

1 SB13
2 149922-6
3 By Senator Ward
4 RFD: Children, Youth Affairs, and Human Resources
5 First Read: 14-JAN-14
6 PFD: 08/07/2013

1 SB13

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4 ENROLLED, An Act,

5 To establish the Alabama Behavior Analyst Licensing
6 Board within the Division of Developmental Disabilities of the
7 Alabama Department of Mental Health; to authorize the board to
8 regulate the practice of behavior analyst professionals in the
9 state; to provide exemptions from licensure and regulation; to
10 provide for the membership, terms of office, powers, and
11 duties of the board; to provide for reciprocity; and to
12 designate the board as an enumerated agency under the Alabama
13 Sunset Law.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. For the purposes of this act, the
16 following terms shall have the following meanings:

17 (1) APPLIED BEHAVIOR ANALYSIS DIRECT CONTACT
18 TECHNICIAN. An individual who directly implements applied
19 behavior analysis services.

20 (2) BOARD. The Alabama Behavior Analyst Licensing
21 Board charged with overseeing the regulation of behavior
22 analyst professionals.

23 (3) CERTIFYING ENTITY. The nationally accredited
24 Behavior Analyst Certification Board, Incorporated.

1 (4) LICENSED ASSISTANT BEHAVIOR ANALYST. An
2 individual who is certified by the certifying entity as a
3 board certified assistant behavior analyst and who satisfies
4 the criteria identified in Section 4.

5 (5) LICENSED BEHAVIOR ANALYST. An individual who is
6 certified by the certifying entity as a board certified
7 behavior analyst and who satisfies the criteria identified in
8 Section 4.

9 (6) PRACTICE OF BEHAVIOR ANALYSIS. The design,
10 implementation, and evaluation of instructional and
11 environmental modifications to produce socially significant
12 improvements in human behavior.

13 a. The practice of behavior analysis includes all of
14 the following:

15 1. The empirical identification of functional
16 relations between behavior and environmental factors, known as
17 functional assessment and analysis.

18 2. Interventions based on scientific research and
19 the direct observation and measurement of behavior and
20 environment, which utilize contextual factors, establishing
21 operations, antecedent stimuli, positive reinforcement, and
22 other consequences to help individuals develop new behaviors,
23 increase or decrease existing behaviors, and elicit behaviors
24 under specific environmental conditions.

1 b. The practice of behavior analysis does not
2 include psychological testing, psychotherapy, cognitive
3 therapy, sex therapy, psychoanalysis or hypnotherapy, or
4 long-term counseling as treatment modalities.

5 c. The practice of behavior analysis does not
6 include preventing or alleviating or curing of diseases or
7 injuries.

8 d. Nothing in this act shall be construed as
9 permitting or allowing a licensed behavior analyst to
10 prescribe or administer any drug, make a medical diagnosis,
11 provide medical treatment, or manage a medical condition. A
12 licensed behavior analyst may not attempt to diagnose,
13 prescribe for, treat, or advise a client with reference to any
14 problem, complaint, or condition falling outside the
15 boundaries of behavior analysis.

16 Section 2. (a) The unlicensed practice of behavior
17 analysis is prohibited in this state, unless exempted in
18 subsection (c).

19 (b) No person shall hold himself or herself out to
20 be a licensed behavior analyst or licensed assistant behavior
21 analyst unless he or she satisfies the applicable requirements
22 of this act.

23 (c) This act may not be construed as prohibiting or
24 restricting the practice of any of the following:

1 (1) An individual authorized to practice psychology
2 within the state.

3 (2) An applied behavior analysis direct contact
4 technician, or family member implementing a behavior analysis
5 plan within the home or other environment in which the person
6 is located, who acts under the extended authority and
7 direction of a licensed behavior analyst or a licensed
8 assistant behavior analyst.

9 (3) A behavior analyst who practices with nonhuman
10 or nonpatient clients or consumers including, but not limited
11 to, applied animal behaviorists and practitioners of
12 organizational behavior management.

13 (4) A licensed physician who is practicing medicine.

14 (5) A licensed professional authorized to practice
15 in the state who is not a behavior analyst, so long as the
16 licensed professional does not represent that he or she is a
17 behavior analyst, and so long as the services of the licensed
18 professional are within the scope of practice of the licensing
19 law governing the licensed professional and the services
20 performed are commensurate with the education, training, and
21 experience of the licensed professional.

22 (6) A matriculated graduate student or postdoctoral
23 fellow whose activities are part of a defined behavior
24 analysis program of study, practicum, or intensive practicum,
25 provided that the practice under this exemption is directly

1 supervised by a licensed behavior analyst in this state or an
2 instructor in a course sequence approved by the certifying
3 entity.

4 (7) An unlicensed individual pursuing experience in
5 behavior analysis consistent with the experience requirements
6 of the certifying entity, provided such experience is
7 supervised by a licensed behavior analyst in this state.

8 (d) A violation of this section shall be punishable
9 by a fine of not more than one thousand dollars (\$1,000) or
10 the suspension or revocation of a license issued pursuant to
11 this act, or both fine and loss of licensure.

