

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|---------------|-------|
| ADOPTED | <u> </u> | (Y/N) |
| ADOPTED AS AMENDED | <u> </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u> </u> | (Y/N) |
| FAILED TO ADOPT | <u> </u> | (Y/N) |
| WITHDRAWN | <u> </u> | (Y/N) |
| OTHER | <u> </u> | |

1 Committee/Subcommittee hearing bill: Health Quality
 2 Subcommittee
 3 Representative Rooney offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

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

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

12 470.40 Purpose.—The practice of applied behavior analysis
 13 in this state affects the public health, safety, and welfare of
 14 its residents, and this act is intended to protect the public
 15 from any harmful conduct of unqualified, unprofessional, or
 16 unethical applied behavior analysts.

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

19 470.41 Definitions.—As used in this chapter, the term:

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

28 (2) "Board" means the Board of Applied Behavior Analysis
29 established in s. 470.415, except when the term is used in the
30 context of board certification.

31 (3) "Board-certified behavior analyst" means a
32 practitioner who is certified as a Board Certified Behavior
33 Analyst, or is recognized as a "Florida-certified behavior
34 analyst," by the national Behavior Analyst Certification Board
35 (BACB), or its successor pursuant to s. 470.42.

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

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

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

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

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

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

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

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

55 470.415 Board of Applied Behavior Analysis.—

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

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

62 (a) Three board-certified behavior analysts, which may
63 include board-certified behavior analysts who are at the
64 doctoral level, two of whom shall be selected from a list of six
65 nominations submitted by the Florida Association for Behavior

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66 Analysis. One shall be appointed to a 1-year term, and two shall
67 be appointed to 3-year terms;

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

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

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

79 (3) As the terms of the initial members expire, the
80 Governor shall appoint successors for 4-year terms. Each
81 successor, except for the laypersons, must be licensed. A member
82 may not serve more than two consecutive terms.

83 Section 5. Section 470.42, Florida Statutes, is created to
84 read:

85 470.42 Authority of the board; board duties; authority of
86 the department.—

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

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91 (a) Standards of practice for licensed behavior analysts
92 and licensed assistant behavior analysts.

93 (b) The competency of a person to receive or renew his or
94 her license.

95 (c) The physical and mental examination of licensed
96 behavior analysts and licensed assistant behavior analysts who
97 may be impaired by reason of a mental, physical, or other
98 condition that impedes their ability to practice competently.

99 (d) Supervision of licensed assistant behavior analysts or
100 students in training to be licensed behavior analysts, including
101 the number of persons that a licensed behavior analyst or
102 licensed assistant behavior analyst may supervise at one time.

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

109 (3) The department may adopt rules pursuant to ss.
110 120.536(1) and 120.54 to implement the provisions of this
111 chapter conferring duties upon it. Such rules must include, but
112 are not limited to, rules relating to all of the following:

113 (a) Licensure and licensure renewal applications and
114 processes, including licensure fees.

115 (b) Educational qualifications for licensure.

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116 (c) Continuing education requirements for biennial renewal
117 of licensure not to exceed 30 hours biennially as a condition
118 for renewal of a license.

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

121 470.43 Licensure and renewal.—

122 (1) A person applying for an initial or renewal license as
123 a licensed behavior analyst or licensed assistant behavior
124 analyst shall apply to the department on such form and in such
125 manner as the department prescribes. The person shall furnish
126 evidence to the department that he or she:

127 (a) Is a board-certified behavior analyst;

128 (b) Conducts his or her professional activities in
129 accordance with accepted standards as required by rule;

130 (c) Complies with all applicable rules adopted by the
131 board;

132 (d) Has paid the licensure fee or the biennial renewal
133 fee; and

134 (e) Has passed a criminal background check after
135 submitting fingerprints and a fee pursuant to s. 456.0135.

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

140 (a) Is a board-certified assistant behavior analyst;

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- 141 (b) Conducts his or her professional activities in
142 accordance with accepted standards, as required by rule;
- 143 (c) Complies with all applicable rules promulgated by the
144 board;
- 145 (d) Is supervised by a licensed behavior analyst in a
146 manner consistent with BACB requirements and this chapter;
- 147 (e) Has paid the licensure fee or the biennial renewal
148 fee; and
- 149 (f) Has passed a criminal background check after
150 submitting fingerprints and a fee pursuant to s. 456.0135.
- 151 (3) The board may issue a license to a person who holds an
152 active license as a behavior analyst or assistant behavior
153 analyst in another state and:
- 154 (a) Submits proof of licensure and board certification;
155 (b) Passes a criminal background check after submitting
156 fingerprints and a fee pursuant to s. 456.0135; and
- 157 (c) Pays the licensure fee.
- 158 Section 7. Section 470.44, Florida Statutes, is created to
159 read:
- 160 470.44 Fees.—
- 161 (1) The board shall establish by rule a fee not to exceed
162 \$100 for an application and a fee not to exceed \$300 for an
163 initial license or license renewal.
- 164 (2) In establishing fees pursuant to subsection (1), the
165 board shall consider the actual costs incurred in carrying out
166 its duties under this chapter.

