CONSIDERATION OF AND POSSIBLE ACTION ON BILLS OF INTEREST TO THE BOARD

The following are attached for review:

a. Legislative tracking sheet
b. AB 1715 (Holden), Behavioral Analysis: licensing.
c. AB 2007 (McCarty), Youth Athletics; youth sports organizations: concussion or other head injuries.
d. SB 479 (Bates), Healing arts: behavioral analysis: licensing. (*Bill not included; verbal report only*)
e. SB 1155 (Morrell), Professions and vocations: licenses: military service.

CBOT - Legislative Tracking Report

Bill No.	Author	Title	Board Position (as of date here)	Bill Version Reviewed	Status or Next Committee; Hearing Date if Available
AB 1715	Holden	Behavior analysis: licensing		6/9/2016	Senate B&P - 6/27
AB 2007	McCarty	Youth Athletics; youth sports organizations: concussion or other head injuries.		5/27/2016	Senate Health - tbd
SB 1155	Morrell	Professions and vocations: licenses: military service.		5/31/2016	Assembly B&P - tbd

California LEGISLATIVE INFORMATION

AB-1715 Healing arts: behavior analysis: licensing. (2015-2016)

AMENDED IN SENATE JUNE 09, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

AMENDED IN ASSEMBLY MARCH 29, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL **No. 1715**

Introduced by Assembly Member Holden

January 26, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

This bill would require a person to apply for and obtain a license from the board prior to engaging in the practice of behavior analysis, as defined, either as a behavior analyst or an assistant behavior analyst. The bill would require these applicants to, among other things, meet certain educational and training requirements, and ~~submit fingerprints for both a~~ *pass a specified* state and federal criminal background check. The bill would

require an assistant behavior analyst applicant to provide proof to the board of ongoing supervision by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis, as specified. The bill would provide that those licenses expire 2 years after the date of issuance and would authorize the renewal of unexpired licenses if certain requirements are met, including the completion of specified continuing education. The bill would also require an applicant *for relicensure or reinstatement* to certify, under penalty of perjury, that he or she is in compliance with that continuing education requirement. By expanding the crime of perjury, the bill would impose a state-mandated local program.

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

This bill would also require *the registration of* a behavior analysis technician, as defined, who practices under the direction and supervision of *a registered behavioral analyst intern,* a licensed behavior analyst, a licensed assistant behavior analyst, or a licensed psychologist who is qualified to practice behavior ~~analysis, to submit,~~ *analysis. The bill,* among other things, *would require that technician to submit* an ~~application subject to board approval, fingerprints for a~~ *application, pass a specified* state and federal criminal background check, and ~~payment of~~ *pay* an application fee. The bill would make these ~~approvals~~ *registrations* subject to renewal every 2 years and would require the payment of a renewal fee.

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

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

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

This bill would make a violation of the act a misdemeanor punishable by 6 months in the county jail or a fine not to exceed ~~$2,500,~~ *$2,000,* or by both imprisonment and a fine. By creating a new crime, the bill would impose a state-mandated local program.

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

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

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: 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, registered psychologists, behavior analysts, assistant behavior analysts, behavior analysis technicians, and behavior analyst interns.

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

(g) "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 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, 2018, notwithstanding subdivision (a), the board shall consist of 11 members, five of whom shall be public members.

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

(d) Notwithstanding any other 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.

(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 Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(c) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, 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 three of the public members and the six 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, 2018.

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:

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

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

(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, 2018, and, as of January 1, 2019, 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 and 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) 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.

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

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, 2018, and, as of January 1, 2019, 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, 2018.

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, assistant behavior analyst licensure, behavior analysis technician approval, and behavior analyst intern registration~~ *licensure as a behavior analyst or an assistant behavior analyst no later than July 1, 2019. It is the intent of the Legislature that the board begin accepting applications for registration as a behavior analysis technician or a behavior analyst intern* 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.~~ *2018.*

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

(a) "Behavior analysis technician" means an individual who works directly with a client to implement applied behavior analysis services under the direction and supervision of *a registered behavior analyst intern,* a licensed behavior analyst, a licensed assistant behavior analyst, or a licensed psychologist who is qualified to practice behavior analysis, and has successfully completed the application requirements described in Section 2999.36.

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

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

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

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

(f) "Licensed assistant behavior analyst" means a person licensed under this chapter to practice behavior analysis under the supervision of a licensed behavior analyst or a licensed psychologist who is qualified to

practice behavior ~~analysis.~~ *analysis and who maintains active certification with the certifying entity during the entire period of licensure.*

(g) "Behavior analyst intern" means a person registered under this chapter to practice behavior analysis under the supervision of a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis.

(h) "Licensed behavior analyst" means a person licensed under this chapter to practice behavior ~~analysis.~~ *analysis and who maintains active certification with the certifying entity during the entire period of licensure.*

(i) "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 the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis, interventions based on scientific research and the direct observation and measurement of behavior and the environment, and 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.

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

(2) The Legislature recognizes that the scopes of practice of healing arts licensees regulated under this division sometimes contain similar practices. However, nothing herein shall be construed to allow a licensed behavior analyst or a licensed assistant behavior analyst to engage in those practices, *or those in Section 2903,* including, but not limited to, assessments, other than specific to their scope of practice within behavior analysis as described herein. Any person practicing behavior analysis under this chapter who violates this provision is subject to disciplinary action by both the Board of Psychology and the board overseeing the relevant practice.

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, 2022, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

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

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

2999.23. The board shall adopt a program of consumer and professional education in matters relevant to the ethical practice of behavior analysis. The board shall establish standards of ethical conduct relating to the practice of behavior analysis that are based on current standards published by a national credentialing organization with behavior analyst certification programs approved by the board and accredited by the National Commission for Certifying Agencies. These standards shall be applied by the board as the accepted standard of ~~ethics~~ *ethical conduct* in all law and ethics licensing examination development and in all board enforcement policies and disciplinary case evaluations involving the practice of behavior analysis.

2999.24. 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.

2999.25. 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.

2999.26. (a) The Behavior Analyst Committee is hereby created within the jurisdiction of the board to make recommendations to the board regarding the regulation of the practice of behavior analysis in the state in order 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 of which shall also be a member of the board. One member shall be a psychologist licensed under Chapter 6.6 (commencing with Section 2900) and who holds a current certification from a certifying entity as a behavior analyst. One member shall be a licensed assistant behavior analyst. One member shall be a public member 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 initial 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 be currently certified by a certifying entity as a certified behavior analyst and shall serve an initial term of one year.

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

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

(e) Except as provided in subdivision (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, 2018.

(j) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

2999.27. The committee shall do all of the following:

(a) Meet at least once per ~~quarter.~~ *year.* All meetings of the committee shall be public meetings. Notice of each regular meeting of the committee 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.

2999.28. (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 guidelines.

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 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:~~

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

~~(1)~~

(b) 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 this ~~subdivision.~~ *section.*

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

2999.31. (a) In order 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) An applicant shall include, with the application, verification from the certifying entity that the applicant meets both of the following requirements:

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

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

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

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

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

2999.32. (a) In order 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) An applicant shall include, with the application, verification from the certifying entity that the applicant meets both of the following requirements:

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

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

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

(d) The applicant shall meet one of the following requirements:

(1) 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, psychology, or education.

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

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

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

(A) Two hundred seventy hours of classroom graduate-level instruction in all of 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) Elective coursework in behavior analysis consisting of 30 hours.

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

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

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

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

(iv) 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 meet all of the following requirements:

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

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

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

(i) Behavior analytic in nature.

(ii) Includes at least one experimental evaluation.

(iii) Published in a high-quality, peer reviewed journal.

(iv) The applicant is the first, second, or corresponding author.

(v) The article may have been published at any time during the applicant's career.

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

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

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

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

(iv) 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 completed all of the following:

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

(B) Ten years of postdoctoral experience practicing behavior analysis. The duration of practice shall be at least 10 years, cumulatively, of full-time practice. An applicant's practice shall have occurred under a relevant state professional credential or license.

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

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

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

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

(2) Maintains an active status as a certified assistant behavior analyst with 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 to the board of ongoing supervision by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis in a manner consistent with the certifying entity's requirements for supervision of assistant behavior analysts.

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

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

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

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

(2) Maintains an active status as a certified assistant behavior analyst with 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 to the board of ongoing supervision by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis in a manner consistent with the certifying entity's requirements for supervision of assistant behavior analysts.

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

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

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

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

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

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

(iii) Research methods in behavior analysis, consisting of 10 hours of measurement, including data analysis, and five 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, five hours of intervention and behavior change considerations, five hours of behavior change systems, and five hours of implementation, management, and supervision.

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

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

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

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

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

(iv) 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.

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

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

2999.35.5. (a) A person other than a licensed behavior analyst, licensed assistant behavior analyst, or ~~approved~~ *registered* behavior analysis technician may be registered as a behavior analyst intern by the board in order to prepare for licensure as a behavior analyst. The behavior analyst intern shall be supervised in accordance with

the board's regulations by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis in order to perform behavior analysis services provided that all of the following apply:

(1) The person's title is "behavior analyst intern."

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

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

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

(A) Has received a baccalaureate degree from an institution that meets the requirements in Section 2999.35.

(B) Has begun or completed the graduate level instruction set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 2999.32 or in subparagraph (A) of paragraph (2) of subdivision (e) of Section 2999.34.

(C) Has begun or completed the supervised experiential training set forth in subparagraph (B) of paragraph (1) of subdivision (e) of Section 2999.32 or in subparagraph (B) of paragraph (2) of subdivision (e) of Section 2999.34.

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

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

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

(1) (A) Have successfully passed a state- and federal-level criminal offender record information search conducted through the Department of Justice.

(B) 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 this paragraph.

(2) Apply within 14 days of electronic fingerprint image submission.

~~(2)~~

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

~~(3)~~

(4) Renew his or her ~~application~~ *registration* every two years by submitting to the board verification of continued practice, as specified in this section, and by paying to the board a renewal fee in an amount ~~that is 50 percent of the application fee.~~ *determined by the board, which does not exceed the reasonable regulatory costs to the board.*

~~(4)~~

(5) An individual may only practice as a behavior analyst intern for ~~up to~~ *a cumulative total of* six years *(72 months)* from the date of initial registration.

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

2999.36. (a) Behavior analysis technicians practicing in this state under the direction and supervision of an individual licensed *or registered* under this chapter or a licensed psychologist who is qualified to practice

behavior analysis shall *be registered by the board. In order to register as a behavior analysis technician, an individual shall* satisfy all of the following requirements:

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

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

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

(3) (A) Have successfully passed a state- and federal-level criminal offender record information search conducted through the Department of Justice.

(B) 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 this paragraph.

(4) Apply within 14 days of electronic fingerprint image submission.

~~(4)~~

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

~~(5)~~

(6) Renew his or her ~~application~~ *registration* every two years by submitting to the board verification of continued practice as a behavior analysis technician and by paying to the board a renewal fee in an amount that is ~~50 percent of the application fee.~~ *determined by the board, which does not exceed the reasonable regulatory costs to the board.*

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

2999.37. On and after July 1, 2019, 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 using the title "licensed behavior analyst," ~~or~~ "licensed assistant behavior ~~analyst"~~ *analyst," "registered behavior analyst intern," or "registered behavior analysis technician"* without being duly licensed *or registered* 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.

