

BILL ANALYSIS

C.S.H.B. 2703
By: Simmons
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, there is no regulatory entity in Texas for practitioners of applied behavior analysis and thus no mechanism to protect consumers, employers, and state agencies from individuals who are not adequately trained or whose practice is not consistent with the profession's ethical and disciplinary standards. In addition, citizens who are harmed by these practitioners have little or no protection or legal recourse. C.S.H.B. 2703 intends to establish a regulatory framework for the practice of applied behavior analysis to protect consumers and practitioners of these services.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Board of Behavior Analyst Examiners in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2703 amends the Occupations Code to establish the Behavior Analyst Licensing Act and to create the Texas Board of Behavior Analyst Examiners. The bill establishes the activity that constitutes the practice of applied behavior analysis and specifies that the practice does not include the diagnosis of disorders or psychological testing, psychotherapy, cognitive therapy, psychoanalysis, hypnotherapy, or counseling as treatment modalities. The bill establishes the circumstances under which the bill's provisions do not apply to certain licensed psychologists, other licensed professionals, family members and guardians, paraprofessional technicians, college or university students, interns, or fellows, unlicensed persons pursuing supervised experience in applied behavior analysis, behavior analysts licensed in another jurisdiction or certified by the certifying entity as defined by the bill, teachers or employees of a private or public school, or persons classified as behavior analysts who provide specified services.

C.S.H.B. 2703 sets out provisions relating to the composition of the behavior analyst board, member qualifications, eligibility for appointment as a public member, restrictions on eligibility to be a member or employee of the behavior analyst board or an employee of the Texas Medical Board, member terms and vacancies, officer elections, grounds for removal, compensation and reimbursement, board meetings, member training, and limits on civil liability. The bill sets out the behavior analyst board's general powers and duties and requires the behavior analyst board, subject to the advice and approval of the medical board, to adopt rules to carry out the behavior analyst board's duties in administering the bill's provisions and to establish standards of conduct and adopt a code of professional ethics for license holders. The bill requires the medical board to provide administrative and clerical employees as necessary to enable the behavior analyst board

to administer the bill's provisions and requires the behavior analyst board, subject to the advice and approval of the medical board, to develop and implement policies that clearly separate the policy-making responsibilities of the behavior analyst board and the management responsibilities of the executive director and the staff of the medical board. The bill requires the behavior analyst board, with the advice and approval of the medical board, to set fees by rule in amounts reasonable and necessary to cover the costs of administering the bill's provisions. The bill specifies that funds for the administration of the bill's provisions may be appropriated only from fees collected under those provisions.

C.S.H.B. 2703 prohibits the behavior analyst board and the medical board from adopting rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices and places certain restrictions on the rules prohibiting such practices. The bill requires the behavior analyst board to adopt rules necessary to comply with statutory provisions relating to consequences of a criminal conviction and requires the rules to list the specific offenses for which a conviction would constitute grounds for the behavior analyst board to take action to revoke, suspend, or deny a license. The bill requires the behavior analyst board to annually prepare a registry of all license holders and to make the registry available to the public, license holders, and other state agencies. The bill sets out provisions relating to the behavior analyst board's duties regarding complaint filing procedures, the implementation of a technology policy, and the development and implementation of a negotiated rulemaking and alternative dispute resolution policy.

C.S.H.B. 2703 sets out provisions relating to the behavior analyst board's duty to make certain public interest information available, to establish methods by which service recipients are notified of the behavior analyst board's contact information for purposes of directing complaints to the behavior analyst board, to maintain a system to promptly and efficiently act on complaints filed with the behavior analyst board, to maintain certain information about complaints, to make information available describing the procedures for complaint investigation and resolution, to periodically notify complaint parties of the complaint's status, and to analyze filed complaints to identify any trends or issues related to certain violations. The bill requires the behavior analyst board to adopt rules concerning the investigation of a complaint filed with the behavior analyst board and provides for the confidentiality and disclosure of a complaint and investigation concerning a license holder. The bill requires the behavior analyst board to develop and implement policies relating to public participation and to prepare and maintain a certain written plan regarding participation by a person who does not speak English. The bill sets out provisions relating to the behavior analyst board's authority to issue subpoenas.

