

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: CS/SB 1212

INTRODUCER: Health Policy Committee and Senator Bean

SUBJECT: Behavior Analysts

DATE: April 10, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peterson</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Niles</u>	<u>Imhof</u>	<u>RI</u>	<u>Pre-Meeting</u>
3.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1212 creates ch. 470, F.S., titled “Behavior Analysts,” for the purpose of regulating the practice of applied behavior analysis. The bill provides definitions of terms used in the chapter and creates a seven-member Board of Applied Behavior Analysis, which is appointed by the Governor and confirmed by the Senate.

The bill establishes eligibility criteria for persons applying for initial or renewal licensure as a behavior analyst or assistant behavior analyst, which require board-certification and background screening for both. The board is authorized to issue a reciprocal license to a person licensed in another state under certain circumstances. The bill contains a lengthy series of exemptions from licensure.

The bill authorizes the board to discipline licensees as provided in ch. 456, F.S. The board is authorized to adopt rules to implement the act, including rules defining standards of practice and required supervision. The department is authorized to adopt rules related to procedures for licensure and renewal of licensure, educational requirements, and continuing education.

## II. Present Situation:

### Behavior Analysis

Behavior analysis grew out of the scientific study of principles of learning and behavior. It has two main branches: experimental and applied behavior analysis. The experimental analysis of behavior is the basic science which provides the scientific foundation for applied behavior analysis.<sup>1</sup> Florida law defines applied behavior analysis as “the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including, but not limited to, the use of direct observation, measurement, and functional analysis of the relations between environment and behavior.”<sup>2</sup> Examples of applied behavior analysis practice include: building the skills and achievements of children in school settings and enhancing the development, abilities, and choices of children and adults with different kinds of emotional and behavioral disabilities.<sup>3</sup>

### Certification of Behavior Analysts

The Behavior Analyst Certification Board (BACB) is the exclusive entity that certifies behavior analysts. The BACB is a nonprofit 501(c)(3) corporation established in 1998 based on the behavior analysis certification program developed in Florida. Similar programs were established in California, Texas, Pennsylvania, New York and Oklahoma. All of these programs transferred their certificants and credentialing responsibilities to the BACB and closed.<sup>4</sup>

As part of its credentialing program, the BACB has developed:<sup>5</sup>

- Eligibility standards.
- Renewal and recertification standards to maintain certification.
- Guidelines for responsible conduct.
- Professional disciplinary standards with appeal procedures.
- A certificant registry.
- A process to approve university course sequences and practica.
- Procedures to approve continuing education providers.
- Certification examinations.

Currently, the BACB offers two certifications: Board Certified Behavior Analyst and Board Certified Assistant Behavior Analyst. The Board Certified Behavior Analyst conducts descriptive and systematic behavioral assessments, including functional analyses, and provides

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<sup>1</sup> Behavior Analyst Certification Board, *About Behavior Analysis* <http://www.bacb.com/index.php?page=2> (Last visited April 7, 2014).

<sup>2</sup> Sections 627.6686(2)(a) and 641.31098(2)(a), F.S. The definitions are part of a mandate for health care coverage for individuals with autism spectrum disorder. Applied behavior analysis is one of the required services.

<sup>3</sup> *Supra* note 1.

<sup>4</sup> Behavior Analyst Certification Board, *About the BACB* <http://www.bacb.com/index.php?page=1> (Last visited April 7, 2014).