2999.38. 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) A speech-language pathologist or an audiologist licensed under Chapter 5.3 (commencing with Section 2530), 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), an educational psychologist licensed under Chapter 13.5 (commencing with Section 4989.10), a clinical social worker licensed under Chapter 14 (commencing with Section 4991), or a professional clinical counselor licensed under Chapter 16 (commencing with Section 4999.10), if the services provided by any of those licensees are 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~~ *analyst,* licensed assistant behavior ~~analyst.~~ *analyst, registered behavior analyst intern, or registered behavior analysis technician.*

(c) A student or other individual pursuing supervised experience in behavior analysis toward a license described in subdivision (a) or (b) in accordance with the requirements of the respective licensure act in this division.

~~(c)~~

(d) A parent or guardian, or his or her designee, of a recipient of behavior analysis services who acts under the direction of a licensed behavior analyst or an individual exempt pursuant to subdivision (a) or (b) for that recipient.

~~(d)~~

(e) An individual who teaches behavior analysis or conducts behavior analysis ~~research, provided that such teaching or research does not involve the direct delivery of behavior analysis services.~~ *research and is employed by an accredited or approved college, junior college, or university, or by a federal, state, county, or municipal governmental entity that is not primarily involved in the provision of direct behavior analysis services. This individual may conduct research and disseminate his or her research findings and scientific information.*

~~(e)~~

(f) 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~~ *30* days in a calendar year.

~~(f)~~

(g) An individual employed or contracted by a local educational agency, or a nonpublic agency or school with a contract with a local educational agency, for the purpose of serving students with behavioral and developmental issues when in classroom and other school ~~settings.~~ *settings or locations specified in the student's individualized education program.* This 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 local education agencies with which he or she has a contract or accept remuneration for providing behavior analysis services other than the remuneration received from those local education agencies unless he or she holds a license under this chapter.

2999.41. A licensee *or registrant* 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.

2999.42. *(a) A licensee or registrant shall file with the board his or her address of record, which shall be used as the mailing address for the licensee or registrant and shall be disclosable to the public. The licensee or registrant may provide a post office box number or other alternative address as his or her address of record; however, if a post office box number or alternate address is used as the address of record, the licensee or registrant also shall provide a physical business or residential address for the board's internal administrative use and not for public disclosure.*

(b) Each applicant, licensee, or registrant who has an electronic mail address shall provide to the board that electronic mail address and shall maintain a current electronic mail address, if any, with the board.

(c) Within 30 days after a change of any address specified in (a) or (b), or both, the applicant, licensee, or registrant shall report to the board any and all changes, giving his or her new address or addresses.

(d) Failure to comply with the requirements of this section may subject the licensee to enforcement action.

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,~~ *at midnight of the last day of the two-year period from the date the license 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 licensee shall include verification from the certifying entity that he or she maintains an active certification status with the renewal form.

(c) To renew an assistant behavior analyst license, in addition to the requirements in subdivision (b), the licensee shall submit proof of ongoing supervision by a licensed behavior analyst or a licensed psychologist who

is qualified to practice behavior analysis in a manner consistent with the board'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 licensee shall include verification from the certifying entity that he or she maintains an active certification status with the renewal form.

(b) Except as provided in Section 2999.47, 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) The board shall not issue any renewal license, a new license after expiration of an expired license, or a reinstatement license unless the applicant submits proof that he or she has completed not less than 32 hours of approved continuing education in the preceding two-year licensure cycle for licensed behavior analysts and 20 hours of approved continuing education in the preceding two-year licensure cycle for licensed assistant behavior analysts.

(b) Each person renewing ~~or reinstating~~ his or her license ~~or obtaining a new license after expiration of a prior license issued~~ pursuant to this chapter shall submit proof of compliance with this section to the board. *Any false statements submitted pursuant to this section shall constitute a violation subject to Section 2999.80.*

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

(d) The board may recognize continuing education courses that have been approved by the certifying entity.

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

2999.47. (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~~ *entity* for certification.

2999.62. The board may refuse to issue a registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, 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~~ *analyst,* a licensed assistant behavior ~~analyst.~~ *analyst, a registered behavior analyst intern, or a registered behavior analysis technician.*

(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, with a former patient, or with a patient's parent, guardian, or caregiver within two years following termination of therapy, or sexual misconduct that is related to the qualifications, functions, or duties of a licensed behavior ~~analyst or~~ *analyst,* a licensed assistant behavior ~~analyst.~~ *analyst, a registered behavior analyst intern, or a registered behavior analysis technician.*

(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 decisions 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, with a former patient, or with a patient's parent, guardian, or caregiver 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~~ *analyst, a* licensed assistant behavior~~ analyst~~ *analyst, a registered behavior analyst intern, or a registered behavior analysis technician* 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),~~ *dollars ($2,000),* or by~~ both that fine and imprisonment.~~ *both.*

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.

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

(2) A health care facility shall comply with a request for the medical records of a client that is accompanied by that client's written authorization for release of records to the board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing client's

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

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

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

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

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

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

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

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

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

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 establish fees for the application for and the issuance and renewal of licenses to cover, but not exceed, the reasonable regulatory costs of the board related to administering 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 delinquency fee shall be 50 percent of the biennial renewal fee.

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

(c) The fee for issuance of a replacement license shall be ~~twenty dollars ($20).~~ *five dollars ($5).*

(d) The fee for issuance of a certificate or letter of good standing shall be ~~twenty-five dollars ($25).~~ *five dollars ($5).*

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 United States Army, Navy, Air Force, or Marine Corps.

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

(3) While a volunteer in the Peace Corps or AmeriCorps 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 United States Army, Navy, Air Force, or Marine Corps, in the United States Public Health Service, or the Peace Corps or AmeriCorps 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 Psychology Fund, 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.

Date of Hearing: April 5, 2016

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Rudy Salas, Chair
AB 1715 (Holden) – As Amended March 29, 2016

SUBJECT: Healing arts: behavior analysis: licensing.

SUMMARY: Establishes the Behavior Analyst Act, which provides for the licensure, registration, and regulation of behavior analysts and assistant behavior analysts, and requires the California Board of Psychology (BOP), until January 1, 2022, to administer and enforce the Act.

EXISTING LAW:

1) Provides for the licensure, registration, and regulation of psychologists and psychological assistants under the Psychology Licensing Law. (Business and Professions Code (BPC) §§ 2900-2999)

2) Establishes the BOP, which consists of nine members, five professional and four public, requires the BOP to enforce and administer the Psychology Licensing Law, repeals those sections by January 1, 2017, and subjects the BOP to review by the appropriate policy committees of the Legislature. (BPC §§ 2902, 2920)

3) Requires the professional board members to be a licensed psychologist, prohibits the public members from being licensees under any healing arts board, and requires each member be a resident of the state. (BPC § 2923)

4) Requires the BOP to disclose information on the status of every license issued its licensees, including psychologists, psychological assistants, and registered psychologists. (BPC § 27)

5) Requires every private health care service plan contract that provides hospital, medical, or surgical coverage and every private health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism, including applied behavior analysis (ABA). (Health and Safety Code (HSC) § 1374.73, Insurance Code (IC) § 10144.51)

THIS BILL:

1) Increases, on and after July 1, 2018, the number of members on the BOP to 11, and increases the number of members for a quorum to 6 members. The members must meet the following requirements:

   a) Be a resident of the state;

   b) Five members must be licensed psychologists;

   c) One member must be qualified to practice behavior analysis, as follows:

      i) For the first appointment after the operative date of the section, the member must hold a certificate as a certified behavior analyst from a certifying entity, as defined.

ii) For subsequent appointments, the member must be licensed as a behavior analyst under the Act.

iii) The public members must not be licensees of any healing arts board.

2) Establishes general provisions of the Behavior Analyst Act:

a) States that 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) States that it is also the intent of the Legislature that the BOP begin accepting applications for behavior analyst licensure, assistant behavior analyst licensure, behavior analysis technician approval, and behavior analyst intern registration no later than January 1, 2018, provided that the funds necessary to implement this chapter have been appropriated by the Legislature.

c) Defines "behavior analysis technician" (BAT) as an individual who works directly with a client to implement applied behavior analysis services under the direction and supervision of a licensed behavior analyst, a licensed assistant behavior analyst, or a licensed psychologist who is qualified to practice behavior analysis, and has successfully completed the application requirements described in BPC § 2999.36.

d) Defines "board" as the BOP.

e) Defines "certifying entity" as the Behavior Analyst Certification Board (BACB) or its successor, or another national credentialing organization with behavior analyst certification programs approved by the board and accredited by the National Commission for Certifying Agencies (NCCA).

f) Defines "committee" as the Behavior Analyst Committee.

g) Defines "department" as the Department of Consumer Affairs (DCA).

h) Defines "licensed assistant behavior analyst" (LABA) as a person licensed under the Act to practice behavior analysis under the supervision of a licensed behavior analyst.

i) Defines "behavior analyst intern" (BAI) as a person registered under the Act to practice behavior analysis under the supervision of a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis.

j) Defines "licensed behavior analyst" (LBA) as a person licensed under the Act to practice behavior analysis.

k) Defines "practice of behavior analysis" or "to practice behavior analysis" as the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior and includes:

i) The empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis;

ii) Interventions based on scientific research and the direct observation and measurement of behavior and the environment; and,

iii) 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.

l) Provides that the practice of behavior analysis does not include psychological testing and assessment, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, counseling, prescribing drugs, performing surgery, or administering electroconvulsive therapy.

m) States that the Legislature recognizes that the scopes of practice of healing arts licensees regulated under this division sometimes contain similar practices. However, the Act shall not be construed to allow a LBA or a LABA to engage in those practices other than specific to their scope of practice within behavior analysis as described under the Act. Any person practicing behavior analysis under the Act who violates the prohibition is subject to disciplinary action by both the BOP and the board overseeing the relevant practice.

3) Establishes the administration provisions of the Act:

a) Vests the BOP, until January 1, 2022, with the power to enforce the Act.

b) Provides that protection of the public shall be the highest priority for the BOP in exercising its licensing, regulatory, and disciplinary functions pursuant to the Act. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

c) Requires the BOP to adopt, amend, and repeal regulations to implement the requirements of the Act. All regulations adopted by the BOP shall comply with the provisions of Chapter 3.5 (commencing with § 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

d) Requires the BOP to adopt a program of consumer and professional education in matters relevant to the ethical practice of behavior analysis. The BOP must establish standards of ethical conduct relating to the practice of behavior analysis that are based on current standards published by a national credentialing organization with behavior analyst certification programs approved by the board and accredited by the National Commission for Certifying Agencies. The standards must be applied by the BOP as the accepted standard of ethics in all law and ethics licensing examination development and in all BOP enforcement policies and disciplinary case evaluations involving the practice of behavior analysis.

e) Authorizes the BOP to 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 BOP.

f) Requires the BOP to post information in its website regarding licensed behavior analysts, licensed assistant behavior analysts, behavior analyst technicians, and behavior analyst interns, as specified.

g) Requires the BOP to conduct disciplinary hearings, as specified.

h) Makes it unlawful, on and after July 1, 2019, to practice behavior analysis without being licensed by the BOP, except as specified.

i) Creates, until January 1, 2022, the Behavior Analyst Committee within the jurisdiction of the BOP to make recommendations to the BOP regarding the regulation of the practice of behavior analysis in the state in order to protect the public from the unauthorized and unqualified practice of ABA, and unprofessional, unethical, or harmful conduct by persons licensed to practice behavior analysis.

j) The committee must consist of five members. Two members must LBAs, one of which must also be a member of the BOP. One member must be a psychologist licensed under BPC Chapter 6.6 (commencing with § 2900) and who holds a current certification from a certifying entity as a behavior analyst. One member must be a licensed assistant behavior analyst. One member must be a public member who is a consumer of behavior analysis services and who is not licensed under a healing arts board.

k) The Governor must appoint one LBA member, the licensed psychologist member, and the LABA member. The Senate Committee on Rules must appoint the public member, and the Speaker of the Assembly must appoint one LBA member.

l) The initially appointed members of the committee shall be appointed as follows:

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

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

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

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

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

   iii) The initial member appointed by the Speaker of the Assembly shall be currently certified by a certifying entity as a certified behavior analyst and shall serve an initial term of four years.

m) Except as provided, 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 the member was appointed, whichever occurs first. Vacancies must be filled by the appointing power for the unexpired portion of the terms in which they occur. A member may not serve for more than two consecutive terms.

n) Provides that all committee member terms begin on July 1 and expire on June 30.

o) Provides that each member of the committee will receive per diem and expenses as provided in BPC §§ 103 and 113.

p) States that three members of the committee shall at all times constitute a quorum.

q) Requires the committee to do all of the following:

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

ii) Call committee meetings at any time upon reasonable notice by a written request of two committee members to the chair. Committee meetings may also be called upon reasonable notice at the discretion of the chair.

