ALABAMA DEPARTMENT OF MENTAL HEALTH BEHAVIOR ANALYST LICENSING BOARD DIVISION OF DEVELOPMENTAL DISABILITIES ADMINISTRATIVE CODE

CHAPTER 580-5-30B
BEHAVIOR ANALYST LICENSING

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580-5-30B-.01 Definitions.

(1) Applied behavior analysis direct contact technician - An individual who directly implements applied behavior analysis services.

(2) Board - Alabama Behavior Analyst Licensing Board charged with overseeing regulations of behavior analyst professionals.

(3) Certifying entity - Nationally accredited Behavior Analyst Certification Board, Incorporated.

(4) Licensed assistant behavior analyst - An individual who is certified by the certifying entity as a board certified assistant behavior analyst and who satisfies the criteria identified in Code of Ala. 1975, §34-5A-4.

(5) Licensed behavior analyst - An individual who is certified by the certifying entity as a board certified behavior analyst and who satisfies the criteria identified in Code of Ala. 1975, §34-5A-4.

(6) Practice of behavior analysis - The design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior.

(7) Charge - A specific allegation contained in a document issued by the board or hearing panel alleging a violation of the governing rules and regulations.

(8) Complaint committee - A committee which may be appointed for the purpose of review, determination, and further action as to complaints filed pursuant to section 5-30B-.03 of this chapter.

(9) Formal complaint - A formal administrative pleading or notice of administrative hearing authorized by the board that sets forth charges against a licensee or applicant and commences a formal disciplinary proceeding in accordance with Act 2014-163 and Act 2016-400.

(10) Order - The whole or a part of a final disposition of a hearing.

(11) Presiding officer - The person appointed by the board to preside at a hearing held pursuant to Code of Ala. 1975, §34-5A-3, and shall include a hearing officer, a member or members of the hearing panel, or both.

(12) Respondent - The person against whom an initiating or a formal complaint has been made.
Author: Division of Developmental Disabilities, DMH
Statutory Authority: Code of Ala. 1975, §34-5A-1.
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580-5-30B-.02 Exemptions From Licensing.

(1) Code of Ala. 1975, §34-5A-2 provides that the unlicensed practice of behavior analysis is prohibited in the state unless listed as exempt.

(2) Individuals meeting the following criteria are exempt from obtaining a license from the board, but cannot call themselves a licensed behavior analyst or licensed assistant behavior analyst:

(a) An individual licensed to practice psychology within the state.

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

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

(d) A licensed physician who is practicing medicine.

(e) A licensed or certified professional authorized to practice in the state who is not a behavior analyst, so long as the licensed or certified professional does not represent that he or she is a behavior analyst, and so long as the services of the licensed or certified professional are within the scope of practice of the licensing law or certification requirements governing the licensed or certified professional and the services performed are commensurate with the education, training, and experience of the licensed or certified professional. This would include certified teachers acting in conjunction with their mandated responsibilities as a teacher with a school system recognized by the Alabama Department of Education.

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

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

(3) No person shall hold themselves out to be a licensed behavior analyst or licensed assistant behavior analyst unless they satisfy the applicable requirements of Code of Ala. 1975, §§34-5A-2 and 34-5A-2.

Author: Division of Developmental Disabilities, DMH
Statutory Authority: Code of Ala. 1975, §§34-5A-2.
History: Filed May 19, 1988; effective June 23, 1988. **Amended:** Effective January 3, 1991; effective September 8, 1992. **Repealed and New Rule:** Filed October 1, 2001; effective November 5, 2001. **Repealed:** Filed February 4, 2005; effective March 11, 2005. **New Rule:** Filed June 6, 2017; effective July 21, 2017.

580-5-30B-.03 Grounds For Disciplinary Action, Hearings, And Sanctions..

Code of Ala. 1975, §§34-5A-3 states that the board may fine, censure, revoke, suspend, or deny a license, place on probation,

reprimand, or otherwise discipline a licensee. This rule describes the type of conduct which may result in these disciplinary actions, the types of sanctions that may be implemented, and the procedure for reinstatement of a license.

