

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.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 628

INTRODUCER: Senator Bean

SUBJECT: Behavior Analysts

DATE: March 12, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 628 creates ch. 470, F.S., entitled “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 (board), whose members are appointed by the governor and confirmed by the Senate.

The bill establishes eligibility criteria for initial or renewal licensure as a behavior analyst or assistant behavior analyst, both of which require board-certification and background screening. The bill contains a lengthy series of exemptions from licensure.

The bill creates specific actions that are grounds for denial of a license application or for disciplinary action. The board is authorized to adopt rules to implement the act, including rules defining standards of practice, supervision, fees, and continuing education. The Department of Health (DOH) is required to adopt rules related to renewal licensure and is authorized to adopt rules as necessary to implement the provisions in ch. 470, F.S.

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.¹ 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

¹ Behavior Analyst Certification Board, *About Behavior Analysis* <http://www.bacb.com/index.php?page=2> (Last visited Mar. 12, 2015).

environment and behavior.”² 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.³

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 located in Littleton, Colorado, that was established in 1998 based on the behavior analysis certification program developed in Florida.⁴

As part of its credentialing program, the BACB has developed:⁵

- 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; and
- 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 behavior analytic interpretations of the results.⁶ The Board Certified Behavior Analyst also designs and supervises behavior analytic interventions.⁷ 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; must have completed a 1-year, full-time faculty appointment at a college or university with the responsibility of teaching behavior analysis; or must have completed a doctoral degree conferred 10 years prior to applying for certification and meet certain experience requirements.⁸

The Board Certified Assistant Behavior Analyst conducts descriptive behavioral assessments, interprets their results, and designs behavior analytic interventions under the supervision of a

² 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.

³ *Supra* note 1.

⁴ Behavior Analyst Certification Board, *About the BACB* <http://www.bacb.com/index.php?page=1> (Last visited Mar. 12, 2015).

⁵ *Id.*

⁶ Behavior Analyst Certification Board, *About BACB Credentials*, available at <http://www.bacb.com/index.php?page=4> (Last visited Mar. 12, 2015).

⁷ *Id.*

⁸ Behavior Analyst Certification Board, *Standards for Board Certified Behavior Analysts (BCBA)*, available at <http://www.bacb.com/index.php?page=158> (Last visited Mar. 12, 2015).

Board Certified Behavior Analyst.⁹ 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.¹⁰

Currently, there are 2,111 behavior analysts or assistant behavior analysts in Florida who are board-certified by the BACB.¹¹

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.¹² 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 3 years and requires 36 hours of continuing education.¹³

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. The law does not specify credentials, but the services must 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 (APD) to establish a certification process for behavior analysts who serve its clients and requires the APD 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.¹⁴ The APD has opted not to create a separate certification process.¹⁵
- 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 of age and younger who have a developmental disability, autism spectrum disorder, or Down syndrome through the Medicaid program.

⁹ *Supra* note 6.

¹⁰ Behavior Analyst Certification Board, *Standards for Board Certified Assistant Behavior Analysts (BCABA)*, <http://www.bacb.com/index.php?page=52> (Last visited Mar. 12, 2015).

¹¹ Behavior Analyst Certification Board, *Certificant Registry* <http://www.bacb.com/index.php?page=100155&by=state> (Last visited Mar. 12, 2015).

¹² *See Infra* note 23 at 2.

¹³ Behavior Analyst Certification Board, *Florida Behavior Analyst Certification Committee* <http://www.bacb.com/index.php?page=100202> (Last visited Mar. 12, 2015).

¹⁴ *Supra*, note 4.

¹⁵ Rule 65G-4.0011, F.A.C.

- 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.

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.¹⁶ 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:¹⁷

- 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; or
- Less restrictive means of regulation are not available.

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.¹⁸

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 Medical Quality Assurance.¹⁹ In general, boards are responsible for approving or denying applications for licensure, establishing continuing education requirements, and disciplining practitioners for violations of their applicable practice act.²⁰

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 it is:

- 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

¹⁶ Section 20.43(1)(g), F.S.

¹⁷ Section 456.003(2), F.S.

¹⁸ Fla. Dept. of Health, <http://www.floridahealth.gov/licensing-and-regulation/index.html>, (last visited on Mar. 12, 2015).

¹⁹ Section 456.001(1), F.S.

²⁰ 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.

- 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 Sunrise Questionnaire is used for that purpose.²¹ The act also requires the 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.

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 be created only 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.

²¹ 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. SB 628 has been proposed by the Florida Association for Behavioral Analysis, and a copy of the proponent's completed questionnaire is on file with the Senate Committee on Health Policy.