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

r) Authorizes the committee may make recommendations to the BOP regarding licensing and practice standards and the adoption, amendment, and repeal of regulations to implement the requirements of the Act including the setting of fees and the establishment of disciplinary guidelines.

4) Establishes the licensing provisions of the Act:

a) Requires each applicant for a license must meet the BOP's regulatory requirements, including all of the following:

i) The applicant has not committed acts or crimes constituting grounds for denial of licensure under BPC § 480.

ii) The BOP 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 § 290 of the Penal Code or the equivalent in another state or territory.

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

iv) The BOP shall request from the Department of Justice subsequent arrest notification service, pursuant to § 11105.2 of the Penal Code, for each person who submitted information pursuant to this subdivision.

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

b) Requires, until July 1, 2018, in order to receive a license as a behavior analyst, the following:

i) An individual must submit an application on a form approved by the BOP accompanied by the fees required by the BOP as specified in BPC § 2999.93.

ii) The BOP must verify with the certifying entity that the applicant meets both of the following requirements:

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

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

iii) Each applicant must obtain a passing score on a California law and ethics examination administered by the BOP.

iv) This requirement will remain in effect until January 1, 2019, and as of that date is repealed.

c) Requires, after July 1, 2018, in order to obtain a license as a behavior analyst:

i) An individual must submit an application on a form approved by the BOP accompanied by the fees required by the BOP as specified in BPC § 2999.93.

ii) An applicant must maintain active status as a certified behavior analyst in good standing with a certifying entity.

iii) The BOP must verify with the certifying entity that the applicant has passed the Board Certified Behavior Analyst Examination or an equivalent examination administered by the certifying entity.

iv) Each applicant must obtain a passing score on a California law and ethics examination administered by the BOP.

v) The applicant must possess a master's degree or higher level of education from an institution, which meets the requirements described in BPC § 2999.35, that was conferred in behavior analysis, psychology, or education.

vi) The applicant must meet one of the following three requirements in order to be licensed under the Act:

(1) Complete both of the following degree requirements:

(a) Two hundred seventy hours of classroom graduate-level instruction in all of 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) ABA, 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) Elective coursework in behavior analysis consisting of 30 hours.

(b) Supervised experiential training by any of the following:

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

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

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

(iv) 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) Meet all of the following teaching requirements:

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

(b) Taught at least five sections or iterations of behavior analytic coursework. An applicant must have taught at least two behavior analytic content areas, which are concepts and principles of behavior, single-subject research methods, applied behavior analysis, and ethics in behavior analysis, in separate courses. Each course taught shall have been exclusively or primarily devoted to

behavior analytic content, and shall have been taught, at the graduate level. An applicant shall submit proof of completion of the faculty appointment and teaching requirements from a department head, including the syllabus for each course taught, to the BOP.

(c) Published one article with all of the following characteristics:

(i) Behavior analytic in nature.

(ii) Includes at least one experimental evaluation.

(iii) Published in a high-quality, peer reviewed journal.

(iv) The applicant is the first, second, or corresponding author.

(v) The article may have been published at any time during the applicant's career.

(d) Obtained supervised experiential training by any of the following:

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

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

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

(iv) 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) Completed all of the following doctoral requirements:

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

(b) Ten years of postdoctoral experience practicing behavior analysis. The duration of practice shall be at least 10 years, cumulatively, of full-time practice. An applicant's practice shall have occurred under a relevant state professional credential or license.

(c) At least 500 hours of supplemental supervised experiential training that meets current experience standards of the certifying entity, commencing after the 10 years of postdoctoral experience required above.

d) Requires, until July 1, 2019, to obtain a license as an assistant behavior analyst:

i) An individual must submit an application on a form approved by the BOP accompanied by the fees required by the BOP as specified in BPC § 2999.93.

ii) The BOP must verify with the certifying entity that the applicant meets all of the following requirements:

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

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

iii) Each applicant must obtain a passing score on a California law and ethics examination administered by the BOP.

iv) Each applicant must provide proof to the BOP of ongoing supervision by a LBA in a manner consistent with the certifying entity's requirements for supervision of assistant behavior analysts.

v) This requirement will remain in effect only until January 1, 2019, and as of that date is repealed.

e) Requires, after July 1, 2019, in order for an individual to be licensed as an assistant behavior analyst:

i) The applicant must possess a baccalaureate degree or higher level of education from an institution that meets the requirements described in BPC § 2999.35.

ii) The applicant must maintain active status as a certified behavior analyst in good standing with a certifying entity. The BOP must verify with the certifying entity that the applicant has passed the Board Certified Behavior Analyst Examination or an equivalent examination administered by the certifying entity.

iii) The applicant must obtain a passing score on a California law and ethics examination administered by the BOP.

iv) The applicant shall provide proof to the BOP of ongoing supervision by a LBA in a manner consistent with the certifying entity's requirements for supervision of assistant behavior analysts.

v) The applicant must meet all of the following requirements:

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

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

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

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

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

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

(iv) ABA, 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.

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

(b) Obtained supervised experiential training by any of the following:

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

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

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

(iv) 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.

f) Provides that the education to obtain a behavior analyst license or an assistant behavior analyst license be from any of the following:

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

ii) 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.

iii) An applicant for licensure trained in an educational institution outside the United States or Canada shall demonstrate to the satisfaction of the BOP that the applicant possesses a degree in a relevant subject that is equivalent to a degree earned from a regionally accredited university in the United States or Canada. The applicant must provide to the BOP a comprehensive evaluation of the degree performed by a foreign

credential service that is a member of the National Association of Credential Evaluation Services (NACES), and any other documentation that the BOP deems necessary.

g) Authorizes a person other than a LBA, LABA, or approved BAT to register as a BAI with the BOP in order to meet the requirements for licensure as a behavior analyst. The BAI shall be supervised in accordance with the BOP's regulations by a LBA or a licensed psychologist who is qualified to practice behavior analysis in order to perform behavior analysis services provided that all of the following apply:

i) The person's title is "behavior analyst intern."

ii) The person meets one of the following requirements:

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

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

h) Provides that the BAI's supervisor shall be responsible for ensuring that the extent, kind, and quality of the behavior analysis services the BAI performs are consistent with his or her training and experience and shall be responsible for the BAI's compliance with this chapter and regulations duly adopted hereunder, including those provisions set forth in Section 2999.62.

i) Requires the BAI to be registered by the BOP. In order to register as a BAI an individual shall:

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

ii) Pay an application fee, in an amount not to exceed a reasonable regulatory cost, to be determined by the board.

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

iv) An individual may only practice as a BAI for up to six years from the date of initial registration.

j) No LBA or licensed psychologist who is qualified to practice behavior analysis may supervise more than four BAIs at any given time unless specifically authorized to do so by the BOP. No BAI may provide behavior analysis services to the public except as a supervisee of a LBA or licensed psychologist who is qualified to practice behavior analysis.

k) Requires BATs practicing under the direction and supervision of an individual licensed to practice behavior analysis to satisfy all of the following requirements:

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

ii) Submit an application on a form approved by the BOP.

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

iv) Pay an application fee, in an amount not to exceed a reasonable regulatory cost, to be determined by the BOP.

v) Renew his or her application every two years by submitting to the BOP verification of continued practice as a BAT and by paying to the BOP a renewal fee in an amount that is 50 percent of the application fee.

vi) The BOP may deny or revoke acceptance of an application or the renewal of an application under this section if it is determined to be in the best interest of public safety and welfare, as described in Section 2999.21.

l) Makes it unlawful, on and after July 1, 2019, for any person to engage in any of the following acts:

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

ii) Use the title "licensed behavior analyst," or "licensed assistant behavior analyst" without being duly licensed according to the Act.

iii) Use any title, words, letters, or abbreviations that may reasonably be confused with a designation provided by the Act to denote a standard of professional or occupational competence without being duly licensed.

iv) Materially refuse to furnish the BOP information or records required or requested pursuant to the Act.

m) Excludes the following from the licensure requirements:

i) An individual licensed to practice psychology in this state under BPC 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.

ii) A speech-language pathologist or an audiologist licensed under Chapter 5.3 (commencing with Section 2530), 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), an educational psychologist licensed

under Chapter 13.5 (commencing with Section 4989.10), a clinical social worker licensed under Chapter 14 (commencing with Section 4991), or a professional clinical counselor licensed under Chapter 16 (commencing with Section 4999.10), if the services provided by any of those licensees are 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 LBA or LABA.

iii) A parent or guardian, or his or her designee, of a recipient of behavior analysis services who acts under the direction of a LBA or other licensed individual exempt from behavior analysis-specific licensing requirements.

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

v) 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.

vi) An individual who is vendorized by one or more regional centers of the State Department of Developmental Services while practicing behavior analysis services authorized under that vendorization. The individual may not represent himself or herself as a LBA or LABA 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 unless he or she holds a license under this chapter.

vii) An individual employed or contracted by a local educational agency, or a nonpublic agency or school with a contract with a local educational agency, for the purpose of serving students with behavioral and developmental issues when in classroom and other school settings. This individual shall not represent himself or herself as a LBA or LABA 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 local education agencies with which he or she has a contract or accept remuneration for providing behavior analysis services other than the remuneration received from those local education agencies unless he or she holds a license under this chapter.

n) Requires a licensee to give written notice to the BOP 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, must be submitted with the notice.

o) Establishes the following regarding license renewals:

i) 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.

ii) To renew an unexpired license, the licensee must, on or before the date on which it would otherwise expire, apply for renewal on a form provided by the BOP,

accompanied by the renewal fee set by the BOP. The licensee must include verification from the certifying entity that he or she maintains an active certification status with the renewal form.

iii) To renew an assistant behavior analyst license, in addition to the above requirements, the licensee must submit proof of ongoing supervision by a LBA or a licensed psychologist who is qualified to practice behavior analysis in a manner consistent with the CBA's requirements for supervision of assistant behavior analysts. A LABA must be supervised by a LBA for at least 2 percent of the hours of behavior analysis services the LABA provides per month.

iv) 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 BOP, payment of all accrued and unpaid renewal fees, and the delinquency fee specified in BPC § 2999.93. The licensee must include verification from the certifying entity that the licensee maintains an active certification status with the renewal form.

v) Except as provided in BPC § 2999.46.5, 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.

vi) A suspended license is subject to expiration and must be renewed as provided, but the 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.

vii) A license revoked on disciplinary grounds is subject to expiration as provided, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition of reinstatement, 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 its revocation.

p) Establishes the following regarding continuing education (CE):

i) The BOP may not issue any renewal license, a new license after expiration of an expired license, or a reinstatement license unless the applicant submits proof that the applicant has completed not less than 32 hours of approved CE in the preceding two-year licensure cycle for LBAs and 20 hours of approved CE in the preceding two-year licensure cycle for LABAs.

ii) Each person renewing or reinstating his or her license or obtaining a new license after expiration of a prior license issued pursuant to the act must submit proof of compliance with the CE requirements to the BOP.

iii) A person applying for renewal, a new license after expiration of a prior license, or reinstatement to an active license status must certify under penalty of perjury that the person is in compliance with the CE requirements.

iv) The BOP may recognize CE courses that have been approved by the certifying entity.

v) Requires the BOP to adopt regulations as necessary for implementation of the CE requirement.