<sup>5</sup> *Id.*

behavior analytic interpretations of the results.<sup>6</sup> The Board Certified Behavior Analyst also designs and supervises behavior analytic interventions.<sup>7</sup> To be eligible for certification as a behavior analyst, an applicant must have a master's degree in behavior analysis or other natural science, education, human services, engineering, medicine or a field related to behavior analysis approved by the BACB. In addition, the applicant must have 225 hours of graduate level instruction; 1-year, full time faculty appointment at a college or university teaching behavior analysis; or a doctoral degree conferred 10 years prior to applying for certification and meet certain experience requirements.<sup>8</sup>

The Board Certified Assistant Behavior Analyst conducts descriptive behavioral assessments, interprets their results, and designs behavior analytic interventions under the supervision of a Board Certified Behavior Analyst.<sup>9</sup> To be eligible for certification as a Board Certified Assistant Behavior Analyst, an applicant must have a bachelor's degree and 135 hours of instruction, and meet certain experience requirements.<sup>10</sup>

Currently, there are 1,821 behavior analysts or assistant behavior analysts in Florida who are board-certified by the BACB.<sup>11</sup>

### **Florida-Certified Behavior Analysts**

Florida began training and certifying behavior analysts in 1983, through the Department of Health and Rehabilitative Services. In 2001, the Florida program was discontinued and all credentialing responsibilities were transferred to the BACB.<sup>12</sup> Behavior analysts certified through the Florida program are authorized to use only the designation Florida Certified Behavior Analyst. Recertification as a Florida Certified Behavior Analyst occurs every three years and requires 36 hours of continuing education.<sup>13</sup>

### **Recognition of Behavior Analysis in Florida Law**

Although Florida does not license behavior analysts, its laws do recognize them in ways that may provide for some oversight. Specific references are as follows:

- Section 381.75, F.S., requires that transitional living facilities that provide services to patients in the brain and spinal cord injury program must offer behavior analysis services.

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<sup>6</sup> Behavior Analyst Certification Board, *About BACB Credentials*, available at <http://www.bacb.com/index.php?page=4> (Last visited April 7, 2014).

<sup>7</sup> *Id.*

<sup>8</sup> Behavior Analyst Certification Board, *Standards for Board Certified Behavior Analysts (BCBA)*, available at <http://www.bacb.com/index.php?page=158> (Last visited March 30, 2014).

<sup>9</sup> Behavior Analyst Certification Board, *About BACB Credentials*, available at <http://www.bacb.com/index.php?page=4> (Last visited March 29, 2014).

<sup>10</sup> Behavior Analyst Certification Board, *Standards for Board Certified Assistant Behavior Analysts (BCABA)*, <http://www.bacb.com/index.php?page=52> (Last visited March 31, 2014).

<sup>11</sup> Behavior Analyst Certification Board, *Certificant Registry* <http://www.bacb.com/index.php?page=100155&by=state> (Last visited March 30, 2014).

<sup>12</sup> See *Infra* note 20 at 2.

<sup>13</sup> Behavior Analyst Certification Board, *Florida Behavior Analyst Certification Committee* <http://www.bacb.com/index.php?page=100202> (Last visited March 29, 2014).

The law does not specify credentials, but the services will be provided under contract and by a facility that is subject to state licensure.

- Section 393.17, F.S., authorizes the Agency for Persons with Disabilities to establish a certification process for behavior analysts who serve its clients, and requires the agency to recognize the certification “awarded by a nonprofit corporation that adheres to the national standards of boards that determine professional credentials and whose mission is to meet professional credentialing needs identified by behavior analysts, state governments, and consumers of behavior analysis services.” This language describes the BACB.<sup>14</sup> The agency has opted not to create a separate certification process.<sup>15</sup>
- Section 393.18, F.S., requires a behavior analyst who provides services as part of a comprehensive transitional education program for persons with developmental disabilities to be certified as provided under s. 393.17, F.S.
- Section 409.906(26), F.S., authorizes the Agency for Health Care Administration to obtain federal approval to provide behavior analysis services to children 5 years old and younger who have a developmental disability, autism spectrum disorder, or Down syndrome through the Medicaid program.
- Sections 627.6686 and 641.31098, F.S., mandate coverage for autism spectrum disorder which includes applied behavior analysis services. The services must be provided by a person who is licensed under ch. 490 or 491, F.S., or certified pursuant to s. 393.17, F.S.
- Section 1002.66, F.S., includes applied behavioral analysis among the specialized instructional services a parent may select for a child with disabilities who is eligible for prekindergarten. As part of the exceptional student education legislation, the 2013 Legislature created a definition of private instructional personnel which includes persons certified under s. 393.17, F.S., or licensed under ch. 490 or 491, F.S., to provide behavior analysis.

