addition, an individual must complete 270 hours of classroom graduate-level instruction including ethical and professional conduct coursework consisting of 45

hours, concepts and principles consisting of 45 hours of fundamental elements of behavior change, 30 hours of identification of the problem and assessment, 10 hours of intervention and behavior change considerations, 10 hours of behavior change systems, 10 hours of implementations, management and supervision, and 30 hours of discretionary coursework in behavior analysis. In addition, an individual must obtain experience by either completing 1,500 hours of supervised independent field work in behavior analysis, completed with a passing grade 1,000 hours of supervised practicum in behavior analysis within a university practicum approved by the certifying entity and taken for graduate credit, completed with a passing grade 750 hours of supervised intensive practicum in behavior analysis within a university program approved by the certifying entity and taken for graduate academic credit, or completed a combination of the supervised experience in any of the above in which the hours would be proportionally calculated. §2999.32

5) An individual must have a doctoral degree, conferred at least 10 years prior to the date of application in the field of behavioral analysis, psychology, education, or related field and 10 years of verified and documented postdoctoral experience practicing behavior analysis. §2999.32(3)(i), §2999.32(3)(ii)

6) To obtain a license as a LABA, an individual must submit an application on a form approved by the Board accompanied by the fees required by the Board. §2999.33(a)

The Board will verify with the certifying entity that the applicant meets that the applicant meets all of the following requirements:

a) He or she has passed the Board Certified Assistant Behavior Analyst examination administered by the certifying entity. §2999.33(a)(1)

b) Maintains an active status as a Board certified assistant behavior analyst with the certifying entity. §2999.33(a)(1)

c) Is in compliance with all ethical and disciplinary standards published by the certifying entity. Each applicant will also be required to obtain a passing score on a California law and ethics examination administered by the Board. In addition, each applicant must provide proof of ongoing supervision by a licensed analyst in a manner consistent with the certifying entity's requirements for supervision of assistant behavior analysts. §2999.33(a)(3)

7) In order for an individual to be licensed as a LABA, he or she must possess a baccalaureate degree or higher level of education from an institution that meets requirements. An individual must also complete 180 classroom hours of undergraduate or graduate level instruction in the following areas: Ethical and professional conduct coursework consisting of 15 hours, concepts and principles of behavior analysis consisting of 45 hours, research methods in behavior analysis consisting of 10 hours, applied behavior analysis consisting of 45 hours of fundamental elements of behavior change, 30 hours of identification of the problem and assessment, 5 hours of intervention and behavior change considerations, five hours of behavior change systems, five hours of implementation, management, and supervision, and 15 hours of discretionary behavior analysis coursework. An individual must also obtain experience by completing 1,000 hours of supervised independent field work in behavior analysis, complete 670 hours of supervised practicum in behavior analysis within a university practicum approved by the certifying entity for academic passing credit, complete 500 hours of supervised intensive practicum in behavior analysis within a university practicum approved by the certifying entity and taken for academic passing credit. An individual may also complete a combination of the two afore mentioned options. §2999.34

8) The education required to obtain LBA license or LABA should be from a United States institution of higher education listed by the Council for Higher Education Association, a Canadian institution of higher education that is a member of the Association of Universities and Colleges of Canada or the Association of Canadian Community Colleges, or an institution of higher education located outside of the

United States or Canada that, at the time the applicant enrolled and graduated, maintained a standard of training equivalent to the standards of institutions accredited by the United States as demonstrated by a member of the National Association of Credential Evaluation Services. §2999.34, §2999.34(a), §2999.34(b), §2999.34(c)

9) On and after January 1st, 2018, it will be unlawful for any person to engage in the following:

   a) Engage in the practice of behavior analysis without first having complied with the provision of this chapter and without holding a current, valid, and active license. §2999.36(a)

   b) Represent oneself by the title of "licensed behavior analyst" or "licensed assistant behavior analyst" without being duly licensed. §2999.36(b)

   c) Make any use of any title, words, letters, or abbreviations that may reasonably be confused with a designation to denote a standard of professional or occupational competence without being duly licensed. §2999.36(c)

   d) Materially refuse to furnish the Board information or records requested. §2999.36(d)

10) This Legislature does not apply to any of the following:

   a) An individual licensed to practice psychology if the practice of behavior analysis engaged in by the licensed psychologist is within the licensed psychologist's training and competence. §2999.37(a)

   b) An occupational therapist, a physical therapist, or a marriage and family therapist. §2999.37(b)

c) An individual, including a paraprofessional technician, acting under the authority and direction of a licensed or assistant behavior analyst. §2999.37(c)

d) A family member of a recipient of behavior analysis services. §2999.37(d)

e) A matriculated college or university student who practices behavior analysis as a part of a defined program of study, provided that the behavior analysis activities are directly supervised by a licensed behavior analyst or by an instructor in a course sequence approved by the certifying entity. §2999.37(e)

f) An unlicensed individual pursuing supervised experience in behavior analysis consistent with the experience requirements of the certifying entity, provided such experience is supervised in accordance with the requirements of the certifying entity. §2999.37(f)

g) An individual who teaches behavior analysis or conducts behavior analytic research, provided that such teaching or research does not involve direct delivery of behavior analysis services. §2999.37(g)

h) A behavior analyst licensed in another state or certified by the certifying entity to practice independently, who temporarily provides behavior analysis services in California during a period of not more than 90 days in a calendar year. §2999.37(h)

i) An individual who is vendorized by one or more regional centers of the California Department of Developmental Services while practicing behavior analysis services authorized under that vendorization and does not represent himself or herself to be a LBA or LABA. §2999.37(i)

j) An individual employed by a school board performing duties of his or her position, provided that he or she must only offer behavior analysis services within the scope of that employment by the school board. §2999.37(j)