5) Establishes the enforcement provisions of the Act:

a) Provides that the BOP may on its own, and shall, upon the receipt of a complaint from any person, investigate the actions of any licensee. The BOP must 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.

b) Provides that a license issued under the Act 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.

c) Authorizes the BOP to refuse to issue a registration or license, to issue a registration or license with terms and conditions, or to suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct.

d) Defines unprofessional conduct to include:

i) Conviction of a crime substantially related to the qualifications, functions, or duties of a LBA or a LABA.

ii) 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.

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

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

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

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

vii) Violating Section 17500.

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

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

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

xi) Violating any of the provisions of the Act or regulations adopted by the BOP.

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

xiii) 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 the Act if the act for which the disciplinary action was taken constitutes unprofessional conduct. A certified copy of the decision or judgment of the other state or country must be conclusive evidence of that action.

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

xv) 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 related to the qualifications, functions, or duties of a LBA or a LABA.

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

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

xviii) Repeated acts of negligence.

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

6) Establishes the following enforcement procedures:

a) Any accusation filed against a licensee pursuant to § 11503 of the Government Code shall be filed within three years from the date the BOP 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 § 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations above.

c) The limitation provided for 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 BOP pursuant to BPC Article 11 (commencing with § 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 and the 10-year limitations period will be tolled until the minor reaches the age of majority.

e) An accusation filed against a licensee pursuant to § 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the BOP 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 above will be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the BOP due to an ongoing criminal investigation.

g) Any proposed decision or decisions issued under the Act in accordance with the procedures set forth in Chapter 5 (commencing with § 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 BPC § 728, when that act is with a patient, with a former patient, or with a patient's parent, guardian, or caregiver within two years following termination of services, shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge.

h) Authorizes the BOP to 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 BPC § 2999.

i) Provides that 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 LBA or LABA is deemed to be a conviction. The BOP 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 § 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.

j) Provides that any person required to register as a sex offender pursuant to § 290 of the Penal Code, is not eligible for licensure by the BOP.

k) Defines an administrative disciplinary decision that imposes terms of probation to include, among other things, a requirement that the licensee who is being placed on probation pay the monetary costs associated with monitoring the probation.

l) Requires that the proceedings under the Act must be conducted by the BOP in accordance with Chapter 5 (commencing with § 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

m) Provides that 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.

n) Provides that whenever any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, an offense under the Act, 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 BOP, the Attorney General, or the district attorney of the county. The proceedings will be governed by Chapter 3 (commencing with § 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that it will 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 BOP, or on its own motion, the BOP may commence an action in the superior court.

o) Provides that a licensee who fails or refuses to comply with a request for the medical records of a client, that is accompanied by that client's written authorization for release of those records to the BOP, within 15 days of receiving the request and authorization, must pay to the board a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 15th day, unless the licensee is unable to provide the documents within this time period for good cause.

p) Defines "health care facility," for purposes of the enforcement rules, as a clinic or health facility licensed or exempt from licensure pursuant to Division 2 (commencing with § 1200) of the Health and Safety Code.

q) Requires a health care facility to comply with a request for the medical records of a client that is accompanied by that client's written authorization for release of records to the BOP together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing client's medical records to the BOP within 30 days of receiving the request, authorization, and notice will subject the health care facility to a civil penalty, payable to the BOP, of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 30th day, up to ten thousand dollars ($10,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph does not require health care facilities to assist the BOP in obtaining the client's authorization. The BOP shall pay the reasonable costs of copying the medical records.

r) Establishes penalties for a licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the BOP:

   i) The licensee must pay to the BOP a civil penalty of one thousand dollars ($1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the BOP shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals; and

   ii) The licensee shall be subject to a civil penalty, payable to the BOP, in an amount not to exceed five thousand dollars ($5,000). The amount of the penalty shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

iii) Multiple violations shall be a misdemeanor, punishable by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

s) Establishes penalties for a health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of client records to the BOP:

i) The facility shall pay to the BOP, if accompanied by a notice citing this requirement and describing the penalties for failure to comply with this section, a civil penalty of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced, up to ten thousand dollars ($10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the BOP against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

ii) The facility shall be subject to a civil penalty, payable to the BOP, in an amount not to exceed five thousand dollars ($5,000). Any statute of limitations applicable to the filing of an accusation by the BOP against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

iii) Multiple violations shall be a misdemeanor, punishable by a fine not to exceed five thousand dollars ($5,000), and shall be reported to the State Department of Health Care Services and will be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.

t) Provides that a failure or refusal of a licensee to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the BOP constitutes unprofessional conduct and is grounds for license suspension or revocation.

u) Requires the imposition of the civil penalties be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with § 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

7) Establishes the revenue provisions of the Act:

a) Requires the BOP to 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 BPC § 2980.

b) Requires the moneys credited to the Psychology Fund under BPC § 2999.90, upon appropriation by the Legislature, be used for the purposes of carrying out and enforcing the provisions of this chapter.

c) Requires the BOP to 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 DCA no later than May 31 of each year.

d) Requires the BOP to establish fees for the application for and the issuance and renewal of licenses to cover, but not exceed, the reasonable regulatory costs of the BOP related to administering the Act. The fees shall be fixed by the BOP in regulations that are duly adopted under the Act. Fees assessed may not exceed the following:

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

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

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

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

e) Provides that a person licensed under the Act is exempt from the payment of the renewal fee in any of the following instances:

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

   ii) While in the United States Public Health Service.

   iii) While a volunteer in the Peace Corps or AmeriCorps VISTA.

f) Provides that every person exempted from the payment of the renewal fee may not engage in any private practice and will become liable for the fee for the current renewal period upon the completion of his or her period of full-time active service and will 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 the 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.

g) Provides that 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 BPC § 2999.45.

h) Provides that the exemption provided are not applicable if the person engages in any practice for compensation other than full-time service in the United States Army, Navy, Air Force, or Marine Corps, in the United States Public Health Service, or the Peace Corps or AmeriCorps VISTA.

i) Requires the licensing and regulatory program under the Act to be supported from fees assessed to applicants and licensees. Startup funds to implement this program must be derived, as a loan, from the Psychology Fund, subject to an appropriation by the Legislature in the annual Budget Act. The BOP may not implement the Act until funds have been appropriated.

8) States that no reimbursement is required by this bill pursuant to § 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 § 17556 of the Government Code, or changes the definition of a crime within the meaning of § 6 of Article XIII B of the California Constitution.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the California Association for Behavior Analysis. According to the author, "California law mandates that health plans and health insurance policies cover behavioral health treatment for autism. This mandate has substantially increased demand for [ABA] services. With the increased demand, there is a greater need to regulate the behavior analysis profession, and to protect autistic children and others who can benefit from [ABA] treatment from people who falsely claim that they are qualified to practice behavior analysis. To protect the public from the unauthorized and unqualified practice of behavior analysis, and from unprofessional, unethical or harmful conduct by licensees, [this bill] will create licensure for behavior analysts, with regulation under the [BOP]."

Background. According to the American Psychological Association, behavior analysis is the study of behavior. The clinical practice of behavior analysis, called ABA, applies basic psychological principles of learning and association to change the behavior of an individual. For example, a behavior analyst may train a child (conditioning) to respond to things in the environment (stimuli) in a desirable way by offering praise when the desirable behavior occurs (positive reinforcement).

In early psychology, behaviorism was an approach that sought to find connections between environment and behavior. Because behaviorism was a bottom-up approach, it focused on observable behaviors rather than the internal state of mind. Behaviorism-driven research produced principles and behavioral techniques that could be used to manage and modify behavior in humans and animals without addressing cognition (mental thoughts and processes). The application of the research to the clinical setting led to the practice of behavioral management and modification, or behavior therapy.

Modern psychological theory departed from the behavior-only model with the introduction of a top-down model, the social learning theory (social cognitive theory). The shift to social learning theory resulted in the addition of techniques and interventions drawn from cognitive research. Due to the shift, many modern psychotherapies incorporate both behavioral and cognitive components. For example, cognitive behavioral therapy (CBT) is a popular psychotherapy intervention which often involves addressing problematic thought patterns and reinforcing the positive changes through behavior modification.

Still, ABA as a treatment modality continues to be utilized in modern psychology practice and elsewhere. ABA's behavior-only interventions are useful for targeting unintentionally disruptive behaviors and conditions without cognitive concerns (problematic thoughts or emotions), such as speech conditions and developmental disorders. Further, once a proper diagnosis is made, the ABA techniques can be implemented by others, including a parent, which makes it useful for intensive, continuous treatment plans.

As a modality, ABA includes several behavioral interventions, including:

1) Discrete Trial Training—a style of teaching that uses a series of trials to teach each step of a desired behavior or response. Lessons are broken down into their simplest parts and positive reinforcement is used to reward correct answers and behaviors. Incorrect answers are ignored.

1) Verbal Behavior—focuses on teaching language using a sequenced curriculum that guides children from simple verbal behaviors (echoing) to more functional communication skills through techniques such as errorless teaching and prompting.

2) Pivotal Response Training—aims at identifying pivotal skills, such as initiation and self-management, that affect a broad range of behavioral responses. This intervention incorporates parent and family education aimed at providing skills that enable the child to function in inclusive settings.

Still, not all behavioral therapies are based on the ABA modality, such as DIR/Floortime.

ABA and PDD/ASD. The concept of ABA-only providers has grown in popularity in recent years. Prior to SB 946 (Steinberg), Chapter 650, Statutes of 2011, health plans in California were not required to provide behavioral health treatments (BHTs), including for pervasive developmental disorders (PDD) or autism spectrum disorder (ASD).

While BHTs may have already been popular, they were often not covered for certain conditions because they were considered habilitative. In contrast to rehabilitative services, habilitative services aim to bring an individual's functioning above what the individual's normal development provides. As a result, many plans did not consider them medically necessary. This is salient because medical necessity is often required for reimbursement. Further, the efficacy of many BHTs for PDD and ASD is difficult to prove, given the wide range of diagnoses, settings, and therapies (See California Health Benefits Review Program Analyses (CHBRP) for SB 126, SB 796, AB 2041).

Subsequently however, SB 946 and a number of related behavioral health mandate bills were signed into law, mandating coverage of BHTs, including ABA. Further, recent guidance from the federal Centers for Medicare and Medicaid Services (CMS) has stated that BHTs such as ABA-based therapies are covered under the Medicaid benefit for children, Early and Periodic, Screening, Diagnosis, and Treatment (EPSDT). As a result, many health plans are now required to include BHT providers in their networks, including low-level providers, to provide coverage for the benefit.

