A bill to be entitled
An act relating to behavior analysts; creating ch.
470, F.S.; entitling the chapter; creating s. 470.40,
F.S.; providing a purpose; creating s. 470.41, F.S.;
defining terms; creating s. 470.415, F.S.; creating
the Board of Applied Behavior Analysis; creating s.
470.42, F.S.; specifying the authority and duties of
the board; creating s. 470.43, F.S.; providing
requirements for licensure and renewal; creating s.
470.44, F.S.; establishing maximum fees for
applications, initial licenses, and license renewals;
creating s. 470.45, F.S.; providing grounds for
disciplinary action by the board; providing for
reinstatement of a license; creating s. 470.46, F.S.;
requiring a licensee or his or her employer to report
to the board certain felony convictions on the part of
a licensee or suspicions that a licensee has committed
fraud or deceit; creating s. 470.47, F.S.; providing
penalties for practicing applied behavior analysis
without a license or wrongfully identifying oneself as
a licensed behavior analyst; creating s. 470.48, F.S.;
providing exceptions to the chapter; amending s.
456.001, F.S.; including licensed behavior analysts
and licensed assistant behavior analysts in the
definition of "health care practitioner"; providing an
effective date.
Be It Enacted by the Legislature of the State of Florida:

Section 1. Chapter 470, Florida Statutes, is created and entitled "Behavior Analysts."

Section 2. Section 470.40, Florida Statutes, is created to read:

470.40 Purpose.—The practice of applied behavior analysis in this state affects the public health, safety, and welfare of its residents, and this act is intended to protect the public from any harmful conduct of unqualified, unprofessional, or unethical applied behavior analysts.

Section 3. Section 470.41, Florida Statutes, is created to read:

470.41 Definitions.—As used in this chapter, the term:

(1) "Applied behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior and includes functional assessment and analysis. The term does not include psychological testing, the diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or long-term counseling.

(2) "Board" means the Board of Applied Behavior Analysis established in s. 470.415, except when the term is used in the context of board certification.
(3) "Board-certified behavior analyst" means a practitioner who is certified by the national Behavior Analyst Certification Board (BACB), or its successor pursuant to s. 470.42, as a Board Certified Behavior Analyst.

(4) "Board-certified assistant behavior analyst" means a practitioner who is certified by the national Behavior Analyst Certification Board, or its successor pursuant to s. 470.42, as a Board Certified Assistant Behavior Analyst.

(5) "Department" means the Department of Health.

(6) "Licensed behavior analyst" means an individual who is licensed by the board and meets the requirements of this chapter.

(7) "Licensed assistant behavior analyst" means an individual who:

(a) Is licensed by the board as an assistant behavior analyst and meets the requirements of this chapter; and

(b) Works under the supervision of a licensed behavior analyst.

(8) "Supervised experience" means an individual has completed the training necessary to satisfy the eligibility requirements for BACB certification.

Section 4. Section 470.415, Florida Statutes, is created to read:

470.415 Board of Applied Behavior Analysis.—

(1) The Board of Applied Behavior Analysis is created within the department. The board consists of seven members who...
must be appointed by the Governor and confirmed by the Senate.

(2) The initial board members, who are not required to be licensed as a condition of appointment, shall be appointed as follows:

(a) Three board-certified behavior analysts, which may include board-certified behavior analysts who are at the doctoral level, two of whom shall be selected from a list of six nominations submitted by the Florida Association for Behavior Analysis. One shall be appointed to a 1-year term, and two shall be appointed to 3-year terms;

(b) One board-certified assistant behavior analyst, who shall be appointed to a 1-year term;

(c) One health care provider licensed in this state, who shall be appointed to a 2-year term. The majority of the appointed health care provider's practice must be related to the treatment of behavior disorders, including, but not limited to, autism spectrum disorders; and

(d) Two laypersons, who may include a parent or guardian of an individual who is a recipient of applied behavior analysis services, one of whom shall serve a 1-year term, and one of whom shall serve a 2-year term.

(3) As the terms of the initial members expire, the Governor shall appoint successors for 3-year terms. Each successor, except for the laypersons, must be licensed. A member may not serve more than two consecutive terms.

(4) All provisions of chapter 456 relating to the board
Section 5. Section 470.42, Florida Statutes, is created to read:

470.42 Authority of the board; duties.—
(1) The board may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring duties upon it. Such rules must include, but are not limited to, rules relating to all of the following:

(a) Standards of practice.
(b) Licensure, including the suspension and revocation of a license and the refusal to issue or renew a license.
(c) Limitations of activities.
(d) Supervision.
(e) Educational qualifications and continuing education requirements.
(f) The number of persons that a licensed behavior analyst or licensed assistant behavior analyst may supervise at one time.
(g) The competency of a person to receive or renew his or her license.
(h) The physical and mental examination of licensed behavior analysts and licensed assistant behavior analysts who may be impaired by reason of a mental, physical, or other condition that impedes their ability to practice competently.
(2) The board shall perform all of the following:

(a) Adopt a code of ethical standards and standards of
practice for licensed behavior analysts and licensed assistant
behavior analysts.