11) The Board will issue a license to a person who is licensed as a behavior analyst or an assistant behavior analyst in another state if that state currently imposes comparable licensure requirements as those required by this state and if that state offers reciprocity to individuals licensed under this chapter. Applicants for a license under reciprocity will submit an application on a form approved by the board accompanied by the fees required by the Board. Each applicant must complete any other eligibility requirements established by the Board. §2999.40(a)

12) The Board will verify that an applicant meets all of the following:

a) Holds an active license as a licensed behavior analyst or licensed assistant behavior analyst in another state. §2999.40(a)(1)

b) Is not subject to any disciplinary action by another state or certifying entity. §2999.40(a)(2)

c) Maintains an active status as Board certified behavior analyst or Board certified assistant behavior analyst with the certifying entity. §2999.40(a)(3)

d) Is in compliance with all ethical and disciplinary standards published by the certifying entity. An applicant must also obtain a passing score on a California law and ethics examination administered by the Board. §2999.40(a)(4)

13) A licensee must give written notice to the Board of a name change within 30 days after each change. A copy of the legal document authorizing the name change must be submitted with the notice. §2999.41

14) A license will expire and become invalid two years after it is issued at 12 midnight on the last day of the month in which it was issued, if not renewed. To renew, a licensee must apply for renewal on a form provided by the Board accompanied by the renewal fee set by the board on or before the date the license is set to expire. To renew as a LABA, the licensee must submit proof of ongoing supervision by a licensed behavior analyst in a manner consistent with the certifying entity's requirements for supervision. §2999.44(a), §2999.44(b), §2999.40(c)

15) A license that has expired may be renewed at any time within three years after its expiration by applying for renewal on a form provided by the Board, payment of all accrued and unpaid renewal fees, and the delinquency fee. The Board must obtain verification from the certifying entity of the licensee's active certification status with the certifying entity. If the license in not renewed in the three year period, the license will be canceled immediately. §2999.45(a), §2999.45(b)

16) A suspended license is subject to expiration and will be renewed as mentioned, but such renewal does not entitle the licensee, while the licensee remains suspended, and until it is reinstated to engage in the licensed activity or conduct in violation of the order or judgment by which the license was suspended. §2999.46(a)

17) A license revoked on disciplinary grounds is subject to expiration as provided in this article, but may not be renewed, If it is reinstated after its expiration, the licensees must pay a reinstatement fee in an amount equal to the renewal fee, plus the delinquency fee and any fees accrued at the time of tis revocation. §2999.46(b)

Article 4. Enforcement

1) The Board may investigate the actions of any licensee upon receiving the receipt of a complaint. The board will then review the licensee's alleged violation of statute, regulation, or law and any other complain referred to it by the public, public agency, or the department. Upon finding a violation, the Board may take disciplinary action. §2999.60

2) A license issued may be denied, revoked, or otherwise sanctioned upon demonstration of ineligibility for licensure. The Board may also deny a license application, issue a license with terms and conditions, suspend or revoke a license, or place a license on probation if the applicant or licensee has been guilty of unprofessional conduct. §2999.61, §2999.62

3) Unprofessional conduct includes:

    a) Conviction of a crime substantially related to the qualifications, functions, or duties of a behavior analyst. §2999.62(a)

    b) Use of any controlled substance. §2999.62(b)

    c) Fraudulently or neglectfully misrepresenting the type or status of a license actually held. §2999.62(c)

    d) Impersonating another person holding license or allowing another person to use his or her license. §2999.62(d)

    e) Use of fraud or deception in applying for a license or in passing examinations. §2999.62(e)

    f) Paying, offering to pay, accepting, or soliciting any consideration, compensation, remuneration, for the referral of clients. §2999.62(f)

    g) Violating section 17500. §2999.62(g)

    h) Willful, unauthorized communication of information received in professional confidence. §2999.62(h)

i) Violating any rule of professional conduct promulgated by the Board and set forth in regulations duly adopted under this chapter. §2999.62(i)

j) Being grossly negligent in the practice of his or her profession. §2999.62(j)

k) Violating any of the provisions of this chapter or regulations duly adopted thereunder. §2999.62(k)

l) The aiding or abetting of any person to engage in the unlawful practice of behavior analysis. §2999.62(l)

m) The suspension, revocation, or imposition of probationary conditions or other disciplinary action by another state or country of a license, certificate, or registration to practice behavior analysis issued by that state or country. §2999.62(m)

n) The commission of any dishonest, corrupt, or fraudulent act. §2999.62(n)

o) Any act of sexual abuse or sexual relations with a patient or former patient within two years following termination of therapy, or sexual misconduct that is substantially related to behavior analysis. §2999.62(o)

p) Functioning outside his or her particular field or fields of competence as established by his or her education, training or experience. §2999.62(p)

q) Willful failure to submit, on behalf of an applicant for licensure, verification of supervised experience to the Board. §2999.62(q)

r) Repeated acts of negligence. §2999.62(r)

s) Failure to comply with all ethical and disciplinary standards published by the certifying entity. §2999.62(s)