Currently, Florida Department of Law Enforcement does not undergo criminal history record checks on persons seeking licensure as a behavior analyst.<sup>16</sup>

### **Regulation of Health Care Professions**

The DOH is responsible for licensing and regulating health care practitioners in order to preserve the health, safety, and welfare of the public.<sup>17</sup> General licensing provisions applicable to health care practitioners are contained in ch. 456, F.S., which also sets out in more detail the policy framework for regulation. Specifically, regulation is to occur when:<sup>18</sup>

- Unregulated practice can harm or endanger the health, safety, and welfare of the public, and the potential for harm outweighs the potentially anticompetitive effect of regulation.
- The public is not adequately protected by other means, including other statutes, federal law, or local ordinances.
- Less restrictive means of regulation are not available.

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<sup>14</sup> See *Supra* note 4.

<sup>15</sup> Rule 65G-4.0011, F.A.C.

<sup>16</sup> *2104 Legislative Bill Analysis for SB 1212*, Florida Department of Law Enforcement (April 3, 2014).

<sup>17</sup> Section 20.43(1)(g), F.S.

<sup>18</sup> Section 456.003(2), F.S.

The Division of Medical Quality Assurance (MQA) within the DOH has responsibility for licensing health care practitioners, and certain facilities and businesses; enforcing health care practitioner standards; and providing licensure and disciplinary information to enable health care consumers to make more informed health care decisions.<sup>19</sup>

Regulation of some professions occurs under the purview of a board or council. A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within the MQA.<sup>20</sup> In general, boards are responsible for approving or denying applications for licensure, establishing continuing education requirements, and disciplining practitioners for violations of the relevant practice act.<sup>21</sup> Currently, The MQA regulates seven types of facilities and 200-plus license types in 43 health care professions through coordination with 22 boards and six councils.<sup>22</sup>

### **The Sunrise Act**

Section 11.62, F.S., “The Sunrise Act,” sets forth policy and minimum requirements for legislative review of bills proposing regulation of an unregulated function. In general, the act states that regulation should not occur unless:

- Necessary to protect the public health, safety, or welfare from significant and discernible harm or damage;
- Exercised only to the extent necessary to prevent the harm; and,
- Limited so as not to unnecessarily restrict entry into the practice of the profession or adversely affect public access to the professional services.

The act directs the Legislature to consider the following factors:

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and,
- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

The act requires proponents of legislation proposing new regulation to provide detailed information regarding the need and potential impact of the regulation. The act also requires the

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<sup>19</sup> Fla. Dept. of Health, *Resource Manual for the Florida Department of Health*, 252 (FY 2012–2013)

<sup>20</sup> Section 456.001(1), F.S.

<sup>21</sup> *See, e.g.* s. 491.004, F.S., creating the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling and authorizing it to adopt rules necessary to implement and enforce provisions of ch. 491, F.S.

<sup>22</sup> *Supra* note 16 at 167.

agency that will be responsible for its implementation to assess the cost of implementation, the technical sufficiency of the proposal, and whether alternatives to regulation exist.

In determining whether to recommend regulation, the legislative committee reviewing the proposal is directed to assess whether the proposed regulation is:

- Justified based on the statutory criteria and the information provided by both the proponents of regulation and the agency responsible for its implementation;
- The least restrictive and most cost-effective regulatory scheme necessary to protect the public; and,
- Technically sufficient and consistent with the regulation of other professions under existing law.