(1) The board may revoke, deny, place on probation, reprimand, or otherwise discipline a licensee on any of the following grounds:

(a) Conviction of a crime which the board determines to be of a nature as to render the person convicted unfit to practice as behavior analyst, including a criminal offense directly relating to behavior analysis practice or public health or safety in any court if the act for which the licensee or applicant for licensure was convicted is determined by the board to constitute an offense of moral turpitude;

(b) Violation of the certifying entity's professional and ethical compliance code;

(c) Violation of the rules of the board;

(d) Fraud or misrepresentation in obtaining and maintaining a license;

(2) The board may summarily suspend the license of a licensee who the board determines poses an imminent danger to the public. A hearing shall be held within ten (10) days after the suspension to determine whether the summary action was warranted. Actions that may warrant suspension include but are not limited to:

(a) Having an imposed limitation, sanction, revocation, or suspension by a health care organization, professional organization, or governmental body, relating to behavior analysis practice, public health or safety, or behavior analysis certification;

(b) Receiving any sanction, denial of renewal, revocation, suspension, or any other limitation of certification by the certifying entity; and

(c) Committing gross or repeated negligence, incompetence, misconduct, or malpractice in professional work, including but not limited to:

1. Any physical or mental condition that currently impairs competent professional performance or poses a substantial risk to the recipient of behavior analysis services;

2. Professional conduct that constitutes an extreme and unjustified deviation from the customary standard of practice accepted in the applied behavior analytic field and creates serious risk of harm to or deception of service to recipients;

3. Abandonment of a service recipient resulting in the termination of imminently needed care without adequate notice or provision for transition;

4. Professional record keeping or data collection that constitutes extreme and unjustified deviation from the customary standard of practice accepted in the applied behavior analytic field, or deceptively altering service recipient's records or data;

5. Engaging in blatant fraud, deception, misrepresentation, false promise or pretense, or intimidation in the practice of behavior analysis or in solicitation of service recipients; or

6. The unauthorized material disclosure of confidential recipient information.

(d) Any person whose license has been suspended or revoked may apply to the board, in writing, for vacation of the suspension or reinstatement of his or her license. At the next regularly scheduled meeting of the board or as soon as practicable, the board shall review the request, vote on how to proceed, and notify the individual making the request of the outcome.

(3) Code of Ala. 1975, §34-5A-2 provides that the unlicensed practice of behavior analysis is prohibited in the state unless listed as exempt. Upon finding that a person has practiced as a licensed behavior analyst, advertised that he or she performs as a licensed behavior analyst, or utilized a title or description denoting that he or she is a licensed behavior analyst without first having obtained a license, the board may do any of the following:

(a) Suspend or revoke a license issued pursuant to this chapter.

(b) Impose a fine of not more than one thousand dollars ($1,000).

(c) Issue a cease and desist order.

(d) Petition the circuit court of the county where the act occurred to enforce the cease and desist order and collect the assessed fine.

(4) Hearings. No license may be denied, suspended, or revoked or a person otherwise disciplined without prior notice and opportunity for hearing pursuant to this Chapter, except that the board, without prior notice of hearing, may take action against any person convicted of a crime listed herein. No license may be denied, suspended, or revoked or a person otherwise disciplined pursuant to this rule except by vote of a majority of the board.

(5) Sanctions. After a hearing as provided, the board may, in its discretion, impose sanctions for such period of time as the board believes to be warranted by the facts and evidence presented. The board may choose from the following list of sanctions when making their determinations:

(a) Censure;

(b) License suspension;

(c) License revocation;

(d) Probation for a period not to exceed one (1) year, except that if the adjudication of the violation is the second such adjudication within five (5) years, the licensee shall not be entitled to probation;

(e) Denial of licensure or renewal of license; Cease and desist for practicing without a license; and maximum fine of one thousand dollars ($1,000);

(f) All sanctions require that the licensee pay for any and all associated court costs;

(g) Names of individuals who have received disciplinary actions from the board due to substantiated violations of the rules will be published on the board's website. This list will be updated at least twice annually.

Author: Division of Developmental Disabilities, DMH
Statutory Authority: Code of Ala. 1975, §§34-5A-3, 34-5A-7.
History: Filed May 19, 1988; effective June 23, 1988. **Amended:** Effective January 3, 1991; effective September 8, 1992. **Repealed and New Rule:** Filed October 1, 2001; effective November 5, 2001. **Repealed:** Filed February 4, 2005; effective March 11, 2005. **New Rule:** Filed June 6, 2017; effective July 21, 2017.

580-5-30B-.04 Complaint And Disciplinary Process.

