



Sunset Report
Alabama
Behavior Analyst
Licensing Board
Montgomery, Alabama

October 1, 2022 through September 30, 2024

ALABAMA DEPARTMENT OF
EXAMINERS of Public Accounts

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September 24, 2025

Sunset Committee
Alabama State House
Montgomery, Alabama 36130

Dear Committee Members:

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the Alabama Behavior Analyst Licensing Board in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the Alabama Behavior Analyst Licensing Board in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

Rachel Laurie Riddle
Chief Examiner

Examiner
Bobby Crawford

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PROFILE

Purpose/Authority

The Alabama Behavior Analyst Licensing Board (the “Board”) was created by Act Number 2014-163, Acts of Alabama. The Board was established within the Department of Mental Health, Division of Developmental Disabilities, and exercises licensing and regulatory authority over the practice of behavior analysis. The Board operates under the authority of the *Code of Alabama 1975*, Section 34-5A-1 through 34-5A-8.

The following Act passed since the last sunset review has been codified in the current statutory authority:

Act Number 2024-235, Acts of Alabama, relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Behavior Analyst Licensing Board within the Division of Developmental Disabilities of the Department of Mental Health until October 1, 2026, with certain modifications; to amend Section 34-5A-3, *Code of Alabama 1975*, to require the department to provide certain services, office space, and personnel for the board.

<u>Characteristics</u>	
Members and Selection	<p>Seven members appointed by the Governor upon recommendation submitted by the Board.</p> <p>Five members are currently serving. One Behavior Analyst position and the public member position are vacant.</p> <p><i>Code of Alabama 1975</i>, Section 34-5A-3(a)(2)</p>
Term	<p>Members serve three-year staggered terms and serve until their successors are appointed and assume office. No member shall serve more than two successive three-year terms.</p> <p><i>Code of Alabama 1975</i>, Section 34-5A-3</p>
Qualifications	<ul style="list-style-type: none">• Four members shall be licensed behavior analysts.• One member shall be a licensed psychologist.• One member shall be a parent or legal guardian of an individual being treated for a behavior disorder, or an individual who has received services from a licensed behavior analyst.• One member of the public who is not and never was a member of any profession licensed or regulated by the Board, or the spouse of the individual, and who does not have and never has had a material interest in the practice of behavior analysis. <p><i>Code of Alabama 1975</i>, Section 34-5A-3(a)(2)</p>

Consumer Representation	<p>One parent or legal guardian member and one public member.</p> <p>The public member position is currently vacant.</p> <p><i>Code of Alabama 1975</i>, Section 34-5A-3(a)(2)</p>
Racial Representation	<p>No specific statutory requirement.</p> <p>One racial minority member serving.</p>
Geographical Representation	<p>No specific statutory requirement.</p>
Other Representation	<p>The appointing authority shall coordinate his or her appointments to assure the Board membership is inclusive and reflects the racial, gender, geographic, urban, rural, and economic diversity of the state.</p> <p><i>Code of Alabama 1975</i>, Section 34-5A-3(a)(2)</p>
Compensation	<p>Members shall be paid the same per diem as prescribed by law for state employees for each day of attendance of Board business.</p> <p><i>Code of Alabama 1975</i>, Section 34-5A-3(f)</p>
Attended Board Member Training	<p>Four current Board members attended.</p>
<u>Operations</u>	
Administrator	<p>The Board does not have an administrator.</p>
Location	<p>Alabama Department of Mental Health 100 N. Union Street, Suite 350 Montgomery, AL 36130</p>
Real Property Ownership	<p>The Board does not own real property.</p>
Employees	<p>One Administrative Support Assistant III began employment with the Department of Mental Health in March 2025. This position is shared by the Department and the Board.</p>

Legal Counsel	Ashley Nichols, Assistant Attorney General, is an employee of the Department of Mental Health and serves as the Board's legal counsel.
Subpoena Power	The Board does not have subpoena power except as provided by the Administrative Procedure Act <i>Code of Alabama 1975</i> , Section 41-22-12 for hearings and contested cases.
Internet Presence	<p>https://mh.alabama.gov/alabama-behavior-analyst-licensure-board/</p> <p>The Board's website includes a link to the Behavior Analyst Certification Board's (BACB) website with information on how to obtain an active certification, links for the initial and renewal of licenses, complaint form, laws and rules, and meeting notices listed on the Secretary of State's website, an active licensee list, and the Board's contact information and address.</p> <p>It is noted that the Board's website includes a list of Board members. However, it is not current. The minutes of the Board's meetings are not included on the website.</p>
<u>Financial</u>	
Source of Funds	Licensing fees.
State Treasury	<p>Yes, Special Revenue Fund 1739.</p> <p><i>Code of Alabama 1975</i>, Section 34-5A-3(m)</p>
Required Distributions	No required distributions.
Unused Funds	Funds are retained at fiscal year-end.

<u>Licensure</u>							
Licensees	<p>Licenses as of May 19, 2025:</p> <p><u>License Type:</u></p> <table> <tr> <td>Licensed Behavior Analyst</td> <td style="text-align: right;">670</td> </tr> <tr> <td>Licensed Assistant Behavior Analyst</td> <td style="text-align: right;">47</td> </tr> <tr> <td>Total</td> <td style="text-align: right;"><u>717</u></td> </tr> </table> <p><i>Source:</i> Board Chair</p>	Licensed Behavior Analyst	670	Licensed Assistant Behavior Analyst	47	Total	<u>717</u>
Licensed Behavior Analyst	670						
Licensed Assistant Behavior Analyst	47						
Total	<u>717</u>						
Licensure Qualifications	<p>Behavior Analyst Licensure qualifications:</p> <ul style="list-style-type: none"> • Compliance with the professional and ethical compliance code for behavior analysts of the Behavior Analyst Certification Board (BACB). • Completion of a criminal background check. • Submit application and authorized fees to the Board. • Maintain active status as a Board-certified behavior analyst, as recognized by the BACB, following passage of the Board-certified behavior analyst examination. <p>Assistant Behavior Analyst licensure qualifications:</p> <ul style="list-style-type: none"> • Compliance with the professional and ethical compliance code for behavior analysts of the Behavior Analyst Certification Board (BACB). • Completion of a criminal background check. • Submit application and authorized fees to the Board. • Maintain active status as a board-certified assistant behavior analyst, as recognized by the BACB, following passage of the Board-certified behavior analyst examination. • Provide proof of ongoing supervision by a licensed behavior analyst who is a current Board-certified behavior analyst in a manner consistent with the requirements of the BACB for supervision of Board-certified assistant behavior analysts. <p><i>Code of Alabama 1975, Section 34-5A-4</i></p>						