4) Any accusation filed against a licensee will be filed within three years from the date the Board discovers the alleged act or omission that is the basis for disciplinary action occurred, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first. An accusation filed against a licensee alleging the procurement of a license by fraud or misrepresentation is not subject to limitations set forth. The limitations previously set forth in the legislature will be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the Board. If an alleged act or omission involves a minor, the seven-year limitations period and the 10-year limitations period will be tolled until the minor reaches the age of majority. An accusation filed against a licensee alleging sexual misconduct will be filed within three years after the Board discovers the act or omission alleged as the ground for the disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. The limitations period should be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation. §2999.63, §2999.63(a), §2999.63(b), §2999.63(c), §2999.63(d), §2999.63(e), §2999.63(f)

5) Any proposed decision or decision issued that contains any finding of fact that the licensee engaged in any of sexual contact with a patient, or with a former patient, within two years following termination of services, will contain an order of revocation. The revocation will not be stayed by the administrative law judge. §2999.64

6) The Board may deny an application for, or issue subject to terms and conditions, or suspend or revoke, or impose probationary conditions upon, a license or registration after a hearing. §2999.66

7) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to charge which is substantially related to the qualifications, functions, and duties of a LBA or LABA is deemed to be a conviction. The Board may order the license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed. §2999.67

8) Any person required to register as a sex offender is not eligible for licensure by the Board. §2999.68

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

10) A person who violated any of the provisions of this chapter is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both fine and imprisonment. §2999.80

11) Whenever any person has engaged, or is about to engage, in any acts or practices that constitute or will constitute an offense, the superior court in and for the county wherein the acts or practices take place, may issue an injunction or other appropriate order restraining that conduct on application of the Board, the Attorney General, or the district attorney of the county. §2999.81

Article 5. Revenue

1) The Board must report each month to the Controller the amount and source of all revenue received pursuant to this chapter and at the same time deposit the entire amount thereof in the State Treasury for credit to the Psychology Fund. The money credited to the Psychology Fund will, upon appropriation by the Legislature, be used

for the purposes of carrying out and enforcing the provisions of this chapter. The Board will keep records that will reasonably ensure that funds expended in the administration of each licensing category bear a reasonable relation to the revenue derived from each category and notify the department no later than May 31st of each year. The Board will assess fees for the application for and the issuance and renewal of license to cover, but not exceed, administrative and operating expenses of the Board. The fees will be fixed by the Board in regulations that are duly adopted. §2999.90, §2999.91, §2999.93

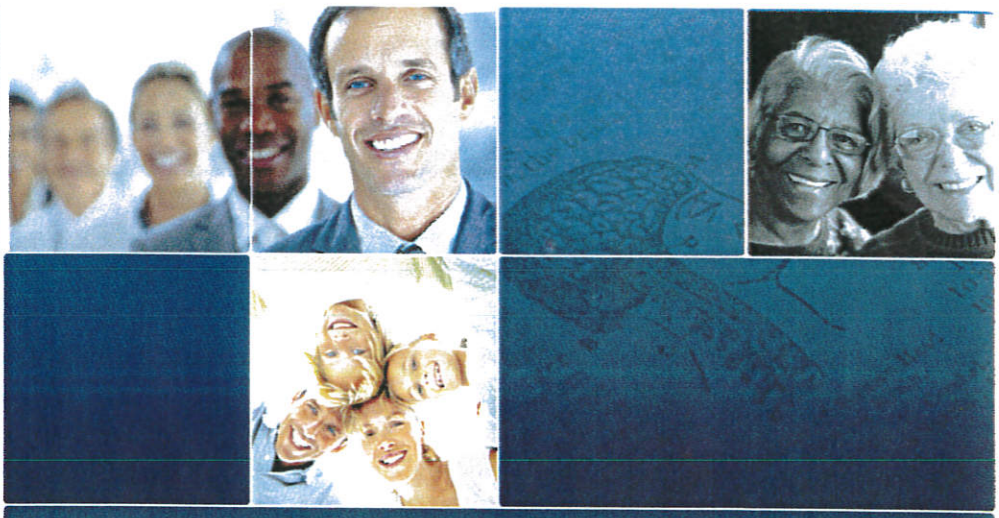
2) The delinquency fee will be 50 percent of the biennial renewal fee. The fee for rescoring an examination will be twenty dollars ($20). The fee for issuance of a replacement license will be twenty dollars ($20). The fee to change a name or address on the Board's records will be twenty dollars ($20). The fee for issuance of a certificate or letter of good standing will be twenty-five dollars ($25). §2999.93