C.S.H.B. 2703, effective June 1, 2016, prohibits a person from engaging in the practice of applied behavior analysis, using the titles "licensed behavior analyst" or "licensed assistant behavior analyst," as appropriate, or, with certain exceptions, using the title "behavior analyst" unless the person holds a license under the bill's provisions. The bill requires each applicant for a behavior analyst license to submit an application and the required fees to the behavior analyst board and requires the application to include sufficient evidence that the applicant is of good moral character and has successfully completed a state-approved criminal background check. The bill sets out the eligibility requirements for a person to be licensed as a behavior analyst or an assistant behavior analyst and provides for the issuance of such licenses and for the issuance of temporary licenses. The bill sets out provisions relating to reciprocity for persons licensed as a behavior analyst or as an assistant behavior analyst from another state or jurisdiction and provides for the placement of a license on inactive or retirement status. The bill establishes that a license issued under the bill's provisions expires on the second anniversary of the date of issuance and authorizes the behavior analyst board by rule to adopt a system under which licenses expire on various dates during the year. The bill provides for the methods by which a license may be renewed before the license expires.

C.S.H.B. 2703, effective June 1, 2016, sets out provisions relating to the grounds for the denial of a license and disciplinary action against a license holder, conditions for a license holder on

probation, the establishment of rules governing informal proceedings, a license holder's entitlement to a hearing before the State Office of Administrative Hearings, the adoption and use of a schedule of sanctions for violations of the bill's provisions, and the emergency suspension of a license. The bill authorizes the behavior analyst board or the attorney general to institute a proceeding to enforce the bill's provisions, requires the behavior analyst board by rule to develop a system for monitoring a license holder's compliance with the bill's provisions, and sets out procedures for imposing administrative penalties against a license holder who violates the bill's provisions or a rule or order adopted under those provisions. The bill makes a person found by a court to have violated the bill's provisions liable to the state for a civil penalty of \$200 for each day the violation continues and authorizes the penalty to be recovered in a suit brought by the attorney general, a district attorney, or a county attorney. The bill makes it a Class A misdemeanor offense to knowingly violate the bill's provisions and specifies that each day of violation constitutes a separate offense.

C.S.H.B. 2703 requires the governor to appoint nine members to the behavior analyst board as soon as practicable after the bill's effective date and provides for the staggered terms of those members. The bill requires the behavior analyst board, not later than January 1, 2016, to adopt the rules, procedures, and fees necessary to administer the bill's provisions. The bill establishes that a behavior analyst or assistant behavior analyst is not required to hold a license to practice as a licensed behavior analyst or licensed assistant behavior analyst in Texas before June 1, 2016.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2703 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subtitle I, Title 3, Occupations Code, is amended by adding Chapter 506 to read as follows:

CHAPTER 506. BEHAVIOR ANALYSTS SUBCHAPTER A. GENERAL PROVISIONS

Sec. 506.001. SHORT TITLE.

Sec. 506.002. DEFINITIONS. In this chapter:

(1) "Board" means the Texas Board of Behavior Analyst Examiners.

(2) "Certifying entity" means the nationally accredited Behavior Analyst Certification Board or another entity that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute to issue credentials in the professional practice of applied behavior

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Substantially the same as introduced version, except as follows:

CHAPTER 506. BEHAVIOR ANALYSTS SUBCHAPTER A. GENERAL PROVISIONS

Sec. 506.001. SHORT TITLE.

Sec. 506.002. DEFINITIONS. In this chapter:

(1) "Behavior analyst board" means the Texas Board of Behavior Analyst Examiners.

(2) "Certifying entity" means the nationally accredited Behavior Analyst Certification Board or another entity that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute to issue credentials in the professional practice of applied behavior

analysis and approved by the board.

(3) "License holder" means a person licensed under this chapter.