Examinations	<p>Applicants must pass an exam to be certified by the nationally accredited Behavior Analyst Certification Board (BACB). Certification is a prerequisite for state licensure. Exams are available at authorized Pearson Vue test centers in Auburn, Birmingham, Decatur, Dothan, Mobile, Montgomery, and Tuscaloosa.</p> <p style="text-align: center;">Behavior Analyst Exam, First-Time Candidates</p> <table border="1" data-bbox="529 464 1354 575"> <thead> <tr> <th>Calendar Year 2022</th> <th># Taken</th> <th>% Passed</th> </tr> </thead> <tbody> <tr> <td>Jacksonville State University</td> <td>7</td> <td>71%</td> </tr> </tbody> </table> <table border="1" data-bbox="529 606 1354 798"> <thead> <tr> <th>Calendar Year 2023</th> <th># Taken</th> <th>% Passed</th> </tr> </thead> <tbody> <tr> <td>Auburn University</td> <td>7</td> <td>100%</td> </tr> <tr> <td>Troy University</td> <td>6</td> <td>17%</td> </tr> <tr> <td>University of Alabama in Huntsville</td> <td>7</td> <td>57%</td> </tr> </tbody> </table> <table border="1" data-bbox="529 829 1354 978"> <thead> <tr> <th>Calendar Year 2024</th> <th># Taken</th> <th>% Passed</th> </tr> </thead> <tbody> <tr> <td>Jacksonville State University*</td> <td>6</td> <td>83%</td> </tr> <tr> <td>University of Alabama in Huntsville</td> <td>10</td> <td>100%</td> </tr> </tbody> </table> <p>*Due to low candidate volume in 2023 and 2024, data represents first-time candidates across 2023 and 2024.</p> <p style="text-align: center;">Assistant Behavior Analyst Exam, First-Time Candidates</p> <table border="1" data-bbox="529 1125 1354 1239"> <thead> <tr> <th>Calendar Year 2022</th> <th># Taken</th> <th>% Passed</th> </tr> </thead> <tbody> <tr> <td>Troy University</td> <td>9</td> <td>50%</td> </tr> </tbody> </table> <table border="1" data-bbox="529 1270 1354 1383"> <thead> <tr> <th>Calendar Year 2023</th> <th># Taken</th> <th>% Passed</th> </tr> </thead> <tbody> <tr> <td>Troy University</td> <td>10</td> <td>50%</td> </tr> </tbody> </table> <table border="1" data-bbox="529 1415 1354 1528"> <thead> <tr> <th>Calendar Year 2024</th> <th># Taken</th> <th>% Passed</th> </tr> </thead> <tbody> <tr> <td>Troy University</td> <td>16</td> <td>56%</td> </tr> </tbody> </table> <p>Data is not reported for training programs with fewer than six first-time candidates.</p> <p><i>Code of Alabama 1975</i>, Section 34-5A-4 Source: BACB Website</p>	Calendar Year 2022	# Taken	% Passed	Jacksonville State University	7	71%	Calendar Year 2023	# Taken	% Passed	Auburn University	7	100%	Troy University	6	17%	University of Alabama in Huntsville	7	57%	Calendar Year 2024	# Taken	% Passed	Jacksonville State University*	6	83%	University of Alabama in Huntsville	10	100%	Calendar Year 2022	# Taken	% Passed	Troy University	9	50%	Calendar Year 2023	# Taken	% Passed	Troy University	10	50%	Calendar Year 2024	# Taken	% Passed	Troy University	16	56%
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<p>Reciprocity</p>	<p>The Board shall issue a license to a person who is actively licensed as a behavior analyst in another state that currently imposes comparable licensure requirements as those imposed in this state and that offers reciprocity to individuals licensed under the <i>Code of Alabama 1975</i>, Section 34-5A-1, et seq.</p> <p>The Board does not have reciprocity agreements with other states.</p> <p><i>Code of Alabama 1975</i>, Section 34-5A-6</p>
<p>Renewals</p>	<p>Licenses are granted for a period of two years and expire on December 31 in the second year.</p> <p>Applications for renewal of active licenses shall be received between October 1 and November 30.</p> <p>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.</p> <p>Renewal applications received between December 1 prior to the expiration year and November 30 two years following expiration shall be considered late.</p> <p>Applications for late renewal are required to pay an application review fee, licensure renewal fee, and late fee as well as submit proof of current certification.</p> <p>All applications for licensure renewal are processed online.</p> <p><i>Code of Alabama 1975</i>, Section 34-5A-7 <i>Administrative Rule</i> 580-5-30B-.07 <i>Source:</i> Board Chair</p>
<p>Licensee Demographics</p>	<p>Data is not collected by the Board.</p> <p><i>Source:</i> Board Chair</p>
<p>Continuing Education</p>	<p>There is no specific statutory requirement related to continuing education.</p> <p>The BACB requires behavior analysts to obtain 32 continuing education units and assistant behavior analysts to obtain 20 continuing education units within each 2-year recertification cycle.</p> <p><i>Source:</i> Board Chair</p>

SIGNIFICANT ISSUES

Significant Issue 2025-001: The Board does not have an adequate system of record keeping and communication in place to provide documentation and information in a timely manner.

Numerous inquiries were made of the Board through its public email and telephone messaging, as well as its staff, to obtain documentation required to complete the Board's Sunset Review and legal compliance examination. It took over 30 days for the Board to provide basic information including the minutes of the Board's meetings, an organizational chart, financial records, licensee information, etc. In the Board's prior Sunset Report, Significant Issue 2019-001 reported that the Board lacked adequate staff, limiting the Board's ability to carry out its duties.

Act Number 2024-235, Acts of Alabama, required the Alabama Department of Mental Health to provide financial services, legal services, dedicated office space including furniture and supplies, within the office of the State Autism Coordinator, an administrative assistant who was shared or dedicated to the Board, and Information Technology services including dedicated phone line(s), dedicated email addresses for Board Members and staff, and website maintenance. This Act became effective June 1, 2024. The Administrative Assistant was not hired by the Department of Mental Health until March 17, 2025 and is shared with the Office of Autism Services and the Board. The Board continues to only list one shared email address and phone number to a messaging system on its website with a caveat that it may take a minimum of 2-3 business days to respond.