3) The following individuals are exempt from the payment of the renewal fee: (a) While engaged in full-time active service in the Army, Navy, Air force, or Marines, (b) while in the United States Public Health Service, or (c) while a volunteer in the Peace Corps or Vista. §2999.94

4) Every person exempted from the payment of the renewal fee by this section will not engage in any private practice and will become liable for the fee for the current renewal period upon completion of his or her full-time active service. He or she will have a period of 60 days after becoming liable within which to pay the fee before delinquency fee becomes applicable. Any person who completes his or her period of full-time active service within 60 days of the end of a renewal period is exempt from the payment of the renewal fee for that period. The time spent in that full-time active service or full-time training and active service will not be included in the computation of the three-year period for renewal of an expired license. §2999.94(3)(b), §2999.94(3)(c)

5) These exemptions will not be applicable if the person engages in any practice for compensation other that full-time service in the Army, Navy, Air Force, or Marines or in the United States Public Health Service or the Peace Corps or Vista. §2999.94(3)(d)

6) The licensing and regulatory program will be supported from fees assessed to applicants and licensees. Startup funds to implement this program will be derived as a loan from the reserve fund of the Board, subject to an appropriation by the Legislature in the annual budget Act. The Board will not implement this program until funds have been appropriated. §2999.98



BACB Newsletter - Special Edition on New Standards

February, 2013

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The BACB reviews and raises standards for its certification programs on an ongoing basis. The most recent example of this process occurred in 2012 with the changes to the experience and supervision standards resulting from the Supervision Task Force. Due to the growth of BACB certification and the increased scrutiny the organization has received in political and professional arenas, the BACB's Board of Directors authorized further review and potential modification of a number of its certification standards. A workgroup comprised of 8 subject matter experts was convened for a 2-day meeting in June 2012. Membership included individuals with at least BCBA certification who are involved in university teaching and/or service-delivery oversight. The group was also geographically diverse, representing 6 US states and 2 countries. During the meeting, each of the standards for consideration was carefully discussed and, if needed, revised to reflect greater rigor and/or clarity. A consensus approach was used throughout this process. The BACB Board of Directors reviewed and approved the recommendations of the standards workgroup in October 2012. The changes are described below.

Degree Eligibility Requirements

Degree type. The current degree requirement for certification eligibility was enacted on January 1, 2011 and was designed to restrict the previously unrestricted degree requirement under which an applicant's degree could come from any academic discipline. This change was made as a shaping step toward a possible long-term goal of requiring a degree in behavior analysis (or equivalent) for certification as a BCBA. Current applicants for the BCBA and BCaBA examinations must have the appropriate degree from an accredited university that was "conferred in behavior analysis or other natural science, education, human services, engineering, medicine or a field related to behavior analysis and approved by the BACB."

There will be two changes to the degree eligibility requirement. First, the requirement will no longer apply to applicants for the BCaBA examination. The BCaBA degree requirement will be revised as follows and is effective immediately:

New BCaBA Degree Requirement

Possession of a minimum of a bachelor's degree from an accredited university.

The second change is that the degree requirement for the BCBA examination will be further restricted, as follows:

New BCBA Degree Requirement

Possesion of a minimum of a master's degree from an accredited university that was (a) conferred in behavior analysis, education, or psychology, or (b) conferred in a degree program in which the candidate completed a BACB approved course sequence.

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The change in the BCBA master's degree requirement will go into effect for all completed applications received after December 31, 2015.

University accreditation. The current language describing the university accreditation standard is as follows:

> A United States or Canadian institution of higher education fully or provisionally accredited by a regional, state, provincial or national accrediting body; OR an institution of higher education located outside the United States or Canada that, at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training equivalent to the standards of training of those institutions accredited in the United States.

Implementation of this standard has been somewhat difficult because the inclusion of "state" accreditation and "training equivalent to the standards ... in the United States" has resulted in instances of questionable equivalence. To clarify this standard, existing accreditation databases and degree-equivalency systems will be used to help eliminate ambiguity during the application process. The language will be revised as follows and is Effective immediately:

New University Accreditation Standard

Degrees must be conferred by:

A United States institution of higher education listed in the CHEA *Database of Institutions and Programs Accredited by Recognized U.S. Accrediting Organizations*; OR

A Canadian institution of higher education that is a member of the *Association of Universities and Colleges of Canada* or the *Association of Canadian Community Colleges*; OR

An institution of higher education located outside the United States or Canada that, at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training equivalent to the standards of training of those institutions accredited in the United States as demonstrated by *World Education Services* or by a member of the *National Association of Credential Evaluation Services*.

BCBA-D Eligibility Requirements

The Board Certified Behavior Analyst - Doctoral (BCBA-D) designation was first made available on December 15, 2008. Eligibility requirements for this designation were unveiled in a multiple-stage format. Since its inception, Stage 1 requirements for the BCBA-D have been in place. The key Stage 1 requirements require that an individual:

A. Is actively certified as a BCBA; AND

B. Has earned a doctoral degree in applied behavior analysis, other human services, education, science, medicine, or another field approved by the BACB and strongly related to applied behavior analysis, that was conferred by an accredited university; AND

C. Demonstrates that he/she: (i) has used graduate-level university coursework (taken for graduate academic credit) to qualify for the BCBA credential; (ii) has taught courses in behavior analysis in a university program with a BACB approved course sequence full-time for at least two years; OR (iii) could currently qualify under one of the existing BCBA eligibility options.

