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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2014	.	
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The Committee on Health Policy (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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



331530

12 from any harmful conduct of unqualified, unprofessional, or
13 unethical applied behavior analysts.

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

16 470.41 Definitions.—As used in this chapter, the term:

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

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

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

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

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

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



331530

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

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

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

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

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

52 470.415 Board of Applied Behavior Analysis.—

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

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

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

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

67 (c) One health care practitioner licensed in this state,
68 who shall be appointed to a 2-year term. The majority of the
69 appointed health care practitioner's practice must be related to



331530

70 the treatment of behavior disorders, including, but not limited
71 to, autism spectrum disorders; and

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

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

80 Section 5. Section 470.42, Florida Statutes, is created to
81 read:

82 470.42 Authority of the board; board duties; authority of
83 the department.-

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

88 (a) Standards of practice for licensed behavior analysts
89 and licensed assistant behavior analysts.

90 (b) Supervision of licensed assistant behavior analysts or
91 students in training to be licensed behavior analysts, including
92 the number of persons that a licensed behavior analyst or
93 licensed assistant behavior analyst may supervise at one time.

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



331530

99 applied behavior analysts.

100 (3) The department may adopt rules pursuant to ss.
101 120.536(1) and 120.54 to implement the provisions of this
102 chapter conferring duties upon it. Such rules must include, but
103 are not limited to, rules relating to all of the following:

104 (a) Licensure and licensure renewal applications and
105 processes, including licensure fees.

106 (b) Educational qualifications for licensure.

107 (c) Continuing education requirements for biennial renewal
108 of licensure not to exceed 30 hours biennially as a condition
109 for renewal of a license.

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

112 470.43 Licensure and renewal.—

113 (1) A person applying for an initial or renewal license as
114 a licensed behavior analyst or licensed assistant behavior
115 analyst shall apply to the department on such form and in such
116 manner as the department prescribes. The person shall furnish
117 evidence to the department that he or she:

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

119 (b) Has paid the licensure fee or the biennial renewal fee;

120 and

121 (c) Has passed a criminal background check after submitting
122 fingerprints and a fee pursuant to s. 456.0135.

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

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



331530

128 (b) Is supervised by a licensed behavior analyst in a
129 manner consistent with BACB requirements and this chapter;

130 (c) Has paid the licensure fee or the biennial renewal fee;
131 and

132 (d) Has passed a criminal background check after submitting
133 fingerprints and a fee pursuant to s. 456.0135.

134 (3) The board may issue a license to a person who holds an
135 active license as a behavior analyst or assistant behavior
136 analyst in another state if the person:

137 (a) Submits proof of licensure and board certification;

138 (b) Passes a criminal background check after submitting
139 fingerprints and a fee pursuant to s. 456.0135; and

140 (c) Pays the licensure fee.

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

143 470.44 Fees.—

144 (1) The board shall establish by rule a fee not to exceed
145 \$100 for an application and a fee not to exceed \$300 for an
146 initial license or license renewal.

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

149 Section 8. Section 470.45, Florida Statutes, is created to
150 read:

151 470.45 Disciplinary grounds and actions.—The board may
152 enter an order imposing any of the penalties provided under s.
153 456.072(2) against a licensee who violates any provision of s.
154 456.072(1).

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



331530

157 470.46 Violations and penalties.-

158 (1) Unless licensed or authorized under this chapter, a
159 person who engages in the practice of applied behavior analysis,
160 assists in the practice of applied behavior analysis, renders
161 services designated as applied behavior analysis, or represents
162 himself or herself as a practitioner of applied behavior
163 analysis in this state commits a felony of the third degree,
164 punishable as provided under s. 775.082, s. 775.083, or s.
165 775.084.

166 (2) Unless licensed or authorized under this chapter, a
167 person who uses the title "licensed behavior analyst," "licensed
168 assistant behavior analyst," or any other title that is
169 substantially similar commits a misdemeanor of the second
170 degree, punishable as provided in s. 775.082 or s. 775.083.

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

173 470.47 Exceptions to applicability.-This chapter does not
174 prohibit or restrict the practice of the following:

175 (1) An individual licensed under chapter 490 to practice
176 psychology.