### **Summary of Sunrise Act Questionnaire and Responses**

The following summarizes information submitted by the proponent of the legislation in its responses to questions in the Sunrise Questionnaire.<sup>23</sup> The responses summarized relate to the five factors the Sunrise Act directs the Legislature to consider.

#### ***Substantial Harm or Endangerment***

The proponent states that a majority of persons treated by applied behavior analysis services are highly vulnerable because of their age, the nature of their disability or illness, or the magnitude of the stress experienced by the caretaker. This makes them susceptible to fraudulent, ineffective practices, or unethical interventions. Because there is not a regulatory system currently in place, the proponent indicates that quantifying the need for regulation is difficult. The proponent uses complaints filed with the BACB as a proxy for need, but believes the number underestimates the problem. In the past 13 years, 26 events of unethical or improper practice have been investigated by the certifying agency in Florida. These violations involved negligence, incompetence, malpractice, or misconduct.<sup>24</sup>

#### ***Specialized Skill or Training, and Measurability***

The proponent states that board certification defines and measures the requisite knowledge, skills, and abilities. These fall into 10 general content areas which are tested by examination in multiple-choice format with specific questions in each of the content areas. To be eligible for examination, a person must have at least a master's degree in behavior analysis or other natural science, education, human services, medicine, or a field related to behavior analysis. Currently, nine universities in Florida offer programs that would qualify a person to sit for the certification exam.<sup>25</sup>

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<sup>23</sup> The Sunrise Questionnaire is a questionnaire developed by Legislative staff to solicit the responses required by the proponent of new regulation pursuant to s. 11.62(4), F.S. A copy of the questionnaire is on file with the Senate Health Policy Committee. The legislation has been proposed by the Florida Association for Behavioral Analysis.

<sup>24</sup> *Id.* at 4 – 7.

<sup>25</sup> *Id.* at 19 – 23.

### ***Unreasonable Effect on Job Creation or Job Retention***

The proponent indicates that the requirements for licensure under the proposed legislation align with current credentialing requirements for certification as a behavior analyst. Thus, the legislation does not create a more onerous standard. Currently, this credentialing function is handled by the BACB.<sup>26</sup>

Other persons who may implement behavioral interventions and provide counseling services similar to that of behavioral analysts include schoolteachers, school psychologists, parents, physicians, school faculty, priests, and ministers. These persons are not required to obtain certification under the bill.<sup>27</sup> In addition, behavior analysis is an element of the practice of psychology, thus it may be provided by a psychologist.<sup>28</sup>

### ***Can the Public Be Effectively Protected by Other Means?***

The proponent indicates that the certification entity receives and responds to complaints it receives about board certified behavioral analysts and those who are fraudulently claiming to be board certified. Over the past 13 years, the certifying entity has investigated 26 claims of unethical or improper practice in Florida. The proponent indicates that the requirements for filing a complaint with the certifying entity, however, are time consuming, requiring consumers to produce written records of correspondence to the behavior analyst, correspondence to fiscal agencies or funding sources, and correspondence with state regulatory agencies (which is currently unavailable in Florida).<sup>29</sup>

### ***Favorable Cost-effectiveness and Economic Impact***

The proponent does not anticipate that licensure will result in any changes to the current costs of services for consumers because the number of persons seeking certification as a behavioral analyst is growing.<sup>30</sup>

### **Statutory Creation of Advisory Bodies, Commissions, or Boards**

The statutory creation of any collegial body to serve as an adjunct to an executive agency is subject to certain provisions in s. 20.052, F.S. Such a body may only be created when it is found to be necessary and beneficial to the furtherance of a public purpose, and it must be terminated by the Legislature when it no longer fulfills such a purpose. The Legislature and the public must be kept informed of the numbers, purposes, memberships, activities, and expenses of any collegial or advisory bodies.

A board of trustees is defined as “a board created by specific statutory enactment and appointed to function adjunctively to a department, the Governor, or the Executive Office of the Governor to administer public property or a public program.”<sup>31</sup> Private citizen members of a board of

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<sup>26</sup> *Id.* at 25.

