STATE OF CALIFORNIA
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DEPARTMENT OF CONSUMER AFFAIRS

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

BOARD OF PSYCHOLOGY – Administration
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MEMORANDUM

DATE	August 4, 2015
TO	Psychology Board Members
FROM	Antonette Sorrick Executive Officer
SUBJECT	**SB 479 (Bates) – Applied Behavior Analysis: Agenda Item 22(y)**

Background:

At the May meeting, the Board adopted a "support if amended" position. The specific motions passed and the concerns raised by the Board are in the attached analysis. The legislation was amended on June 2, 2015 and some of the Board's concerns were addressed. However, the significant concerns raised by the Board concerning composition of the Board and the consumer protection concerns surrounding the proposed exemptions have not yet been addressed.

Staff therefore recommends the Board adopt an "oppose unless amended" position with a "support" position being adopted if the consumer protection issues are satisfactorily addressed.

Action Requested:

The staff recommendation is for the Board to adopt an "oppose unless amended" position on SB 479 (Bates).

Attachment A is the bill analysis.
Attachment B is the language of the bill.
Attachment C is the mid-tier licensure proposal from the Autism Business Association

CALIFORNIA STATE BOARD OF PSYCHOLOGY

BILL ANALYSIS

BILL NUMBER:	SB 479	**VERSION:**	AMENDED JUNE 2, 2015
AUTHOR:	BATES	**SPONSOR:**	CALIFORNIA ASSOCIATION FOR BEHAVIOR ANALYSIS (CALABA)

BOARD POSITION (JUNE 23): SUPPORT IF AMENDED
ABA TASK FORCE POSITION: SUPPORT IF AMENDED

SUBJECT: HEALING ARTS: BEHAVIOR ANALYSIS: LICENSING

Board of Psychology Position

ABA Task Force Recommended Position: "Support if amended". At its May Meeting the Board adopted a "support if amended" position. The specific motions were;

1) The new Board structure should be 1 public member and 1 licensed psychologist who is also qualified to practice ABA.
2) In the exemption section (BPC) Proposed Section 2999.37 delete c, d, and i.
3) Amend SB 479 to address concerns expressed in staff analysis 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18.

Comments:

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

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

   SB 479 (Bates) meets these two conditions.

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

   a) That any licensure bill contain an exemption for licensed psychologists and their supervisees,

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

SB 479 (Bates) includes these three conditions.

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

The Policy and Advocacy Chair expressed concern that the balance of licensed to public members will be upset with the shift from 5 licensed members and 4 public members to 7 licensed members and 4 public. This change can be seen in BPC Proposed Section 2923 of the bill.

The Board adopted a motion at its May Meeting that the new Board members should be;
1) A public member
2) A Licensed Psychologist who is qualified to practice ABA

The Board also expressed concern that no licensee of another board should serve on the Board of Psychology.

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

Board staff have a recommended amendment to make clear that the Board us the ultimate decision making entity and not the Committee. The Board should be able to vote down recommendations by the Committee and act without a recommendation. Recommended amendment is below.

> *BPC Proposed Section 2999.22. ~~Upon recommendation of the committee, the~~ 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.*

It should also be clarified exactly what is the scope and role of the Committee. The current bill language includes disciplinary actions as a Committee function. Decisions are reserved for the Board alone and the Committee should not have the authority make disciplinary decisions. Also, the Executive Officer oversees investigations cannot be told what actions to take by the Committee or the Board.

> *BPC Proposed Section 2999.27 (b) The committee may make recommendations to the board regarding the adoption, amendment, and repeal of regulations to implement the requirements of this chapter including, but not limited to, the setting of fees ~~and the establishment of disciplinary actions~~.*

The provision outlining that decisions do not need of the Committee must first be passed by majority of Committee Members and then the majority of the Board Members is not necessary and Board Staff request that it be deleted.

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

5) **Exemptions from licensure:**

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

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

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

language pathologist, or audiologist pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee.