(4) "Licensed assistant behavior analyst" means a person who is certified by the certifying entity as a Board Certified Assistant Behavior Analyst or who has an equivalent certification issued by the certifying entity and who meets the requirements specified by Sections 506.252 and 506.254.

(5) "Licensed behavior analyst" means a person who is certified by the certifying entity as a Board Certified Behavior Analyst or Board Certified Behavior Analyst--Doctoral or who has an equivalent certification issued by the certifying entity and who meets the requirements specified by Sections 506.252 and 506.253.

Sec. 506.003. PRACTICE OF APPLIED BEHAVIOR ANALYSIS. (a) The practice of applied behavior analysis is the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior.

(b) The practice of applied behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment or functional analysis.

(c) Applied behavior analysis interventions:

(1) are based on scientific research and the direct observation and measurement of behavior and environment; and

(2) use contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other procedures to help individuals develop new behaviors, increase or decrease existing behaviors, and elicit or evoke behaviors under specific environmental conditions.

(d) The practice of applied behavior analysis does not include psychological testing, psychotherapy, cognitive therapy, psychoanalysis, hypnotherapy, or counseling as treatment modalities.

analysis and approved by the behavior analyst board.

(3) "Executive director" means the executive director of the medical board.

(4) "License holder" means a person licensed under this chapter.

(5) "Licensed assistant behavior analyst" means a person who is certified by the certifying entity as a Board Certified Assistant Behavior Analyst or who has an equivalent certification issued by the certifying entity and who meets the requirements specified by Sections 506.252 and 506.254.

(6) "Licensed behavior analyst" means a person who is certified by the certifying entity as a Board Certified Behavior Analyst or Board Certified Behavior Analyst--Doctoral or who has an equivalent certification issued by the certifying entity and who meets the requirements specified by Sections 506.252 and 506.253.

(7) "Medical board" means the Texas Medical Board.

(8) "Physician" means a person licensed to practice medicine by the medical board.

Sec. 506.003. PRACTICE OF APPLIED BEHAVIOR ANALYSIS. (a) The practice of applied behavior analysis is the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior.

(b) The practice of applied behavior analysis includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment or functional analysis.

(c) Applied behavior analysis interventions:

(1) are based on scientific research and the direct observation and measurement of behavior and environment; and

(2) use contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other procedures to help individuals develop new behaviors, increase or decrease existing behaviors, and elicit or evoke behaviors under specific environmental conditions.

(d) The practice of applied behavior analysis does not include:

(1) psychological testing, psychotherapy, cognitive therapy, psychoanalysis, hypnotherapy, or counseling as treatment

modalities; or
(2) the diagnosis of disorders.

No equivalent provision.

Sec. 506.004. APPLICATION OF SUNSET ACT. The Texas Board of Behavior Analyst Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2027.

SUBCHAPTER B. APPLICATION OF CHAPTER; USE OF TITLE

Sec. 506.051. LICENSED PSYCHOLOGISTS.

Sec. 506.052. OTHER LICENSED PROFESSIONALS.

Sec. 506.053. FAMILY MEMBERS AND GUARDIANS.

Sec. 506.054. PARAPROFESSIONALS.

Sec. 506.055. STUDENTS, INTERNS, AND FELLOWS.

Sec. 506.056. SUPERVISED EXPERIENCE.

Sec. 506.057. TEMPORARY SERVICES OF BEHAVIOR ANALYST FROM ANOTHER STATE.

Sec. 506.058. TEACHER OR EMPLOYEE OF SCHOOL DISTRICT.

Sec. 506.059. USE OF TITLE "BEHAVIOR ANALYST."

SUBCHAPTER C. TEXAS BOARD OF BEHAVIOR ANALYST EXAMINERS

Sec. 506.101. BOARD MEMBERSHIP. (a) The board is composed of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) four licensed behavior analysts, at least one of whom must be certified as a Board Certified Behavior Analyst--Doctoral, or hold an equivalent certification issued by the certifying entity;

SUBCHAPTER B. APPLICATION OF CHAPTER; USE OF TITLE

Sec. 506.051. LICENSED PSYCHOLOGISTS.