Significant Issue 2025-002: The Board's records should only be in the possession of the current staff or current Board members.

It was noted during the current Sunset review that documentation had to be requested from Board's previous chairman, who resigned September 30, 2024. According to current Board members and staff, this documentation included complaints and other related items which could potentially contain sensitive information related to licensees and complainants of the Board.

Significant Issue 2025-003: The Board has not complied with the Executive Orders issued by the Governor. The following discrepancies were noted:

- The Board did not provide documentation for submitting the Constituent Service Survey to the Office of the Governor due on January 31, 2024 and January 31, 2025 as required by Governor Ivey's *Executive Order 726: Promoting the Faithful Execution of the Laws Within the Executive Branch of State Government*.
- The Board did not establish written policies concerning the disposal of unnecessary state vehicles, the proper use and assignment of state vehicles, and did not provide documentation of annual reporting regarding its usage and assignment of state vehicles as required by Governor Ivey's *Executive Order 728: Promoting Efficiency and Accountability in the Use of State Vehicles*.
- The Board has not established public-records request policies, administrative rules to set reasonable fees for responding to public records requests, identified an employee to serve as the agency's public-records coordinator, or an agency public-records webpage as required by Governor Ivey's *Executive Order 734: Promoting Transparency in State Government Through Enhanced Accessibility to Public Records*.

- The Board did not provide documentation of a written inventory of its existing administrative rules, identifying which rules impose regulatory restrictions on citizens and business and which of those regulatory restrictions are the result of discretionary choices by the agency, and did not provide documentation of an existing employee dedicated as its Red Tape Reduction Coordinator as required by Governor Ivey’s *Executive Order 735: Reducing “Red Tape” on Citizens and Businesses through a Moratorium on New Administrative Rules and by Establishing Goals for the Reduction of Existing Regulatory Burdens*.

SIGNIFICANT ISSUES FROM QUESTIONNAIRES

There were no new significant issues from questionnaires.

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

Two of the six prior findings/significant issues have been resolved. The following prior findings/significant issues remain outstanding:

Prior Significant Issue 2023-001: A review of the Board’s financial information revealed an unexplained discrepancy and instances of expenses incurred by the Board being paid from another department’s treasury fund.

- In fiscal year 2018, licensing fees totaling \$37,095.00 were collected, deposited, and certified into the Department of Mental Health’s treasury fund. The Department of Mental Health’s fund paid \$1,609.26 of the Board’s expenses incurred before the Board’s fund was created in the Treasury. Subsequently in July 2019, a transfer of \$35,284.76 was made from the Department of Mental Health’s fund into the newly formed Board of Behavior Analyst Fund. This resulted in a difference of \$200.98 between the amount collected and the amounts disbursed or transferred. An explanation for this discrepancy was not provided.
- After the creation of the Board’s fund in the Treasury, expenses of \$294.54 in FY2019 and \$884.25 in FY2020 were paid from the Department of Mental Health’s fund rather than from the Board’s fund.

Current Status: Unresolved. Travel expenses incurred by the Board were paid from the Department of Mental Health’s Treasury fund, rather than from the Board’s Treasury fund. The expenses included reimbursements for mileage and per diem totaling \$318.32.

Prior Significant Issue 2023-002: The Board did not comply with the Open Meetings Act and statutory requirements as it relates to conducting Board meetings. Nineteen Board meeting minutes were reviewed for the sunset review period. The following discrepancies were noted:

- Eight meeting minutes did not record the time the meeting was called to order and subsequently adjourned as required by the *Code of Alabama 1975*, Section 36-25A-4.
- Four meeting minutes were not signed by a Board officer. According to the State Records Commission’s *Guidelines for Taking and Preserving Formal Meeting Minutes*, the presiding officer should sign the minutes after approval.

- Following the expiration of the Governor’s emergency proclamation to address COVID-19, all six board members participated in three meetings, held on July 9, 2021, January 14, 2022 and April 8, 2022, via video conferencing, establishing a quorum in violation of the *Code of Alabama 1975*, Section 36-25A-5.1(a) which at the time these meetings were held stated, “Participation by such means shall constitute presence in person at the meeting for all purposes, *except for the establishment of a quorum.*”
- The minutes of two meetings held January 14, 2022, and April 8, 2022, indicated Board members, attending the meeting via electronic communication, participated in executive session. The *Code of Alabama 1975*, Section 36-25A-5.1(e) at the time these meetings were held stated, “...*only those members who are physically present may participate in an executive session of the governmental body.*”
- According to the minutes of four Board meetings, required procedures when entering into executive session were not followed as required by the *Code of Alabama 1975*, Section 36-25A-7.
- The Board did not elect a Chair in calendar years 2019 or 2020 as required by the *Code of Alabama 1975*, Section 34-5A-3(l).

Current Status: Unresolved. The Board did not comply with the procedural requirements of the Open Meetings Act when conducting Board meetings. A review of ten Board meeting minutes disclosed the following discrepancies:

- Subsequent meeting minutes did not show approval for the July 20, 2023 and the August 23, 2024 meetings’ minutes.
- According to the minutes of the November 21, 2024 meeting, one Board member made a motion to enter into executive session, then the same Board member seconded the motion.
- The Board’s purpose for convening executive sessions during July 20, 2023, December 1, 2023, August 23, 2024, November 21, 2024, and February 13, 2025 meetings were vague and not specific. Therefore, it could not be determined if the executive sessions were for an allowable reason. The purposes for executive sessions were “Review applications that require discussion” and “review complaints.” The Board, prior to calling the above executive sessions, did not state whether the meetings would reconvene after the sessions, and if so, the approximate time the meetings would reconvene.
- The Board did not record the vote to convene the executive session in the minutes of the July 20, 2023, December 1, 2023, and February 13, 2025 meetings.
- The January 26, 2024 Board meeting was advertised on the Secretary of State’s website as “Board members will meet to discuss complaints and applications for the licensing board. The meeting is an executive session only, *and it will not be opened to the public.*” However, the Board took minutes of the meeting, discussed the Sunset Review, voted to keep the independence of the Board, and voted on new Board member applications.

