

**SB113 ENGROSSED**



1 SB113

2 CXCA4QQ-2

3 By Senator Elliott

4 RFD: Fiscal Responsibility and Economic Development

5 First Read: 13-Jan-26



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Behavior Analyst Licensing Board operating within the Department of Mental Health with certain modifications; to amend Sections 34-5A-1, 34-5A-2, 34-5A-3, 34-5A-4, 34-5A-5, 34-5A-6, and 34-5A-7, Code of Alabama 1975, to rename the board as the Alabama Behavior Analyst Advisory Council; to provide the Department of Mental Health with regulatory authority over licensed behavior analysts and licensed assistant behavior analysts practicing behavior analysis under the former board; to require the advisory council to advise the department on matters relating to the practice of behavior analysis; to provide for the duties of the department and the Mental Health Commissioner relating to the advisory council; to require the department to provide all necessary administrative services for the advisory council; to transfer all property of the advisory council to the department; and to repeal Section 34-5A-8, Code of Alabama 1975, to remove the former board from review by the Sunset Committee.



29 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

30                   Section 1. Pursuant to the Alabama Sunset Law, the  
31 Sunset Committee recommends the continuance of the Alabama  
32 Behavior Analyst Licensing Board operating within the  
33 Department of Mental Health with the additional  
34 recommendations for statutory change as set out in Sections 3  
35 and 4.

36                   Section 2. The existence and functioning of the Alabama  
37 Behavior Analyst Licensing Board, created and functioning  
38 pursuant to Sections 34-5A-1 to 34-5A-7, inclusive, Code of  
39 Alabama 1975, is continued, and those code sections are  
40 expressly preserved.

41                   Section 3. Sections 34-5A-1, 34-5A-2, 34-5A-3, 34-5A-4,  
42 34-5A-5, 34-5A-6, and 34-5A-7 of the Code of Alabama 1975, are  
43 amended to read as follows:

44                   "§34-5A-1

45                   For the purposes of this chapter, the following terms  
46 shall have the following meanings:

47                   (1) ADVISORY COUNCIL. The Alabama Behavior Analyst  
48 Advisory Council created by this chapter.

49                   ~~(1)~~(2) APPLIED BEHAVIOR ANALYSIS DIRECT CONTACT  
50 TECHNICIAN. An individual who directly implements applied  
51 behavior analysis services.

52                   ~~(2) BOARD.~~ The Alabama Behavior Analyst Licensing Board  
53 charged with overseeing the regulation of behavior analyst  
54 professionals.

55                   (3) CERTIFYING ENTITY. The nationally accredited  
56 Behavior Analyst Certification Board, Incorporated.



57                   (4) DEPARTMENT. The Department of Mental Health.

58                   (4)(5) LICENSED ASSISTANT BEHAVIOR ANALYST. An  
59                   individual who is certified by the certifying entity as a  
60                   national board certified assistant behavior analyst and who  
61                   satisfies the criteria identified in Section 34-5A-4.

62                   (5)(6) LICENSED BEHAVIOR ANALYST. An individual who is  
63                   certified by the certifying entity as a national board  
64                   certified behavior analyst and who satisfies the criteria  
65                   identified in Section 34-5A-4.

66                   (7) MENTAL HEALTH COMMISSIONER. The executive officer  
67                   of the Department of Mental Health.

68                   (6)(8) PRACTICE OF BEHAVIOR ANALYSIS. The design,  
69                   implementation, and evaluation of instructional and  
70                   environmental modifications to produce socially significant  
71                   improvements in human behavior.

72                   a. The practice of behavior analysis includes all of  
73                   the following:

74                   1. The empirical identification of functional relations  
75                   between behavior and environmental factors, known as  
76                   functional assessment and analysis.

77                   2. Interventions based on scientific research and the  
78                   direct observation and measurement of behavior and  
79                   environment, which utilize contextual factors, establishing  
80                   operations, antecedent stimuli, positive reinforcement, and  
81                   other consequences to help individuals develop new behaviors,  
82                   increase or decrease existing behaviors, and elicit behaviors  
83                   under specific environmental conditions.

84                   b. The practice of behavior analysis does not include



85 psychological testing, psychotherapy, cognitive therapy, sex  
86 therapy, psychoanalysis or hypnotherapy, or long-term  
87 counseling as treatment modalities.

88       c. The practice of behavior analysis does not include  
89 preventing or alleviating or curing of diseases or injuries.