- Another exemption is in proposed section BPC 2999.37 (i): Vendorized individuals of Department of Developmental Services regional centers. A key component of the consumer protection mandate of the Board is the jurisdiction the Board has over an individual's license. Exempting an entire category from licensure because of their relationship to the regional centers potentially places a large number of ABA practitioners beyond the Board's jurisdiction. The Board requests the deletion of this section.

- Proposed section BPC 2999.37 (c) states that; "An individual, including a paraprofessional technician" can be exempt if he or she is under the supervision of recognized, qualified person. At the ABA Task Force meeting CalABA and BACB indicated that a "paraprofessional technician" is a credential holder who has met the following criteria;

  - Be at least 18 years of age
  - Possess a minimum of a high school diploma or national equivalent
  - Successfully complete a criminal background registry check at the time of application (no more than 45 days prior to submitting the application)
  - Complete a 40-hour training program (conducted by a BACB certificant) based on the RBT Task List
  - Pass the RBT Competency Assessment administered by a BACB certificant
  - Pay a $50 application fee (annual renewal fees are $35)

  It was explained at the ABA Task Force meeting that these are people who work directly with the individuals receiving the treatment. Staff do not believe exempting anybody who works under the "*authority and direction*" of a licensee is prudent from a consumer protection standpoint. The Board must have disciplinary authority over any individual who delivers mental health services that fall under its defined scope.

  Staff has significant concerns related to consumer protection and the jurisdiction of the Board to investigate these individuals. The Board requested the deletion this section at its May Meeting.

  > BPC 2999.37 (c) ~~*An individual, including a paraprofessional technician, acting under the authority and direction of a licensed behavior analyst, a licensed assistant behavior analyst, or an individual described in paragraph (a) or (b).*~~

  An alternative staff recommendation is that the individuals referred to in this section be registered with the Board. This will allow give the Board jurisdiction over the registrants and ensure consumer protection. Proposed language is below;

Definition; 2999.12 "behavior technician" or "registered behavior technician" means an individual who works directly with a client to implement applied behavior analysis services under the direction and supervision of a licensed behavior analyst or a licensed assistant behavior analyst and is registered with the Board as required in this Chapter.

Title Protection; 2999.35 No person shall hold himself out as a licensed behavior analyst, a licensed assistant behavior analyst, or a registered behavior technician unless licensed, or registered in accordance with the provisions of this Chapter.

Application Requirements;

1. In order for an applicant to be registered as a behavior technician by the Board, an individual shall:

A. Be at least eighteen years of age and possess a minimum of a high school diploma or its equivalent;

~~B. Have an application submitted to the Board by his or her supervising licensed behavior analyst;~~

C. Submit fingerprint images to the California Department of Justice for a state and federal criminal background report within fourteen days from the date of application for registration;

D. Pay an application fee to be determined by the Board.

3. The board has the authority to deny or revoke a registration in the best interest of public safety and welfare.

4. The registration provided for in this Section shall be renewed annually by the supervising licensed behavior analyst.

- Staff request the deletion of BPC 2999.37 (f) as people undergoing supervision should be registered with the Board as detailed in the proposed language above. Page 13 of analysis.

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

The section is also unnecessary. The Board does not initiate actions against parent or legal guardians who administer treatment on a child as part the child's therapy. The Board requests the deletion of this section.

6) **Reciprocity:** The Board of Psychology currently has no reciprocity agreements with other states. The Board recognizes education and experience from other jurisdictions, requires the passing of the California Law and Ethics Examination. Staff request the section related to reciprocity be deleted.

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

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

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

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

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

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

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

7) **Examinations** are referenced in proposed sections 2999.31 (b) (1) and 2999.33 (b) (1). These exams are the certification examinations offered by the BACB. The Board has learned from its counterparts in Arizona, Missouri, and New York that BACB has historically not released the examination for an occupational analysis to be conducted by the regulatory body. BPC 139 requires the Board to conduct an occupational analysis of all state and national examinations. The Board would be forced to incur the cost of developing its own ABA competency examinations in the event the BACB examinations are not released for review.