An important distinction of the Stage 1 BCBA-D requirements is that the criteria in B and C above are assessed only via applicant self-report. The BCBA-D requirements have been revised to reflect that an

individual with this designation not only holds both a doctorate and the BCBA credential, but actually studied behavior analysis during his or her doctoral education. The Stage 2 BCBA-D requirements are as follows, and will be effective for all applications for the designation received after February 28, 2014.

New BCBA-D Requirements

The key Stage 2 requirements require that an individual:

A. Is actively certified as a BCBA; AND

B. Has earned a doctoral degree from a graduate program accredited by the Association for Behavior Analysis International; OR

C. Has earned a doctoral degree from an accredited university in which he or she conducted a behavior-analytic dissertation (including at least 1 experiment); AND passed at least 2 behavior analysis courses as part of the doctoral program of study; AND met all BCBA coursework requirements prior to receiving the doctoral degree.

In addition to the changes indicated above, self-report assessment will be removed from the BCBA-D application process. Applicants for the BCBA-D designation will need to submit official university transcripts and programs of study for staff review. The behavior-analytic nature of the dissertation will be determined from the published dissertation abstract and, if necessary, from the dissertation itself.

We should note that certificants who hold the BCBA-D designation under Stage 1 requirements will not need to meet the new requirements as long as they maintain their certification.

Continuing Education Requirements

The BACB's current continuing education requirements are linked to each certificant's recertification cycle (3 years). At the end of each cycle, certificants must attest to completing 36 hours (BCBA, BCBA-D) or 24 hours (BCaBA) of continuing education, with 3 hours in the area of ethics and professional behavior.

A number of changes will be made to the current continuing education requirements, as follows:

New Continuing Education Requirements

1. The recertification cycle will be changed from 3 to 2 years. With this change, certificants will renew and recertify in alternate years.
2. The number of required continuing education credits per 2-year recertification cycle will be 32 for BCBAs/BCBA-Ds and 20 for BCaBAs. These changes represent 33% and 25% increases in continuing education hours for BCBAs/BCBA-Ds and BCaBAs, respectively.
3. The ethics and professional behavior category will be restricted to ethics content only and all certificants will need to obtain 4 hours per cycle from this category. It should be noted that BCBAs/BCBA-Ds who wish to supervise individuals pursuing BACB certification or the ongoing practice of BCaBAs will also need obtain 3 hours of supervision continuing education per recertification cycle as part of the 32-hour requirement.
4. A new category of continuing education activities (CE Type 7) has been added to reflect the learning that occurs in scholarly activities such as the publication of journal articles and editorial reviews (see revised continuing education table on following page).

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Revised Continuing Education Types

CE TYPE	DESCRIPTION	LIMIT	DOCUMENTATION
1	College or university coursework	None - all of your CE can come from this type	Official transcript with passing grade & syllabus showing behavior analysis content
2	CE issued by approved continuing education (ACE) providers	None - all of your CE can come from this type	Certificate or letter from ACE provider
3	Non-approved events	A maximum of 25% of your CE can come from this type	Documentation of event showing behavior-analytic content (e.g., conference program, flyer, or agenda).
4	Instruction of Type 1 or Type 2 events	A maximum of 50% of your CE can come from this type	Letter from department chair or ACE provider
5	CE issued by the BACB directly	A maximum of 25% of your CE can come from this type	BACB posts directly to your online account
6	Take and pass the certification exam again	Passing the exam equals 100% of the required CE	BACB posts directly to your online account. Note: If you elect this option, you may not recertify or reenter via other options in the event that you do not pass the examination.
7	*Scholarly Activities* Publication of an ABA article in a peer-reviewed journal OR service as reviewer or action editor of an ABA article for a peer-reviewed journal.	A maximum of 25% of your CE can come from this type. Can claim only in the recertification cycle when the article was published or reviewed. One publication = 8 hr One review = 1 hr	Final publication listing certificant as author. Editorial decision letter (for action editor activity). Letter of attestation from action editor (for reviewer activity).

Note: A maximum of 75% of the total may come from categories 3, 4, 5, and 7. At least 25% must come from Type 1 or Type 2. Passing the examination (Type 6) meets all CE requirements except for supervision.

All of the changes to continuing education requirements will take effect for each certificant for the first recertification cycle that begins after December 31, 2014.

We have listened to your comments about the existing continuing education audit system and want you to know that we are working on a standardized process that will soon eliminate the need for audits. The BACB is developing an extension of the Certificant Gateway to permit certificants to upload documentation of their continuing education activities on an ongoing basis. After this system is launched, there will be no need to audit certificants for their continuing education materials because supporting documentation will be available in our database for all certificants. At that point, we will switch to internal audits of uploaded materials. We will provide information on this new system in a future issue of the BACB Newsletter.