Prior Significant Issue 2023-004: The Board did not comply with the *Code of Alabama 1975, Section 36-14-17(c)(1)* as it relates to posting Board vacancy notices on the Secretary of State’s website. The Board failed to post any notice for nine vacancies that occurred during the sunset review period. Furthermore, the Board did not post a notice for a tenth vacancy until nine days after the vacancy occurred. The *Code of Alabama 1975, Section 36-14-17(c)(1)* states, “The chair of an existing board shall notify the Secretary of State by electronic means of a vacancy as follows: For a vacancy scheduled to occur on the board as a result of the expiration of a term, at least 45 days before the vacancy occurs.”

Current Status: Unresolved. The Board did not notify the Secretary of State of four vacancies occurring as a result of the expiration of four members' terms at least 45 days before the term expired. Additionally, the Board did not notify the Secretary of State of a vacancy occurring as a result of one member's resignation within 15 days of the vacancy. As a result of not posting notices timely, potential candidates may not receive sufficient notice and cause the agency to not receive input from all interested parties to fill the vacancy.

STATUS OF PRIOR SIGNIFICANT ISSUES FROM QUESTIONNAIRES

Prior Significant Issue 2019-001: All seven Board members responding to our survey stated that the Board is not adequately staffed. The Board does not have an administrator or staff limiting the Board’s ability to carry out its duties. The Board’s page on the Department of Mental Health’s website directs licensees and the public to either email or leave a phone message with inquiries or requests. Board members monitor the emails and the phone system and will respond to requests within 2-3 business days. There is a limited amount of information available on the website for licensees and the public.

Current Status: Unresolved. Two of the four (50%) Board members responding to our survey stated that the Board is not adequately staffed. The Board members also stated that there is a need for a full-time director.

COMPLAINT HANDLING

Initial Contact/Documentation	Complaints may be initiated by any person or by the Board. Complaints must be made in writing and must be signed. A complaint form is available on the Board’s website.
Anonymous Complaints Accepted	No.
Investigative Process / Probable Cause Determination	At the next regularly scheduled meeting of the Board or as soon as practicable after receipt of the complaint, the Board shall determine whether the complaint warrants further investigation. If the Board determines that a complaint warrants further investigation, the Board will notify the licensee against whom the complaint has been made by certified mail. The respondent shall provide the Board, within thirty (30) days, with a written response to the initiating complaint.
Negotiated Settlements	Yes.
Notification of Resolution to the Complainant	The Board notifies the complainant and respondent of the outcome of the Board’s actions upon final resolution of the complaint.

Administrative Rule 580-5-30B-.04

Source: Board Chair

Complaint Data

Schedule of Complaints Resolved Fiscal Year 2023 through 2025				
Year/Number of Complaints Received	Year/Number Resolved			Pending
	2023	2024	2025¹	
2023 / 3				*
2024 / 7		0	5	2
2025 / 3			0	3

¹As of June 12, 2025
 *Complaints closed, but the date was not recorded.
Source: Board Chair

Average Time to Resolve Complaints - 176 business days

Complaints open for more than 1 year are pending receipt of information requested of the parties involved.

Disposition of Resolved Complaints

Number of Complaints	Resolution
3	No Information Provided
2	Not Enough Evidence
1	Required Continuing Education
1	Remedial Ethics Supervision
1	Undetermined Resolution

QUESTIONNAIRES

Board Member Questionnaire

A letter was sent to four members of the Alabama Behavior Analyst Licensing Board requesting participation in our survey. Two participated in our survey. The percentages are based on the number who responded to the question.

1. What do you consider the most significant issue(s) currently facing the Behavior Analyst Licensing Board and how is the Board addressing these issues?

Board Member #1 – “Organization of documentation and processes/procedures.”

Board Member #2 – “Alabama Department of Mental Health's (ADMH's) Developmental Disabilities Division (DDD) does not follow the state behavior analysis licensure law. Specifically, ADMH's DDD Office of Psychological and Behavioral Services regularly encourages Home and Community Based Services Providers to engage in unlicensed behavior analysis practice (e.g., <https://admh.academy.reliaslearning.com/ADMH-DDD-Positive-Behavior-Supports-Training-Curriculum.aspx> and <https://mh.alabama.gov/wp-content/uploads/2022/07/CSS-July-2022-Training-Series.pdf>). This situation jeopardizes career advancement and opportunities for the practitioners involved. For instance, when I coordinated Troy University’s Master’s in Applied Behavior Analysis Program, community providers that funded fellowships for behavior analysis graduate students were hesitant to support students who participated in such work, fearing that it could render them unlicensable and, therefore, valueless as employees due to their potential violations of state licensure law.”

2. What, if any, changes to the Board’s laws are needed?

Board Member #1 – “Unsure if there are any changes imminent to the laws at this time.”

Board Member #2 – “Law changes are unnecessary, but the board needs the resources to enforce laws and state agencies to follow state law.”

3. Do you think the Board is adequately funded?

Yes	1	50%
No	1	50%

4. Do you think the Board is adequately staffed?

No	2	100%
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5. Does the Board receive regular reports on its operations?

Yes	1	50%
No	1	50%

6. Has the Board experienced any significant change to its operations?

Yes	2	100%
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7. Does the Board plan to make any significant changes to its operations?

Yes	2	100%
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8. Do you have any additional comments you would like to make?

Board Member #1 – “there is a need for full time staffing in an executive role - the addition of an administrative assistant is a very small start for menial tasks however for other items, a paid role for the chairperson or an ED is much needed to organize, delegate and manage board duties - this board will continue to be in disarray until someone can dedicate the required time to get it in line which is impractical to ask of a fully volunteer staff scattered across the state.”

Board Member #2 – “The board needs a full-time paid director and administrative assistant to function correctly. It is impossible to keep up with licensee inquiries and ethics allegations on a volunteer basis.”

APPENDICES

Appendix I - Applicable Statutes

Section 34-5A-1 Definitions.