90       d. Nothing in this chapter shall be construed as  
91 permitting or allowing a licensed behavior analyst to  
92 prescribe or administer any drug, make a medical diagnosis,  
93 provide medical treatment, or manage a medical condition. A  
94 licensed behavior analyst may not attempt to diagnose,  
95 prescribe for, treat, or advise a client with reference to any  
96 problem, complaint, or condition falling outside the  
97 boundaries of behavior analysis."

98       "§34-5A-2

99       (a) The unlicensed practice of behavior analysis is  
100 prohibited in this state, unless exempted in subsection (c).

101       (b) ~~No person~~ individual shall hold himself or herself  
102 out to be a licensed behavior analyst or licensed assistant  
103 behavior analyst unless he or she satisfies the applicable  
104 requirements of this chapter.

105       (c) This chapter may not be construed as prohibiting or  
106 restricting the practice of any of the following:

107           (1) An individual authorized to practice psychology  
108 within the state.

109           (2) An applied behavior analysis direct contact  
110 technician, or family member implementing a behavior analysis  
111 plan within the home or other environment in which the ~~person~~  
112 individual is located, who acts under the extended authority



113 and direction of a licensed behavior analyst or a licensed  
114 assistant behavior analyst.

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

119 (4) A licensed physician who is practicing medicine.

120 (5) A licensed professional authorized to practice in  
121 the state who is not a behavior analyst, so long as the  
122 licensed professional does not represent that he or she is a  
123 behavior analyst, and so long as the services of the licensed  
124 professional are within the scope of practice of the licensing  
125 law governing the licensed professional and the services  
126 performed are commensurate with the education, training, and  
127 experience of the licensed professional.

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

135 (7) An unlicensed individual pursuing experience in  
136 behavior analysis consistent with the experience requirements  
137 of the certifying entity, provided ~~such~~ the experience is  
138 supervised by a licensed behavior analyst in this state.

139 (d) A violation of this section shall be punishable by  
140 a fine of not more than one thousand dollars (\$1,000) or the



141 suspension or revocation of a license issued pursuant to this  
142 chapter, or both fine and loss of ~~licensure~~ licensing."

143 "§34-5A-3

144 (a) (1) The Commencing on the effective date of the act  
145 adding this amendatory language, the Alabama Behavior Analyst  
146 Licensing Board ~~is~~ established within the Department of Mental  
147 ~~Health, Division of Developmental Disabilities~~ is renamed the  
148 Alabama Behavior Analyst Advisory Council. The purpose of the  
149 advisory council is to advise the department on all matters  
150 pertaining to the protection of the health, safety, and  
151 welfare of the public relating to licensed behavior analysts,  
152 licensed assistant behavior analysts, and the practice of  
153 behavior analysis. All members serving on the Alabama Behavior  
154 Analyst Licensing Board on the effective date of the act  
155 adding this amendatory language shall continue to serve as  
156 members of the Alabama Behavior Analyst Advisory Council until  
157 the expiration of their terms.

158 (2) Commencing on the effective date of the act adding  
159 this amendatory language, all rights, duties, records,  
160 property, real or personal, and all other effects existing in  
161 the name of the Alabama Behavior Analyst Licensing Board, or  
162 in any other name by which that board has been known, shall  
163 transfer to the department. Any reference to the former  
164 Alabama Behavior Analyst Licensing Board, or any other name by  
165 which that board has been known, in any existing law,  
166 contract, or other instrument shall constitute a reference to  
167 the Alabama Behavior Analyst Advisory Council as created in  
168 this chapter. All actions of the former Alabama Behavior



169 Analyst Licensing Board or the executive director of the  
170 former board taken before the effective date of the act adding  
171 this amendatory language, are approved, ratified, and  
172 confirmed.

173 (3) The status of any individual or entity properly  
174 licensed, accredited, or registered by the former Alabama  
175 Behavior Analyst Licensing Board on the effective date of the  
176 act adding this amendatory language, shall continue under the  
177 jurisdiction of the department.

178 (4) The department shall provide all of the following  
179 for the performance of the duties of the~~board~~advisory  
180 council:

181 a. Financial services.  
182 b. Legal services.  
183 c. Dedicated office space within the office of the  
184 State Autism Coordinator.

185 d. An administrative assistant who is shared or  
186 dedicated to the~~board~~advisory council, and other personnel  
187 as necessary for the efficient operation of the~~board~~advisory  
188 council.

189 e. Information technology services that shall include  
190 one or more dedicated phone lines, dedicated email addresses  
191 for~~board~~advisory council members and staff, and website  
192 maintenance.

193 f. Necessary office furniture and supplies.