(1) A complaint is defined as the receipt of any information by the board indicating that there may be grounds for disciplinary action against a licensed behavior analyst or a licensed assistant behavior analyst, an individual claiming to be a licensed behavior

analyst or a licensed assistant behavior analyst, or an individual practicing without a license who is not exempt as defined by this Chapter.

(2) Upon receipt of a complaint, the board may initiate and take such action, as it deems appropriate.

(3) Complaints may be initiated by any person or by the board on its own initiative.

(4) Complaints shall be sent to the board as noted in the following:

(a) Be addressed as confidential;

(b) Be in writing;

(c) Clearly identify the person against whom the initiating complaint is being made;

(d) Contain the date;

(e) Identify, by signature, the person making the initiating complaint; and

(f) Contain a clear and concise statement of the facts giving rise to the initiating complaint.

(5) At the next regularly scheduled meeting of the board or as soon as practicable, the board shall determine whether the complaint warrants further investigation.

(6) If the board determines that a complaint warrants further investigation, the board shall notify the licensee or applicant against whom the complaint has been made (hereinafter referred to as "respondent") by certified mail. The notice to the respondent shall include the following:

(a) Notice that a complaint has been filed;

(b) A statement of the nature of the complaint;

(c) A reference to the particular section(s) of the statutes, administrative code, or ethical standards that may be involved;

(d) A request for cooperation in obtaining a full understanding of the circumstances.

(7) The respondent shall provide the board, within thirty (30) days, a written response to the initiating complaint.

(8) During the investigation phase, the board may communicate with the complainant and the respondent in an effort to seek resolution of the complaint satisfactory to the board without the necessity of a formal hearing.

(9) If a satisfactory resolution cannot be identified in the investigation phase or the board determines that the circumstances may warrant the denial, revocation, or suspension of a license, the board shall initiate a formal hearing.

(a) The purpose of a formal hearing is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if so, whether those acts or omissions violated the Alabama Behavior Analyst Licensing Act, the Alabama Behavior Analyst Licensing Board Administrative Code, the professional and ethical compliance code for behavior analysts of the certifying entity, or prior final decisions and/or consent orders involving the respondent and to determine appropriate disciplinary action.

(b) The formal hearing shall be conducted in accordance with the Alabama Administrative Procedure Act.

(10) If it is determined that there is violation of the governing rules and regulations, the board shall provide appropriate disciplinary action. In the case of a violation of this Chapter where the respondent is not a licensee or an applicant, the board shall take one (1) or all of the following actions:

(a) Issue a cease and desist order;

(b) Seek legal action to enjoin the violator; or

(c) Seek criminal prosecution.

(11) Upon final resolution of a complaint submitted pursuant to this process, the board shall notify the complainant and respondent of the outcome of the board's actions.

(12) The board shall have the authority at any time to determine that a formal hearing should be initiated immediately on any complaint. The complaint and investigation procedures set forth above shall not create any due process rights for a respondent who shall be entitled only to the due process provided under the Alabama Administrative Procedure Act.

Author: Division of Developmental Disabilities, DMH
Statutory Authority: Code of Ala. 1975, §34-5A-3 as amended.
History: Filed May 19, 1988; effective June 23, 1988. **Amended:** Effective January 3, 1991; effective September 8, 1992. **Repealed and New Rule:** Filed October 1, 2001; effective November 5, 2001. **Amended:** Filed March 7, 2002; effective April 11, 2002. **Repealed:** Filed February 4, 2005; effective March 11, 2005. **New Rule:** Filed June 6, 2017; effective July 21, 2017.

580-5-30B-.05 Fees.

The following are the fees, payable to the Alabama Behavior Analyst Licensing Board, by certified check, money order, or cashier's check, which shall be collected by the board:

(1) Application and licensure fees for licensed behavior analysts include:

(a) A twenty five dollar ($25) nonrefundable application review fee;

(b) A one hundred fifty dollar ($150) licensure fee, in addition to the cost of obtaining the criminal background check, for the first licensure period starting when the application is approved and ending on December 31 of the second year following;

(c) A one hundred fifty dollar ($150) licensure renewal fee for each subsequent, two (2) year period ending December 31.