Because some of the most popular behavioral health treatments specific to PDD and ASD are ABA-based, the number of ABA-specific treatment providers and practitioners is rising (as distinguished from other mental health providers who are qualified to provide BHT and diagnoses including: social workers, licensed professional clinical counselors, marriage and family therapists, psychiatrists and psychologists).

Board Certification of Behavior Analysts. Because the standalone practice of ABA is relatively new, there is only one certification board for behavior analysts, the Behavior Analyst Certification Board (BACB). The BACB is a nonprofit 501(c)(3) corporation established in 1998 that is accredited by the National Commission for Certifying Agencies Accreditation (NCCA). The BACB provides certifications for professional behavior analysts and approves

school programs for behavior analysis. Because the BACB is currently the only NCCA accredited program that provides behavior analysis certifications, this bill was crafted to closely match the BACB's requirements. The BACB provides four types of credentials: (1) board certified behavior analyst (BCBA); (2) board certified assistant behavior analyst (BCaBA); (3) registered behavior technicians (RBTs); and (4) the doctoral-level BCBA (BCBA-D). The BACB requirements for the initial certification and renewal of BCBA and BCaBA certifications are nearly identical to the requirements for LBAs and LABAs under this bill.

The BACB requirements for RBTs are similar to the paraprofessional technician, except that the BACB requires a 40-hour training program and a competency assessment, while this bill does not. The BCBA-D designation requires specific requirements above the regular BCBA and would qualify for licensure under this bill.

Scope of Practice of a Behavior Analyst. This bill would define the practice of behavior analysis as the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. This includes three things, 1) functional analysis (the observation of relations between behavior and environment), 2) the use of behavioral interventions based on the functional analysis; and 3) the use of operant conditioning (such as positive and negative reinforcement).

The bill also distinguishes the practice of behavior analysis from psychological testing and assessment and the diagnosis of a mental or physical disorder. Currently, in California it is the unlicensed practice of both medicine and psychology to perform ABA services. The current scope of practice for psychologists includes "any psychological service [for a fee] involving the application of psychological principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning." A psychiatrist's scope is even broader, being all of medicine (all treatment for all physical and mental conditions, BPC § 2051). Interestingly, however, the behavior analyst scope is not limited by services requiring a fee.

Because ABA principles are basic principles of learning drawn from psychology, this bill is essentially licensing a group of practitioners that practice a subset of psychology and psychiatry. Psychologists that perform ABA include clinical psychologists, industrial-organizational (I/O) psychology and behavioral and cognitive psychology, among others. Industrial organizational psychologists specialize assessing behavior and creating interventions in the work place, and behavioral and cognitive psychologists specialize in ABA, behavior therapy, and cognitive therapy among others.

In addition, because there are many other types of behavior therapies, there may be overlap in many other professions as well. Therefore, this bill also provides a list of exemptions for other professions, including the following:

1) Speech-language pathologists or audiologists;

2) Occupational therapists;

3) Physical therapists;

4) Marriage and family therapists;

5) Educational psychologists;

6) Clinical social workers; and,

7) Professional clinical counselors.

However, as noted above, there are other types of BHTs that are not considered ABA. Therefore, this bill may also unintentionally impact other providers that provide BHTs, which may not be licensed.

Other States. Currently 24 other states either license or certify ABA practitioners. In seven states, they are regulated by a psychology board (AZ, MO, ND, NV, OH, TN, UT). In eight states, they are regulated under a behavior analysis board (AL, KY, LA, MS, NY, OK, OR, RI). In five states, they are either issued direct licenses from a consumer agency (AK, HI, VT, WA, WI). In the remainder of the states, they are licensed under the behavioral sciences board (KS), the allied mental health board (MA), or the medical board (VA).

Prior Related Legislation. SB 479 (Bates), of 2015 was substantially similar to this bill and would have regulated, LBAs, LABAs, and paraprofessional technicians under the BOP. *NOTE: This bill was held in the Assembly Appropriations Committee.*

AB 796 (Nazarian), of 2015 would have expanded the eligibility for a person to be a qualified autism service professional to include a person who possesses a bachelor of arts or science degree and meets other specified requirements, a registered psychological assistant, a registered psychologist, or an associate clinical social worker. The bill also expands the eligibility for a person to be a qualified autism service paraprofessional to include a person with a high school diploma or equivalent and, among other things, 6 months experience working with persons with developmental disabilities. *STATUS: This bill was held in the Senate Health and Human Services Committee.*

SB 126 (Steinberg), Chapter 680, Statutes of 2013, extended the operation of the BHT mandate until January 1, 2017.

AB 1205 (Berryhill) of 2011 would have provided for the licensure and regulation of behavior analysts under the Board of Behavioral Sciences. *NOTE: This bill was held in the Assembly Appropriations Committee.*

AB 2041(Jones) of 2013 would have required that a regional center classify a vendor as a behavior management consultant or behavior management assistant if the vendor designs or implements evidence-based behavioral health treatment, has a specified amount of experience in designing or implementing that treatment, and meets other licensure and education requirements. *NOTE: This bill was held in the Senate Appropriations Committee.*

SB 946 (Steinberg), Chapter 650, Statutes of 2011, among other things, mandated health care service plan contracts and health insurance policies, except as specified, to provide coverage for BHT, as defined, for PDD and ASD.

ARGUMENTS IN SUPPORT:

The California Association for Behavior Analysis (sponsor) writes in support, "Behavior analysts and assistant behavior analysts who are certified by the national [BACB] provide the vast majority of ABA services. Though accredited and certified, these professionals are not licensed or regulated by the state.

[This bill's] licensure requirement would provide both the state of California and its resident's additional consumer protections and recourse when there are concerns with the services provided by behavior analysts and assistant behavior analysts. At the same time, this bill would not preclude other licensed professionals from providing behavior analysis services."

ARGUMENTS IN OPPOSITION:

The California Psychological Association writes in opposition, "CPA is concerned with specific language in the bill and the need for a separate license for one treatment technique.

CPA is concerned the precedent the bill could create. We could potentially see dozens of new licenses based on a single treatment modality, and not the general licenses we have employed for years. Cognitive behavioral therapy is a technique many psychologists employ, but they are licensed under the general psychology license and not as a Cognitive Behavioral Therapist. We're concerned that setting a precedent here could result in other groups seeking licensure for specific techniques. We are also concerned about the potential complications of the license's tiered model.

We have supported the previous insurance mandate to define 'qualified autism providers' and are supporting current legislation to expand the services under the mandate. Mental health professionals, including psychologists, as well as certified BCBAs, are included in current mandates."

POLICY ISSUES FOR CONSIDERATION:

Regional Center Exemption. This bill exempts individuals vendorized through the regional centers from the licensure requirements. However, the BOP, which will be the agency to administer the provisions of this bill, is opposed unless the exemption is removed.

According to the BOP, "A key component of the consumer protection mandate of the [BOP] is the jurisdiction the [BOP] has over an individual's license to ensure minimal competency. Exempting an entire category from licensure because of their relationship to the regional centers potentially places a large number of ABA practitioners beyond the [BOP's] jurisdiction and does not ensure minimal competency of these individuals. The BOP is aware of concerns regarding access to care. However, if the legislature believes minimum standards of competency must be obtained by an individual to provide ABA services to the public, the threshold for such services should not be determined by one's financial status or insurance. Californians should be confident that applied behavior analysis services are being given by a trained, ethical individual free of criminal history. Additionally, financially disadvantaged individuals should not be deprived of the ability to pursue administrative action if there is a deviation from the standard of care."

While there may be concerns surrounding the continuity of care for regional center clients, even if many providers vendorized with the regional centers do not meet the requirements for licensure, they can still register as a paraprofessional and continue to practice under supervision of a licensed professional. According to the BOP, registration should not be a financial burden. The BOP has calculated that the registration fees will be approximately fifty dollars.

Providers that cannot meet license requirements or are not being supervised may not be qualified to provide services for the regional center clients. Therefore, the Committee may wish to consider if behavior analysts become a licensed group under the BOP, should vendorized regional center providers of ABA be exempted from licensure requirements.

Therapist/Client Privilege. While many other counselors and therapists have a professional/client privilege, this bill does not include a privilege clause for LBAs and LABAs (like psychologists have in BPC § 2918). Therefore, the BOP has requested that a privilege clause be added.

The purpose of privilege is to protect client records and ensure that patients are not deterred from being candid with their therapist. If this bill is enacted, client records, which include confidential information such as diagnoses, will still be protected by the privilege that licensed psychologists are psychiatrists may exercise. However, the Committee may wish consider whether there should be a privilege clause for this new category of licensure.

Unintended Effect on Other BHT Providers. Due to the fact that so many licensed providers have asked for specific exclusions from the licensure requirements for a LBA and LABA, this bill may have an unintended consequence of negatively impacting other types of BHT providers that may fall under the newly created BA scope of practice, such as DIR/Floortime providers.

The issue is that ABA therapies can be viewed as a category of treatment within psychology rather than a distinct field of study. The legitimacy that licensure provides ABA providers may result in unintentional discrimination against other BHT modalities as lay persons may assume that ABA is a more effective treatment for autism or other developmental disabilities versus other BHTs.

Need for Licensure. In July of 2015, the U.S. Department of the Treasury's Office of Economic Policy, the White House's Council of Economic Advisers, and the U.S. Department of Labor issued a report entitled *Occupational Licensing: A Framework for Policymakers*. According to the report, the purpose of occupational licensing is to protect consumers from harm by establishing minimum competency standards. Therefore, the report recommended that when determining whether an occupation should be licensed, states should weigh the benefits to the public against the burden on the licensees.

As a result, it may be prudent to perform a cost-benefit analysis. Criteria included in the following analysis cover 1) gravity and potential risk of harm to consumers, 2) availability of consumer remedies, 3) sufficiency of industry regulation, and 4) cost to the licensees.

1) According to the sponsor's 2014 sunrise report, "The availability of additional funding for ABA services through SB 946, together with increasing numbers of people receiving diagnoses of ASD and other conditions for which ABA services have proved effective, will further increase consumer demand for those services going forward. Without a statute and regulations formalizing minimum standards for practicing ABA competently and establishing

a body within the state to oversee that practice, consumers will be at increasing risk of harm from individuals making false claims to be qualified to provide ABA services."

While avoiding harm to individuals receiving treatment for ASD and PDD is desirable, it is not clear that licensure is necessary to do so (certificate or title protection seem like viable alternatives). Further, the sponsors note that ABA is used for much more than just treating ASD and developmental disorders, including workplace and organizational behavior management. It is not clear that the gravity of the potential harm from organizational consulting work merits licensure.

2) As to the risk of harm, the sponsors also note that as of March 18, 2016, there were 7,363 practitioners in California certified by the BACB, including 3168 BCBAs, 284 BCBA-Ds, 166 BCaBAs, and 3745 RBTs. This is an increase of approximately 5000 practitioners since 2014. While most of the increase accounts for the new RBT practitioner, the remainder is a nearly 100% increase in the main certificate type (approximately 1400 new BCBAs). It is unclear how many other uncertified providers there may be. The U.S. Bureau of Labor Statistics does not currently track behavior analysts or behavioral therapists as their own profession (they are currently tracked under the psychologist category).