The bill requires candidates for licensure to pass a Board administered law and ethics examination. This would need to be developed by the Board prior to the acceptance of application in 2018. This would be two examinations for each category due to the differing competencies and scopes of the licenses.

8) **Proof of Supervision for Licensed Assistant Behavior Analysts:** Proposed section BPC 2999.33 (b) and (d) contains the requirement that supervision must be proved to the certifying entity. Supervision should be the responsibility of the Board and outlined in its regulations.

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

   This cedes a great deal of authority to the certifying entity when this is within the scope of the licensing entity. Recommended amendments below;

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

10) **Education outside the United States and Canada:** The language related to role of NACES is unclear because it refers to "standard of training". While this is reviewed by NACES the level of the degree is what is reviewed and judged to be at the same level as a domestic education. Board Staff request the section be deleted and have the language in the Psychology Act inserted;

   BPC Proposed Section 2999.35 (c) ~~An institution of higher education located outside the United States or Canada that, at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training equivalent to the standards of training of those institutions accredited in the United States as demonstrated by a member of the National Association of Credential Evaluation Services.~~ 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 ~~doctorate~~ degree in a relevant subject that is equivalent to a degree earned from a regionally

accredited university in the United States or Canada. These applicants shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and any other documentation the board deems necessary.

11) **Renewals:** The requirements for verification and renewal for psychologists are propagated through regulation. The Board as the licensing entity should make all final determinations regarding renewal certification and criteria. The Board seeks some amendments to Proposed Sections BPC 2999.44 and 2999.45;

> 2999.44. (a) A license shall expire and become invalid two years after it is issued at 12 midnight on the last day of the month in which it was issued, if not renewed.
>
> (b) To renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form provided by the board, accompanied by the renewal fee set by the board. ~~The board shall obtain verification from the certifying entity that the renewal applicant maintains an active certification status with the certifying entity.~~
>
> (c) To renew an assistant behavior analyst license, in addition to the requirements in paragraph (b), the licensee shall submit proof of ongoing supervision by a licensed behavior analyst or a licensed psychologist who is qualified to practice ABA in a manner consistent with the board's ~~certifying entity's~~ requirements for supervision of assistant behavior analysts.
>
> 2999.45. (a) A license that has expired may be renewed at any time within three years after its expiration by applying for renewal on a form provided by the board, payment of all accrued and unpaid renewal fees, and the delinquency fee specified in Section 2999.93. ~~The board shall obtain verification from the certifying entity of the licensee's active certification status with the certifying entity.~~

Making BACB certification be a condition of license renewal is not a problem. However, proof of the certification status should be provided to the Board by the applicant. The Board should not have to verify the status of applicants with BACB.

12) **Continuing Education (CE):** The bill does not require any CE explicitly, but it is a requirement of renewal of the certification with BACB. The Board would be required to accept the terms BACB placed upon there certificate holders regarding CE unless language was inserted allowing the Board to additionally mandate CE topics and coursework. Existing statutory language that could serve as a model is BPC 2915.

Potential language based on BPC 2915

(a) The board shall not issue any renewal license unless the applicant submits proof that he or she has completed no less than 32 hours of approved continuing education in the preceding year licensure cycle for licensed behavior analysts and 20 hours of approved continuing education in the preceding year licensure cycle for licensed assistant behavior analysts.

(b) Each person renewing his or her license issued pursuant to this chapter shall submit proof of compliance with this section to the board. False statements submitted pursuant to this section shall be a violation of Section 2999.80.

(c) A person applying for 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 one or more private nonprofit organizations that have at least 10 years' experience managing continuing education programs for behavior analysts.

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

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

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

15) **BreEZe Impact.** The IT components of this bill will fall under the BreEZe system and are estimated to total ~~$800,000~~ $1,048,580.40 in FY 2017/18. This increase is due to potential registration costs.

