

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

CHAPTER 580-5-30B
BEHAVIOR ANALYST LICENSING

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.

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

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