Pass Rates to be Reported for Approved Course Sequences

On an annual basis, the university faculty contact person for each BACB approved course sequence (ACS) may request its annual pass rate if at least 6 of its graduates took the examination during the year. These data were originally provided to give faculty members feedback about their graduates' examination performance so that courses could be modified as needed. Until recently, course sequences were prohibited from advertising their pass rates. However, beginning in 2011, permission to advertise such data was expressly provided. The rationale behind this recent change was to further shape our ACS system such that data would be now provided to potential students so

they could make more informed decisions prior to enrollment (at least for programs that advertised their pass rates).

We are ready to take the final step in this incremental process. Beginning in 2014, ACS pass rates will be reported on our website. The first data will be from examinations administered in 2013, with additional data added in subsequent years. Data will be omitted for ACSs with fewer than 6 students testing in a year and ACSs in their first 4 years of existence.

We hope that publicizing ACS pass rates, which is a practice already employed by some certification and licensure boards, will be a useful resource for potential students and serve as a feedback mechanism for universities. After the pass-rate data are published on the *BACB website*, the BACB will discontinue reporting pass rates directly to universities.

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California LEGISLATIVE INFORMATION

SB-479 Healing arts: behavior analysis: licensing. (2015-2016)

AMENDED IN SENATE APRIL 06, 2015

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

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 Section 2999.25 of, the Business and Professions Code,* relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 479, as amended, Bates. Healing ~~arts.~~ *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 ~~Behavioral Sciences and 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 declare the intent of the legislature to enact legislation to license and regulate the profession of applied behavioral analysis.~~

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 they 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 applicants to, among other things, meet certain educational and training requirements, and submit fingerprints for both a state and federal criminal background check.

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 implementation of the act.

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 January 1, 2018, make it unlawful to, among other things, practice behavior analysis without being licensed by the board, except as specified.

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: ~~no~~*yes* Local Program: ~~no~~*yes*

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) On and after July 1, 2017, notwithstanding paragraph (a), the board shall consist of 11 members, four of whom shall be public members.

~~(b)~~

(c) This section shall remain in effect only until January 1, 2017, and as of that date is ~~repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.~~ *repealed.*

~~(c)~~

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

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

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

~~The~~

(b) The Governor shall appoint two of the public members and the five licensed members of the board qualified as provided in Section 2923. The Senate ~~Rules~~ Committee *on Rules* and the Speaker of the Assembly shall each appoint a public ~~member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~ *member.*

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

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

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

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

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

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

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

~~(a)~~

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

~~(b)~~

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

~~The~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 6.7. Behavior Analysts
Article 1. General Provisions

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

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

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

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

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

(b) "Certifying entity" means the Behavior Analyst Certification Board or its successor, or a national organization with a behavior analyst certification program approved by the board and accredited by the National Commission for Certifying Agencies.

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

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

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

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

(g) (1) "Practice of behavior analysis" or "to practice behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior and includes any of the following:

(A) The empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis.

(B) Interventions based on scientific research and the direct observation and measurement of behavior and the environment.

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

(2) The practice of behavior analysis does not include psychological testing, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or counseling as treatment modalities.

Article 2. Administration

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. Upon recommendation of the committee, 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 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 protect the public from the unauthorized and unqualified practice of applied behavior analysis, and unprofessional, unethical, or harmful conduct by persons licensed to practice behavior analysis.

(b) The committee shall consist of five members. Two members shall be licensed behavior analysts. One member shall be a psychologist licensed under Chapter 6.6 (commencing with Section 2900) who is also a member of the Board of Psychology and who holds a license as a behavior analyst. One member shall be a licensed assistant behavior analyst. One member shall be a public member who is a consumer of behavior analysis services and who is not licensed under this chapter, under any chapter within this division, or by any board referred to in the Chiropractic Act or the Osteopathic Act.

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

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

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

(A) One member shall hold a certificate as a certified behavior analyst from a certifying entity and shall serve an initial term of one year.

(B) One member shall hold a certificate as a certified assistant behavior analyst from a certifying entity and shall serve an initial term of two years.

(C) One member shall be a licensed psychologist who holds a certificate as a certified behavior analyst from a certifying entity and shall serve an initial term of three years.

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

(3) The initial member appointed by the Speaker of the Assembly shall hold a certificate as a certified behavior analyst from a certifying entity and shall serve an initial term of four years.

(e) Except as provided in paragraph (d), each member of the committee shall hold office for a term of four years, and shall serve until the appointment of his or her successor or until one year has elapsed since the expiration of the term for which he or she was appointed, whichever occurs first. Vacancies shall be filled by the

appointing power for the unexpired portion of the terms in which they occur. A member shall not serve for more than two consecutive terms.

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

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

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

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

(j) 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 committee subject to review by the appropriate policy committees of the Legislature.

2999.26. The committee shall do all of the following:

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

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

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

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

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

2999.28. Any action taken by the committee under this chapter shall only be effective after adoption by majority vote of the members of the committee and after adoption by a majority vote of the members of the board.

Article 3. Licensing

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

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

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

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

(1) The board shall direct applicants to electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state and federal level convictions and arrests and information as to the existence and content of a record of state or federal level arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(2) The Department of Justice shall forward the fingerprint images and related information received pursuant to paragraph (1) to the Federal Bureau of Investigation and request a federal summary for criminal history information.