16) **Reserve Fund Loan:** Proposed Section BPC 2999.98 references the "reserve fund of the Board of Psychology". The Board does not have a "reserve" fund and any loan would be appropriated from the Psychology Fund.

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

> Any act of sexual abuse or sexual relations with a patient or former patient within two years following termination of therapy, or sexual misconduct that is ~~substantially~~ related to the qualifications, functions, or duties of a licensed

behavior analyst or a licensed assistant behavior analyst. (Proposed Section BPC 2999.62 (o))

Additional enforcement concerns are that the following items are not mentioned in the proposed act, but are in the Psychologist Practice Act;

- No mention of penalty for not providing records within 15 days (BPC 2969)
- Excluded services/Limitations (BPC 2904)
- Confidentiality/Privileged (BPC 2918)

18) **Suspended License versus revoked/ reinstated:** DCA Legal Counsel may have a concern with the suspension language in Proposed Sections BPC 2999.46. Staff are awaiting confirmation that this language may need to be amended.

19) Support and Opposition.
None on file.

California LEGISLATIVE INFORMATION

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

AMENDED IN ASSEMBLY JULY 13, 2015

AMENDED IN ASSEMBLY JUNE 30, 2015

AMENDED IN SENATE JUNE 02, 2015

AMENDED IN SENATE APRIL 06, 2015

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL **No. 479**

Introduced by Senator Bates

February 26, 2015

An act to amend Sections 27 and 2920 of, to amend, repeal, and add Sections 2922, 2923, and 2927 of, to add Chapter 6.7 (commencing with Section 2999.10) to Division 2 of, and to repeal Sections 2999.20, 2999.25, 2999.31, and 2999.33 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 479, as amended, Bates. Healing arts: behavior analysis: licensing.

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

This bill would, on and after July 1, 2017, increase the number of members on the board to 11, and would increase the number of members for a quorum to 6 members. The bill would require the 2 new members to meet certain requirements, including, but not limited to, that one of the new members is qualified to practice behavior analysis, as defined.

This bill would establish the Behavior Analyst Act. The bill would require a person to apply for and obtain a license from the board prior to engaging in the practice of behavior analysis, as defined, either as a behavior analyst or an assistant behavior analyst. The bill would require these applicants to, among other things, meet certain educational and training requirements, and submit fingerprints for both a state and federal criminal background check. *The bill would require an assistant behavior analyst applicant to provide proof to the board of ongoing supervision by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis, as specified.* The bill would provide that those licenses expire 2 years after the date of

issuance and would authorize the renewal of unexpired licenses if certain requirements are met, including the completion of specified continuing education. The bill would also require an applicant to certify, under penalty of perjury, that he or she is in compliance with that continuing education requirement. By expanding the crime of perjury, the bill would impose a state-mandated local program.

This bill would also require a ~~paraprofessional technician,~~ *behavior analysis technician,* as defined, who practices under the supervision of a licensed behavior ~~analyst or~~ *analyst,* a licensed assistant behavior analyst, *or a licensed psychologist who is qualified to practice behavior analysis,* to submit, among other things, an application subject to board approval, fingerprints for a state and federal criminal background check, and payment of an annual application fee.

This bill would, until January 1, 2021, vest the board with the power to enforce the Behavior Analyst Act, and would require the board to, among other things, post information regarding licensed behavior analysts and licensed assistant behavior analysts, as specified. The bill would, until January 1, 2021, create the Behavior Analyst Committee within the jurisdiction of the board, and would require the committee to be comprised of 5 members who shall be appointed as specified. The bill would authorize the committee to make recommendations to the board regarding the regulation of the practice of behavior analysis in the state.

This bill would define certain terms for these purposes. The bill would require the board to conduct disciplinary hearings, as specified. The bill, on and after July 1, 2018, would make it unlawful to, among other things, practice behavior analysis without being licensed by the board, except as specified.

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

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

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

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

Vote: majority Appropriation: no Fiscal Committee: yes 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, and assistant behavior analysts.