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.”²² Private citizen members of a board of trustees may only be appointed by the governor, must be confirmed by the Senate, and are subject to the dual-office-holding prohibition of article II, section 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:

SB 628 creates ch. 470, F.S., which establishes new license types for behavior analysts and assistant behavior analysts and requires that all behavior analysts and assistant behavior analysts be licensed in order to practice or assist in applied behavior analysis. The bill also amends ss. 20.43, 456.001, and 456.0135, F.S., to make conforming changes.

Legislative Intent

The bill states that the Legislature finds that the practice of applied behavior analysis by unskilled and incompetent practitioners presents a danger to the health and safety of the public. Additionally, the Legislature finds that it is difficult for the public to make an informed choice about behavior analysts and a wrong choice could endanger public health. The bill states that the intent of the act is to protect the public from the harmful conduct of unqualified, unprofessional, and unethical behavior analysts.

Definitions

The bill defines the terms:

- “Applied behavior analysis” to mean the design, implementation, and evaluation of environmental modifications that are used 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. The term does not include psychological testing, the diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or long-term counseling.
- “Board” to mean the Board of Applied Behavior Analysis, except when used in the context of board certification.
- “Board-certified assistant behavior analyst” to mean a practitioner who is certified as an assistant behavior analyst or is recognized as a Florida-certified behavior analyst by the national Behavior Analyst Certification Board.
- “Board-certified behavior analyst” to mean a practitioner who is certified as a behavior analyst or is a recognized as a Florida-certified behavior analyst by the national Behavior Analyst Certification Board.

²² Section 20.03(12), F.S.

- “Department” to mean the Department of Health.
- “Licensed assistant behavior analyst” to mean a practitioner who is licensed by the board as an assistant behavior analyst and otherwise meets the requirements of this chapter.
- “Licensed behavior analyst” to mean a practitioner who is licensed by the board as a behavior analyst and otherwise meets the requirements of this chapter.

Behavior Analyst and Assistant Behavior Analyst Licenses

The bill requires the board to grant a license to a behavior analyst and the DOH to grant a license to an assistant behavior analyst who:

- Submits an application to the DOH;
- Pays all appropriate fees;
- Has passed a criminal background check and paid the necessary fee pursuant to s. 456.0135, F.S.;²³
- Submits proof that he or she is a board-certified behavior analyst or assistant behavior analyst; and
- For assistant behavior analysts, identifies a supervising licensed behavior analyst who is qualified to supervise the applicant.

The DOH must renew a license for a behavior analyst or assistant behavior analyst who submits a renewal application, renewal fee, and proof that he or she has maintained certification from the Behavior Analyst Certification Board. The DOH is required to adopt rules establishing a 2-year license renewal process and is permitted to adopt rules as necessary to implement its responsibilities under ch. 470, F.S.

The bill makes the unlicensed practice of applied behavior analysis, the unlicensed assistance of the practice of applied behavior analysis, and the unlicensed representation of oneself as a practitioner of applied behavior analysis a third degree felony. Additionally, using the title of behavior analyst or assistant behavior analyst without having the applicable license is a second degree misdemeanor. The bill specifies that the provisions of ch. 470, F.S., do not prohibit or restrict the licensed activities of:

- A physician licensed under ch. 458 or 459, F.S.;
- An occupational therapist licensed under part III of ch. 468, F.S.;
- A psychologist licensed under ch. 490, F.S.;
- A clinical social worker, a marriage and family therapist, or a mental health counselor licensed under ch 491, F.S.;
- A certified teacher or teaching assistant supervised by a teacher, other than a teaching assistant engaged in pupil personnel services, when providing applied behavior analysis services within the teacher’s scope of practice and within the scope of his or her education, training, or experience;
- A behavior analyst who practices with nonhuman animals;
- An individual who teaches or researches applied behavior analysis if he or she does not practice applied behavior analysis;

²³ Section 456.0135, F.S., requires the submission of fingerprints to the Florida Department of Law Enforcement for a background screening. The board is required to screen the results to ensure that the applicant meets licensure standards. All fingerprints submitted are entered into the Care Provider Background Screening Clearinghouse as provided in s. 435.12, F.S.

- A college student, university student, or postdoctoral fellow who is studying applied behavior analysis and who is supervised by a licensed behavior analyst or an approved instructor;
- An unlicensed person pursuing training to meet eligibility requirements if supervised by a licensee;
- A family member of the recipient using applied behavior analysis techniques on the recipient;
- A behavior analyst who provides general applied behavior analysis services to an organization if such services do not directly involve services to individuals;
- An employee of a private, nonprofit organization providing applied behavior analysis services to children, youth, and families for no cost if the employee does not represent him or herself as a licensed behavior analyst or assistant;
- A certified school psychologist using applied behavior analysis as an employee of a public or private educational institution; and
- A member of the clergy of a religion under the authority of that religion's governing body and using applied behavior analysis within the scope of his or her ministerial duties without a fee or under the auspices or sponsorship of an established and legally cognizable church, denomination, or sect.

