

By the Committee on Health Policy; and Senator Bean

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1                                   A bill to be entitled  
2       An act relating to behavior analysts; creating ch.  
3       470, F.S.; entitling the chapter; creating s. 470.40,  
4       F.S.; providing a purpose; creating s. 470.41, F.S.;  
5       defining terms; creating s. 470.415, F.S.; creating  
6       the Board of Applied Behavior Analysis; creating s.  
7       470.42, F.S.; specifying the authority and duties of  
8       the board; creating s. 470.43, F.S.; providing  
9       requirements for licensure and renewal; creating s.  
10      470.44, F.S.; establishing maximum fees for  
11      applications, initial licenses, and license renewals;  
12      providing for the deposit of funds; creating s.  
13      470.45, F.S.; providing grounds for disciplinary  
14      action by the board; creating s. 470.46, F.S.;  
15      providing penalties for practicing applied behavior  
16      analysis without a license or wrongfully identifying  
17      oneself as a licensed behavior analyst; creating s.  
18      470.47, F.S.; providing exceptions to applicability of  
19      the chapter; amending s. 20.43, F.S.; making the  
20      Division of Medical Quality Assurance within the  
21      Department of Health responsible for the board;  
22      amending s. 456.001, F.S.; including licensed behavior  
23      analysts and licensed assistant behavior analysts in  
24      the definition of "health care practitioner"; amending  
25      s. 456.0135, F.S.; requiring an applicant for  
26      licensure under ch. 470, F.S., to submit to certain  
27      fingerprinting requirements; providing an effective  
28      date.  
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30 Be It Enacted by the Legislature of the State of Florida:

31  
32 Section 1. Chapter 470, Florida Statutes, is created and  
33 entitled "Behavior Analysts."

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

36 470.40 Purpose.—The practice of applied behavior analysis  
37 in this state affects the public health, safety, and welfare of  
38 its residents, and this act is intended to protect the public  
39 from any harmful conduct of unqualified, unprofessional, or  
40 unethical applied behavior analysts.

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

43 470.41 Definitions.—As used in this chapter, the term:

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

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

55 (3) "Board-certified behavior analyst" means a practitioner  
56 who is certified as a Board Certified Behavior Analyst, or is  
57 recognized as a "Florida-certified behavior analyst," by the  
58 national Behavior Analyst Certification Board (BACB), or its

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59 successor pursuant to s. 470.42.

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

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

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

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

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

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

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

76 470.415 Board of Applied Behavior Analysis.—

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

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

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

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88 be appointed to 3-year terms;

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

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

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

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

104 Section 5. Section 470.42, Florida Statutes, is created to  
105 read:

106 470.42 Authority of the board; board duties; authority of  
107 the department.—

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

112 (a) Standards of practice for licensed behavior analysts  
113 and licensed assistant behavior analysts.

114 (b) Supervision of licensed assistant behavior analysts or  
115 students in training to be licensed behavior analysts, including  
116 the number of persons that a licensed behavior analyst or

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117 licensed assistant behavior analyst may supervise at one time.

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

124 (3) The department may adopt rules pursuant to ss.  
125 120.536(1) and 120.54 to implement the provisions of this  
126 chapter conferring duties upon it. Such rules must include, but  
127 are not limited to, rules relating to all of the following:

128 (a) Licensure and licensure renewal applications and  
129 processes, including licensure fees.

130 (b) Educational qualifications for licensure.

131 (c) Continuing education requirements for biennial renewal  
132 of licensure not to exceed 30 hours biennially as a condition  
133 for renewal of a license.

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

136 470.43 Licensure and renewal.—

137 (1) A person applying for an initial or renewal license as  
138 a licensed behavior analyst or licensed assistant behavior  
139 analyst shall apply to the department on such form and in such  
140 manner as the department prescribes. The person shall furnish  
141 evidence to the department that he or she:

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

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

144 and

145 (c) Has passed a criminal background check after submitting

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146 fingerprints and a fee pursuant to s. 456.0135.

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

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

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

154 (c) Has paid the licensure fee or the biennial renewal fee;  
155 and

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

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

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

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

164 (c) Pays the licensure fee.

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

167 470.44 Fees.—

168 (1) The board shall establish by rule a fee not to exceed  
169 \$100 for an application and a fee not to exceed \$300 for an  
170 initial license or license renewal.

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

173 Section 8. Section 470.45, Florida Statutes, is created to  
174 read:

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175 470.45 Disciplinary grounds and actions.—The board may  
176 enter an order imposing any of the penalties provided under s.  
177 456.072(2) against a licensee who violates any provision of s.  
178 456.072(1).

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

181 470.46 Violations and penalties.—

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

190 (2) Unless licensed or authorized under this chapter, a  
191 person who uses the title “licensed behavior analyst,” “licensed  
192 assistant behavior analyst,” or any other title that is  
193 substantially similar commits a misdemeanor of the second  
194 degree, punishable as provided in s. 775.082 or s. 775.083.