Sec. 506.052. OTHER LICENSED PROFESSIONALS.

Sec. 506.053. FAMILY MEMBERS AND GUARDIANS.

Sec. 506.054. PARAPROFESSIONALS.

Sec. 506.055. STUDENTS, INTERNS, AND FELLOWS.

Sec. 506.056. SUPERVISED EXPERIENCE.

Sec. 506.057. TEMPORARY SERVICES OF BEHAVIOR ANALYST FROM ANOTHER STATE.

Sec. 506.058. TEACHER OR EMPLOYEE OF SCHOOL DISTRICT.

Sec. 506.059. USE OF TITLE "BEHAVIOR ANALYST."

SUBCHAPTER C. TEXAS BOARD OF BEHAVIOR ANALYST EXAMINERS

Sec. 506.101. BOARD MEMBERSHIP. (a) The behavior analyst board is composed of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) four licensed behavior analysts, at least one of whom must be certified as a Board Certified Behavior Analyst--Doctoral, or hold an equivalent certification issued by the certifying entity;

(2) two licensed assistant behavior analysts; and

(3) three members who represent the public and who are either former recipients of applied behavior analysis services or the parent or guardian of a current or former recipient of applied behavior analysis services.

(b) To be qualified for appointment under Subsection (a)(1), a person must have at least five years of experience as a licensed behavior analyst after being certified by the certifying entity.

(c) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 506.102. ELIGIBILITY OF PUBLIC MEMBERS. A person is not eligible for appointment as a public member of the board if:

(1) the person is registered, certified, or licensed by an occupational regulatory agency in the field of mental health;

(2) the person's spouse is registered, certified, or licensed by an occupational regulatory agency in the field of mental health; or

(3) the person or the person's spouse:

(A) is employed by or participates in the management of a business entity or other organization receiving funds from the board;

(B) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the board; or

(C) uses or receives a substantial amount of funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Sec. 506.103. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist

(2) one licensed assistant behavior analyst;

(3) one physician who has experience providing mental health or behavioral health services; and

(4) three members who represent the public and who are either former recipients of applied behavior analysis services or the parent or guardian of a current or former recipient of applied behavior analysis services.

(b) To be qualified for appointment under Subsection (a)(1), a person must have at least five years of experience as a licensed behavior analyst after being certified by the certifying entity.

(c) Appointments to the behavior analyst board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 506.102. ELIGIBILITY OF PUBLIC MEMBERS. A person is not eligible for appointment as a public member of the behavior analyst board if:

(1) the person is registered, certified, or licensed by an occupational regulatory agency in the field of mental health;

(2) the person's spouse is registered, certified, or licensed by an occupational regulatory agency in the field of mental health; or

(3) the person or the person's spouse:

(A) is employed by or participates in the management of a business entity or other organization receiving funds from the medical board or the behavior analyst board;

(B) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the medical board or the behavior analyst board; or

(C) uses or receives a substantial amount of funds from the medical board or the behavior analyst board, other than compensation or reimbursement authorized by law for medical board or behavior analyst board membership, attendance, or expenses.

Sec. 506.103. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist

its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be an employee of the board employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, manager, or paid consultant of a Texas trade association in the field of mental health; or

(2) the person's spouse is an officer, employee, manager, or paid consultant of a Texas trade association in the field of mental health.

(c) A person may not be a member of the board or act as general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 506.104. TERMS; VACANCY.

Sec. 506.105. OFFICERS.

Sec. 506.106. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualifications required by Section 506.101;

(2) does not maintain during service on the board the qualifications required by Section 506.101;

(3) is ineligible for membership under Sections 506.102 or 506.103;

(4) cannot, because of illness or disability, complete the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the behavior analyst board and may not be an employee of the medical board or the behavior analyst board employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, manager, or paid consultant of a Texas trade association in the field of mental health; or

(2) the person's spouse is an officer, employee, manager, or paid consultant of a Texas trade association in the field of mental health.

(c) A person may not be a member of the behavior analyst board or act as general counsel to the medical board or the behavior analyst board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the behavior analyst board.