194 ~~(2)~~(b) The~~board~~advisory council shall consist of  
195 seven members, including four licensed behavior analysts, one  
196 licensed psychologist in the state, one parent or legal



197 guardian of an individual being treated for a behavior  
198 disorder, or an individual who has received services from a  
199 licensed behavior analyst, and one public member, who, ~~except~~  
200 ~~for the initial members,~~ shall be appointed by the ~~Governor,~~  
201 as provided in subsection (b) Mental Health Commissioner. The  
202 ~~appointing authority~~ Mental Health Commissioner shall  
203 coordinate his or her appointments to assure the ~~board~~  
204 advisory council membership is inclusive and reflects the  
205 racial, gender, geographic, urban, rural, and economic  
206 diversity of the state. Each member of the advisory council  
207 shall serve a three-year term, with initial terms being  
208 staggered so that one member serves an initial term of one  
209 year, three members serve initial terms of two years, and  
210 three members serve initial terms of three years, as provided  
211 by the Mental Health Commissioner ~~of the Department of Mental~~  
212 ~~Health~~. The public member shall be an individual who is not  
213 and never was a member of any profession licensed or regulated  
214 under this chapter, or the spouse of the individual, and who  
215 does not have and never has had a material interest in the  
216 practice of behavior analysis.

217 (b) ~~The initial members of the board shall be board~~  
218 ~~certified behavior analysts, as recognized by the certifying~~  
219 ~~entity, and shall each become licensed as a behavior analyst~~  
220 ~~or assistant behavior analyst, pursuant to this chapter,~~  
221 ~~during his or her initial term serving on the board. These~~  
222 ~~initial board members shall be appointed by the Commissioner~~  
223 ~~of the Department of Mental Health upon recommendations~~  
224 ~~submitted by the Alabama Association for Behavior Analysis,~~



225 the Alabama Interagency Autism Coordinating Council, the  
226 Department of Mental Health, and any other group determined  
227 appropriate by the commissioner. Subsequent appointments shall  
228 be appointed by the Governor upon recommendations submitted by  
229 the board.

230 (c) Any vacancy occurring other than by expiration of  
231 terms shall be filled for the remainder of the unexpired term  
232 by appointment by the Governor Mental Health Commissioner,  
233 upon recommendation of the board advisory council.

234 (d) No member shall serve more than two successive  
235 three-year terms.

236 (e) A member shall serve until a successor is appointed  
237 and assumes office.

238 (f) Members shall be paid out of the funds of the board  
239 department the same per diem as prescribed by law for state  
240 employees for each day of attendance of board advisory council  
241 business.

242 (g) The board advisory council shall meet at least  
243 twice annually and may meet at other times as necessary, at  
244 the call of the chair or by a majority of the members of the  
245 advisory council, to complete the business required.

246 (h) The board shall adopt and enforce rules and  
247 establish fees necessary to implement this chapter. The  
248 department shall adopt and revise rules pursuant to the  
249 Administrative Procedure Act as necessary for the department  
250 to implement this chapter. All administrative rules of the  
251 former Alabama Behavior Analyst Licensing Board existing on  
252 the effective date of the act adding this amendatory language,



253       which reference this chapter, unless in conflict with existing  
254       law, shall remain in effect as rules of the Alabama Behavior  
255       Analyst Advisory Council until amended or repealed by the  
256       department.

257           (i) The ~~board~~ department shall investigate all  
258       complaints relating to the practice of behavior analysis by  
259       any licensed behavior analyst, licensed assistant behavior  
260       analyst, or any individual alleged to be practicing or  
261       providing supervision without a state license.

262           (1) The ~~board~~ department may fine, censure, revoke or  
263       deny a license, place on probation, reprimand, or otherwise  
264       discipline a licensee on any of the following grounds:

265           a. Conviction of a crime that the ~~board~~ department, by  
266       rule, determines to be of a nature as to render the individual  
267       convicted unfit to practice as a behavior analyst.

268           b. Violation of the professional and ethical compliance  
269       code or the rules ~~of the board~~ adopted pursuant to this  
270       chapter.

271           c. Fraud or misrepresentation in obtaining a license.

272           (2) The ~~board~~ Mental Health Commissioner may summarily  
273       suspend the license of a licensee who the ~~board~~ Mental Health  
274       Commissioner determines poses an imminent danger to the  
275       public. A hearing shall be held within 10 days after the  
276       suspension to determine whether the summary action was  
277       warranted.