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

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

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

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

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

(b) On and after July 1, 2017, notwithstanding subdivision (a), the board shall consist of 11 members, 5 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, 2017, and, as of January 1, 2018, is repealed.

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

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

(b) The Governor shall appoint 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, 2017.

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

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

(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, 2017, and, as of January 1, 2018, is repealed.

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

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

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

(c) One member shall be 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, 2017.

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

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

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

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

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

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

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

CHAPTER 6.7. Behavior Analysts
Article 1. General Provisions

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

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

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

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

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

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

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

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

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

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

(g) ~~"Paraprofessional~~ "*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 licensed behavior analyst or a licensed assistant behavior analyst and has successfully completed the application requirements described in Section 2999.36.

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

(2) 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.

(3) 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~~ *practices, 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, 2021, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

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

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

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

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

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

2999.25. (a) The Behavior Analyst Committee is hereby created within the jurisdiction of the board to make 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 a consumer of behavior analysis services and~~ who is not licensed under this chapter, under any chapter within this division, or by any board referred to in the Chiropractic Act or the Osteopathic Act.

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

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

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

(A) One member shall 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, 2017.

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

2999.26. The committee shall do all of the following:

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

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

(b) The committee may make recommendations to the board regarding the adoption, amendment, and repeal of regulations to implement the requirements of this chapter including, but not limited to, the setting of fees and the establishment of disciplinary 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 regulatory requirements for behavior analyst or assistant behavior analyst licensure, as applicable, including all of the following:

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

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

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

(1) The board shall 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.

(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) ~~The board shall verify with the~~ *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, 2018. An applicant who submits his or her application prior to July 1, 2018, 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, 2019, 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 maintain active status as a certified behavior analyst in good standing with a certifying entity. The board shall 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.~~

(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 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, or conferred in a degree program in which the applicant completed a ~~behavior analytic~~ *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 ~~analytic~~ *analysis* coursework. An applicant shall have taught at least two behavior ~~analytic~~ *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 ~~analytic~~ *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, 2018.

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

(b) ~~The board shall verify with~~ *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, 2018. An applicant who submits his or her application prior to July 1, 2018, 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, 2019, 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 maintain active status as a certified behavior analyst in good standing with a certifying entity. The board shall 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.~~

(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.

(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, 2018.

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.

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

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

(b) The board may deny or revoke acceptance 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.

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

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

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

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

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

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

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

(b) 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 licensed assistant behavior analyst.

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

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

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

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

(2) 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.

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

~~(e)~~

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

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

~~(g)~~

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

~~(h)~~

(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 days in a calendar year.

~~(i)~~

(g) 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.

~~(j)~~

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

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

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

(b) To renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form provided by the board, accompanied by the renewal fee set by the board. The 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. ~~A licensed assistant behavior analyst shall be supervised by a licensed behavior analyst for at least 2 percent of the hours of behavior analytic services they provide per month.~~

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 2999.46.5, 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.

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.

(c) A person applying for renewal, a new license after expiration of a prior license, or 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 one or more private nonprofit organizations that have at least 10 years' experience managing continuing education programs for behavior analysts.

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

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

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

Article 4. Enforcement

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

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

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

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

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

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

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

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

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

(g) Violating Section 17500.

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

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

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

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

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

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

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

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

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

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

(r) Repeated acts of negligence.

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

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

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

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

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

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

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

2999.64. Notwithstanding Section 2999.62, any proposed decision or 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, or with a former patient, within two years following termination of services, shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge.

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

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

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

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

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

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

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

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, of 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, of 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).

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

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

(1) While engaged in full-time active service in the 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.

Autism Business Association

August 3, 2015

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Dear Senator Bates,

Further analysis of the Behavior Analyst Act, SB 479, has led to additional concerns regarding the ability for middle-tier professionals to be able to practice. In general, the bill refers to three tiers of individuals who can practice behavior analysis, which is consistent with traditional implementation of behavior analysis services. However, for the middle-tier, the bill only allows individuals who meet the requirements of a board certified assistant behavior analyst (BCaBA) to practice behavior analysis. This is highly concerning because there are currently many other models in California that allow other professionals to practice as a middle-tier supervisors, which are not represented in this bill. This means that the bill is ignoring a large number of practitioners who will either be out of work, demoted, or be forced to quit working for clients of health plans and get jobs at school districts.

