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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/23/2014	.	
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The Committee on Appropriations (Bean) recommended the following:

**Senate Amendment to Amendment (387820)**

Delete lines 197 - 375

and insert:

Section 9. Section 470.43, Florida Statutes, is created to read:

470.43 Licensure.-

(1) The department shall license an applicant as a behavior analyst if the applicant:

(a) Submits a completed application to the department using



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11 a form approved by the board;  
12 (b) Remits the appropriate fees;  
13 (c) Has passed a criminal background check after submitting  
14 fingerprints and a fee pursuant to s. 456.0135; and  
15 (d) Submits proof that the applicant is a board-certified  
16 behavior analyst.  
17 (2) The department shall license an applicant as an  
18 assistant behavior analyst if the applicant:  
19 (a) Submits a completed application to the department using  
20 a form approved by the board;  
21 (b) Remits the appropriate fees;  
22 (c) Has passed a criminal background check after submitting  
23 fingerprints and a fee pursuant to s. 456.0135;  
24 (d) Submits proof to the department that the applicant is a  
25 board-certified assistant behavior analyst; and  
26 (e) Identifies a supervising licensed behavior analyst who  
27 is qualified to supervise the applicant under BACB requirements  
28 and this chapter.  
29 Section 10. Section 470.44, Florida Statutes, is created to  
30 read:  
31 470.44 Renewal of license.—  
32 (1) The department shall renew a license upon receipt of  
33 proof that the applicant is certified by the BACB and a  
34 completed renewal application and fee.  
35 (2) The department shall adopt rules establishing a  
36 procedure for the biennial renewal of licenses.  
37 (3) The board shall by rule prescribe continuing education  
38 not to exceed 32 hours required biennially as a condition for  
39 renewal of a license as a behavior analyst, or not to exceed 20



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40 hours required biennially as a condition for renewal of a  
41 license as an assistant behavior analyst. The criteria for  
42 continuing education programs shall be approved by the board.  
43 The board may authorize by rule continuing education earned for  
44 BACB certification to be used to meet the continuing education  
45 requirements of this subsection.

46 Section 11. Section 470.45, Florida Statutes, is created to  
47 read:

48 470.45 Fees.—

49 (1) The board shall establish by rule a fee not to exceed  
50 \$100 for an application, \$300 for an initial license, or \$300  
51 for license renewal.

52 (2) All moneys collected by the department under this  
53 chapter shall be deposited in the Medical Quality Assurance  
54 Trust Fund as provided under s. 456.025.

55 Section 12. Section 470.46, Florida Statutes, is created to  
56 read:

57 470.46 Disciplinary actions.—

58 (1) The following acts constitute grounds for denial of a  
59 license or disciplinary action, as specified in s. 456.072(2):

60 (a) Attempting to obtain, obtaining, or renewing a license  
61 under this chapter by bribery or fraudulent misrepresentation or  
62 through an error of the board or the department.

63 (b) Having a license to practice a comparable profession  
64 revoked, suspended, or otherwise acted against, including the  
65 denial of certification or licensure by another state,  
66 territory, or country.

67 (c) Being convicted or found guilty of, regardless of  
68 adjudication, or having entered a plea of nolo contendere to, a



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69 crime in any jurisdiction which directly relates to the practice  
70 of his or her profession or the ability to practice his or her  
71 profession. However, in the case of a plea of nolo contendere,  
72 the board shall allow the person who is the subject of the  
73 disciplinary proceeding to present evidence in mitigation  
74 relevant to the underlying charges and circumstances surrounding  
75 the plea.

76 (d) False, deceptive, or misleading advertising or  
77 obtaining a fee or other thing of value on the representation  
78 that beneficial results from any treatment will be guaranteed.

79 (e) Advertising, practicing, or attempting to practice  
80 under a name other than one's own.

81 (f) Maintaining a professional association with any person  
82 who the applicant or licensee knows, or has reason to believe,  
83 is in violation of this chapter or of a rule of the department  
84 or the board.

85 (g) Knowingly aiding, assisting, procuring, or advising any  
86 nonlicensed person to hold himself or herself out as licensed  
87 under this chapter.

88 (h) Failing to perform any statutory or legal obligation  
89 placed upon a person licensed under this chapter.

90 (i) Willfully making or filing a false report or record;  
91 failing to file a report or record required by state or federal  
92 law; willfully impeding or obstructing the filing of a report or  
93 record; or inducing another person to make or file a false  
94 report or record or to impede or obstruct the filing of a report  
95 or record. Such report or record includes only a report or  
96 record which requires the signature of a person licensed under  
97 this chapter.