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

169 Section 8. Section 470.45, Florida Statutes, is created to
170 read:

171 470.45 Disciplinary grounds and actions; reinstatement.-

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

176 (1) Place a licensee on probation for more than 5 years.

177 (2) Impose a fine that exceeds \$2,500.

178 (3) Suspend a license for more than 5 years.

179 (4) Limit or restrict a license for an indefinite period.

180 Section 9. Section 470.47, Florida Statutes, is created to
181 read:

182 470.47 Violations and penalties.-

183 (1) Unless licensed or authorized under this chapter, a
184 person who engages in the practice of applied behavior analysis,
185 assists in the practice of applied behavior analysis, renders
186 services designated as applied behavior analysis, or represents
187 himself or herself as a practitioner of applied behavior
188 analysis in this state commits a felony of the third degree,
189 punishable as provided under s. 775.082, s. 775.083, or s.
190 775.084.

191 (2) Unless licensed or authorized under this chapter, a
192 person who uses the title "licensed behavior analyst," "licensed

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193 assistant behavior analyst," or any other title that is
194 substantially similar commits a misdemeanor of the second
195 degree, punishable as provided in s. 775.082 or s. 775.083.

196 Section 10. Section 470.48, Florida Statutes, is created
197 to read:

198 470.48 Exceptions to applicability.—This chapter does not
199 prohibit or restrict the practice of the following:

200 (1) An individual licensed under chapter 490 to practice
201 psychology.

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

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

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218 (4) An individual who teaches applied behavior analysis or
219 who conducts behavior analytic research if such teaching or
220 research does not involve the delivery of applied behavior
221 analysis.

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

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

240 (7) A board-certified behavior analyst, a doctoral level
241 board-certified behavior analyst, or an individual licensed to
242 practice applied behavior analysis in another state who resides
243 in another state and provides applied behavior analysis in this

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244 state or to a resident of this state for less than 12 days per
245 year.

246 (8) A family member of a recipient of applied behavior
247 analysis services who implements certain procedures with the
248 recipient. Such a family member may not represent himself or
249 herself as a professional behavior analyst.

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

254 (10) A physician licensed pursuant to chapter 458 or
255 chapter 459.

256 (11) An individual licensed pursuant to chapter 491 as a
257 clinical social worker, marriage and family therapist, or mental
258 health counselor.

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

265 (13) A school psychologist certified in school psychology
266 by the Department of Education who performs behavior analysis
267 services as an employee of a public or private educational
268 institution. Such exemption does not authorize unlicensed

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269 practice that is not performed directly as an employee of an
270 educational institution.

271 (14) A rabbi, priest, minister, or member of the clergy of
272 a religious denomination or sect if engaging in activities that
273 are within the scope of the performance of his or her regular or
274 specialized ministerial duties and for which no separate fee is
275 charged, or if such activities are performed, with or without a
276 fee, for or under the auspices or sponsorship, individually or
277 in conjunction with others, of an established and legally
278 cognizable church, denomination, or sect; and if the person
279 rendering service remains accountable to the established
280 authority thereof.

281 Section 11. Paragraph (g) of subsection (3) of section
282 20.43, Florida Statutes, is amended to read:

283 20.43 Department of Health.—There is created a Department
284 of Health.

285 (3) The following divisions of the Department of Health
286 are established:

287 (g) Division of Medical Quality Assurance, which is
288 responsible for the following boards and professions established
289 within the division:

- 290 1. The Board of Acupuncture, created under chapter 457.
- 291 2. The Board of Medicine, created under chapter 458.
- 292 3. The Board of Osteopathic Medicine, created under
293 chapter 459.

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- 294 4. The Board of Chiropractic Medicine, created under
295 chapter 460.
- 296 5. The Board of Podiatric Medicine, created under chapter
297 461.
- 298 6. Naturopathy, as provided under chapter 462.
- 299 7. The Board of Optometry, created under chapter 463.
- 300 8. The Board of Nursing, created under part I of chapter
301 464.
- 302 9. Nursing assistants, as provided under part II of
303 chapter 464.
- 304 10. The Board of Pharmacy, created under chapter 465.
- 305 11. The Board of Dentistry, created under chapter 466.
- 306 12. Midwifery, as provided under chapter 467.
- 307 13. The Board of Speech-Language Pathology and Audiology,
308 created under part I of chapter 468.
- 309 14. The Board of Nursing Home Administrators, created
310 under part II of chapter 468.
- 311 15. The Board of Occupational Therapy, created under part
312 III of chapter 468.
- 313 16. Respiratory therapy, as provided under part V of
314 chapter 468.
- 315 17. Dietetics and nutrition practice, as provided under
316 part X of chapter 468.
- 317 18. The Board of Athletic Training, created under part
318 XIII of chapter 468.