Examples of Definitions of Middle-Tier Supervisor Qualifications:

Department of Developmental Services (DDS), which is written into the California Code of Regulations, Title 17, Section 54342(a) (12)(A):

- (12) Behavior Management Assistant - Service Code 615 …the vendor assesses the function of a behavior of a consumer and designs, implements, and evaluates instructional and environmental modifications to produce socially significant improvements in the consumer's behavior through skill acquisition and the reduction of behavior, under direct supervision of a Behavior Analyst or Behavior Management Consultant, and meets either of the following requirements:
  (A) Possesses **a Bachelor of Arts or Science Degree** and has either:
  1. **Twelve semester units in applied behavior analysis** and one year of experience in designing and/or implementing behavior modification intervention services; or
  2. **Two years of experience** in designing and/or implementing behavior modification intervention services.

- Regional Center of Orange County: Program supervision is provided by staff who hold a supervisory role in the agency and have a higher level of experience and education than

staff providing one-to-one services, preferably someone who is a licensed psychologist, licensed MFT, licensed clinical social worker (all of whom must have **12 semester units in applied behavior analysis**) or a board certified behavior analyst, but at a minimum **someone with a master's degree in psychology, education, or a related discipline**.

California Department of Education (CDE), which is written into the California Code of Regulations, Title 5, Section 3065(d):

California education law established requirements for individuals assigned to design and plan behavioral interventions. Specifically, pursuant to California *Code of Regulations*, Title 5, Section 3065(d), behavioral intervention shall be designed or planned by personnel who hold one of the following:

- Pupil Personnel Services Credential in School Counseling or School Psychology (issued by the California Commission on Teacher Credentialing (CTC))
- Credential authorizing the holder to deliver special education instruction (issued by the CTC)
- License as a Marriage and Family Therapist (MFT) (issued by the Board of Behavioral Sciences (BBS) within the Department of Consumer Affairs)
- License as a Clinical Social Worker (issued by the BBS)
- License as an Educational Psychologist (issued by the BBS)
- License in Psychology (issued by the California Board of Psychology within the Department of Consumer Affairs)
- **Master's Degree in Education, Psychology, Counseling, Behavior Analyst, Behavior Science, Human Development, Social Work, Rehabilitation, or in a related field, issued by a regionally accredited post-secondary institution of higher education.**
- Also, given that a BCBA may both "conduct behavioral assessments" and "provide behavioral intervention services" (*EC* 56325(a)), it seems implicit that a BCBA may also "design or plan" behavioral interventions.

Department of Managed Health Care (DMHC), Department of Insurance (DOI), and Department of Health Care Services (DHCS)

- SB 946 and the California Health and Safety code Section 1374.73: Allows a Qualified Autism Service (QAS) Professional to be a Behavior Management Assistant (referred to by DDS above).
- Autism Task Force Recommendation from SB 946: Those who conduct treatment plan development should be licensed or certified…If not licensed or certified, they should at a minimum be competent in the functions of treatment plan development…should direct and documented experience working with individuals with autism, and should, at a minimum, **hold a Master's degree or be a Master's candidate in behavior analysis or related field...**
- Beacon Model with CalOptima: Supervision may be done by a BCBA 100%, or divided 75% by a QAS Professional and 25% by a BCBA

Numbers of BCaBAs and BCBAs in CA as of 7-29-15:
There are not enough BCaBAs and BCBAs in California to serve the current and growing number of clients with autism spectrum disorder, let alone, other populations.