(2) Application and licensure fees for licensed assistant behavior analysts include:

(a) A twenty five dollar ($25) nonrefundable application review fee;

(b) A one hundred dollar ($100) licensure fee, in addition to the cost of obtaining the criminal background check, for the first licensure period starting when the application is approved and ending on December 31 of the second year following;

(c) A one hundred dollar ($100) licensure renewal fee for each subsequent, two (2) year period ending December 31.

(3) Application and licensure fees for temporary licensed behavior analysts and temporary licensed assistant behavior analysts include:

(d) A twenty five dollar ($25) nonrefundable application review fee;

(e) A one hundred dollar ($100) licensure fee, in addition to the cost of obtaining the criminal background check, for the ninety (90) day period.

(4) Other administrative fees include:

(a) Fifty dollar ($50) late fee;

(b) A one hundred dollar ($100) licensure reinstatement fee;

(c) A fifteen dollar ($15) fee for a duplicate copy of a license or certificate.

Author: Division of Developmental Disabilities, DMH
Statutory Authority: Code of Ala. 1975, §§34-5A-3, 34-5A-4, 34-5A-5, 34-5A-7.
History: Filed May 19, 1988; effective June 23, 1988. **Amended:** Effective January 3, 1991; effective September 8, 1992. **Repealed and New Rule:** Filed October 1, 2001; effective November 5, 2001. **Repealed:** Filed February 4, 2005; effective March 11, 2005. **New Rule:** Filed June 6, 2017; effective July 21, 2017.

580-5-30B-.06 Application Procedure For License, Temporary License, And Reciprocity.

(1) An application for licensure, temporary licensure, or reciprocity as a behavior analyst or assistant behavior analyst may be submitted after the applicant is certified as a Board Certified Behavior Analyst or Board Certified Assistant Behavior Analyst by the certifying entity.

(2) Applicants for licensure or temporary licensure as a behavior analyst shall submit all of the following together:

(a) A completed licensure application;

(b) Proof of having passed the Behavior Analyst Certification exam and been certified as a Board Certified Behavior Analyst by the certifying entity;

(c) Application review fee and licensure fee payable to the Alabama Behavior Analyst Licensing Board;

(d) A completed application for criminal background check;

(e) Two (2) complete sets of fingerprint cards;

(f) Fee for completion of background check.

(3) Applicants for licensure or temporary licensure as an assistant behavior analyst shall submit the items listed in (a) through (f) together in one package:

(a) A completed licensure application;

(b) Proof of having passed the Behavior Analyst Certification exam and been certified as a Board Certified Behavior Analyst by the certifying entity;

(c) Application review fee and licensure fee paid payable to the Alabama Behavior Analyst Licensing Board;

(d) A completed application for criminal background check;

(e) Two (2) complete sets of fingerprint cards;

(f) Fee for completion of background check;

(g) An attestation signed and dated by the supervising board certified behavior analyst in good standing with the certifying entity as proof of ongoing supervision in a manner consistent with the requirements of the certifying entity for supervision of board certified assistant behavior analysts. This letter shall include the applicant's name and be sent directly to the board.

(4) Behavior analysts licensed in other states may apply for reciprocity as defined in Code of Ala. 1975, §34-5A-6 and shall submit the items listed in (a) through (e) together in one package:

(a) A completed licensure application;

(b) Application review fee and licensure fee payable to the Alabama Behavior Analyst Licensing Board;

(c) A completed application for criminal background check;

(d) Two (2) complete sets of fingerprint cards;

(e) Fee for completion of background check;

(f) Proof of current licensure in the form of letter from the licensing board or a clear copy of the front and back of the license from another state. The letter shall include the applicant's name and be sent directly to the board using the address on the application form;

(5) The board will review all applications, which may include but is not limited to verifying that the applicant is currently in good standing with the certifying entity.

(6) The applicant shall be informed in writing of the decision regarding the application for licensure.

Author: Division of Developmental Disabilities, DMH

Statutory Authority: Code of Ala. 1975, §§34-5A-3, 34-5A-4, 34-5A-5, 34-5A-6, 34-5A-7.

History: Filed May 19, 1988; effective June 23, 1988. **Amended:** effective January 3, 1991; effective September 8, 1992. **Repealed and New Rule:** Filed October 1, 2001; effective November 5, 2001. **Repealed:** Filed February 4, 2005; effective March 11, 2005. **New Rule:** Filed June 6, 2017; effective July 21, 2017.

580-5-30B-.07 License Expiration, Renewal, And Reinstatement.