<sup>27</sup> *Id.* at 18.

<sup>28</sup> Section 490.003(4), F.S.

<sup>29</sup> *Supra* note 20 at 4 – 5.

<sup>30</sup> *Id.* at 23.

<sup>31</sup> Section 20.03(12), F.S.

trustees may only be appointed by the Governor, must be confirmed by the Senate, and are subject to the dual-office-holding prohibition of Art. II, s. 5(a) of the State Constitution.

Members of a board of trustees serve for 4-year staggered terms, unless expressly provided otherwise in the State Constitution, and are ineligible for any compensation other than travel expenses. Unless an exemption is specified by law, all meetings are public, and records of minutes and votes must be maintained.

### **III. Effect of Proposed Changes:**

CS/SB 1212 creates ch. 470, F.S., titled “Behavior Analysts,” for the purpose of regulating the practice of applied behavior analysis.

The bill creates the following definitions:

- “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 definition expressly excludes certain acts that are within the definition of “practice of psychology” in ch. 490, F.S. The definition is consistent with, but not identical to, the current definition in chs. 627 and 641, F.S., relating to health care coverage for persons with autism spectrum disorder.
- “Board” means the Board of Applied Behavior Analysis, as created by the bill, unless the term appears in the context of board certification.
- “Board-certified behavior analyst” and “Board-certified assistant behavior analyst” are practitioners certified by the BACB or its successor.
- “Department” is the Department of Health.
- “Licensed behavior analyst” and “licensed assistant behavior analyst” are practitioners licensed by the board created by the bill.

The bill creates the Board of Applied Behavior Analysis, which is a seven-member board appointed by the Governor and confirmed by the Senate. Three members must be board-certified behavior analysts, at least two of whom are recommended by the Florida Association for Behavior Analysis. One member must be a board-certified assistant behavior analyst; one member a health care practitioner whose practice primarily includes treatment of behavior disorders; and two member-laypersons. The bill provides for staggered 4-year terms and requires that subsequent appointees be licensed under the act. A person may not serve more than two consecutive terms.

The bill directs the board to adopt rules to implement the act, which must include rules related to:

- Standards of practice;
- Supervision, including the number of persons that a licensed behavior analyst may supervise; and,
- Fees, not to exceed \$100 for an application and \$300 for licensure. Fees must be based on the actual cost to regulate.

In the event that the BACB discontinues certification, the board is directed to approve a successor entity that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

The bill authorizes the DOH to adopt rules to implement its duties under the act, including, rules related to:

- Initial and renewal licensure application processes and fees;
- Educational qualifications for licensure; and,
- Continuing education requirements for renewal, not to exceed 30 hours.

The bill requires a person applying for initial or renewal licensure as a behavior analyst to provide evidence that he or she:

- Is board-certified;
- Has paid the licensure or renewal licensure fee; and,
- Has passed a criminal background check.

The bill requires a person applying for initial or renewal licensure as an assistant behavior analyst to provide evidence that he or she:

- Is board-certified;
- Is supervised by a licensed behavior analyst;
- Has paid the licensure or renewal licensure fee; and,
- Has passed a criminal background check.

The bill authorizes the board to issue a reciprocal license to a person licensed in another state if the person:

- Provides proof of licensure and board certification;
- Passes a background check; and,
- Pays the licensure fee.

The bill authorizes the board to discipline licensees as provided in ch. 456, F.S.

The bill prohibits the practice of applied behavior analysis or the use of the titles without first obtaining a license under ch. 470, F.S. Unlicensed practice is a third degree felony and unauthorized use of the title is a second degree misdemeanor. Both violations are punishable as provided in ch. 775, F.S. A third degree felony is punishable by a fine of up to \$5,000 or up to 5 years in prison. A second degree misdemeanor is punishable by a fine of up to \$500 or up to 60 days in prison.