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

- (1) APPLIED BEHAVIOR ANALYSIS DIRECT CONTACT TECHNICIAN. An individual who directly implements applied behavior analysis services.
- (2) BOARD. The Alabama Behavior Analyst Licensing Board charged with overseeing the regulation of behavior analyst professionals.
- (3) CERTIFYING ENTITY. The 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 Section 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 Section 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.
 - a. The practice of behavior analysis includes all of the following:
 1. The empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis.
 2. Interventions based on scientific research and the direct observation and measurement of behavior and environment, which utilize contextual factors, establishing operations, antecedent stimuli, positive reinforcement, and other consequences to help individuals develop new behaviors, increase or decrease existing behaviors, and elicit behaviors under specific environmental conditions.
 - b. The practice of behavior analysis does not include psychological testing, psychotherapy, cognitive therapy, sex therapy, psychoanalysis or hypnotherapy, or long-term counseling as treatment modalities.
 - c. The practice of behavior analysis does not include preventing or alleviating or curing of diseases or injuries.
 - d. Nothing in this chapter shall be construed as permitting or allowing a licensed behavior analyst to prescribe or administer any drug, make a medical diagnosis, provide medical treatment, or manage a medical condition. A licensed behavior analyst may not attempt to diagnose, prescribe for, treat, or advise a client with reference to any problem, complaint, or condition falling outside the boundaries of behavior analysis.

(Act 2014-163, p. 465, §1.)

Section 34-5A-2 License Requirements.

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

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

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

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

(2) 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 a licensed assistant behavior analyst.

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

(4) A licensed physician who is practicing medicine.

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

(6) 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.

(7) 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 this state.

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

(Act 2014-163, p. 465, §2.)

Section 34-5A-3 Composition of Board; Compensation; Meetings; Rules and Fees: Investigations: Alabama Behavior Analyst Licensing Board Fund.

(a)(1) The Alabama Behavior Analyst Licensing Board is established within the Department of Mental Health, Division of Developmental Disabilities. The department shall provide all of the following for the performance of the duties of the board:

a. Financial services.

b. Legal services.

c. Dedicated office space within the office of the State Autism Coordinator.

d. An administrative assistant who is shared or dedicated to the board, and other personnel as necessary for the efficient operation of the board.

e. Information technology services that shall include one or more dedicated phone lines, dedicated email addresses for board members and staff, and website maintenance.

f. Necessary office furniture and supplies.

(2) The board shall consist of seven members, including four licensed behavior analysts, one licensed psychologist in the state, one parent or legal guardian of an individual being treated for a behavior disorder, or an individual who has received services from a licensed behavior analyst, and one public member, who, except for the initial members, shall be appointed by the Governor, as provided in subsection (b). The appointing authority shall coordinate his or her appointments to assure the board membership is inclusive and reflects the racial, gender, geographic, urban, rural, and economic diversity of the state. Each member shall serve a three-year term, with initial terms being staggered so that one member serves an initial term of one year, three members serve initial terms of two years, and three members serve initial terms of three years, as provided by the Commissioner of the Department of Mental Health. The public member shall be an individual who is not and never was a member of any profession licensed or regulated under this chapter, or the spouse of the individual, and who does not have and never has had a material interest in the practice of behavior analysis.

(b) The initial members of the board shall be board certified behavior analysts, as recognized by the certifying entity, and shall each become licensed as a behavior analyst or assistant behavior analyst, pursuant to this chapter, during his or her initial term serving on the board. These initial board members shall be appointed by the Commissioner of the Department of Mental Health upon recommendations submitted by the Alabama Association for Behavior Analysis, the Alabama Interagency Autism Coordinating Council, the Department of Mental Health, and any other group determined appropriate by the commissioner. Subsequent appointments shall be appointed by the Governor upon recommendations submitted by the board.

(c) Any vacancy occurring other than by expiration of terms shall be filled for the remainder of the unexpired term by appointment by the Governor, upon recommendation of the board.

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

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

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

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

(h) The board shall adopt and enforce rules and establish fees necessary to implement this chapter.

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

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

a. Conviction of a crime that the board determines to be of a nature as to render the individual convicted unfit to practice as a behavior analyst.

b. Violation of the professional and ethical compliance code or the rules of the board.

c. Fraud or misrepresentation in obtaining 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 10 days after the suspension to determine whether the summary action was warranted.

(3) No license may be denied, suspended, or revoked or an individual otherwise disciplined without prior notice and opportunity for hearing, except that the board, without prior notice of hearing, may take action against any individual convicted of a crime listed in paragraph (1)a. No license may be denied, suspended, or revoked or an individual otherwise disciplined pursuant to this section except by vote of a majority of the membership of the board.

(4) Any person may file a complaint with the board seeking the denial, suspension, or revocation of a license issued or pending issuance by the board, or seeking to otherwise discipline an individual for any violation of this chapter or rules adopted by the board. Complaints shall be in a form prescribed by the board. If the board determines that a complaint alleges facts that, if true, would require disciplinary action or denial, revocation, or suspension of a license, the board shall promptly institute a hearing. If the board determines that a complaint does not allege facts that warrant a hearing, the complaint may be dismissed by the board. The board, on its own motion, may institute a hearing for disciplinary action or for the denial, suspension, or revocation of a license.

(5) Any individual whose license has been suspended or revoked may apply to the board for vacation of the suspension or reinstatement of his or her license.

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

(1) Impose an administrative fine.

(2) Issue a cease and desist order.

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

(k) A majority of the membership of the board shall constitute a quorum.

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

(m) There is established a separate special revenue fund in the State Treasury known as the Alabama Behavior Analyst Licensing Board Fund. All receipts collected by the board pursuant to this chapter shall be deposited into this fund and used to the credit of the board for its operation and to carry out this chapter. Receipts shall be disbursed only by warrant of the Comptroller drawn upon the State Treasury upon itemized vouchers approved by the chair.

(Act 2014-163, p. 465, §3; Act 2016-400, p. 1064, §1; Act 2024-235, §3.)

Section 34-5A-4 Application.

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

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

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

b. Completion of a criminal background check pursuant to rule of the board. The cost of the criminal background check shall be paid by the applicant. An applicant shall submit to the board two complete sets of fingerprints and a form, sworn to by the applicant, containing his or her name, date of birth, and Social Security number for completion of the criminal background check. The board shall submit the fingerprints and form to the State Bureau of Investigations, or any entity contracted with for the purposes of furnishing criminal background checks, for a state criminal history record check. The board shall keep information received pursuant to this section confidential, except that any information received and relied upon in denying the issuance of a license in this state may be disclosed if necessary to support the denial.

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

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

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

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

(Act 2014-163, p. 465, §4; Act 2016-400, §1.)

Section 34-5A-5 Temporary License.

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

(Act 2014-163, p. 465, §5.)

Section 34-5A-6 Reciprocity.