(b) Keep a minute book containing a record of all meetings
of the board.

(c) Maintain a registry of all persons licensed under this
chapter. This registry must show the name of every licensee in
this state, his or her current business and residence address
and telephone number, and his or her licensure date and license
number. A licensee shall notify the board of a change of name,
address, or telephone number within 30 days after the change.

(d) Update its records annually.

(e) Publish annually and make available a current
directory of all licensed behavior analysts and licensed
assistant behavior analysts in this state.

(f) Adopt a seal and affix it to every license granted by
the board.

(g) Maintain its official headquarters in Tallahassee.

(3) If the Behavior Analyst Certification Board stops
certifying practitioners of applied behavior analysis in this
state, the board shall approve a successor certification board
that is accredited by the National Commission for Certifying
Agencies or the American National Standards Institute to certify
applied behavior analysts.

Section 6. Section 470.43, Florida Statutes, is created to
read:

470.43 Licensure and renewal.—
(1) A person applying for an initial or renewal license as a licensed behavior analyst or licensed assistant behavior analyst shall apply to the board on such form and in such manner as the board prescribes. The person shall furnish evidence to the board that he or she:

(a) Is a board-certified behavior analyst;
(b) Conducts his or her professional activities in accordance with accepted standards as required by rule;
(c) Complies with all applicable rules adopted by the board;
(d) Has paid the licensure fee or the biennial renewal fee; and
(e) Has passed a criminal background check, as determined by the board.

(2) A person applying for an initial or renewal license as an assistant behavior analyst shall apply to the board upon such form and in such manner as the board prescribes and shall furnish evidence to the board that such person:

(a) Is a board-certified assistant behavior analyst;
(b) Conducts his or her professional activities in accordance with accepted standards, as required by rule;
(c) Complies with all applicable rules promulgated by the board;
(d) Is supervised by a licensed behavior analyst in a manner consistent with BACB requirements and this chapter;
(e) Has paid the licensure fee or the biennial renewal fee;
fee; and

(f) Has passed a criminal background check, as determined by the board.

(3) The board may issue a license to a person who holds an active license as a behavior analyst or assistant behavior analyst in another state that imposes comparable licensure requirements to those imposed by this state and that offers reciprocity to individuals licensed under this chapter.

Applicants for reciprocity must:

(a) Submit proof of licensure and board certification;

(b) Pass a criminal background check, as determined by the board; and

(c) Pay the licensure fee.

Section 7. Section 470.44, Florida Statutes, is created to read:

470.44 Fees.—

(1) The board shall establish by rule a fee not to exceed $100 for an application and a fee not to exceed $300 for an initial license or license renewal.

(2) In establishing fees pursuant to subsection (1), the board shall consider the actual costs incurred in carrying out its duties under this chapter.

(3) All moneys collected by the department under this chapter shall be deposited as provided under s. 456.025.

Section 8. Section 470.45, Florida Statutes, is created to read:
Disciplinary grounds and actions; reinstatement.—

(1) The board may enter an order imposing any of the penalties provided under s. 456.072(2) against a licensee who violates any provision of s. 456.072(1), except that the board may not do any of the following:

(a) Place a licensee on probation for more than 5 years.
(b) Impose a fine that exceeds $2,500.
(c) Suspend a license for more than 5 years.
(d) Limit or restrict a license for an indefinite period.

(2) The board may reinstate a license that has been suspended or revoked if, after a hearing conducted pursuant to s. 120.54, the board determines that the applicant is able to practice his or her profession with reasonable competency and in accordance with the code of ethics and standards of practice established by rule under s. 470.42. As a condition of reinstatement, the board may impose reasonable restrictions on the licensee's license to practice.

Section 9. Section 470.46, Florida Statutes, is created to read:

Duty to report felony or suspicion of fraud or deceit.—A licensee or employer of a licensee having actual or direct knowledge of facts shall report to the board a behavior analyst or assistant behavior analyst who:

(1) Has been charged or convicted of a felony that involved any act that bears directly on his or her qualifications or ability to practice applied behavior analysis
or any act that bears directly on the public health, safety, or welfare;

(2) Is suspected of fraud or deceit in procuring or attempting to procure a license to practice applied behavior analysis or of negligently performing actions that justify action against the license of the behavior analyst or assistant behavior analyst;

(3) Has had a board certification or a license to practice as a behavior analyst or assistant behavior analyst denied, limited, suspended, placed on probation, or revoked in another jurisdiction on grounds sufficient to cause a license or certificate to be denied, limited, suspended, placed on probation, or revoked in this state; or

(4) Is practicing applied behavior analysis without a license issued by the board unless specifically exempted in this chapter.