The bill contains a lengthy series of exemptions from licensure, including:

- Psychologists licensed under ch. 490, F.S.;
- A certified teacher, for behavior analysis services delivered in the course of employment as a teacher that are within the scope of the teacher's education, training, and experience, provided the teacher does not hold him or herself out as a behavior analyst, and a teaching assistant who is supervised by a qualified certified teacher;
- Applied behavior analysts who work with animals;

- A person who teaches behavior analysis or conducts related research not involving direct patient care;
- A college graduate or postdoctoral fellow, working under the direct supervision of a licensed behavior analyst or instructor in an accredited program, whose activities are part of a defined behavior analysis program of study or practicum approved by the BACB, and subject to specified title restrictions;
- A person pursuing training experience required for board certification if supervised by a licensee who has been approved by the BACB to supervise;
- A board-certified behavior analyst or behavior analyst licensed in another state who provides services to a resident in this state for less than 12 days per year;
- A family member of a patient who implements procedures provided the family member does not hold him or herself out as a behavior analyst;
- A behavior analyst who provides services to an organization and not to individuals;
- A physician licensed under ch. 458, 459, or 491, F.S.;
- An occupational therapist licensed under ch. 468, F.S., provided he or she does not hold him or herself out as a behavior analyst;
- A clinical social worker, marriage and family therapist, or mental health counselor licensed under ch. 491, F.S.;
- An employee of a nonprofit organization that provides behavior analysis services to children at no charge, provided the person does not hold him or herself out as a behavior analyst;
- A certified school psychologist who performs behavior analysis as an employee of a public or private school; and,
- A member of the clergy acting within the scope of his or her religious duties.

Conforming provisions of the bill include amendments to:

- Section 20.43, F.S., which sets forth the organizational structure of the DOH, to add the Board of Applied Behavior Analysis;
- Section 456.0135, F.S., related to the general background screening procedures for certain health care practitioners, to add a reference to chapter 470; and,
- The definition of “health care practitioner” in ch. 456, F.S., to add practitioners licensed under ch. 470, F.S.

The bill has an effective date of January 1, 2015.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

CS/SB 1212 will have a negative impact on persons who are providing behavior analysis services who do not meet the qualifications for licensure. Persons currently certified by the BACB will need to obtain a state license and pay the licensure fee to practice behavior analysis.

The Department of Law Enforcement estimates an expenditure of \$310,000 for the cost of state and national record check and state national fingerprint retention fee in the fiscal year 2014-2015.

**C. Government Sector Impact:****Revenue<sup>32</sup>**

The DOH estimates it will receive 4,000 applications,<sup>33</sup> which will be subject to an application fee of \$100; a licensure fee of \$300; and an unlicensed activity fee of \$5,<sup>34</sup> for a total of \$1,620,000 in fee. Collections are subject to the eight percent general revenue surcharge, which results in estimated revenue to the DOH of \$1,490,400.

The Department of Law Enforcement estimates that the cost of state record checks and fingerprint retention fees will be \$192,000 for fiscal year 2014-1015.

**Expenses<sup>35</sup>**

The DOH estimates it will need four FTE positions and one OPS position to implement the provisions of the bill. OPS expenses were computed at the base of the position plus 1.45 percent for Medicare tax. Salary was computed at base of the position plus 35 percent for benefits.

The OPS position and 1.5 FTE of the four total FTE positions will manage the licensing requirements. The requested expenses are 1.5 FTE Regulatory Specialist II, no travel (\$77,326) and one OPS Regulatory Specialist II, no travel (\$38,483) for a total cost of \$115,809.