The Board of Applied Behavior Analysis

The bill creates the Board of Applied Behavior Analysis within of the DOH. The board consists of seven members who are appointed by the Governor and confirmed by the Senate. Initial board members who are behavior analysts or assistant behavior analysts are not required to be licensed, however, all behavior analyst or assistant behavior analyst members appointed after the expiration of the initial terms must be licensed. Membership of the board consists of:

- Three board-certified (or licensed) behavior analysts two of whom must have a doctoral-level degree.
- One board-certified (or licensed) assistant behavior analyst.
- One member the majority of whose professional practice must be related to the treatment of behavior disorders including autism spectrum disorder and who is a:
 - A psychologist licensed pursuant to ch. 490, F.S.;
 - A clinical social worker or marriage and family therapist; or
 - A mental health counselor licensed pursuant to ch. 491, F.S.
- Two members who are laypersons and one of whom may be a parent or guardian of an individual who is a recipient of applied behavior analysis.²⁴

The board may take action against licensees by entering an order denying licensure, refusing to certify an application for licensure or certifying it with restrictions, suspending or revoking a license, imposing restrictions on a licensee's practice or license, imposing administrative fines of up to \$10,000, issuing a reprimand or letter of concern, placing the licensee on probation, requiring corrective action, requiring the refund of all fees billed and collected on the behalf of a patient, and requiring that the licensee undergo remedial education. The bill specifies that, in

²⁴ The initial terms for all members are as follows: the three behavior analyst members are appointed to serve for terms of 1 year, 2 years, and 4 years, respectively; the assistant behavior analyst and the member whose professional practice is related to the treatment of behavior disorders serve 3-year terms; and the two laypersons serve 2 and 4-year terms, respectively. After the expiration of the initial terms, all newly appointed members serve for 4-year terms.

addition to the grounds listed in s. 456.072(1), F.S.,²⁵ that the following constitute grounds for disciplinary action or denial of licensure:

- Attempting to obtain, obtaining, or renewing a license through fraud, bribery, or causing or furthering an error by the board or the DOH;
- Having a license in a comparable profession, including a certification or license held in another state, territory, or country, revoked, suspended, or otherwise acted against;
- Being found guilty of or entering a plea of nolo contendere for a crime which directly relates to the practice of his or her profession;²⁶
- Making false, deceptive, or misleading representations or accepting a fee on the representation that beneficial results from treatment are guaranteed;
- Advertising, practicing, or attempting to practice under a false name;
- Maintaining a professional association with any person who the applicant or licensee knows, or has reason to believe, has violated the provisions of ch. 470, F.S., or any other rule of the DOH or board;
- Knowingly aiding, assisting, procuring, or advising any unlicensed person to hold him or herself as licensed under ch. 470, F.S.;
- Failing to perform any obligation under ch. 470, F.S.;
- Willfully falsifying, failing to file, willfully impeding or obstructing the filing of, inducing the falsification of a report or record that requires the signature of a person licensed under ch. 470, F.S.;
- Paying or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of health care services, referring a patient or client to oneself on a fee-paid basis when another party when those services are already being paid for by another party, or entering into a reciprocal referral agreement;
- Committing any act upon a patient or client which would constitute sexual battery or sexual misconduct, as defined by the board;
- Making misleading, deceptive, untrue, or fraudulent misrepresentations in the practice of applied behavior analysis;
- Soliciting clients by fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct;
- Failing to make copies of test results, reports, or documents available to the client upon written request;
- Failing to respond within 30 days to a written communication from the DOH concerning any DOH investigation or failing to make relevant records available for an investigation concerning the licensee's conduct or background;
- Being unable to practice due to mental or physical illness, drunkenness, drugs, narcotics, chemicals, or any other substance being abused. The board or the DOH may require the licensee to submit to a mental or physical exam if probable cause exists that this provision is being violated. A licensee must be afforded the opportunity to demonstrate that he or she can resume his or her competent practice at reasonable intervals as determined by the DOH;
- Performing treatment or prescribing therapy which constitutes experimentation on human subjects without full, informed written consent;

²⁵ Section 456.072(1), F.S., lists the grounds for discipline for all professionals licensed by the DOH.

²⁶ A licensee may present evidence in mitigation of the underlying charges and circumstance surrounding a plea of nolo contendere.