177 (2) A certified teacher authorized to practice in this
178 state who is not a behavior analyst if he or she does not
179 represent himself or herself as a behavior analyst. The services
180 provided by a certified teacher must be within his or her
181 authorized scope of practice and within the scope of his or her
182 education, training, and experience and must be provided in the
183 course of his or her employment in a program approved by the
184 Department of Education. Teaching assistants, other than those
185 engaged in pupil personnel services, and student support



331530

186 professionals are exempt from the requirements of this chapter
187 if they provide applied behavior analysis services under the
188 supervision of a certified teacher who meets the requirements of
189 this paragraph.

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

193 (4) An individual who teaches applied behavior analysis or
194 who conducts behavior analytic research if such teaching or
195 research does not involve the delivery of applied behavior
196 analysis.

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

208 (6) An unlicensed individual pursuing supervised
209 experiential training to meet eligibility requirements for BACB
210 certification if such training is supervised by an individual
211 who is licensed to practice applied behavior analysis and who
212 meets BACB supervisor requirements and if the supervised
213 experiential training is conducted in accordance with other BACB
214 standards and requirements.



331530

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

221 (8) A family member of a recipient of applied behavior
222 analysis services who implements certain procedures with the
223 recipient. Such a family member may not represent himself or
224 herself as a professional behavior analyst.

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

229 (10) A physician licensed pursuant to chapter 458 or
230 chapter 459.

231 (11) An occupational therapist licensed pursuant to chapter
232 468 if he or she does not represent himself or herself as a
233 behavior analyst.

234 (12) An individual licensed pursuant to chapter 491 as a
235 clinical social worker, marriage and family therapist, or mental
236 health counselor.

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

243 (14) A school psychologist certified in school psychology



331530

244 by the Department of Education who performs behavior analysis
245 services as an employee of a public or private educational
246 institution. Such exemption does not authorize unlicensed
247 practice that is not performed directly as an employee of an
248 educational institution.

249 (15) A rabbi, priest, minister, or member of the clergy of
250 a religious denomination or sect if engaging in activities that
251 are within the scope of the performance of his or her regular or
252 specialized ministerial duties and for which no separate fee is
253 charged, or if such activities are performed, with or without a
254 fee, for or under the auspices or sponsorship, individually or
255 in conjunction with others, of an established and legally
256 cognizable church, denomination, or sect; and if the person
257 rendering service remains accountable to the established
258 authority thereof.

259 Section 11. Paragraph (g) of subsection (3) of section
260 20.43, Florida Statutes, is amended to read:

261 20.43 Department of Health.—There is created a Department
262 of Health.

263 (3) The following divisions of the Department of Health are
264 established:

265 (g) Division of Medical Quality Assurance, which is
266 responsible for the following boards and professions established
267 within the division:

- 268 1. The Board of Acupuncture, created under chapter 457.
- 269 2. The Board of Medicine, created under chapter 458.
- 270 3. The Board of Osteopathic Medicine, created under chapter
271 459.
- 272 4. The Board of Chiropractic Medicine, created under



331530

273 chapter 460.
274 5. The Board of Podiatric Medicine, created under chapter
275 461.
276 6. Naturopathy, as provided under chapter 462.
277 7. The Board of Optometry, created under chapter 463.
278 8. The Board of Nursing, created under part I of chapter
279 464.
280 9. Nursing assistants, as provided under part II of chapter
281 464.
282 10. The Board of Pharmacy, created under chapter 465.
283 11. The Board of Dentistry, created under chapter 466.
284 12. Midwifery, as provided under chapter 467.
285 13. The Board of Speech-Language Pathology and Audiology,
286 created under part I of chapter 468.
287 14. The Board of Nursing Home Administrators, created under
288 part II of chapter 468.
289 15. The Board of Occupational Therapy, created under part
290 III of chapter 468.
291 16. Respiratory therapy, as provided under part V of
292 chapter 468.
293 17. Dietetics and nutrition practice, as provided under
294 part X of chapter 468.
295 18. The Board of Athletic Training, created under part XIII
296 of chapter 468.
297 19. The Board of Orthotists and Prosthetists, created under
298 part XIV of chapter 468.
299 20. The Board of Applied Behavior Analysis, created under
300 chapter 470.
301 21.20. Electrolysis, as provided under chapter 478.