Sec. 506.104. TERMS; VACANCY.

Sec. 506.105. OFFICERS.

Sec. 506.106. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the behavior analyst board that a member:

(1) does not have at the time of taking office the qualifications required by Section 506.101;

(2) does not maintain during service on the behavior analyst board the qualifications required by Section 506.101;

(3) is ineligible for membership under Sections 506.102 or 506.103;

(4) cannot, because of illness or disability, complete the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled behavior analyst board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the

(b) The validity of an action of the board is not affected by the fact that the action is taken when a ground for removal of a member exists.

(c) If the executive director of the board or a board member has knowledge that a potential ground for removal exists, the executive director or board member shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director or board member shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 506.107. COMPENSATION; REIMBURSEMENT.

Sec. 506.108. MEETINGS.

Sec. 506.109. TRAINING PROGRAM FOR MEMBERS.

Sec. 506.110. CIVIL LIABILITY.

SUBCHAPTER D. POWERS AND DUTIES OF THE BOARD

Sec. 506.151. GENERAL POWERS AND DUTIES. The board shall:

- (1) administer and enforce this chapter;
- (2) determine the qualifications and fitness of an applicant for a license, license renewal, or temporary license;
- (3) establish standards of conduct and adopt a code of professional ethics for license holders;
- (4) hire staff as necessary and as the budget allows; and
- (5) ensure strict compliance with and enforcement of this chapter.

behavior analyst board.

(b) The validity of an action of the behavior analyst board is not affected by the fact that the action is taken when a ground for removal of a member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the behavior analyst board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the behavior analyst board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 506.107. COMPENSATION; REIMBURSEMENT.

Sec. 506.108. MEETINGS.

Sec. 506.109. TRAINING PROGRAM FOR MEMBERS.

Sec. 506.110. CIVIL LIABILITY.

SUBCHAPTER D. POWERS AND DUTIES OF BEHAVIOR ANALYST BOARD AND MEDICAL BOARD

Sec. 506.151. GENERAL POWERS AND DUTIES OF BEHAVIOR ANALYST BOARD. (a) Subject to the advice and approval of the medical board, the behavior analyst board shall:

- (1) adopt rules consistent with this chapter to carry out the behavior analyst board's duties in administering this chapter; and
 - (2) establish standards of conduct and adopt a code of professional ethics for license holders.
- (b) The behavior analyst board shall:
- (1) administer and enforce this chapter;
 - (2) determine the qualifications and fitness of each applicant for a license, license renewal, or temporary license and review and approve or reject each application for the issuance or renewal of a license;
 - (3) issue each license;
 - (4) deny, suspend, or revoke a license or

otherwise discipline a license holder; and
(5) ensure strict compliance with and enforcement of this chapter.

(See Section 506.151(a)(1) above.)

Sec. 506.152. RULES. The board shall adopt rules consistent with this chapter to carry out the board's duties in administering this chapter.

No equivalent provision.

Sec. 506.152. ASSISTANCE BY MEDICAL BOARD. (a) The medical board shall provide administrative and clerical employees as necessary to enable the behavior analyst board to administer this chapter.

(b) Subject to the advice and approval of the medical board, the behavior analyst board shall develop and implement policies that clearly separate the policy-making responsibilities of the behavior analyst board and the management responsibilities of the executive director and the staff of the medical board.

Sec. 506.153. FEES. (a) The board by rule shall set fees in amounts reasonable and necessary to cover the costs of administering this chapter.

(b) Funds to administer this chapter may be appropriated only from fees collected under this chapter.

Sec. 506.153. FEES. (a) The behavior analyst board, with the advice and approval of the medical board, by rule shall set fees in amounts reasonable and necessary to cover the costs of administering this chapter.

(b) Funds to administer this chapter may be appropriated only from fees collected under this chapter.

Sec. 506.154. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The board may not adopt rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices.

(b) The board may not include in rules to prohibit false, misleading, or deceptive practices by a license holder a rule that:

- (1) restricts the license holder's use of any advertising medium;
- (2) restricts the license holder's personal appearance or use of the license holder's voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the license holder; or
- (4) restricts the license holder's advertisement under a trade name.