278           (3) No license may be denied, suspended, or revoked or  
279       an individual otherwise disciplined without prior notice and  
280       opportunity for hearing, except that the ~~board~~ Mental Health



281 Commissioner, without prior notice of hearing, may take action  
282 against any individual convicted of a crime listed in  
283 paragraph (1)a. No license may be denied, suspended, or  
284 revoked or an individual otherwise disciplined by the Mental  
285 Health Commissioner pursuant to this section ~~except by vote of~~  
286 ~~a majority of the membership of the board without a~~  
287 recommendation from the advisory council.

288 (4) Any person may file a complaint with the ~~board~~  
289 Mental Health Commissioner seeking the denial, suspension, or  
290 revocation of a license issued or pending issuance by the  
291 ~~board~~ department, or seeking to otherwise discipline an  
292 individual for any violation of this chapter or rules adopted  
293 ~~by the board~~ pursuant to this chapter. Complaints shall be in  
294 a form prescribed by the ~~board~~ Mental Health Commissioner. If  
295 the ~~board~~ Mental Health Commissioner determines that a  
296 complaint alleges facts that, if true, would require  
297 disciplinary action or denial, revocation, or suspension of a  
298 license, the ~~board~~ Mental Health Commissioner shall promptly  
299 institute a hearing. If the ~~board~~ advisory council determines  
300 that a complaint does not allege facts that warrant a hearing,  
301 the complaint may be dismissed by the ~~board~~ Mental Health  
302 Commissioner. The ~~board~~ Mental Health Commissioner, on ~~its~~ his  
303 or her own motion, may institute a hearing for disciplinary  
304 action or for the denial, suspension, or revocation of a  
305 license.

306 (5) Any individual whose license has been suspended or  
307 revoked may apply to the ~~board~~ Mental Health Commissioner for  
308 vacation of the suspension or reinstatement of his or her



309 license.

310 (j) Upon finding that an individual governed by this  
311 chapter has practiced as a behavior analyst, advertised that  
312 he or she performs as a behavior analyst, or utilized a title  
313 or description denoting that he or she is a behavior analyst  
314 without first having obtained a license, the ~~board~~ Mental  
315 Health Commissioner may do any of the following:

316 (1) Impose an administrative fine.

317 (2) Issue a cease and desist order.

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

321 (k) A majority of the membership of the ~~board~~ advisory  
322 council shall constitute a quorum.

323 (l) The ~~board~~ advisory council shall elect a chair from  
324 among its membership on an annual basis.

325 (m) ~~There is established a~~ Commencing on the effective  
326 date of the act adding this amendatory language, the name of  
327 the separate special revenue fund in the State Treasury known  
328 as the Alabama Behavior Analyst Licensing Board Fund shall be  
329 renamed and then known as the Alabama Behavior Analyst  
330 Advisory Council Fund. All receipts collected by the ~~board~~  
331 department pursuant to this chapter shall be deposited into  
332 this fund and used ~~to the credit of the board for its~~  
333 ~~operation and by the department to carry out this chapter.~~

334 Receipts shall be disbursed only by warrant of the Comptroller  
335 drawn upon the State Treasury upon itemized vouchers approved  
336 by the chair. No funds shall be withdrawn except as budgeted



337 and allotted according to Article 4 of Chapter 4 of Title 41  
338 and Chapter 19 of Title 41, and only in amounts as stipulated  
339 in the general appropriations bill or other appropriations  
340 bills."

341 "§34-5A-4

342 Each ~~person~~ individual desiring to obtain a license  
343 shall submit an application and authorized fees to the ~~board~~  
344 Mental Health Commissioner. The application shall include  
345 evidence demonstrating that the applicant satisfies all of the  
346 following requirements:

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

350 a. Compliance with the professional and ethical  
351 compliance code for behavior analysts of the certifying  
352 entity.

353 b. Completion of a criminal background check pursuant  
354 to ~~rule of the board~~ rules adopted pursuant to this chapter.

355 The cost of the criminal background check shall be paid by the  
356 applicant. An applicant shall submit to the ~~board~~ Mental  
357 Health Commissioner two complete sets of fingerprints and a  
358 form, sworn to by the applicant, containing his or her name,  
359 date of birth, and Social Security number for completion of  
360 the criminal background check. The ~~board~~ Mental Health  
361 Commissioner shall submit the fingerprints and form to the  
362 State Bureau of Investigations, or any entity contracted with  
363 for the purposes of furnishing criminal background checks, for  
364 a state criminal history record check. The ~~board~~ Mental Health



365      Commissioner shall keep information received pursuant to this  
366      section confidential, except that any information received and  
367      relied upon in denying the issuance of a license in this state  
368      may be disclosed if necessary to support the denial.