If there is a high risk of harm, one can assume there will be a large number of complaints. As of March 30, 2016, the BACB has 42 notices of alleged violations (complaints) against behavior analysts in California, a number of which date back to 2005, about 10 years (many of which were closed due to lack of evidence). This is contrasted with the BOP, which has about 22,000 licensees and received 668 complaints in FY 12/13, 643 complaints in FY 13/14, and 900 complaints in FY 14/15, for a total of 2211 complaints over four years.

Interestingly, the total number of complaints on the BACB's website was less than 300. While this analysis is likely an incomplete picture because there is insufficient data to capture all of the variables, such as the impact the visibility of the BOP as a public agency might have or underreporting, the evidence does not suggest a significant risk to consumers.

3) The next criterion is the availability of consumer remedies. In this case, the typical remedies are available, including civil suits, criminal charges, health plan complaints, and certification board complaints. However, as noted above, ABA falls within the practice of both medicine and psychology. Therefore, the BOP and the Medial Board of California have the authority to cite ABA practitioners for unlicensed practice as well as follow-up on consumer complaints, referring cases to the appropriate authority. In the past, the BOP noted that it has pursued cases of unlicensed behavior therapy in egregious cases. Therefore, there appear to be sufficient consumer remedies.

4) There also appears to be sufficient industry regulation (supported by the low number of consumer complaints). Because of the recent rise in the practice of ABA services for PDD and ASD, the health industry regulates many ABA practitioners through reimbursement rates and plan-provider contracts. Often, for liability purposes, plans will require that providers only use qualified practitioners, up to requiring certification by the BACB. Further, the sponsors have noted that many providers of ABA services have already adopted the BACB as the minimum standard for their providers, including many of the regional centers (possibly also due to push back from the plans). Further, given that the many, if not most, ABA services require a diagnosis from a licensed professional or are provided in group practices

such as community clinics, there seems to be sufficient oversight of behavior analyst practitioners at all levels.

5) Lastly, while valuable in theory, the benefit to consumers is minimally supported by the data. This must be weighed against the cost to the licensees. Based on projected numbers provided in the sponsor's sunrise report and pulled from the BACB website, a BCBA applicant would have to pay a $230 exam fee to the BACB, a $125 exam fee to the exam provider (Pearson VUE), and a $250 application fee and $200 initial license fee to the BOP (a total of $805 if the applicant passes the first time). Every two years after that, the BCBA would pay a biennial renewal fee of $300 to the BOP, a $200 continuing education examination fee to the BACB, and a $130 continuing education fee to the BACB (a total of $630). However, these were based on the sponsor's 2014 projections, and they may have gone up or down based on the current status of the BOP. As of the BOP's most recent sunset review, the BOP's fund condition is stable. However, the number of potential licensee's has risen sharply, and it is unclear whether this will require an increase in license fees.

Therefore, the need for licensure is not clear. While better standards for consumers of health care services is a laudable goal, the Committee may wish to determine whether the quantified benefit to consumers outweighs the burden to the professionals to be licensed.

AMENDMENT:

To alleviate the concerns of the BOP regarding the exemption for regional center vendors, the author should make the following amendment:

Page 24, strike lines 1-11, inclusive:

~~(f) An individual who is vendorized by one or more regional centers of the State 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 unless he or she holds a license under this chapter.~~

REGISTERED SUPPORT:

California Association for Behavior Analysis (sponsor)
Advance Kids, Inc.
A.G.E.S. Learning Solutions, Inc.
Autism Behavior Intervention
Behavioral Learning Network
Building Blocks Behavior Consultants, Inc.
CARE, Inc.
Central Valley Autism Project
Coyne Associates Education Corporation
Ed Support Services
Gateway Learning Group
The Kendall Centers

Kids Overcoming, LLC
North Los Angeles County Regional Center
The Reilly Behavioral Group, LLC
Shabani Institute
STE Consultants
Trumpet Behavioral Health
2 individuals

REGISTERED OPPOSITION:

California Board of Psychology
DIR/Floortime Coalition of California
1 individual

Analysis Prepared by: Vincent Chee / B. & P. / (916) 319-3301, Le Ondra Clark Harvey, Ph.D. / B. & P. / (916) 319-3301

ASSEMBLY THIRD READING
AB 1715 (Holden)
As Amended April 12, 2016
Majority vote

Committee	Votes	Ayes	Noes
Business & Professions	14-0	Salas, Baker, Bloom, Campos, Chávez, Dahle, Dodd, Eggman, Gatto, Gomez, Holden, Mullin, Ting, Wood	
Appropriations	15-1	Gonzalez, Bigelow, Bloom, Bonilla, Bonta, Calderon, Daly, Eggman, Eduardo Garcia, Roger Hernández, Holden, Quirk, Santiago, Weber, Wood	Gallagher

SUMMARY: Establishes the Behavior Analyst Act (Act), which provides for the licensure, registration, and regulation of behavior analysts and assistant behavior analysts, and requires the California Board of Psychology (BOP), until January 1, 2022, to administer and enforce the Act. Specifically, **this bill**:

1) Defines "behavior analysis technician" (BAT) as an individual who works directly with a client to implement applied behavior analysis services under the direction and supervision of a licensed behavior analyst, a licensed assistant behavior analyst, or a licensed psychologist who is qualified to practice behavior analysis, and has successfully completed the application requirements under the Act.

2) Defines "certifying entity" as the Behavior Analyst Certification Board (BACB) or its successor, or another national credentialing organization with behavior analyst certification programs approved by the board and accredited by the National Commission for Certifying Agencies (NCCA).

3) Defines "licensed assistant behavior analyst" (LABA) as a person licensed under the Act to practice behavior analysis under the supervision of a licensed behavior analyst.

4) Defines "behavior analyst intern" (BAI) as a person registered under the Act to practice behavior analysis under the supervision of a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis.

5) Defines "licensed behavior analyst" (LBA) as a person licensed under the Act to practice behavior analysis.

6) Defines "practice of behavior analysis" or "to practice behavior analysis" as the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior, as specified. Provides that the practice of behavior analysis does not include psychological testing and assessment, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, counseling, prescribing drugs, performing surgery, or administering electroconvulsive therapy.

7) Establishes the educational, experiential, disciplinary, and fee requirements for the licensees and registrants above.

8) Makes it unlawful, on and after July 1, 2019, to practice behavior analysis without being licensed by BOP, except as specified.

9) Exempts a licensed speech-language pathologist or audiologist, a licensed occupational therapist, a licensed physical therapist, a licensed marriage and family therapist, a licensed educational psychologist, a licensed clinical social worker, a licensed professional clinical counselor, a parent, a researcher, and an individual employed or contracted by a school.

FISCAL EFFECT: According to the Assembly Appropriations Committee:

1) Approximate fiscal impact to BOP of $1.9 million in 2017-18, the first year of implementation, and about $2.6 million ongoing (loan from the Psychology Fund, to be reimbursed by fees). Initial costs relate to promulgation of regulations, development of materials, build-out of office space, and information technology changes to add a licensure category. This is based on an assumption of 3,850 licensees and 45,000 technicians and interns. The Psychology Fund has a projected balance of $9.4 million at the end of $2016-17 based on General Fund (GF) loan repayments of $6.3 million in 2016-17.

2) Unknown, likely minor if any, potential GF revenue, if penalty authority contained in the bill is used to enforce the bill's provisions.

3) Significant costs over the first year of licensure and minor ongoing costs to the Department of Justice for additional background checks, reimbursed by the individuals being screened (Fingerprint Fees Account).

COMMENTS:

Purpose. This bill is sponsored by the *California Association for Behavior Analysis*. According to the author, "California law mandates that health plans and health insurance policies cover behavioral health treatment for autism. This mandate has substantially increased demand for [ABA] services. With the increased demand, there is a greater need to regulate the behavior analysis profession, and to protect autistic children and others who can benefit from [ABA] treatment from people who falsely claim that they are qualified to practice behavior analysis. To protect the public from the unauthorized and unqualified practice of behavior analysis, and from unprofessional, unethical or harmful conduct by licensees, [this bill] will create licensure for behavior analysts, with regulation under the [BOP]."

Background. According to the American Psychological Association, behavior analysis is the study of behavior. The clinical practice of behavior analysis, called ABA, applies basic psychological principles of learning and association to change the behavior of an individual. For example, a behavior analyst may train a child (conditioning) to respond to things in the environment (stimuli) in a desirable way by offering praise when the desirable behavior occurs (positive reinforcement).

ABA interventions are useful for targeting unintentionally disruptive behaviors and conditions without cognitive concerns (problematic thoughts or emotions), such as speech conditions and developmental disorders. Further, once a proper diagnosis is made, the ABA techniques can be

implemented by others, including a parent, which makes it useful for intensive, continuous treatment plans.

ABA and PDD/ASD. The concept of ABA-only providers has grown in popularity in recent years. Prior to SB 946 (Steinberg), Chapter 650, Statutes of 2011, health plans in California were not required to provide behavioral health treatments (BHTs), including for pervasive developmental disorders (PDD) or autism spectrum disorder (ASD).

Because some of the most popular behavioral health treatments specific to PDD and ASD are ABA-based, the number of ABA-specific treatment providers and practitioners is rising (as distinguished from other mental health providers who are qualified to provide BHT and diagnoses including: social workers, licensed professional clinical counselors, marriage and family therapists, psychiatrists and psychologists).

Board Certification of Behavior Analysts. Because the standalone practice of ABA is relatively new, there is only one certification board for behavior analysts, the Behavior Analyst Certification Board (BACB). The BACB is a nonprofit 501(c)(3) corporation established in 1998 that is accredited by the National Commission for Certifying Agencies Accreditation (NCCA). The BACB provides certifications for professional behavior analysts and approves school programs for behavior analysis. Because the BACB is currently the only NCCA accredited program that provides behavior analysis certifications, this bill was crafted to closely match the BACB's requirements.

The BACB provides four types of credentials: 1) board certified behavior analyst (BCBA); 2) board certified assistant behavior analyst (BCaBA); 3) registered behavior technicians (RBTs); and 4) the doctoral-level BCBA (BCBA-D). The BACB requirements for the initial certification and renewal of BCBA and BCaBA certifications are nearly identical to the requirements for LBAs and LABAs under this bill. The BACB requirements for RBTs are similar to the BAT under this bill, except that the BACB requires a 40-hour training program and a competency assessment, while this bill does not. The BCBA-D designation requires specific requirements above the regular BCBA and would qualify for licensure under this bill.

Scope of Practice of a Behavior Analyst. This bill defines the practice of behavior analysis as the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. This includes three things, 1) functional analysis (the observation of relations between behavior and environment), 2) the use of behavioral interventions based on the functional analysis; and 3) the use of operant conditioning (such as positive and negative reinforcement).

The bill also distinguishes the practice of behavior analysis from psychological testing and assessment and the diagnosis of a mental or physical disorder. Currently, in California ABA services fall within the scope of many other types of licensees. The current scope of practice for psychologists includes "any psychological service [for a fee] involving the application of psychological principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning." A psychiatrist's scope is even broader, being all of medicine (all treatment for all physical and mental conditions, Business and Professions Code Section 2051). Interestingly, however, the behavior analyst scope is not limited by services requiring a fee.

Because ABA principles are basic principles of learning drawn from psychology, this bill is essentially licensing a group of practitioners that practice a subset of psychology and psychiatry. In addition, because there are many other types of behavior therapies, there may be overlap in many other professions as well. Therefore, this bill also provides a list of exemptions for other professions, including the following:

1) Speech-language pathologists or audiologists;

2) Occupational therapists;

3) Physical therapists;

4) Marriage and family therapists;

5) Educational psychologists;

6) Clinical social workers; and,

7) Professional clinical counselors.