(3) The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the board pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The board shall request from the Department of Justice subsequent arrest notification service, pursuant to Section 11105.2 of the Penal Code, for each person who submitted information pursuant to paragraph (1).

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

2999.31. (a) To obtain a license as a behavior analyst, an individual shall submit an application on a form approved by the board accompanied by the fees required by the board as specified in Section 2999.93.

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

(1) Has passed the Board Certified Behavior Analyst examination administered by the Behavior Analyst Certification Board.

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

(3) Is in compliance with all ethical and disciplinary standards published by the certifying entity.

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

2999.32. (a) In order for an individual to be licensed as a behavior analyst under this chapter, he or she shall possess a master's degree or higher level of education from an institution, which meets the requirements described in Section 2999.35, that was conferred in behavior analysis or other natural science, education, human services, engineering, medicine, or a field related to behavior analysis and approved by the certifying entity.

(b) In addition to subdivision (a), an individual shall meet one of the following in order to be licensed under this chapter:

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

(A) Completed 270 hours of classroom graduate-level instruction in the following content areas:

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

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

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

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

(v) Discretionary coursework in behavior analysis consisting of 30 hours.

(B) Obtained experience by any of the following:

(i) Completed 1,500 hours of independent field work in behavior analysis supervised in accordance with the requirements of the certifying entity.

(ii) Completed, with a passing grade, 1,000 hours of supervised practicum in behavior analysis within a university practicum approved by the certifying entity and taken for graduate academic credit.

(iii) Completed, with a passing grade, 750 hours of supervised intensive practicum in behavior analysis within a university practicum approved by the certifying entity and taken for graduate academic credit.

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

(2) An individual shall have done both of the following:

(A) Completed one academic year as a full-time faculty appointment at a college or university, as described in Section 2999.35, during which he or she did all of the following:

(i) Taught classes on basic principles of behavior, single-subject research methods, applications of basic principles of behavior in applied settings, and ethical issues.

(ii) Conducted and published research in behavior analysis.

(B) Obtained experience by any of the following:

(i) Completed 1,500 hours of independent field work in behavior analysis supervised in accordance with the requirements of the certifying entity.

(ii) Completed, with a passing grade, 1,000 hours of supervised practicum in behavior analysis within a university practicum approved by the certifying entity and taken for graduate academic credit.

(iii) Completed, with a passing grade, 750 hours of supervised intensive practicum in behavior analysis within a university practicum approved by the certifying entity and taken for graduate academic credit.

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

(3) An individual shall have both of the following:

(i) A doctoral degree, conferred at least 10 years prior to the date of application in the field of behavior analysis, psychology, education, or a related field approved by the certifying entity.

(ii) Ten years of verified and documented postdoctoral experience practicing behavior analysis.

(c) If an individual is certified by a certifying entity whose requirements for initial certification as a certified behavior analyst at the time of license application meet or surpass the requirements in subdivisions (a) and (b), the applicant for licensure shall be deemed to have satisfied the requirements in subdivisions (a) and (b).

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

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

(1) Has passed the Board Certified Assistant Behavior Analyst examination administered by the certifying entity.

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

(3) Is in compliance with all ethical and disciplinary standards published by the certifying entity.

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

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

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

(b) In addition to subdivision (a), an individual shall meet both of the following in order to be licensed under this chapter:

(1) Completed 180 classroom hours of undergraduate or graduate level instruction in the following content areas:

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

(B) Concepts and principles of behavior analysis consisting of 45 hours.

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

(D) Applied behavior analysis, consisting of 45 hours of fundamental elements of behavior change and specific behavior change procedures, 30 hours of identification of the problem and assessment, five hours of intervention and behavior change considerations, five hours of behavior change systems, and five hours of implementation, management and supervision.

(E) Discretionary coursework in behavior analysis consisting of 15 hours.

(2) Obtained experience by any of the following:

(A) Completed 1,000 hours of independent field work in behavior analysis supervised in accordance with the requirements of the certifying entity.

(B) Completed, with a passing grade, 670 hours of supervised practicum in behavior analysis within a university practicum approved by the certifying entity and taken for academic credit.

(C) Completed, with a passing grade, 500 hours of supervised intensive practicum in behavior analysis within a university practicum approved by the certifying entity and taken for academic credit.

(D) Completed a combination of the supervised experience in paragraph (A), (B), or (C). Hours may be completed in any combination of the categories of supervised experience. Hours accrued through a combination of supervised experience shall be proportionately calculated.

(c) If an individual is certified by a certifying entity whose requirements for initial certification as a certified assistant behavior analyst at the time of license application meet or surpass the requirements in subdivisions (a) and (b), the applicant for licensure shall be deemed to have satisfied the requirements in subdivisions (a) and (b).

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

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

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

(c) An institution of higher education located outside the United States or Canada that, at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training equivalent to the standards of training of those institutions accredited in the United States as demonstrated by a member of the National Association of Credential Evaluation Services.