The DOH estimates it will receive 61 complaints filed against certified behavior analysts and assistant behavior analysts and 25 of those complaints will be deemed legally sufficient for investigation and prosecution. The DOH requests expenses for two FTE:

<sup>32</sup> Fla. Dept. of Health, *Senate Bill 1212 Fiscal Analysis* (Feb. 25, 2014)

<sup>33</sup> The proponent of the legislation estimates a considerably lower number of 1,700 initial applicants, then 125 – 150 applications annually thereafter, based on an average graduation rate of 10 – 15 students from each of the nine schools in Florida that have a behavior analysis program. (*See Supra* note 21 at 24–25.)

<sup>34</sup> Section 456.065(3), F.S.

<sup>35</sup> *See Supra* note 29.

One Investigation Specialist II, medium travel, and one Senior Attorney, no travel, for a total of \$144,219.

The DOH estimates it will receive approximately 2,400 additional telephone calls in the Communication Center. It requests .5 Regulatory Specialist II, no travel, with total expenses of \$29,238.

The DOH anticipates holding four, 1.5 day meetings per year with seven board members and two staff. Total estimated meeting costs are \$34,641.

The DOH currently contracts for processing of initial and renewal applications and related fees. The cost of the contracted service is based on a \$7.69 per application for the estimated 4,000 applications for a total cost of \$30,760.

The DOH will incur non-recurring costs for rulemaking, which current budget authority is adequate to absorb.

Consistent with adding any new profession, the DOH will update the Customer Oriented Medical Practitioner Administration System (COMPAS) to accommodate the new Certified Behavior Analyst and Assistant Behavior Analyst license, which current resources are adequate to absorb.

The DOH will incur an increase in workload associated with the development and maintenance of a new website, online renewals, online applications, and related functions, which current resources are adequate to absorb.

Combined the total estimated costs to implement the bill are: \$354,667:

- Salary - \$189,237.
- OPS – \$31,172.
- Expense - \$78,972/Recurring + \$22,638/Non-Recurring.
- Contracted Services - \$30,760.
- Human Resources - \$1,888.

According to the Department of Law Enforcement, this bill in combination with additional background screening bills could rise to the level requiring additional staffing and other resources.

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

The Legislature may wish to consider whether to amend the existing statutes that mandate the provision of behavior analysis services to cross-reference and require compliance with ch. 470, F.S., and the licensing standards created by this bill.

**VIII. Statutes Affected:**

The bill substantially amends the following sections of the Florida Statutes: 20.43, 456.001 and 456.0135.

This bill creates the following sections of the Florida Statutes: 470.40, 470.41, 470.415, 470.42, 470.43, 470.44, 470.45, 470.46, and 470.47.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Health Policy on April 1, 2014:**

The Committee Substitute:

- Rewrites the bill in a format that conforms it to other practice acts and eliminates provisions that conflict with or duplicate provisions in ch. 456, F.S. Specifically, the CS:
  - Changes the term of a member of the Board of Applied Behavior Analysis to 4 years, consistent with the requirements of s. 20.052, F.S.
  - Revises the rules the board must adopt to include standards of practice and supervision requirements, only.
  - Authorizes the DOH to adopt rules related to licensure and renewal licensure procedures and fees; educational qualifications for licensure; and continuing education.
  - Deletes language that specified certain administrative responsibilities of the board, including: adopting a code of ethics; maintaining minutes and a registry and directory of licensees; and adopting a seal.
  - Substitutes the DOH, in lieu of the board, as the entity that receives and processes applications for licensure and conforms the terms to standard language used elsewhere.
  - Removes language expressly limiting the board’s disciplinary authority.
  - Removes language that requires licensees and employers of licensees to report certain information about criminal acts of a licensee or actions against a licensee’s certification.
- Deletes the definition of “supervised experience,” which is not used elsewhere in the bill.
- Removes exemptions for an unlicensed person working under the extended authority of a licensed behavior analyst; and Florida-certified behavior analysts.
- Adds an exemption for occupational therapists licensed under ch. 491, F.S.
- Changes the effective date to January 1, 2015.

**B. Amendments:**

None.