

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

2
3
4
5
6
7
8 SYNOPSIS: This bill would establish the Alabama
9 Behavior Analyst Licensing Board within the
10 Division of Developmental Disabilities of the
11 Alabama Department of Mental Health.

12 This bill would authorize the board to
13 regulate the practice of behavior analyst
14 professionals in the state.

15 This bill would provide for exemptions from
16 board licensure and regulation.

17 This bill would provide for the membership,
18 terms of office, powers, and duties of the board.

19 This bill would provide for reciprocity.

20 This bill would also designate the board as
21 an enumerated agency under the Alabama Sunset Law.

22
23 A BILL

24 TO BE ENTITLED

25 AN ACT

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

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 (1) APPLIED BEHAVIOR ANALYSIS DIRECT CONTACT
14 TECHNICIAN. An individual who directly implements applied
15 behavior analysis services.

16 (2) BOARD. The Alabama Behavior Analyst Licensing
17 Board charged with overseeing the regulation of behavior
18 analyst professionals.

19 (3) CERTIFYING ENTITY. The nationally accredited
20 Behavior Analyst Certification Board, Incorporated.

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

25 (5) LICENSED BEHAVIOR ANALYST. An individual who is
26 certified by the certifying entity as a board certified

1 behavior analyst and who satisfies the criteria identified in
2 Section 4.

3 (6) PRACTICE OF BEHAVIOR ANALYSIS. The design,
4 implementation, and evaluation of instructional and
5 environmental modifications to produce socially significant
6 improvements in human behavior.

7 a. The practice of behavior analysis includes all of
8 the following:

9 1. The empirical identification of functional
10 relations between behavior and environmental factors, known as
11 functional assessment and analysis.

12 2. Interventions based on scientific research and
13 the direct observation and measurement of behavior and
14 environment, which utilize contextual factors, establishing
15 operations, antecedent stimuli, positive reinforcement, and
16 other consequences to help individuals develop new behaviors,
17 increase or decrease existing behaviors, and elicit behaviors
18 under specific environmental conditions.

19 b. The practice of behavior analysis does not
20 include psychological testing, psychotherapy, cognitive
21 therapy, sex therapy, psychoanalysis or hypnotherapy, or
22 long-term counseling as treatment modalities.

23 c. The practice of behavior analysis does not
24 include preventing or alleviating or curing of diseases or
25 injuries.

26 d. Nothing in this act shall be construed as
27 permitting or allowing a licensed behavior analyst to

1 prescribe or administer any drug, make a medical diagnosis,
2 provide medical treatment, or manage a medical condition. A
3 licensed behavior analyst may not attempt to diagnose,
4 prescribe for, treat, or advise a client with reference to any
5 problem, complaint, or condition falling outside the
6 boundaries of behavior analysis.

7 Section 2. (a) The unlicensed practice of behavior
8 analysis is prohibited in this state, unless exempted in
9 subsection (c).

10 (b) No person shall hold himself or herself out to
11 be a licensed behavior analyst or licensed assistant behavior
12 analyst unless he or she satisfies the applicable requirements
13 of this act.

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

16 (1) An individual authorized to practice psychology
17 within the state, so long as the practice of behavior analysis
18 by the licensed psychologist is within the education,
19 training, and experience of the licensed psychologist.

20 (2) An applied behavior analysis direct contact
21 technician, or family member implementing a behavior analysis
22 plan within the home or other environment in which the person
23 is located, who acts under the extended authority and
24 direction of a licensed behavior analyst or a licensed
25 assistant behavior analyst.

26 (3) A behavior analyst who practices with nonhuman
27 or nonpatient clients or consumers including, but not limited

1 to, applied animal behaviorists and practitioners of
2 organizational behavior management.

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

4 (5) A licensed professional authorized to practice
5 in the state who is not a behavior analyst, so long as the
6 licensed professional does not represent that he or she is a
7 behavior analyst, and so long as the services of the licensed
8 professional are within the scope of practice of the licensing
9 law governing the licensed professional and the services
10 performed are commensurate with the education, training, and
11 experience of the licensed professional.

12 (6) A matriculated graduate student or postdoctoral
13 fellow whose activities are part of a defined behavior
14 analysis program of study, practicum, or intensive practicum,
15 provided that the practice under this exemption is directly
16 supervised by a licensed behavior analyst in this state or an
17 instructor in a course sequence approved by the certifying
18 entity.

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

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

1 Section 3. (a) The Alabama Behavior Analyst
2 Licensing Board shall consist of seven members, including four
3 licensed behavior analysts, one licensed assistant behavior
4 analyst, one parent or legal guardian of a person being
5 treated for a behavior disorder, or a person who has received
6 services from a licensed behavior analyst, and one public
7 member, who shall be appointed by the Governor, subject to
8 confirmation by the Senate. The membership of the board shall
9 be inclusive and reflect the racial, gender, geographic,
10 urban/rural, and economic diversity of the state. Each member
11 shall serve a three-year term, with initial terms being
12 staggered so that one member serves an initial term of one
13 year, three members serve initial terms of two years, and
14 three members serve initial terms of three years, as provided
15 by the Governor. The public member shall be a person who is
16 not and never was a member of any profession licensed or
17 regulated under this act, or the spouse of such person, and a
18 person who does not have and never has had a material interest
19 in the practice of behavior analysis.

20 (b) Any vacancy occurring other than by expiration
21 of terms shall be filled for the remainder of the unexpired
22 term by appointment by the Governor.

23 (c) No member shall serve more than two successive
24 three-year terms.

25 (d) A member shall serve until a successor is
26 appointed and assumes office.

1 (e) Members shall be paid out of the funds of the
2 board the same per diem as prescribed by law for state
3 employees for each day of attendance of board business.

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

8 (g) The board shall promulgate rules and establish
9 fees necessary to implement this act.

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

15 (i) Four members of the board shall constitute a
16 quorum.

17 (j) The board shall elect a chair from among its
18 membership on an annual basis.

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

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

1 a. Compliance with the professional disciplinary and
2 ethical standards and the guidelines for responsible conduct
3 for behavior analysts of the certifying agency.

4 b. Completion of a state-approved criminal
5 background check.

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

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

14 a. Maintain active status as a board certified
15 assistant behavior analyst, as required by the certifying
16 entity, following passage of the board certified assistant
17 behavior analyst examination.

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

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

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

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

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

20 Section 8. The board is subject to the Alabama
21 Sunset Law of 1981, and is classified as an enumerated agency
22 pursuant to Section 41-20-3, Code of Alabama 1975. The board
23 shall automatically terminate on October 1, 2016, and every
24 four years thereafter, unless a bill is passed that the board
25 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.