Sec. 506.154. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The medical board or behavior analyst board may not adopt rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices.

(b) The medical board or behavior analyst board may not include in rules to prohibit false, misleading, or deceptive practices by a license holder a rule that:

- (1) restricts the license holder's use of any advertising medium;
- (2) restricts the license holder's personal appearance or use of the license holder's voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the license holder; or
- (4) restricts the license holder's advertisement under a trade name.

Sec. 506.155. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.

Sec. 506.156. ANNUAL REGISTRY.

Sec. 506.157. BOARD DUTIES REGARDING COMPLAINTS.

Sec. 506.158. USE OF TECHNOLOGY. The board shall implement a policy requiring the board to use appropriate technological solutions to improve the board's ability to perform the board's functions. The policy must ensure that the public is able to interact with the board on the Internet.

Sec. 506.159. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the

Sec. 506.155. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.

Sec. 506.156. ANNUAL REGISTRY.

Sec. 506.157. BEHAVIOR ANALYST BOARD DUTIES REGARDING COMPLAINTS.

Sec. 506.158. USE OF TECHNOLOGY. Subject to the advice and approval of the medical board, the behavior analyst board shall implement a policy requiring the behavior analyst board to use appropriate technological solutions to improve the behavior analyst board's ability to perform the behavior analyst board's functions. The policy must ensure that the public is able to interact with the behavior analyst board on the Internet.

Sec. 506.159. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) Subject to the advice and approval of the medical board, the behavior analyst board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of behavior analyst board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the behavior analyst board's jurisdiction.

(b) The behavior analyst board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The behavior analyst board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the

board.

SUBCHAPTER E. PUBLIC INTEREST
INFORMATION
AND COMPLAINT PROCEDURES

Sec. 506.201. PUBLIC INTEREST
INFORMATION.

Sec. 506.202. COMPLAINTS.

Sec. 506.203. INFORMATION ABOUT
COMPLAINT ACTIONS.

Sec. 506.204. GENERAL RULES
REGARDING COMPLAINT
INVESTIGATION AND DISPOSITION.

Sec. 506.205. CONFIDENTIALITY OF
COMPLAINT INFORMATION.

Sec. 506.206. PUBLIC PARTICIPATION.

Sec. 506.207. SUBPOENAS.

SUBCHAPTER F. LICENSE
REQUIREMENTS

Sec. 506.251. LICENSE REQUIRED.

Sec. 506.252. LICENSE APPLICATION.

Sec. 506.253. REQUIREMENTS FOR
LICENSED BEHAVIOR ANALYST.

Sec. 506.254. REQUIREMENTS FOR
LICENSED ASSISTANT BEHAVIOR
ANALYST.

Sec. 506.255. ISSUANCE OF LICENSE.

Sec. 506.256. TEMPORARY LICENSE.

Sec. 506.257. RECIPROCITY.

Sec. 506.258. INACTIVE STATUS.

Sec. 506.259. RETIREMENT STATUS.

SUBCHAPTER G. LICENSE RENEWAL

Sec. 506.301. LICENSE EXPIRATION.

Sec. 506.302. LICENSE RENEWAL.

behavior analyst board.

SUBCHAPTER E. PUBLIC INTEREST
INFORMATION
AND COMPLAINT PROCEDURES

Sec. 506.201. PUBLIC INTEREST
INFORMATION.

Sec. 506.202. COMPLAINTS.

Sec. 506.203. INFORMATION ABOUT
COMPLAINT ACTIONS.

Sec. 506.204. GENERAL RULES
REGARDING COMPLAINT
INVESTIGATION AND DISPOSITION.

Sec. 506.205. CONFIDENTIALITY OF
COMPLAINT INFORMATION.

Sec. 506.206. PUBLIC PARTICIPATION.

Sec. 506.207. SUBPOENAS.

SUBCHAPTER F. LICENSE
REQUIREMENTS

Sec. 506.251. LICENSE REQUIRED.

Sec. 506.252. LICENSE APPLICATION.

