

1 SB305
2 149922-2
3 By Senator Ward
4 RFD: Children, Youth Affairs, and Human Resources
5 First Read: 12-MAR-13

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

26 (b) No person shall hold himself or herself out to
27 be a licensed behavior analyst or licensed assistant behavior

1 analyst unless he or she satisfies the applicable requirements
2 of this act.

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

5 (1) An individual authorized to practice psychology
6 within the state, so long as the practice of behavior analysis
7 by the licensed psychologist is within the education,
8 training, and experience of the licensed psychologist.

9 (2) An applied behavior analysis direct contact
10 technician, or family member implementing a behavior analysis
11 plan within the home, who acts under the extended authority
12 and direction of a licensed behavior analyst or a licensed
13 assistant behavior analyst.

14 (3) A behavior analyst who practices with nonhuman
15 or nonpatient clients or consumers including, but not limited
16 to, applied animal behaviorists and practitioners of
17 organizational behavior management.

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

26 (5) A matriculated graduate student or postdoctoral
27 fellow whose activities are part of a defined behavior

1 analysis program of study, practicum, or intensive practicum,
2 provided that the practice under this exemption is directly
3 supervised by a licensed behavior analyst in this state or an
4 instructor in a course sequence approved by the certifying
5 entity.

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

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

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

1 member of any profession licensed or regulated under this act,
2 or the spouse of such person, and a person who does not have
3 and never has had a material interest in the practice of
4 behavior analysis.

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

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

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

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

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

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

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

26 (i) Four members of the board shall constitute a
27 quorum.

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

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

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

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

13 b. Completion of a state-approved criminal
14 background check.

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

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

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

1 b. Provide proof of ongoing supervision by a
2 licensed behavior analyst who is a current board certified
3 behavior analyst in a manner consistent with the requirements
4 of the certifying entity for supervision of board certified
5 assistant behavior analysts.

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

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

25 Section 7. A license shall be granted for a period
26 of two years. Before the expiration of a license, the license
27 may be renewed upon submission of an application for renewal,

1 including proof of continued certification by the certifying
2 entity and payment of the renewal fee imposed by the board.

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

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