The board shall issue a license to a person who is actively licensed as a behavior analyst in another state that currently imposes comparable licensure requirements as those imposed in this state and that offers reciprocity to individuals licensed under this chapter. An applicant for reciprocity shall submit proof of ethical compliance, including proof of current licensure and current certification by the certifying entity, along with any other eligibility requirements, such as satisfactory passage of a criminal background check.

(Act 2014-163, p. 465, §6; Act 2016-400, §1.)

Section 34-5A-7 Expiration and Renewal of License.

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

(b) All licenses issued pursuant to this chapter shall be subject to renewal and shall expire unless renewed in the manner prescribed by the rules of the board upon the payment of a renewal fee. The board may provide for a late renewal of a license upon payment of a late renewal fee if all conditions for renewal have been satisfied and upon payment of a late renewal fee. Any license which has not been renewed within two 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.

(c) A suspended license is subject to expiration and may be renewed as provided in this section. 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. Except as otherwise provided in this chapter, a licensed behavior analyst or licensed assistant behavior analyst who desires to return to the active practice of applied behavior analysis shall submit an application for reinstatement and shall pay the nonrefundable reinstatement fee, and any late fee or penalty fees that may be applicable. The amount of the reinstatement fee and penalty shall be established by the rule of the board. The applicant shall meet the same requirements as were necessary for initial licensure.

(Act 2014-163, p. 465, §7; Act 2016-400, §1.)

Section 34-5A-8 Sunset Provision.

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

(Act 2014-163, p. 465, §8.)

Appendix II: Board Members



STATE OF ALABAMA
DEPARTMENT OF MENTAL HEALTH
RSA UNION BUILDING
100 NORTH UNION STREET
POST OFFICE BOX 301410
MONTGOMERY, AL 36130-1410
WWW.MH.ALABAMA.GOV



Kay Ivey
Governor

Kimberly G. Boswell
Commissioner

May 23, 2025

Mr. Bobby Crawford
Compliance Examiner I
Examiners of Public Accounts
401 Adams Avenue, Suite 280
Montgomery, Alabama 36104

Re: Alabama Behavior Analyst Licensing Board

Mr. Crawford:

As requested, I am providing a letter indicating the current membership of the Alabama Behavior Analyst Licensing Board.

Jessica Arevalo (Hispanic female)
BCBA
Appointment: April 12, 2019
Reappointed
Expiration: December 31, 2024 (continues to serve until replacement appointment is made)
Hoover, Alabama

Doris Hill (Caucasian female)
BCBA
Appointment: January 1, 2021
Reappointed
Expiration: December 31, 2025
Auburn, Alabama

Lisa Powell (Caucasian female)
Parent of a Child Receiving Services
Appointment: January 7, 2020
Reappointed
Expiration: December 31, 2025
Auburn, Alabama

Lauren Elliott (Caucasian female)
BCBA
Appointment: June 6, 2024
Expiration: December 31, 2026
Chelsea, Alabama

Erich Grommet (Caucasian male)
Psychologist
Appointment: August 16, 2024
Expiration: December 31, 2026
Birmingham, Alabama

Thank you,

A handwritten signature in blue ink that reads "Lauren Elliott MS BCBA LBA". The signature is written in a cursive style.

Lauren Elliott, MS, BCBA, LBA
Chairperson

Appendix III: Board's Response



Abby Bannister MA, BCBA, LBA
BCBA
Cedar Bluff, Alabama

Holli Brown MS, BCBA, LBA
BCBA
Huntsville, Alabama

Lauren Elliott MS, BCBA, LBA
BCBA
Chelsea, Alabama

Erich Grommet Ph.D, BCBA-D, LBA,
Licensed Psychologist
Psychologist
Birmingham, Alabama

Holly Johnson MA, BCBA, LBA
BCBA
Albertville, Alabama

Lisa Powell
Parent of a Child Receiving Services
Auburn, Alabama

Vacant
Public Member

August 29, 2025

Mrs. Dixie Broadwater Thomas
Director of Operational Audits
Examiner of Public Accounts
P.O. Box 302251
Montgomery, AL 36130-2251

Dear Mrs. Thomas:

In response to your August 15, 2025 email request to provide responses to the significant issues noted by your office during the recent audit of the Alabama Behavior Analyst Licensing Board, please find the following:

Significant Issues

Significant Issue 2025-001:

The Board does not have an adequate system of record keeping and communication in place to provide documentation and information in a timely manner.

Numerous inquiries were made of the Board through its public email and telephone messaging, as well as its staff, to obtain documentation required to complete the Board's Sunset Review and legal compliance examination. It took over 30 days for the Board to provide basic information including the minutes of the Board's meetings, an organizational chart, financial records, licensee information, etc. In the Board's prior Sunset Report, Significant Issue 2019-001 reported that the Board lacked adequate staff, limiting the Board's ability to carry out its duties. Act Number 2024-235, Acts of Alabama, required the Alabama Department of Mental Health to provide financial services, legal services, dedicated office space including furniture and supplies, within the office of the State Autism Coordinator, an administrative assistant who was shared or dedicated to the Board, and Information Technology services including dedicated phone line(s), dedicated email addresses for Board Members and staff, and website maintenance. This Act became effective June 1, 2024. The Administrative Assistant was not hired by the Department of Mental Health until March 17, 2025 and is shared with the Office of Autism Services and the Board. The Board continues to only list one shared email address and phone number to a messaging system on its website with a caveat that it may take a minimum of 2-3 business days to respond.

Response:

Measures have been taken to address the issue of delays in communication. Through the Alabama Department of Mental Health (ADMH), the board has acquired a dedicated staff member to respond to incoming board related communications. It had been the goal of both the board and ADMH to have this support staff in place sooner. However, the hiring process provided a challenge in locating suitable and qualified candidates.

The board provides a central contact point through email and telephonic means. Prior to engaging support staff for the board, members would be required to retrieve communications and respond as time permitted. Thus, the reason for the “minimum of 2-3 business days to respond” was included as information added to the webpage. As this is no longer the procedure, the language has been removed from the webpage.

Significant Issue 2025-002: *The Board’s records should only be in the possession of the current staff or current Board members. It was noted during the current Sunset review that documentation had to be requested from the Board’s previous chairman, who resigned September 30, 2024. According to current Board members and staff, this documentation included complaints and other related items which could potentially contain sensitive information related to licensees and complainants of the Board.*

Response:

This is an incorrect interpretation of the facts. No previous board member is in possession of original records related to the board. All paper records are maintained at the offices of the Alabama Department of Mental Health. As significant turnover in board members occurred in the months recently preceding the audit by the Examiners of Public Accounts, access to and instructions in navigating the electronic storage files for board records needed to be provided to new members. The audit provided the initial need to access many of the stored records.