- BCaBAs: 171 total
- BCaBAs: 124 who selected autism as a specialty
- BCBAs/Ds: 3,069 total
- BCBAs/Ds: 1,926 who selected autism as a specialty
- All: 2,050 who selected autism as a specialty

Estimated Number of individuals in California with Autism Spectrum Disorder, which is one of the largest populations of individuals receiving applied behavior analysis services:

- 72,000 by Autism Society of California in 2012
- 65,908 by CDE in 2010
- 59,690 by the Lucile Packard Foundation for Children's Health in 2010
- 34,656 by DDS in 2007

Universities providing BCaBA classes in CA:
There are not enough universities in California that offer the BCaBA coursework. For example, there are only 5 universities listed as offering BCaBA coursework in the entire state of California.

1. California State University, Northridge
2. California State University, Sacramento
3. Chapman University
4. Palo Alto University
5. San Diego State University

Current exemptions in SB 479 do not account for all the middle-tier class:

The following student exemptions are listed in SB 479 but these do not capture all the middle-tier supervisors who currently practice.

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

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

These exemptions do not capture all of the middle-tier supervisors currently practicing in California. For example, there are master's level supervisors who have not started their coursework, others who have taken all the courses but who have not yet sat for the exam, others who took all their coursework and did not pass the exam, and those who have started the coursework but who are not receiving the 5% ongoing supervision, as specified in the chapter, on a consistent basis.

Other groups who got exemptions in SB 479:
Other state agencies have received exemptions due to their strong lobbying activities. For example, regional centers and school districts have received the following exemptions from licensure:

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

These exemptions do not include non-public school/agency staff members who work under contract with school districts. They also do not include Behavior Management Assistants who work not only with regional center clients but with health plan clients through contracts based on SB 946. Typically, both non-public school/agency staff and regional center vendor staff work across funding sources (i.e., health plans, regional centers, and school systems) and settings (e.g., home, school, community).

Proposals:

Many current professionals who practice ABA in the middle-tier are being ignored in the proposed licensure bill. This will lead to these professionals being laid off, demoted, or switching jobs to work only in the school district system. We believe the appropriate plan of action is to either include the current professionals into the bill as registered behavior management assistants or to exempt them from the bill so that they can continue practicing behavior analysis legally for their current funding sources.

Proposal #1: Include current middle-tier professionals as registered behavior management assistants:

Section 2999.12. For purposes of this chapter, the following terms have the following meanings:
(e) "Registered behavior management assistant" means a person registered under this chapter to practice behavior analysis under the supervision of a licensed behavior analyst.

Section 2999.33.
(a) To be registered as an behavior management assistant, 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 who submits his or her application prior to July 1, 2018, shall be required to meet the requirements of this section to be registered by the board.
(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

Section 2999.34.
(a) In order for an individual to be registered as a behavior management assistant under this chapter, he or she shall practice under direct supervision of a Licensed Behavior Analyst, and meet either of the following requirements:

(1) Possess a Bachelor of Arts or Science Degree and have either:
   A. Twelve semester units in applied behavior analysis and one year of experience in designing and/or implementing behavior modification intervention services; or
   B. Two years of experience in designing and/or implementing behavior modification intervention services.

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

Proposal #2: Exempt current middle-tier professionals from licensure so that they can continue to practice legally for their current funding sources:

Section 2999.37. This chapter does not apply to any of the following:
(j) An individual employed by a local educational agency or a nonpublic, nonsectarian agency/school certified by the California Department of Education for the purpose of assisting students with behavioral and developmental issues.

(k) An individual who meets the qualifications of a Behavior Management Assistant as specified in the California Code of Regulations, Title 17, Section 54342(a) (12)(A), however, the individual does not need to be a vendor of a California regional center to practice as a Behavior Management Assistant under this chapter.

Conclusion:

It is recommended that the above proposal for the middle tier of supervision, as well as the proposal for the behavior analysis technician, are seriously considered. If more time is needed for stakeholders, the psychology board, and the Senator's office to further discuss these issues, it is recommended that SB 479 be suspended in order to provide the time needed to collaborate on these extremely important issues.

Sincerely,
The Autism Business Association