331530

302 ~~22.21.~~ The Board of Massage Therapy, created under chapter
303 480.

304 ~~23.22.~~ The Board of Clinical Laboratory Personnel, created
305 under part III of chapter 483.

306 ~~24.23.~~ Medical physicists, as provided under part IV of
307 chapter 483.

308 ~~25.24.~~ The Board of Opticianry, created under part I of
309 chapter 484.

310 ~~26.25.~~ The Board of Hearing Aid Specialists, created under
311 part II of chapter 484.

312 ~~27.26.~~ The Board of Physical Therapy Practice, created
313 under chapter 486.

314 ~~28.27.~~ The Board of Psychology, created under chapter 490.

315 ~~29.28.~~ School psychologists, as provided under chapter 490.

316 ~~30.29.~~ The Board of Clinical Social Work, Marriage and
317 Family Therapy, and Mental Health Counseling, created under
318 chapter 491.

319 ~~31.30.~~ Emergency medical technicians and paramedics, as
320 provided under part III of chapter 401.

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

323 456.001 Definitions.—As used in this chapter, the term:

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



331530

331 Section 13. Section 456.0135, Florida Statutes, is amended
332 to read:

333 456.0135 General background screening provisions.—

334 (1) An application for initial licensure received on or
335 after January 1, 2013, under chapter 458, chapter 459, chapter
336 460, chapter 461, chapter 464, ~~or~~ s. 465.022, or chapter 470
337 shall include fingerprints pursuant to procedures established by
338 the department through a vendor approved by the Department of
339 Law Enforcement and fees imposed for the initial screening and
340 retention of fingerprints. Fingerprints must be submitted
341 electronically to the Department of Law Enforcement for state
342 processing, and the Department of Law Enforcement shall forward
343 the fingerprints to the Federal Bureau of Investigation for
344 national processing. Each board, or the department if there is
345 no board, shall screen the results to determine if an applicant
346 meets licensure requirements. For any subsequent renewal of the
347 applicant's license that requires a national criminal history
348 check, the department shall request the Department of Law
349 Enforcement to forward the retained fingerprints of the
350 applicant to the Federal Bureau of Investigation.

351 (2) All fingerprints submitted to the Department of Law
352 Enforcement as required under subsection (1) shall be retained
353 by the Department of Law Enforcement as provided under s.
354 943.05(2)(g) and (h) and (3). The department shall notify the
355 Department of Law Enforcement regarding any person whose
356 fingerprints have been retained but who is no longer licensed.

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



331530

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

361

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

363 And the title is amended as follows:

364 Delete everything before the enacting clause

365 and insert:

366 A bill to be entitled

367 An act relating to behavior analysts; creating ch.
368 470, F.S.; entitling the chapter; creating s. 470.40,
369 F.S.; providing a purpose; creating s. 470.41, F.S.;
370 defining terms; creating s. 470.415, F.S.; creating
371 the Board of Applied Behavior Analysis; creating s.
372 470.42, F.S.; specifying the authority and duties of
373 the board; creating s. 470.43, F.S.; providing
374 requirements for licensure and renewal; creating s.
375 470.44, F.S.; establishing maximum fees for
376 applications, initial licenses, and license renewals;
377 providing for the deposit of funds; creating s.
378 470.45, F.S.; providing grounds for disciplinary
379 action by the board; creating s. 470.46, F.S.;
380 providing penalties for practicing applied behavior
381 analysis without a license or wrongfully identifying
382 oneself as a licensed behavior analyst; creating s.
383 470.47, F.S.; providing exceptions to applicability of
384 the chapter; amending s. 20.43, F.S.; making the
385 Division of Medical Quality Assurance within the
386 Department of Health responsible for the board;
387 amending s. 456.001, F.S.; including licensed behavior
388 analysts and licensed assistant behavior analysts in



331530

389 the definition of "health care practitioner"; amending
390 s. 456.0135, F.S.; requiring an applicant for
391 licensure under ch. 470, F.S., to submit to certain
392 fingerprinting requirements; providing an effective
393 date.