- Failing to meet the minimum standards of performance in professional activities as determined by the board;
- Delegating professional responsibilities to a person whom the licensee knows, or has reason to know, is not qualified to perform them;
- Violating a rule relating to the regulation of the profession or relating to a lawful order of the DOH or the board previously entered at a disciplinary hearing;
- Failing to maintain confidential communications;
- Making public statements that are derived from test data, client contacts, or behavioral research that identifies or otherwise damage research subjects or clients; and
- Violating any provision in chs. 470 or 456, F.S., or any rules adopted under those chapters.

The board is also required to adopt rules to administer the provisions in ch. 470, F.S., including, but not limited to standards of practice and the supervision of behavior analysis students or licensed assistant behavior analysts. The board is also required to establish by ruling an application fee of up to \$100, license and renewal fees of up to \$300,²⁷ and a continuing education requirement of up to 32 hours every two years for licensed behavior analysts and 20 hours every 2 years for licensed assistant behavior analysts. Criteria for continuing education programs must be approved by the board and the board may authorize by rule the use of continuing education credits earned for the Behavior Analyst Certification Board certification to meet such continuing education requirements.

The bill establishes an effective date of January 1, 2016.

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.

²⁷ Licensure fees are deposited into the Medical Quality Assurance Trust Fund under s. 456.025, F.S.

B. Private Sector Impact:

SB 628 will require certified behavioral analysts and assistants to pay an application fee of \$100 and licensure and licensure renewal fees of \$300 in order to continue to practice as behavior analysts in the state. Behavior analysts and assistants who are not certified will be required to become certified by the BACB prior to becoming licensed.²⁸ Additionally, licensed behavior analysts and assistants will be required to maintain BACB certification and complete continuing education, both of which will require expenditures in excess of the licensure renewal fee.

C. Government Sector Impact:

The DOH estimates that SB 628 will generate revenues of \$745,200 for the first biennium and \$561, 200 for the second biennium.

The DOH estimates the total costs from SB 628 will be \$475,573 for the first biennium with \$113,469 in recurring salary costs, \$2,841 recurring and \$28,331 nonrecurring OPS costs, \$76,867 recurring and \$25,576 recurring expenses, \$15,380 recurring contracted services costs, and \$2,216 recurring and \$120 nonrecurring human resources costs.²⁹

VI. Technical Deficiencies:

SB 628 has several technical deficiencies as follows:

- Lines 243-245 should be amended to require fines to be deposited in the Medical Quality Assurance Trust Fund in addition to fees.
- Line 466 should be amended to read “the *established* authority.”
- Several provisions in the bill cause some uncertainty about the roles of the board and the DOH regarding licensure, for example:
 - Both the board and the DOH are required to adopt rules related to fees. Since the board is required to establish fees as stated on lines 503 - 505, it is unclear what fees the DOH would be required to adopt.³⁰
 - Lines 214 - 216 require the board to issue a license to a behavior analyst who meets the requirements of the bill as opposed to lines 224-226 that require the DOH to issue a license to an assistant behavior analyst who meets the requirements of the bill.
 - Lines 243 - 245 reference fees that are collected by the board while lines 238-242 require the DOH to receive fees for renewal licenses. It is unclear which entity would collect licensure fees and renewal fees.
- The bill requires all behavior analysts and assistants to be licensed to practice but does not include a grace period for the DOH or the board to adopt rules and to begin issuing licenses. As such, behavior analysts and assistants would be required to stop practicing until they are able to receive a license from the board. The bill should be amended to allow for a grace period between the effective date of the bill and the requirement to be licensed to practice.

²⁸ The various fees charged by the BACB are available at <http://www.bacb.com/index.php?page=51>, (last visited on Mar. 12, 2015).

²⁹ Department of Health Bill, *Senate Bill 628 Analysis*, (on file with Senate Committee on Health Policy).

³⁰ *Id.*

- The bill requires an assistant behavior analyst to identify a “licensed behavior analyst” as a supervisor on his or her application for license. This provision would require that the supervising behavior analyst receive his or her license before the assistant is allowed to apply for his or her license and could create a delay for assistants to become licensed. The bill should be amended to allow an assistant behavior analyst to identify a board-certified behavior analyst as a supervisor on his or her application for a period of time after the effective date of the bill.

VII. Related Issues:

Lines 279-280 requires persons licensed under ch. 470, F.S., to perform all statutory and legal obligations placed on them. This statement is unclear and could be interpreted to mean that any statutory or legal infraction by the licensee, such as a non-criminal traffic ticket, could be a license violation. This statement should be clarified to narrow the requirement so that licensees are required to perform all statutory and legal obligations placed on them by ch. 470, F.S., rather than as a whole.

VIII. Statutes Affected:

This 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, 470.46, 470.41, 470.415, 470.42, 470.43, 470.44, and 470.45.

This bill creates an undesignated section of law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.