Section 10. Section 470.47, Florida Statutes, is created to read:

470.47 Violations and penalties.—

(1) Unless licensed or authorized under this chapter, a person who engages in the practice of applied behavior analysis, assists in the practice of applied behavior analysis, renders services designated as applied behavior analysis, or represents himself or herself as a practitioner of applied behavior analysis in this state commits a felony of the third degree, punishable as provided under s. 775.082, s. 775.083, or s.
(2) Unless licensed or authorized under this chapter, a person who uses the title "licensed behavior analyst," "licensed assistant behavior analyst," or any other title that is substantially similar commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 11. Section 470.48, Florida Statutes, is created to read:

470.48 Exceptions to applicability.—This chapter does not prohibit or restrict the practice of the following:

(1) An individual licensed under chapter 490 to practice psychology if the applied behavior analysis services he or she provides are within the scope of chapter 490 and his or her education, training, and experience.

(2) A certified teacher authorized to practice in this state who is not a behavior analyst if he or she does not represent himself or herself as a behavior analyst. The services provided by a certified teacher must be within his or her authorized scope of practice and within the scope of his or her education, training, and experience and must be provided in the course of his or her employment in a program approved by the Department of Education. Teaching assistants, other than those engaged in pupil personnel services, and student support professionals are exempt from the requirements of this chapter if they provide behavior analysis services under the supervision of a certified teacher who meets the requirements of this chapter.
paragraph.

(3) A behavior analyst who practices with nonhuman clients, including, but not limited to, applied animal behaviorists and animal trainers.

(4) An unlicensed individual who provides applied behavior analysis services under the extended authority and direction of a licensed behavior analyst or licensed assistant behavior analyst.

(5) An individual who teaches applied behavior analysis or who conducts behavior analytic research if such teaching or research does not involve the delivery of direct behavior analysis interventions to individuals.

(6) A matriculated college or university student or postdoctoral fellow whose activities are part of a defined behavior analysis program of study, practicum, or intensive practicum if his or her practice under this subsection is directly supervised by a licensed behavior analyst or an instructor of an accredited course sequence approved by the Behavior Analyst Certification Board (BACB). A student or intern may not represent himself or herself as a professional behavior analyst but may use a title indicating his or her trainee status, such as "behavior analyst student," "behavior analyst intern," or "behavior analyst trainee."

(7) An unlicensed individual pursuing supervised experiential training to meet eligibility requirements for BACB certification if such training is supervised by an individual
who is licensed to practice applied behavior analysis and who meets BACB supervisor requirements and if the supervised experience is conducted in accordance with other BACB standards and requirements.

(8) A board-certified behavior analyst, a doctoral level board-certified behavior analyst, or an individual licensed to practice applied behavior analysis in another state who resides in another state and provides applied behavior analysis in this state or to a resident of this state for less than 12 days per year.

(9) A Florida-certified behavior analyst who is in good standing with the Behavior Analyst Certification Board and who is not a board-certified behavior analyst.

(10) A family member of a recipient of applied behavior analysis services who implements certain procedures with the recipient under the extended authority and direction of a licensed behavior analyst or licensed assistant behavior analyst. Such a family member may not represent himself or herself as a professional behavior analyst.

(11) A behavior analyst who provides general behavior analysis services to organizations if the services are for the benefit of the organizations and do not involve direct services to individuals.

(12) A physician licensed pursuant to chapter 458 or chapter 459 if he or she does not represent himself or herself as a professional behavior analyst.
(13) An individual licensed pursuant to chapter 491 as a clinical social worker, marriage and family therapist, or mental health counselor if he or she does not represent himself or herself as a professional behavior analyst.

(14) A salaried employee of a private, nonprofit organization providing behavior analysis services to children, youth, and families if the services are provided for no charge, the employee is performing duties for which he or she was trained and hired, and the employee does not represent himself or herself as a professional behavior analyst.

(15) A school psychologist certified in school psychology by the Department of Education who performs behavior analysis services as an employee of a public or private educational institution. Such exemption does not authorize unlicensed practice that is not performed directly as an employee of an educational institution.

(16) A rabbi, priest, minister, or member of the clergy of a religious denomination or sect if engaging in activities that are within the scope of the performance of his or her regular or specialized ministerial duties and for which no separate fee is charged, or if such activities are performed, with or without a fee, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect; and if the person rendering service remains accountable to the established authority thereof.
Section 12. Subsection (4) of section 456.001, Florida Statutes, is amended to read:

456.001 Definitions.—As used in this chapter, the term:

(4) "Health care practitioner" means any person licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part II, part III, part V, part X, part XIII, or part XIV of chapter 468; chapter 470; chapter 478; chapter 480; part III or part IV of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491.

Section 13. This act shall take effect October 1, 2014.