

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-.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.