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- 319 19. The Board of Orthotists and Prosthetists, created
320 under part XIV of chapter 468.
- 321 20. The Board of Applied Behavior Analysis, created under
322 chapter 470.
- 323 ~~21.20.~~ Electrolysis, as provided under chapter 478.
- 324 ~~22.21.~~ The Board of Massage Therapy, created under chapter
325 480.
- 326 ~~23.22.~~ The Board of Clinical Laboratory Personnel, created
327 under part III of chapter 483.
- 328 ~~24.23.~~ Medical physicists, as provided under part IV of
329 chapter 483.
- 330 ~~25.24.~~ The Board of Opticianry, created under part I of
331 chapter 484.
- 332 ~~26.25.~~ The Board of Hearing Aid Specialists, created under
333 part II of chapter 484.
- 334 ~~27.26.~~ The Board of Physical Therapy Practice, created
335 under chapter 486.
- 336 ~~28.27.~~ The Board of Psychology, created under chapter 490.
- 337 ~~29.28.~~ School psychologists, as provided under chapter
338 490.
- 339 ~~30.29.~~ The Board of Clinical Social Work, Marriage and
340 Family Therapy, and Mental Health Counseling, created under
341 chapter 491.
- 342 ~~31.30.~~ Emergency medical technicians and paramedics, as
343 provided under part III of chapter 401.

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344 Section 12. Subsection (4) of section 456.001, Florida
345 Statutes, is amended to read:

346 456.001 Definitions.—As used in this chapter, the term:

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

354

355 Section 13. Section 456.0135, Florida Statutes, is amended
356 to read:

357 456.0135 General background screening provisions.—

358 (1) An application for initial licensure received on or
359 after January 1, 2013, under chapter 458, chapter 459, chapter
360 460, chapter 461, chapter 464, ~~or~~ s. 465.022, or chapter 470
361 shall include fingerprints pursuant to procedures established by
362 the department through a vendor approved by the Department of
363 Law Enforcement and fees imposed for the initial screening and
364 retention of fingerprints. Fingerprints must be submitted
365 electronically to the Department of Law Enforcement for state
366 processing, and the Department of Law Enforcement shall forward
367 the fingerprints to the Federal Bureau of Investigation for
368 national processing. Each board, or the department if there is
369 no board, shall screen the results to determine if an applicant

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370 meets licensure requirements. For any subsequent renewal of the
371 applicant's license that requires a national criminal history
372 check, the department shall request the Department of Law
373 Enforcement to forward the retained fingerprints of the
374 applicant to the Federal Bureau of Investigation.

375 (2) All fingerprints submitted to the Department of Law
376 Enforcement as required under subsection (1) shall be retained
377 by the Department of Law Enforcement as provided under s.
378 943.05(2)(g) and (h) and (3). The department shall notify the
379 Department of Law Enforcement regarding any person whose
380 fingerprints have been retained but who is no longer licensed.

381 (3) The costs of fingerprint processing, including the
382 cost for retaining fingerprints, shall be borne by the applicant
383 subject to the background screening.

384 Section 14. This act shall take effect January 1, 2015.

385

386

387

T I T L E A M E N D M E N T

388
389 Remove everything before the enacting clause and insert:
390 An act relating to behavior analysts; creating ch. 470, F.S.;
391 entitling the chapter; creating s. 470.40, F.S.; providing a
392 purpose; creating s. 470.41, F.S.; defining terms; creating s.
393 470.415, F.S.; creating the Board of Applied Behavior Analysis;
394 creating s. 470.42, F.S.; specifying the authority and duties of
395 the board; creating s. 470.43, F.S.; providing requirements for

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1085 (2014)

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396 licensure and renewal; creating s. 470.44, F.S.; establishing
397 maximum fees for applications, initial licenses, and license
398 renewals; creating s. 470.45, F.S.; providing grounds for
399 disciplinary action by the board; providing for reinstatement of
400 a license; creating s. 470.46, F.S.; requiring a licensee or his
401 or her employer to report to the board certain felony
402 convictions on the part of a licensee or suspicions that a
403 licensee has committed fraud or deceit; creating s. 470.47,
404 F.S.; providing penalties for practicing applied behavior
405 analysis without a license or wrongfully identifying oneself as
406 a licensed behavior analyst; creating s. 470.48, F.S.; providing
407 exceptions to the chapter; amending s. 456.001, F.S.; including
408 licensed behavior analysts and licensed assistant behavior
409 analysts in the definition of "health care practitioner";
410 amending s. 456.0135, F.S.; requiring an applicant for licensure
411 under ch. 470, F.S., to submit to certain fingerprinting
412 requirements; providing an effective date.

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