2999.36. On and after January 1, 2018, it shall be unlawful for any person to engage in any of the following acts:

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

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

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

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

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

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

(b) An occupational therapist licensed under Chapter 5.6 (commencing with Section 2570), a physical therapist licensed under Chapter 5.7 (commencing with Section 2600), a marriage and family therapist licensed under

Chapter 13 (commencing with Section 4980) or an educational psychologist licensed under Chapter 13.5 (commencing with Section 4980.10) acting within his or her licensed scope of practice and within the scope of his or her training and competence, provided that he or she does not represent himself or herself as a licensed behavior analyst or licensed assistant behavior analyst.

(c) An individual, including a paraprofessional technician, acting under the authority and direction of a licensed behavior analyst, a licensed assistant behavior analyst, or an individual described in paragraph (a) or (b).

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

(e) A matriculated college or university student who practices behavior analysis as a part of a defined program of study, course, practicum, internship, or postdoctoral fellowship, provided that the behavior analysis activities are directly supervised by a licensed behavior analyst or by an instructor in a course sequence approved by the certifying entity.

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

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

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

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

(j) An individual employed by a school board performing the duties of his or her position, provided that he or she shall only offer behavior analysis services within the scope of that employment by the school board.

2999.40. (a) The board shall issue a license to a person who is licensed as a behavior analyst or an assistant behavior analyst in another state, if that state currently imposes comparable licensure requirements as those required by this state and if that state offers reciprocity to individuals licensed under this chapter. Applicants for a license under reciprocity shall submit an application on a form approved by the board accompanied by the fees required by the board as specified in Section 2999.93. Each applicant shall complete any other eligibility requirements established by the board, including, but not limited to, the criminal background check required by Section 2999.30.

(b) The board shall verify that the applicant meets all of the following:

(1) Holds an active license as a licensed behavior analyst or licensed assistant behavior analyst in another state.

(2) Is not subject to any disciplinary action by another state or certifying entity.

(3) Maintains an active status as board certified behavior analyst or board certified assistant behavior analyst with the certifying entity.

(4) Is in compliance with all ethical and disciplinary standards published by the certifying entity.

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

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

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

(b) To renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form provided by the board, accompanied by the renewal fee set by the board. The board shall obtain verification from the certifying entity that the renewal applicant maintains an active certification status with the certifying entity.

(c) To renew an assistant behavior analyst license, in addition to the requirements in paragraph (b), the licensee shall submit proof of ongoing supervision by a licensed behavior analyst in a manner consistent with the certifying entity's requirements for supervision of assistant behavior analysts.

2999.45. (a) A license that has expired may be renewed at any time within three years after its expiration by applying for renewal on a form provided by the board, payment of all accrued and unpaid renewal fees, and the delinquency fee specified in Section 2999.93. The board shall obtain verification from the certifying entity of the licensee's active certification status with the certifying entity.

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

2999.46. (a) A suspended license is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the licensee, while the license remains suspended, and until it is reinstated, to engage in the licensed activity or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

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

Article 4. Enforcement

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

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

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

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

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

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

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

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

(f) Paying, offering to pay, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of clients.

(g) Violating Section 17500.

(h) Willful, unauthorized communication of information received in professional confidence.

(i) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under this chapter.

(j) Being grossly negligent in the practice of his or her profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

(l) The aiding or abetting of any person to engage in the unlawful practice of behavior analysis.

(m) The suspension, revocation, or imposition of probationary conditions or other disciplinary action by another state or country of a license, certificate, or registration to practice behavior analysis issued by that state or country to a person also holding a license issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section. A certified copy of the decision or judgment of the other state or country shall be conclusive evidence of that action.

(n) The commission of any dishonest, corrupt, or fraudulent act.

(o) Any act of sexual abuse or sexual relations with a patient or former patient within two years following termination of therapy, or sexual misconduct that is substantially related to the qualifications, functions, or duties of a licensed behavior analyst or a licensed assistant behavior analyst.

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

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

(r) Repeated acts of negligence.

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

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

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

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

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

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

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

2999.64. Notwithstanding Section 2999.62, any proposed decision or decision issued under this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in Section 728, when that act is with a patient, or with a former patient, within two

years following termination of services, shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge.

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

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

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

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

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

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

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

Article 5. Revenue

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

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

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

2999.93. The board shall assess fees for the application for and the issuance and renewal of licenses to cover, but not exceed, administrative and operating expenses of the board related to this chapter. The fees shall be fixed by the board in regulations that are duly adopted under this chapter. Fees assessed pursuant to this section shall not exceed the following:

(a) The fee for the application for licensure shall be not more than ____ dollars ($____).

(b) The fee for the law and ethics examination shall be not more than ____ dollars ($____).

(c) The fee for the issuance of a license shall be not more than ____ dollars ($____).

(d) The fee for a biennial renewal of a license shall be not more than ____ dollars ($____).

(e) The delinquency fee shall be 50 percent of the biennial renewal fee.

(f) The fee for rescoring an examination shall be twenty dollars ($20).

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

(h) The fee to change a name or address on the board's records shall be twenty dollars ($20).

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

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

(1) While engaged in full-time active service in the Army, Navy, Air Force, or Marines.

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

(3) While a volunteer in the Peace Corps or Vista.

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

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

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

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

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

~~SECTION 1.It is the intent of the legislature to enact legislation to license and regulate the profession of applied behavioral analysis.~~