Significant Issue 2025-003:

The Board has not complied with the Executive Orders issued by the Governor. The following discrepancies were noted:

- *The Board did not provide documentation for submitting the Constituent Service Survey to the Office of the Governor due on January 31, 2024 and January 31, 2025 as required by Governor Ivey’s Executive Order 726: Promoting the Faithful Execution of the Laws Within the Executive Branch of State Government.*

Response:

It was the Board's interpretation that Executive Order 726 applied to the Executive Branch Agency under which it resides (The Alabama Department of Mental Health). For this reason, its data was supplied to ADMH for inclusion in the annual survey report to the Governor. It is understood from the advice of the Examiners of Public Accounts that a separate report must be submitted by the Board. This shall be addressed properly moving forward.

• *The Board did not establish written policies concerning the disposal of unnecessary state vehicles, the proper use and assignment of state vehicles, and did not provide documentation of annual reporting regarding its usage and assignment of state vehicles as required by Governor Ivey’s Executive Order 728: Promoting Efficiency and Accountability in the Use of State Vehicles.*

Response:

The Board has no property (to include vehicles) under its ownership or control. It is not anticipated that this will differ in the foreseeable future. To satisfy Executive Order 728, the Board will adopt a policy addressing the potential use, assignment, and disposal of state vehicles. The Board shall additionally report the use or non-use of vehicles.

• *The Board has not established public-records request policies, administrative rules to set reasonable fees for responding to public records requests, identified an employee to serve as the agency’s public-records coordinator, or an agency public-records webpage as required by Governor Ivey’s Executive Order 734: Promoting Transparency in State Government Through Enhanced Accessibility to Public Records.*

Response:

The Board is administered under the authority of the Alabama Department of Mental Health (Alabama Government Manual, 15th Edition, 2022). Therefore, the Board has chosen to follow the policies established by the Alabama Department of Mental Health with regard to records requests. To date, the Board has yet to receive a request for records.

Executive Order 734 directs that “each state executive-branch agency shall identify an employee to serve as the agency’s public-records coordinator.” It is the assertion of the Board that until March of this year, it had no employees. As it now shares an employee with the Alabama Department of Mental Health, it has taken measures to assign such responsibilities as those identified in Executive Order 734.

Executive Order 734 further directs that “each state executive-branch agency shall revise its public-records policies—including, **if necessary**, by giving notice of its intention to adopt or amend administrative rules...”. The Board contends that the Examiners have misapplied the intent of the Executive Order to suggest that a lack of administrative rules regarding records is a failure to adhere to the Governor’s directive.

• *The Board did not provide documentation of a written inventory of its existing administrative rules, identifying which rules impose regulatory restrictions on citizens and business and which of those regulatory restrictions are the result of discretionary choices by the agency, and did not provide documentation of an existing employee dedicated as its Red Tape Reduction Coordinator as required by Governor Ivey’s Executive Order 735: Reducing “Red Tape” on Citizens and Businesses through a Moratorium on New Administrative Rules and by Establishing Goals for the Reduction of Existing Regulatory Burdens.*

Response:

The Board disagrees with this allegation as it has formalized such rules which are published in the Alabama Administrative Code.

As previously stated, prior to March of this year, the Board had no employees. As the Administrative Support Assistant shared with the Alabama Department of Mental Health is the only employee of the Board, she will serve in the role of its Red Tape Reduction Coordinator.

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

Prior Significant Issue 2023-001:

A review of the Board's financial information revealed an unexplained discrepancy and instances of expenses incurred by the Board being paid from another department's treasury fund.

- In fiscal year 2018, licensing fees totaling \$37,095.00 were collected, deposited, and certified into the Department of Mental Health's treasury fund. The Department of Mental Health's fund paid \$1,609.26 of the Board's expenses incurred before the Board's fund was created in the Treasury. Subsequently in July 2019, a transfer of \$35,284.76 was made from the Department of Mental Health's fund into the newly formed Board of Behavior Analyst Fund. This resulted in a difference of \$200.98 between the amount collected and the amounts disbursed or transferred. An explanation for this discrepancy was not provided.
- After the creation of the Board's fund in the Treasury, expenses of \$294.54 in FY2019 and \$884.25 in FY2020 were paid from the Department of Mental Health's fund rather than from the Board's fund.

Current Status: Unresolved. Travel expenses incurred by the Board were paid from the Department of Mental Health's Treasury fund, rather than from the Board's Treasury fund. The expenses included reimbursements for mileage and per diem totaling \$318.32.

Response:

The Board disagrees with the allegation that ADMH reimbursement of expenses constituted a significant issue. In accordance with Act # 2014-163 and Act # 2024-235, the Alabama Department of Mental Health is obligated to provide the Board with financial management of funds. ADMH contends that in FY2018 it paid approved expenses of the Board in accordance with its obligation. Upon creation of the Board's separate fund, ADMH transferred monies collected on behalf of the Board to their separate Treasury fund.

In FY2020, upon receipt of an invoice for professional liability coverage for the members of the Board, ADMH paid the amount of \$884.25 to the Alabama Department of Finance's Division of Risk Management. The invoice was believed to be evidence of the obligation of the ADMH to the Board (per the direction of the Legislature that the Board be housed within ADMH). As this FY2020 occurrence was noted in a previous audit report as being incorrect procedure, ADMH

has amended its method of payment for subsequent similar invoices. This was a singular incident and has not been repeated.

In FY2024 and 2025, the ADMH finance office received travel reimbursement requests in the amounts of \$157.50 and \$160.82 (totaling \$318.32) directly from a Board member. When the payment coding was applied, indicators for the ADMH Division of Developmental Disabilities (the division in which the Board is housed) were inadvertently used. Education of the separate coding for the Board has been provided to ADMH accounting professionals responsible for processing invoices provided by Board members. It is believed that through submission by the Board's staff member, confusion as to coding should be eliminated.