(1) A license shall be granted for a period of two (2) years and shall expire on December 31 in the second year. Failure of the licensee to receive the notice and application to renew the license shall not excuse the licensee from the requirement of Code of Ala. 1975, §34-5A-7 to renew the license.

(2) A temporary license shall be granted for a period of ninety (90) days and shall expire upon issuance of a permanent license or denial of an application but no later than ninety (90) days from issuance of the temporary license.

(3) A temporary license may be extended one (1) time by the board. Holders of a temporary license shall request an extension by submitting a written request to the board.

(4) Applications for renewal of active licenses shall be received between October 1 and November 30, and shall include the following:

(a) A completed application for renewal;

(b) Proof of continued certification by the certifying entity as defined in this Chapter;

(c) Application review fee and licensure renewal fee payable to the Alabama Behavior Analyst Licensing Board;

(5) Any licensee who fails to renew the license by the November 30 deadline shall not perform any act for which a license is required as of January 1 of the year following expiration. The board shall notify the licensee in writing that the license has expired and the licensee shall immediately cease practice as a licensed behavior analyst or licensed assistant behavior analyst until the board issues a renewed license.

(6) Renewal applications received between December 1 prior to the expiration year and November 30 two (2) years following expiration, shall be considered late. Applications for late renewal shall include the following:

(a) A completed application for renewal;

(b) Proof of current certification by the certifying entity defined in in this Chapter;

(c) Application review fee and licensure renewal fee payable to the Alabama Behavior Analyst Licensing Board;

(d) Late fee as required by this Chapter payable to the Alabama Behavior Analyst Licensing Board;

(7) A suspended license is subject to expiration and may be renewed as provided in this Chapter. Renewal of a suspended license does not entitle the applicant, while the license remains suspended and until it is reinstated, to engage in licensed activity or in other conduct or activity in violation of a license revoked on disciplinary grounds.

(8) Any license which has not been renewed within two (2) years following its expiration may not be renewed, restored, or reissued thereafter. The holder of an expired license may apply for and obtain a valid license only upon compliance with all relevant requirements for issuance of a new license.

(9) A licensed behavior analyst or licensed assistant behavior analyst who desires to return to active practice of applied behavior analysis following suspension shall submit an application for reinstatement that shall include:

(a) A completed application for reinstatement;

(b) Proof of current certification by the certifying entity defined in in this Chapter;

(c) Application review fee and licensure reinstatement fee payable to the Alabama Behavior Analyst Licensing Board;

(d) For licensed assistant behavior analysts, an attestation signed and dated by the supervising board certified behavior analyst in good standing with the certifying entity as proof of ongoing supervision in a manner consistent with the requirements of the certifying entity for supervision of board certified assistant behavior analysts. This letter shall include the applicant's name and be sent directly to the board.

Author: Division of Developmental Disabilities, DMH
Statutory Authority: Code of Ala. 1975, §§34-5A-3, 34-5A-7.
History: **New Rule:** Filed October 1, 2001; effective November 5, 2001. **Repealed:** Filed February 4, 2005; effective March 11, 2005. **New Rule:** Filed June 6, 2017; effective July 21, 2017.

580-5-30B-.08 Notification Of Change Of Address.

Within thirty (30) days of the effective date of the change, a licensee must inform the board of all changes in the mailing address as it appears on the licensee's license by contacting the Alabama Behavior Analyst Licensing Board in writing.
Author: Division of Developmental Disabilities, DMH
Statutory Authority: Code of Ala. 1975, §34-5A-3.
History: New Rule: Filed October 1, 2001; effective November 5, 2001. **Repealed:** Filed February 4, 2005; effective March 11, 2005. **New Rule:** Filed June 6, 2017; effective July 21, 2017.

580-5-30B-.09 Replacement Of License.

A licensee whose license is lost, destroyed, or mutilated or who requires replacement license as a result of an incorrect address or name change, or who requires additional certificates may obtain a duplicate certificate, upon receipt of a statement indicating the need for the duplicate and the required fee.
Author: Division of Developmental Disabilities, DMH
Statutory Authority: Code of Ala. 1975, §34-5A-3.
History: New Rule: Filed October 1, 2001; effective November 5, 2001. **Repealed:** Filed February 4, 2005; effective March 11, 2005. **New Rule:** Filed June 6, 2017; effective July 21, 2017.