However, as noted above, there are other types of BHTs that are not considered ABA. Therefore, this bill may also unintentionally impact other providers that provide BHTs, which may not be licensed.

Other States. Currently 24 other states either license or certify ABA practitioners. In seven states, they are regulated by a psychology board (Arizona, Missouri, North Dakota, Nevada, Ohio, Tennessee, Utah). In eight states, they are regulated under a behavior analysis board (Alabama, Kentucky, Louisiana, Mississippi, New York, Oklahoma, Oregon, Rhode Island). In five states, they are either issued direct licenses from a consumer agency (Alaska, Hawaii, Vermont, Washington, Wisconsin). In the remainder of the states, they are licensed under the behavioral sciences board (Kansas), the allied mental health board (Massachussets), or the medical board (Virginia).

ARGUMENTS IN SUPPORT:

The California Association for Behavior Analysis (sponsor) writes in support, "Behavior analysts and assistant behavior analysts who are certified by the national [BACB] provide the vast majority of ABA services. Though accredited and certified, these professionals are not licensed or regulated by the state.

[This bill's] licensure requirement would provide both the state of California and its resident's additional consumer protections and recourse when there are concerns with the services provided by behavior analysts and assistant behavior analysts. At the same time, this bill would not preclude other licensed professionals from providing behavior analysis services."

ARGUMENTS IN OPPOSITION:

The California Psychological Association writes in opposition, "CPA is concerned with specific language in the bill and the need for a separate license for one treatment technique.

CPA is concerned the precedent the bill could create. We could potentially see dozens of new licenses based on a single treatment modality, and not the general licenses we have employed for years. Cognitive behavioral therapy is a technique many psychologists employ, but they are licensed under the general psychology license and not as a Cognitive Behavioral Therapist. We're concerned that setting a precedent here could result in other groups seeking licensure for specific techniques. We are also concerned about the potential complications of the license's tiered model.

We have supported the previous insurance mandate to define 'qualified autism providers' and are supporting current legislation to expand the services under the mandate. Mental health professionals, including psychologists, as well as certified BCBAs, are included in current mandates."

POLICY ISSUES FOR CONSIDERATION:

Need for Licensure. In July of 2015, the United States (U.S.) Department of the Treasury's Office of Economic Policy, the White House's Council of Economic Advisers, and the U.S. Department of Labor issued a report entitled *Occupational Licensing: A Framework for Policymakers.* According to the report, the purpose of occupational licensing is to protect consumers from harm by establishing minimum competency standards. Therefore, the report recommended that when determining whether an occupation should be licensed, states should weigh the benefits to the public against the burden on the licensees.

In this case, the need for licensure is not clear. First, while avoiding harm to individuals receiving treatment for ASD and PDD is desirable, it is not clear that licensure is necessary to do so (certificate or title protection seem like viable alternatives). Further, the sponsors note that ABA is used for much more than just treating ASD and developmental disorders, including workplace and organizational behavior management. It is not clear that the gravity of the potential harm from organizational consulting work merits licensure.

Second, the incidence of harm does not seem to merit licensure, the sponsors note that as of March 18, 2016, there were 7,363 practitioners in California certified by the BACB, including 3168 BCBAs, 284 BCBA-Ds, 166 BCaBAs, and 3745 RBTs. This is an increase of approximately 5000 practitioners since 2014. While most of the increase accounts for the new RBT practitioner, the remainder is a nearly 100% increase in the main certificate type (approximately 1400 new BCBAs). It is unclear how many other uncertified providers there may be. The U.S. Bureau of Labor Statistics does not currently track behavior analysts or behavioral therapists as their own profession (they are currently tracked under the psychologist category).

If there is a high risk of harm, one can assume there will be a large number of complaints. As of March 30, 2016, the BACB has 42 notices of alleged violations (complaints) against behavior analysts in California, a number of which date back to 2005, about 10 years (many of which were closed due to lack of evidence). This is contrasted with the BOP, which has about 22,000 licensees and received 668 complaints in Fiscal Year (FY) 12/13, 643 complaints in FY 13/14, and 900 complaints in FY 14/15, for a total of 2211 complaints over four years.

The total number of complaints on the BACB's website was less than 300. While this analysis is likely an incomplete picture because there is insufficient data to capture all of the variables, such

as the impact the visibility of the BOP as a public agency might have or underreporting, the evidence does not suggest a significant risk to consumers.

Third, there seem to be a sufficient number of consumer remedies for any potential harms. In this case, the typical remedies are available, including civil suits, criminal charges, health plan complaints, and certification board complaints. However, as noted above, ABA falls within the practice of both medicine and psychology. Therefore, the BOP and the Medical Board of California have the authority to cite ABA practitioners for unlicensed practice as well as follow-up on consumer complaints, referring cases to the appropriate authority. In the past, the BOP noted that it has pursued cases of unlicensed behavior therapy in egregious cases.

There also appears to be sufficient industry regulation (supported by the low number of consumer complaints). Because of the recent rise in the practice of ABA services for PDD and ASD, the health industry regulates many ABA practitioners through reimbursement rates and plan-provider contracts. Often, for liability purposes, plans will require that providers only use qualified practitioners, up to requiring certification by the BACB. Further, the sponsors have noted that many providers of ABA services have already adopted the BACB as the minimum standard for their providers, including many of the regional centers (possibly also due to push back from the plans). Further, given that the many ABA services require a diagnosis from a licensed professional or are provided in group practices such as community clinics, there seems to be sufficient oversight of behavior analysis providers.

Lastly, the benefit to consumers must be weighed against the cost to the licensees. Based on projected numbers provided in the sponsor's sunrise report and pulled from the BACB website, a BCBA applicant would have to pay a $230 exam fee to the BACB, a $125 exam fee to the exam provider (Pearson VUE), and a $250 application fee and $200 initial license fee to the BOP (a total of $805 if the applicant passes the first time). Every two years after that, the BCBA would pay a biennial renewal fee of $300 to the BOP, a $200 continuing education examination fee to the BACB, and a $130 continuing education fee to the BACB (a total of $630). However, these were based on the sponsor's 2014 projections, and they may have gone up or down based on the current status of the BOP. As of the BOP's most recent sunset review, the BOP's fund condition is stable. However, the number of potential licensee's has risen sharply, and it is unclear whether this will require an increase in license fees.

Therefore, the need for licensure is not clear. While better standards for consumers of health care services is a laudable goal, it is not clear if the benefit to consumers outweighs the burden to the professionals to be licensed in this case.

Analysis Prepared by: Le Ondra Clark Harvey Ph.D., Vincent Chee / B. & P. / (916) 319-3301
FN: 0003199

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
AB 1715 (Holden) – As Amended April 12, 2016

Policy Committee: Business and Professions Vote: 14 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill establishes the Behavior Analyst Act (Act), which provides for the licensure, registration, and regulation of behavior analysts and related providers, and requires the California Board of Psychology (BOP), until January 1, 2022, to administer and enforce the Act. Specifically, this bill:

1) States intent that BOP begin accepting applications for behavior analyst licensure and assistant behavior analyst licensure no later than January 1, 2018, provided necessary funds have been appropriated.

2) Defines "practice of behavior analysis" or "to practice behavior analysis" as the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior, as specified,

3) Defines licensed and registered personnel under the act, including "licensed behavior analysts," assistants, technicians, and interns; and establishes educational and other criteria as well as supervision standards.

4) Establishes licensing and registration provisions, including licensure, renewal, enforcement, discipline, ethical standards, background checks, continuing education, and related provisions. Establishes civil penalty authority for violations.

5) Makes it unlawful, on and after July 1, 2019, to practice behavior analysis without being licensed by BOP, except as specified. Exempts other healing arts licensees, parents, researchers, and individuals employed or contracted by a school from licensure.

6) Vests the BOP, until January 1, 2022, with the power to enforce the Act. Creates, until January 1, 2022, the Behavior Analyst Committee within the jurisdiction of the BOP to make recommendations to the BOP regarding the regulation of the practice of behavior analysis.

7) Establishes revenue provisions:

   a) Requires the board to establish fees in regulation for the application for and the issuance and renewal of licenses to cover, but not exceed, the reasonable regulatory costs of the board.

   b) Specifies fee revenues collected for this purpose are credited to the Psychology Fund and such funds are available upon appropriation, for the purposes of the Act.

c) Sets fee amounts for several smaller fee categories. However, it does not specify licensure or renewal fees. Exempts certain categories of public service personnel from renewal fees during active service.

d) Requires the licensing and regulatory program under this chapter to be supported from fees assessed to applicants and licensees. Requires startup funds to implement the Act be derived, as a loan, from the Psychology Fund, subject to a budget appropriation.

e) Specifies the board shall not implement the Act until funds have been appropriated.

FISCAL EFFECT:

1) Approximate fiscal impact to BOP of $1.9 million in 2017-18, the first year of implementation, and about $2.6 million ongoing (loan from the Psychology Fund, to be reimbursed by fees). Initial costs relate to promulgation of regulations, development of materials, build-out of office space, and information technology changes to add a licensure category. This is based on an assumption of 3,850 licensees and 45,000 technicians and interns. The Psychology Fund has a projected balance of $9.4 million at the end of $2016-17 based on GF loan repayments of $6.3 million in 2016-17.

2) Unknown, likely minor if any, potential GF revenue, if penalty authority contained in the bill is used to enforce the bill's provisions.

3) Significant costs over the first year of licensure and minor ongoing costs to DOJ for additional background checks, reimbursed by the individuals being screened (Fingerprint Fees Account).

COMMENTS:

1) **Purpose.** According to the author, a state mandate for health plans and insurers to cover behavioral health treatment for autism have substantially increased demand for applied behavioral analysis (ABA) services. With the increased demand, there is a greater need to regulate the BA profession, and to protect autistic children and others who can benefit from ABA treatment from people who falsely claim that they are qualified to practice behavior analysis. This bill will ensure BA professionals are qualified and overseen by the Board of Psychology, for whom consumer protection will be paramount.

2) **BA.** According to the American Psychological Association, behavior analysis is the study of behavior. The clinical practice of behavior analysis, called ABA, applies interventions based upon the principles of learning theory to improve socially significant behaviors to a meaningful degree. Socially significant behaviors include reading, academics, social skills, communication, and adaptive living skills like motor skills, eating and food preparation, personal self-care, domestic skills, home and community orientation, and work skills. ABA often requires intensive treatments of more than 25 hours each week.

3) **BA practitioners.** The Behavior Analyst Certification Board (BACB) is a private non-profit that provides four types of credentials: (1) board certified behavior analyst, (2) board certified assistant behavior analyst, registered behavior technicians (RBTs), and (3) doctoral-level BCBA. The BACB requirements for the initial certification and renewal of analysts

and assistant analyst certifications are nearly identical to the requirements for LBAs and LABAs under this bill. Nineteen other states either license or certify ABA practitioners.

State law currently recognizes "qualified autism service providers" (QASPs) who are authorized to provide ABA services under the state's mandate for health insurers to provide behavioral health treatment. QASPs must be a specified licensed health care provider or a person, entity, or group that is certified by a national entity such as the BACB. "Qualified autism service *professionals"* can be employed by QASPs and must be approved as a regional center vendor by the Department of Developmental Services (DDS) system, among other requirements.