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

197 470.47 Exceptions to applicability.—This chapter does not  
198 prohibit or restrict the practice of the following:

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

201 (2) A certified teacher authorized to practice in this  
202 state who is not a behavior analyst if he or she does not  
203 represent himself or herself as a behavior analyst. The services

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204 provided by a certified teacher must be within his or her  
205 authorized scope of practice and within the scope of his or her  
206 education, training, and experience and must be provided in the  
207 course of his or her employment in a program approved by the  
208 Department of Education. Teaching assistants, other than those  
209 engaged in pupil personnel services, and student support  
210 professionals are exempt from the requirements of this chapter  
211 if they provide applied behavior analysis services under the  
212 supervision of a certified teacher who meets the requirements of  
213 this paragraph.

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

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

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

232 (6) An unlicensed individual pursuing supervised



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

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

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

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

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

255 (11) An occupational therapist licensed pursuant to chapter  
256 468 if he or she does not represent himself or herself as a  
257 behavior analyst.

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

261 (13) A salaried employee of a private, nonprofit

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262 organization providing behavior analysis services to children,  
263 youth, and families if the services are provided for no charge,  
264 the employee is performing duties for which he or she was  
265 trained and hired, and the employee does not represent himself  
266 or herself as a professional behavior analyst.

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

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

283 Section 11. Paragraph (g) of subsection (3) of section  
284 20.43, Florida Statutes, is amended to read:

285 20.43 Department of Health.—There is created a Department  
286 of Health.

287 (3) The following divisions of the Department of Health are  
288 established:

289 (g) Division of Medical Quality Assurance, which is  
290 responsible for the following boards and professions established

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291 within the division:

- 292       1. The Board of Acupuncture, created under chapter 457.
- 293       2. The Board of Medicine, created under chapter 458.
- 294       3. The Board of Osteopathic Medicine, created under chapter  
295 459.
- 296       4. The Board of Chiropractic Medicine, created under  
297 chapter 460.
- 298       5. The Board of Podiatric Medicine, created under chapter  
299 461.
- 300       6. Naturopathy, as provided under chapter 462.
- 301       7. The Board of Optometry, created under chapter 463.
- 302       8. The Board of Nursing, created under part I of chapter  
303 464.
- 304       9. Nursing assistants, as provided under part II of chapter  
305 464.
- 306       10. The Board of Pharmacy, created under chapter 465.
- 307       11. The Board of Dentistry, created under chapter 466.
- 308       12. Midwifery, as provided under chapter 467.
- 309       13. The Board of Speech-Language Pathology and Audiology,  
310 created under part I of chapter 468.
- 311       14. The Board of Nursing Home Administrators, created under  
312 part II of chapter 468.
- 313       15. The Board of Occupational Therapy, created under part  
314 III of chapter 468.
- 315       16. Respiratory therapy, as provided under part V of  
316 chapter 468.
- 317       17. Dietetics and nutrition practice, as provided under  
318 part X of chapter 468.
- 319       18. The Board of Athletic Training, created under part XIII

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320 of chapter 468.

321 19. The Board of Orthotists and Prosthetists, created under  
322 part XIV of chapter 468.

323 20. The Board of Applied Behavior Analysis, created under  
324 chapter 470.

325 21.20. Electrolysis, as provided under chapter 478.

326 22.21. The Board of Massage Therapy, created under chapter  
327 480.

328 23.22. The Board of Clinical Laboratory Personnel, created  
329 under part III of chapter 483.

330 24.23. Medical physicists, as provided under part IV of  
331 chapter 483.

332 25.24. The Board of Opticianry, created under part I of  
333 chapter 484.

334 26.25. The Board of Hearing Aid Specialists, created under  
335 part II of chapter 484.

336 27.26. The Board of Physical Therapy Practice, created  
337 under chapter 486.

338 28.27. The Board of Psychology, created under chapter 490.

339 29.28. School psychologists, as provided under chapter 490.

340 30.29. The Board of Clinical Social Work, Marriage and  
341 Family Therapy, and Mental Health Counseling, created under  
342 chapter 491.

343 31.30. Emergency medical technicians and paramedics, as  
344 provided under part III of chapter 401.

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

347 456.001 Definitions.—As used in this chapter, the term:

348 (4) "Health care practitioner" means any person licensed

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349 under chapter 457; chapter 458; chapter 459; chapter 460;  
350 chapter 461; chapter 462; chapter 463; chapter 464; chapter 465;  
351 chapter 466; chapter 467; part I, part II, part III, part V,  
352 part X, part XIII, or part XIV of chapter 468; chapter 470;  
353 chapter 478; chapter 480; part III or part IV of chapter 483;  
354 chapter 484; chapter 486; chapter 490; or chapter 491.

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  
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.

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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 cost  
382 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.