369                (2) In addition to satisfying the requirements of  
370      subdivision (1), a licensed behavior analyst applicant shall  
371      also maintain active status as a national board certified  
372      behavior analyst, as recognized by the certifying entity,  
373      following passage of the national board certified behavior  
374      analyst examination.

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

378                    a. Maintain active status as a national board certified  
379      assistant behavior analyst, as recognized by the certifying  
380      entity, following passage of the national board certified  
381      assistant behavior analyst examination.

382                    b. Provide proof of ongoing supervision by a licensed  
383      behavior analyst who is a current national board certified  
384      behavior analyst in a manner consistent with the requirements  
385      of the certifying entity for supervision of national board  
386      certified assistant behavior analysts."

387                "§34-5A-5

388                A licensed or unlicensed national board certified  
389      behavior analyst or national board certified assistant  
390      behavior analyst residing and practicing in another state who  
391      temporarily provides behavior analysis services in this state  
392      or to a resident of this state, or both, may apply for a



393 temporary license to practice behavior analysis in this state.  
394 A temporary license is available only if the behavior analysis  
395 services are to be delivered during a limited and defined  
396 period, as defined by ~~board~~ rule."

397 "§34-5A-6

398 The ~~board~~ department shall issue a license to ~~a person~~  
399 an individual who is actively licensed as a behavior analyst  
400 in another state that currently imposes comparable ~~licensure~~  
401 licensing requirements as those imposed in this state and that  
402 offers reciprocity to individuals licensed under this chapter.  
403 An applicant for reciprocity shall submit proof of ethical  
404 compliance, including proof of current ~~licensure~~ licensing and  
405 current certification by the certifying entity, along with any  
406 other eligibility requirements, such as satisfactory passage  
407 of a criminal background check."

408 "§34-5A-7

409 (a) A license shall be granted for a period of two  
410 years and shall expire on December 31 in the second year.  
411 Before the expiration of a license, the license may be renewed  
412 upon submission of an application for renewal, including proof  
413 of continued certification by the certifying entity and  
414 payment of the renewal fee imposed by the ~~board~~ department.

415 (b) All licenses issued pursuant to this chapter shall  
416 be subject to renewal and shall expire unless renewed in the  
417 manner prescribed by the rules ~~of the~~ board adopted pursuant  
418 to this chapter and upon the payment of a renewal fee. The  
419 board department may provide for a late renewal of a license  
420 upon payment of a late renewal fee if all conditions for



421 renewal have been satisfied and upon payment of a late renewal  
422 fee. Any license which has not been renewed within two years  
423 following its expiration may not be renewed, restored, or  
424 reissued thereafter. The holder of an expired license may  
425 apply for and obtain a valid license only upon compliance with  
426 all relevant requirements for issuance of a new license.

427 (c) A suspended license is subject to expiration and  
428 may be renewed as provided in this section. Renewal of a  
429 suspended license does not entitle the applicant, while the  
430 license remains suspended and until it is reinstated, to  
431 engage in licensed activity or in other conduct or activity in  
432 violation of a license revoked on disciplinary grounds. Except  
433 as otherwise provided in this chapter, a licensed behavior  
434 analyst or licensed assistant behavior analyst who desires to  
435 return to the active practice of applied behavior analysis  
436 shall submit an application for reinstatement and shall pay  
437 the nonrefundable reinstatement fee, and any late fee or  
438 penalty fees that may be applicable. The amount of the  
439 reinstatement fee and penalty shall be established by the rule  
440 of the board. The applicant shall meet the same requirements  
441 as ~~were~~ are necessary for initial licensure."

442 Section 4. Section 34-5A-8, Code of Alabama 1975,  
443 subjecting the Alabama Behavior Analyst Licensing Board to the  
444 Alabama Sunset Law of 1981, is repealed.

445 Section 5. The Legislature concurs in the  
446 recommendations of the Sunset Committee as provided in  
447 Sections 1, 2, 3, and 4.

448 Section 6. This act shall become effective immediately.



449  
450  
451 Senate

452 Read for the first time and referred .....13-Jan-26  
453 to the Senate committee on Fiscal  
454 Responsibility and Economic  
455 Development

456

457 Read for the second time and placed .....14-Jan-26  
458 on the calendar:  
459 0 amendments

460

461 Read for the third time and passed .....05-Feb-26  
462 as amended  
463 Yeas 34  
464 Nays 0  
465 Abstains 0

466

467

468 Patrick Harris,  
469 Secretary.

470