4) **Related Legislation.** AB 796 (Nazarian), pending in the Senate Health Committee, requires the BOP, no later than December 31, 2017, and thereafter as necessary, upon appropriation of the Legislature, to convene a committee to create a list of evidence-based treatment modalities for purposes of behavioral health treatment (BHT) for pervasive developmental disorder or autism. It also extends the sunset on the existing behavioral health treatment mandate for an additional five years, from January 1, 2017 to January 1, 2022.

5) **Previous Legislation.**

   a) SB 946 (Steinberg), Chapter 650, Statutes of 2011, among other things, mandated health care service plan contracts and health insurance policies, except as specified, to provide coverage for BHT.

   b) SB 126 (Steinberg), Chapter 680, Statutes of 2013, extended the operation of the BHT mandate until January 1, 2017.

   c) SB 479 (Bates) was substantially similar to this bill, and is pending on the Suspense File of this committee.

6) **Support and Opposition.** The DIR/Floortime Coalition of California has expressed opposition, citing concerns that licensing for one treatment technique may inadvertently suggest other treatment modalities such as DIR/Floortime are less legitimate. The California Association for Behavior Analysis (sponsor) and a number of treatment service providers write in support.

7) **Staff Comments.** Many fee types for other professional licensure categories have caps in statute. Since it is a new licensure program, it is appropriate not to set a fee cap at this time. However, the first sunset review in 2021 should critically examine whether fees are set commensurate with workload. It appears given expected costs and number of regulated individuals, that fees could be set at reasonable levels.

Analysis Prepared by: Lisa Murawski / APPR. / (916) 319-2081

California LEGISLATIVE INFORMATION

AB-2007 Youth athletics: youth sports organizations: concussions or other head injuries. (2015-2016)

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY APRIL 26, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL **No. 2007**

Introduced by Assembly Member McCarty

February 16, 2016

An act to add Article 2.5 (commencing with Section 124235) to Chapter 4 of Part 2 of Division 106 of the Health and Safety Code, relating to youth athletics.

LEGISLATIVE COUNSEL'S DIGEST

AB 2007, as amended, McCarty. Youth athletics: youth sports organizations: concussions or other head injuries.

Existing law requires a school district, charter school, or private school, if it offers an athletic program, to immediately remove an athlete from an athletic activity for the remainder of the day if the athlete is suspected of sustaining a concussion or head injury, and prohibits the athlete from returning to the athletic activity until the athlete is evaluated by a licensed health care provider, trained in the management of concussions, and acting within the scope of his or her practice, and the athlete receives written clearance from the licensed health care provider to return to the athletic activity. Existing law also requires, on a yearly basis, a concussion and head injury information sheet to be signed and returned by the athlete and athlete's parent or guardian before the athlete's initiating practice or competition.

This bill would apply these provisions to athletes participating in youth sports organizations, as defined to ~~include, but not necessarily limited to, a business or nonprofit entity or a~~ *include organizations, businesses, nonprofit entities, or* local governmental ~~agency,~~ *agencies* that sponsor or conduct amateur ~~athletic~~ *sports* competitions, *training,* camps, or ~~clubs.~~ *clubs in which persons 17 years of age or younger participate in any of 25 designated sports.* The bill would require youth sports organizations to notify the parents or guardians of athletes 17 years of age or younger who have been removed from athletic activities due to suspected concussions, as specified. The bill would require youth sports organizations ~~to give~~ *offer* concussion and head injury education, or *related* educational materials, or both, to each of their coaches and administrators on a yearly basis, as prescribed. ~~The~~ *The bill would require each of these coaches and administrators to successfully complete the concussion and head injury education offered under the bill at least once either online or in person.*

The bill would also require *a* youth sports ~~organizations~~ *organization* to identify an individual within the organization who is responsible for ensuring compliance by the organization with the bill's requirements for providing concussion and head injury education. The bill would additionally require the youth sports

organization to identify ~~the details of the~~ *procedures to ensure compliance with the athlete removal provisions and the* return-to-play protocol, as specified. *The bill would specify that it applies to all persons participating in the activities of a youth sports organization, irrespective of their ages.*

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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

SECTION 1. Article 2.5 (commencing with Section 124235) is added to Chapter 4 of Part 2 of Division 106 of the Health and Safety Code, to read:

Article 2.5. Youth Sports Concussion Protocols

124235. (a) A youth sports organization that elects to offer an athletic program shall comply with all of the following:

(1) An athlete who is suspected of sustaining a concussion or other head injury in an athletic activity shall be immediately removed from the athletic activity for the remainder of the day, and shall not be permitted to return to ~~the~~ *any* athletic activity until he or she is evaluated by a licensed health care provider. The athlete shall not be permitted to return to ~~the~~ athletic activity until he or she receives written clearance to return to ~~the~~ athletic activity from a licensed health care provider. If the licensed health care provider determines that the athlete sustained a concussion or other head injury, the athlete shall also complete a graduated return-to-play protocol of no less than seven days in duration under the supervision of a licensed health care provider.

(2) If an athlete who is 17 years of age or younger has been removed from athletic activity due to a suspected concussion, the youth sports organization shall notify a parent or guardian of that athlete of the time and date of the injury, the symptoms observed, and any treatment provided to that athlete for the injury.

(3) On a yearly basis, the youth sports organization shall give a concussion and head injury information sheet to each athlete. The information sheet shall be signed and returned by the athlete and, if the athlete is 17 years of age or younger, shall also be signed by the athlete's parent or guardian, before the athlete initiates practice or competition. *The information sheet may be sent and returned through an electronic medium including, but not necessarily limited to, fax or electronic mail.*

(4) On a yearly basis, the youth sports organization shall ~~give~~ *offer* concussion and head injury education, or *related* educational materials, or both, to each coach and administrator of the youth sports organization. *Each coach and administrator shall be required to successfully complete the concussion and head injury education offered pursuant to this paragraph at least once, either online or in person, before supervising an athlete in an activity of the youth sports organization.*

(5) The youth sports organization shall identify both of the following:

(A) An individual within the organization who is responsible for ensuring compliance by the organization with the requirements for providing concussion and head injury education contained in paragraph (4).

(B) ~~Details of~~ *Procedures to ensure compliance with the athlete removal provisions and* the return-to-play protocol required pursuant to paragraph (1).

(b) As used in this ~~section,~~ *article, all of* the following ~~terms have the following meanings:~~ *shall apply:*

(1) "Concussion and head injury education and educational materials" and a "concussion and head injury information sheet" shall, at a minimum, include information relating to all of the following:

(A) Head injuries and their potential consequences.

(B) The signs and symptoms of a concussion.

(C) Best practices for removal of an athlete from an athletic activity after a suspected concussion.

(D) Steps for returning an athlete to school and athletic activity after a concussion or head injury.

(2) "Licensed health care provider" means a licensed health care provider who is trained in the evaluation and management of concussions and is acting within the scope of his or her practice.

(3) "Youth sports organization" means an organization, ~~which may include, but is not necessarily limited to, a business or nonprofit entity or~~ *business, nonprofit entity, or* a local governmental ~~agency,~~ *agency* that sponsors

or conducts amateur ~~athletic competitions,~~ *sports competitions, training,* camps, or clubs in which persons 17 years of age or younger ~~participate.~~ *participate in any of the following sports:*

(A) Baseball.

(B) Basketball.

(C) Bicycle motocross (BMX).

(D) Boxing.

(E) Competitive cheerleading.

(F) Contact martial arts.

(G) Diving.

(H) Equestrian activities.

(I) Field hockey.

(J) Football.

(K) Gymnastics.

(L) Ice hockey.

(M) Lacrosse.

(N) Parkour.

(O) Rodeo.

(P) Roller derby.

(Q) Rugby.

(R) Skateboarding.

(S) Skiing.

(T) Soccer.

(U) Softball.

(V) Surfing.

(W) Volleyball.

(X) Water polo.

(Y) Wrestling.

(c) This section shall *apply to all persons participating in the activities of a youth sports organization, irrespective of their ages. This section shall* not be construed to prohibit a youth sports organization, or any other appropriate entity, from adopting and enforcing rules intended to provide a higher standard of safety for athletes than the standard established under this section.

California LEGISLATIVE INFORMATION

SB-1155 Professions and vocations: licenses: military service. (2015-2016)

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE MARCH 28, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL **No. 1155**

Introduced by Senator Morrell

February 18, 2016

An act to add Section 114.6 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1155, as amended, Morrell. Professions and vocations: licenses: military service.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes any licensee whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license without examination or penalty if certain requirements are met. Existing law also requires the boards to waive the renewal fees, continuing education requirements, and other renewal requirements, if applicable, of any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard, if certain requirements are met. Existing law requires each board to inquire in every application if the individual applying for licensure is serving in, or has previously served in, the military. Existing law, on and after July 1, 2016, requires a board within the Department of Consumer Affairs to expedite, and authorizes a board to assist, the initial licensure process for an applicant who has served as an active duty member of the United States Armed Forces and was honorably discharged.

This ~~bill~~ *bill, on and after January 1, 2018,* would require every board within the Department of Consumer Affairs to grant a fee waiver for the application for and the issuance of an initial license to an individual who is an honorably discharged ~~veteran, as specified.~~ *veteran. The bill would require that a veteran be granted only one fee waiver, except as specified.*

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 114.6 is added to the Business and Professions Code, to read:

114.6. Notwithstanding any other provision of law, every board within the department shall grant a fee waiver for the application for and issuance of ~~a~~ *an initial* license to an individual who is an honorably discharged veteran who served as an active duty member of the California National Guard or the United States Armed Forces. Under this program, all of the following apply:

(a) A veteran shall be granted only one fee ~~waiver.~~ *waiver, except as specified in subdivision (b). After a fee waiver has been issued by any board within the department pursuant to this section, the veteran is no longer eligible for a waiver.*

(b) If a board charges a fee for the application for a license and another fee for the issuance of a license, the veteran shall be granted fee waivers for both the application for and issuance of a license.

~~(b)~~

(c) The fee waiver shall apply only to an application of and a license issued to an individual veteran and not to an application of or a license issued to *an individual veteran on behalf of* a business or other entity.

~~(c)~~

(d) A waiver shall not be issued for ~~a renewal of a license or for the application for and issuance of a license other than one initial license.~~ *any of the following:*

(1) Renewal of a license.

(2) The application for and issuance of an additional license, a certificate, a registration, or a permit associated with the initial license.

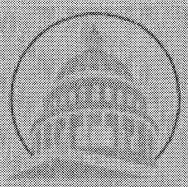
(3) The application for an examination.

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

PROFESSIONAL EXAMINATION SERVICES

2420 DEL PASO ROAD, SUITE 265 • SACRAMENTO, CALIFORNIA 95834 • (916) 575 – 7240

BUSINESS AND PROFESSIONS CODE, SECTION 139 INFO SESSION



PLEASE JOIN US!

TWO Sessions will be offered!
Monday – July 11, 2016 – 10:00 – 11:00am
Monday – July 25, 2016 – 2:00 – 3:00pm

- Discover what B&P Code §139 reporting is and why it's done
- Identify the different categories of the B&P Code §139 report
- Acquire an in-depth view of what costs should be reported
- Collect answers to B&P Code §139 report frequently asked questions

Come with your questions about B&P Code §139 reporting.

****R.S.V.P. by COB Friday, July 8, 2016**, to Laurie Yee at laurie.yee@dca.ca.gov**

Protecting the interests of consumers by supporting the Department of Consumer Affairs (DCA) and its regulatory entities in their commitment to establish and maintain licensure examination programs that are fair, valid, and legally defensible.