12 Section 3. (a) The Alabama Behavior Analyst
13 Licensing Board shall consist of seven members, including four
14 licensed behavior analysts, one licensed psychologist in the
15 state, one parent or legal guardian of a person being treated
16 for a behavior disorder, or a person who has received services
17 from a licensed behavior analyst, and one public member, who,
18 except for the initial members, shall be appointed by the
19 Governor, as provided in subsection (b). The membership of the
20 board shall be inclusive and reflect the racial, gender,
21 geographic, urban/rural, and economic diversity of the state.
22 Each member shall serve a three-year term, with initial terms
23 being staggered so that one member serves an initial term of
24 one year, three members serve initial terms of two years, and
25 three members serve initial terms of three years, as provided

1 by the Commissioner of the Department of Mental Health. The
2 public member shall be a person who is not and never was a
3 member of any profession licensed or regulated under this act,
4 or the spouse of such person, and a person who does not have
5 and never has had a material interest in the practice of
6 behavior analysis.

7 (b) The initial members of the board shall be
8 appointed by the Commissioner of the Department of Mental
9 Health upon recommendations submitted by the Alabama
10 Association for Behavior Analysis, the Alabama Interagency
11 Autism Coordinating Council, the Department of Mental Health,
12 and any other group determined appropriate by the
13 commissioner. Subsequent appointments shall be appointed by
14 the Governor upon recommendations submitted by the board.

15 (c) Any vacancy occurring other than by expiration
16 of terms shall be filled for the remainder of the unexpired
17 term by appointment by the Governor, upon recommendation of
18 the board.

19 (d) No member shall serve more than two successive
20 three-year terms.

21 (e) A member shall serve until a successor is
22 appointed and assumes office.

23 (f) Members shall be paid out of the funds of the
24 board the same per diem as prescribed by law for state
25 employees for each day of attendance of board business.

1 (g) The board shall meet at least twice annually and
2 may meet at such other times as necessary, at the call of the
3 chair or by a majority of the members, to complete the
4 business required.

5 (h) The board shall promulgate rules and establish
6 fees necessary to implement this act.

7 (i) The board shall investigate all complaints
8 relating to the practice of behavior analysis by any licensed
9 behavior analyst, licensed assistant behavior analyst, or any
10 person alleged to be practicing or providing supervision
11 without a state license.

12 (j) Four members of the board shall constitute a
13 quorum.

14 (k) The board shall elect a chair from among its
15 membership on an annual basis.

16 Section 4. Each person desiring to obtain a license
17 shall submit an application and authorized fees to the board.
18 The application shall include evidence demonstrating that the
19 applicant satisfies all of the following requirements:

20 (1) Is of good moral character and conducts his or
21 her professional activities in accordance with accepted
22 professional and ethical standards, including:

23 a. Compliance with the professional disciplinary and
24 ethical standards and the guidelines for responsible conduct
25 for behavior analysts of the certifying agency.

1 b. Completion of a state-approved criminal
2 background check.

3 (2) In addition to satisfying the requirements of
4 subdivision (1), a licensed behavior analyst applicant shall
5 also maintain active status as a board certified behavior
6 analyst, as required by the certifying entity, following
7 passage of the board certified behavior analyst examination.

8 (3) In addition to satisfying the requirements of
9 subdivision (1), a licensed assistant behavior analyst
10 applicant shall also do all of the following:

11 a. Maintain active status as a board certified
12 assistant behavior analyst, as required by the certifying
13 entity, following passage of the board certified assistant
14 behavior analyst examination.

15 b. Provide proof of ongoing supervision by a
16 licensed behavior analyst who is a current board certified
17 behavior analyst in a manner consistent with the requirements
18 of the certifying entity for supervision of board certified
19 assistant behavior analysts.

20 Section 5. A licensed or unlicensed board certified
21 behavior analyst or board certified assistant behavior analyst
22 residing and practicing in another state who temporarily
23 provides behavior analysis services in this state or to a
24 resident of this state, or both, may apply for a temporary
25 license to practice behavior analysis in this state. A

1 temporary license is available only if the behavior analysis
2 services are to be delivered during a limited and defined
3 period, as defined by board rule.

4 Section 6. The board shall issue a license to a
5 person who is actively licensed as a behavior analyst in
6 another state that currently imposes comparable licensure
7 requirements as those imposed in this state and that offers
8 reciprocity to individuals licensed under this act. An
9 applicant for reciprocity shall submit proof of ethical
10 compliance, including proof of current licensure and current
11 certifying board certification, along with any other
12 eligibility requirements, such as satisfactory passage of a
13 criminal background check.

14 Section 7. A license shall be granted for a period
15 of two years. Before the expiration of a license, the license
16 may be renewed upon submission of an application for renewal,
17 including proof of continued certification by the certifying
18 entity and payment of the renewal fee imposed by the board.

19 Section 8. The board is subject to the Alabama
20 Sunset Law of 1981, and is classified as an enumerated agency
21 pursuant to Section 41-20-3, Code of Alabama 1975. The board
22 shall automatically terminate on October 1, 2016, and every
23 four years thereafter, unless a bill is passed that the board
24 be continued, modified, or reestablished.

1 Section 9. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB13
Senate 28-JAN-14
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Amended and passed 06-MAR-14

Senate concurred in House amendment 06-MAR-14

By: Senator Ward