Sec. 506.253. REQUIREMENTS FOR
LICENSED BEHAVIOR ANALYST.

Sec. 506.254. REQUIREMENTS FOR
LICENSED ASSISTANT BEHAVIOR
ANALYST.

Sec. 506.255. ISSUANCE OF LICENSE.

Sec. 506.256. TEMPORARY LICENSE.

Sec. 506.257. RECIPROCITY.

Sec. 506.258. INACTIVE STATUS.

Sec. 506.259. RETIREMENT STATUS.

SUBCHAPTER G. LICENSE RENEWAL

Sec. 506.301. LICENSE EXPIRATION.

Sec. 506.302. LICENSE RENEWAL.

SUBCHAPTER H. LICENSE DENIAL AND DISCIPLINARY PROCEDURES

Sec. 506.351. GROUNDS FOR LICENSE DENIAL AND DISCIPLINARY ACTION.

Sec. 506.352. PROBATION.

Sec. 506.353. INFORMAL PROCEEDINGS. (a) The board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) an informal proceeding held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under this section must:

(1) provide the complainant and the license holder with an opportunity to be heard; and

(2) require the presence of a member of the board's legal staff, if the board has a legal staff, or, if the board does not have a legal staff, an attorney employed by the attorney general to advise the board or the board's employees.

Sec. 506.354. HEARING.

Sec. 506.355. SCHEDULE OF SANCTIONS.

Sec. 506.356. EMERGENCY SUSPENSION.

SUBCHAPTER I. PENALTIES AND ENFORCEMENT PROCEDURES

Sec. 506.401. INJUNCTIVE RELIEF.

Sec. 506.402. MONITORING OF LICENSE HOLDER.

Sec. 506.403. ADMINISTRATIVE PENALTY.

Sec. 506.404. CIVIL PENALTY.

Sec. 506.405. CRIMINAL OFFENSE.

SECTION 2. As soon as practicable after the effective date of this Act, the governor

SUBCHAPTER H. LICENSE DENIAL AND DISCIPLINARY PROCEDURES

Sec. 506.351. GROUNDS FOR LICENSE DENIAL AND DISCIPLINARY ACTION.

Sec. 506.352. PROBATION.

Sec. 506.353. INFORMAL PROCEEDINGS. (a) The behavior analyst board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) an informal proceeding held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under this section must:

(1) provide the complainant and the license holder with an opportunity to be heard; and

(2) require the presence of a member of the behavior analyst board's or medical board's legal staff to advise the behavior analyst board or medical board or the behavior analyst board's or medical board's employees.

Sec. 506.354. HEARING.

Sec. 506.355. SCHEDULE OF SANCTIONS.

Sec. 506.356. EMERGENCY SUSPENSION.

SUBCHAPTER I. PENALTIES AND ENFORCEMENT PROCEDURES

Sec. 506.401. INJUNCTIVE RELIEF.

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Sec. 506.403. ADMINISTRATIVE PENALTY.

Sec. 506.404. CIVIL PENALTY.

Sec. 506.405. CRIMINAL OFFENSE.

SECTION 2. Same as introduced version.

shall appoint nine members to the Texas Board of Behavior Analyst Examiners in accordance with Chapter 506, Occupations Code, as added by this Act. In making the initial appointments, the governor shall designate three members for terms expiring February 1, 2017, three members for terms expiring February 1, 2019, and three members for terms expiring February 1, 2021.

SECTION 3. Not later than January 1, 2016, the Texas Board of Behavior Analyst Examiners shall adopt the rules, procedures, and fees necessary to administer Chapter 506, Occupations Code, as added by this Act.

SECTION 4. Notwithstanding Chapter 506, Occupations Code, as added by this Act, a behavior analyst or assistant behavior analyst is not required to hold a license under that chapter to practice as a licensed behavior analyst or licensed assistant behavior analyst in this state before June 1, 2016.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2015.
(b) Section 506.251, Occupations Code, and Subchapter H, Chapter 506, Occupations Code, as added by this Act, take effect June 1, 2016.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.