

1 SB13  
2 149922-5  
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 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

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

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

23 (1) APPLIED BEHAVIOR ANALYSIS DIRECT CONTACT  
24 TECHNICIAN. An individual who directly implements applied  
25 behavior analysis services.

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

4           (3) CERTIFYING ENTITY. The nationally accredited  
5 Behavior Analyst Certification Board, Incorporated.

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

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

14           (6) PRACTICE OF BEHAVIOR ANALYSIS. The design,  
15 implementation, and evaluation of instructional and  
16 environmental modifications to produce socially significant  
17 improvements in human behavior.

18           a. The practice of behavior analysis includes all of  
19 the following:

20               1. The empirical identification of functional  
21 relations between behavior and environmental factors, known as  
22 functional assessment and analysis.

23               2. Interventions based on scientific research and  
24 the direct observation and measurement of behavior and  
25 environment, which utilize contextual factors, establishing  
26 operations, antecedent stimuli, positive reinforcement, and  
27 other consequences to help individuals develop new behaviors,

1       increase or decrease existing behaviors, and elicit behaviors  
2       under specific environmental conditions.

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

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

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

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

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

25              (c) This act may not be construed as prohibiting or  
26       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  
26 supervised by a licensed behavior analyst in this state or an

1 instructor in a course sequence approved by the certifying  
2 entity.

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

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

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

1 and never has had a material interest in the practice of  
2 behavior analysis.

3 (b) Any vacancy occurring other than by expiration  
4 of terms shall be filled for the remainder of the unexpired  
5 term by appointment by the Governor.

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

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

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

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

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

19 (h) The board shall investigate all complaints  
20 relating to the practice of behavior analysis by any licensed  
21 behavior analyst, licensed assistant behavior analyst, or any  
22 person alleged to be practicing or providing supervision  
23 without a state license.

24 (i) Four members of the board shall constitute a  
25 quorum.

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

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

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

8           a. Compliance with the professional disciplinary and  
9 ethical standards and the guidelines for responsible conduct  
10 for behavior analysts of the certifying agency.

11           b. Completion of a state-approved criminal  
12 background check.

13           (2) In addition to satisfying the requirements of  
14 subdivision (1), a licensed behavior analyst applicant shall  
15 also maintain active status as a board certified behavior  
16 analyst, as required by the certifying entity, following  
17 passage of the board certified behavior analyst examination.

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

21           a. Maintain active status as a board certified  
22 assistant behavior analyst, as required by the certifying  
23 entity, following passage of the board certified assistant  
24 behavior analyst examination.

25           b. Provide proof of ongoing supervision by a  
26 licensed behavior analyst who is a current board certified  
27 behavior analyst in a manner consistent with the requirements



1 of the certifying entity for supervision of board certified  
2 assistant behavior analysts.

3 Section 5. A licensed or unlicensed board certified  
4 behavior analyst or board certified assistant behavior analyst  
5 residing and practicing in another state who temporarily  
6 provides behavior analysis services in this state or to a  
7 resident of this state, or both, may apply for a temporary  
8 license to practice behavior analysis in this state. A  
9 temporary license is available only if the behavior analysis  
10 services are to be delivered during a limited and defined  
11 period, as defined by board rule.

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

22 Section 7. A license shall be granted for a period  
23 of two years. Before the expiration of a license, the license  
24 may be renewed upon submission of an application for renewal,  
25 including proof of continued certification by the certifying  
26 entity and payment of the renewal fee imposed by the board.

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

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

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3	Senate	
4	Read for the first time and referred to the Senate	
5	committee on Children, Youth Affairs, and Human	
6	Resources.....	14-JAN-14
7		
8	Read for the second time and placed on the calen-	
9	dar 1 amendment.....	22-JAN-14
10		
11	Read for the third time and passed as amended ....	28-JAN-14
12	Yeas 21	
13	Nays 0	
14		
15		
16	Patrick Harris	
17	Secretary	
18		