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98           (j) Paying a kickback, rebate, bonus, or other remuneration  
99 for receiving a patient or client, or receiving a kickback,  
100 rebate, bonus, or other remuneration for referring a patient or  
101 client to another provider of applied behavior analysis services  
102 or to a provider of health care services or goods; referring a  
103 patient or client to oneself for services on a fee-paid basis  
104 when those services are already being paid for by some other  
105 public or private entity; or entering into a reciprocal referral  
106 agreement.

107           (k) Committing any act upon a patient or client which would  
108 constitute sexual battery or which would constitute sexual  
109 misconduct. Sexual misconduct shall be defined by rule by the  
110 board.

111           (l) Making misleading, deceptive, untrue, or fraudulent  
112 representations in the practice of applied behavior analysis  
113 licensed under this chapter.

114           (m) Soliciting patients or clients personally, or through  
115 an agent, through the use of fraud, intimidation, undue  
116 influence, or a form of overreaching or vexatious conduct.

117           (n) Failing to make available to a patient or client, upon  
118 written request, copies of test results, reports, or documents  
119 in the possession or under the control of the licensee which  
120 have been prepared for and paid for by the patient or client.

121           (o) Failing to respond within 30 days to a written  
122 communication from the department concerning any investigation  
123 by the department, or failing to make available any relevant  
124 records with respect to any investigation about the licensee's  
125 conduct or background.

126           (p) Being unable to practice the profession for which he or



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127 she is licensed under this chapter with reasonable skill or  
128 competence as a result of any mental or physical condition or by  
129 reason of illness; drunkenness; or excessive use of drugs,  
130 narcotics, chemicals, or any other substance. In enforcing this  
131 paragraph, upon a finding by the State Surgeon General, the  
132 State Surgeon General's designee, or the board that probable  
133 cause exists to believe that the licensee, is unable to practice  
134 the profession because of the reasons stated in this paragraph,  
135 the department shall have the authority to compel a licensee to  
136 submit to a mental or physical examination by a physician  
137 designated by the department or board. If the licensee refuses  
138 to comply with such order, the department's order directing the  
139 examination may be enforced by filing a petition for enforcement  
140 in the circuit court in the circuit in which the licensee  
141 resides or does business. The licensee against whom the petition  
142 is filed may not be named or identified by initials in any  
143 public court records or documents, and the proceedings shall be  
144 closed to the public. The department shall be entitled to the  
145 summary procedure provided in s. 51.011. A licensee affected  
146 under this paragraph shall at reasonable intervals be afforded  
147 an opportunity to demonstrate that he or she can resume the  
148 competent practice for which he or she is licensed with  
149 reasonable skill and safety to patients.

150 (q) Performing any treatment or prescribing any therapy  
151 which, by the prevailing standards of the behavior analysts in  
152 the community, would constitute experimentation on human  
153 subjects, without first obtaining full, informed, and written  
154 consent.

155 (r) Failing to meet the minimum standards of performance in



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156 professional activities when measured against generally  
157 prevailing peer performance, including the undertaking of  
158 activities for which the licensee is not qualified by training  
159 or experience.

160 (s) Delegating professional responsibilities to a person  
161 whom the licensee knows or has reason to know is not qualified  
162 by training or experience to perform such responsibilities.

163 (t) Violating a rule relating to the regulation of the  
164 profession or a lawful order of the department or the board  
165 previously entered in a disciplinary hearing.

166 (u) Failure of the licensee to maintain in confidence a  
167 communication made by a patient or client in the context of such  
168 services.

169 (v) Making public statements which are derived from test  
170 data, client contacts, or behavioral research and which identify  
171 or damage research subjects or clients.

172 (w) Violating any provision of this chapter or chapter 456,  
173 or any rules adopted pursuant thereto.

174 (2) The board may enter an order denying licensure or  
175 imposing any of the penalties in s. 456.072(2) against any  
176 applicant for licensure or licensee who is found guilty of  
177 violating subsection (1) or who is found guilty of violating s.  
178 456.072(1).

179 Section 13. Section 470.47, Florida Statutes, is created to  
180 read:

181 470.47 Violations and penalties.—

182 (1) It is unlawful and a violation of this chapter for any  
183 person to engage in the practice of applied behavior analysis,  
184 assist in the practice of applied behavior analysis, render



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185 services designated as applied behavior analysis, or represent  
186 himself or herself as a practitioner of applied behavior  
187 analysis in this state unless she or he holds a valid, active  
188 license as a behavior analyst or assistant behavior analyst  
189 pursuant to this chapter. Any person who violates any provision  
190 of