Prior Significant Issue 2023-002:

The Board did not comply with the Open Meetings Act and statutory requirements as it relates to conducting Board meetings. Nineteen Board meeting minutes were reviewed for the sunset review period. The following discrepancies were noted:

- Eight meeting minutes did not record the time the meeting was called to order and subsequently adjourned as required by the Code of Alabama 1975, Section 36-25A-4.
- Four meeting minutes were not signed by a Board officer. According to the State Records Commission's Guidelines for Taking and Preserving Formal Meeting Minutes, the presiding officer should sign the minutes after approval.
- Following the expiration of the Governor's emergency proclamation to address COVID-19, all six board members participated in three meetings, held on July 9, 2021, January 14, 2022 and April 8, 2022, via video conferencing, establishing a quorum in violation of the Code of Alabama 1975, Section 36-25A-5.1(a) which at the time these meetings were held stated, "Participation by such means shall constitute presence in person at the meeting for all purposes, except for the establishment of a quorum."
- The minutes of two meetings held January 14, 2022, and April 8, 2022, indicated Board members, attending the meeting via electronic communication, participated in executive session. The Code of Alabama 1975, Section 36-25A-5.1(e) at the time these meetings were held stated, "...only those members who are physically present may participate in an executive session of the governmental body."
- According to the minutes of four Board meetings, required procedures when entering into executive session were not followed as required by the Code of Alabama 1975, Section 36-25A-7.
- The Board did not elect a Chair in calendar years 2019 or 2020 as required by the Code of Alabama 1975, Section 34-5A-3(l).

Current Status: Unresolved. The Board did not comply with the procedural requirements of the Open Meetings Act when conducting Board meetings. A review of ten Board meeting minutes

disclosed the following discrepancies:

- Subsequent meeting minutes did not show approval for the July 20, 2023 and the August 23, 2024 meetings' minutes.

Response: The Board denies the accuracy of this statement as it has provided the Examiners with copies of approved meeting minutes for the July 20, 2023 and August 23, 2024 meetings.

- According to the minutes of the November 21, 2024 meeting, one Board member made a motion to enter into executive session, then the same Board member seconded the motion.

Response:

The November 21, 2024 meeting minutes contain a typographical error in naming the same Board member twice in referencing a motion. A review of notes from the meeting indicate that Jessica Arevalo made a motion to enter into Executive Session and that Lauren Elliott seconded the motion.

- The Board's purpose for convening executive sessions during July 20, 2023, December 1, 2023, August 23, 2024, November 21, 2024, and February 13, 2025 meetings were vague and not specific. Therefore, it could not be determined if the executive sessions were for an allowable reason. The purposes for executive sessions were "Review applications that require discussion" and "review complaints." The Board, prior to calling the above executive sessions, did not state whether the meetings would reconvene after the sessions, and if so, the approximate time the meetings would reconvene.

Response:

The Board contends that it is within its discretion to enter into executive sessions and that it has done so properly. The subject matter of the Executive Session when reviewing applications and complaints is such that only a brief description of the discussion will be provided for this public record.

- The Board did not record the vote to convene the executive session in the minutes of the July 20, 2023, December 1, 2023, and February 13, 2025 meetings.

Response:

A review of notes from the meetings indicates that the motions to enter into and adjourn the Executive Session were not recorded in the meeting minutes.

- The January 26, 2024 Board meeting was advertised on the Secretary of State's website as "Board members will meet to discuss complaints and applications for the licensing board. The meeting is an executive session only, and it will not be opened to the public." However, the Board took minutes of the meeting, discussed the Sunset Review, voted to keep the independence of the Board, and voted on new Board member applications.

Response:

While the intended purpose of the meeting was to hold an Executive Session to discuss complaints and applications, an equally confidential discussion was held to gauge the opinion of

the members towards the possibility of allowing the duties of the Board to merge with another entity. In addition, the need to replace vacant seats within the Board was discussed.

Prior Significant Issue 2023-004:

The Board did not comply with the Code of Alabama 1975, Section 36-14-17(c)(1) as it relates to posting Board vacancy notices on the Secretary of State’s website. The Board failed to post any notice for nine vacancies that occurred during the sunset review period. Furthermore, the Board did not post a notice for a tenth vacancy until nine days after the vacancy occurred. The Code of Alabama 1975, Section 36-14-17(c)(1) states, “The chair of an existing board shall notify the Secretary of State by electronic means of a vacancy as follows: For a vacancy scheduled to occur on the board as a result of the expiration of a term, at least 45 days before the vacancy occurs.”

Current Status: Unresolved. The Board did not notify the Secretary of State of four vacancies occurring as a result of the expiration of four members' terms at least 45 days before the term expired. Additionally, the Board did not notify the Secretary of State of a vacancy occurring as a result of one member's resignation within 15 days of the vacancy. As a result of not posting notices timely, potential candidates may not receive sufficient notice and cause the agency to not receive input from all interested parties to fill the vacancy.

Response:

The Board disagrees that this issue is unresolved. The Secretary of State has instituted an electronic monitoring system for expiring board positions. The Board will notify the Secretary of State when it receives an official notice of resignation from a member.

STATUS OF PRIOR SIGNIFICANT ISSUES FROM QUESTIONNAIRES

Prior Significant Issue 2019-001: All seven Board members responding to our survey stated that the Board is not adequately staffed. The Board does not have an administrator or staff limiting the Board’s ability to carry out its duties. The Board’s page on the Department of Mental Health’s website directs licensees and the public to either email or leave a phone message with inquiries or requests. Board members monitor the emails and the phone system and will respond to requests within 2-3 business days. There is a limited amount of information available on the website for licensees and the public.

Current Status: Unresolved. Two of the four (50%) Board members responding to our survey stated that the Board is not adequately staffed. The Board members also stated that there is a need for a full-time director.

Response:

Staffing needs are an internal issue that the Board continues to monitor. The Board has entertained the option of adding additional support staff, if needed. The Board also intends to explore the possibility of adding an Executive Director to provide regular management of the operations of the Board. In furtherance of this, discussions have been initiated with other Boards within the State of Alabama who employ such positions.

It is our hope that these responses resolve a majority of the issues noted by your office.

We would welcome an in-person meeting to discuss further prior to the upcoming Sunset Review Committee Meeting in September.

Sincerely,

Lauren Elliott, MS, BCBA, LBA

Lauren Elliott, MS, BCBA, LBA
Chairperson
Alabama Behavior Analyst Licensing Board

Assisted by:

Ashley L. Nichols
Assistant Attorney General
Alabama Department of Mental Health