

Title 30: Professions and Occupations

Part 3301: MS AUTISM BOARD - LICENSURE OF BEHAVIOR ANALYSTS AND ASSISTANT BEHAVIOR ANALYSTS

Part 3301 Chapter 1: General

Rule 1.1 Purpose. The purpose of these regulations is to safeguard the public's health, safety, and welfare by establishing minimum qualifications and creating exclusive titles corresponding to the level of qualifications for individuals who wish to offer behavior analysis services to the public. Further, in order to ensure the highest degree of professional conduct by those engaged in offering behavior analysis services to the public, it is the purpose of these regulations to provide and impose disciplinary sanctions, be they civil or criminal, against persons who do not meet or adhere to the procedures, qualifications, and standards set out in these regulations.

SOURCE: Miss. Code Ann. § 73-75-1

Rule 1.2 Legal Authority.

- A. The Mississippi Autism Board shall be empowered under Miss. Code Ann. § 73-75-1, et seq., to license qualified applicants in the practice of behavior analysis.
- B. The Mississippi Autism Board shall promulgate such rules as are necessary to provide for the licensing of behavior analysts and assistant behavior analysts.
- C. The principal offices of the Mississippi Autism Board are in the Woolfolk State Office Building, N West Street, Jackson, Mississippi 39201.

SOURCE: Miss. Code Ann. § 73-75-9

Rule 1.3 Definitions.

- A. **Board** means the Mississippi Autism Board.
- B. **BACB** means the Behavior Analyst Certification Board® Inc.
- C. **Behavior Analyst** means an individual who meets the minimum requirements of a Board Certified Behavior Analyst® (BCBA® or BCBA-D™), set by the BACB, and is licensed or qualifies for licensure by the Board, as further described in Rule 3.2 below.
- D. **Assistant Behavior Analyst** means an individual who meets the minimum requirements of a Board Certified Assistant Behavior Analyst (BCaBA®), set by the BACB, and is licensed or qualifies for licensure by the board, as further described in Rule 3.3 below.
- E. **Behavior Technician** means an individual who is currently certified by the Behavior Analyst Certification Board as a Registered Behavior Technician™ (RBT™) to provide applied behavior analysis treatments under the supervision and direction of a licensed behavior analyst or licensed assistant behavior analyst.

SOURCE: Miss. Code Ann. § 73-75-3

Rule 1.4 Publication. The Board shall publish, annually, a list of the names and addresses of all persons licensed by the Board as behavior analysts and assistant behavior analysts and a list of all persons whose licenses have been suspended, revoked, denied renewal, put on probationary status, censured, or reprimanded.

SOURCE: Miss. Code Ann. § 73-75-19

Part 3301 Chapter 2: Mississippi Autism Board (“Board”)

Rule 2.1 Board Structure and Purpose. The Board shall consist of five (5) members as set forth in Miss. Code Ann. § 73-75-7, for the terms indicated therein. The Board administers and interprets the laws related to licensure and practice of applied behavior analysis.

SOURCE: Miss. Code Ann. § 73-75-7

Rule 2.2 Meetings. The Board shall meet at least twice each year, with the first meeting being the third Friday in January, and the second being the third Friday in July. Additional meetings may be held, at the discretion of the chairperson of the Board or any two Board members. A quorum shall consist of three (3) members of the Board, and shall be necessary for the Board to take action by vote.

SOURCE: Miss. Code Ann. § 73-75-9

Rule 2.3 Responsibilities: The Board shall:

- A. establish examination, licensing, and renewal of license criteria for applicants and investigate and evaluate each applicant applying for licensure to practice applied behavior analysis
- B. maintain an up-to-date list of all individuals licensed to practice applied behavior analysis, with such list being available, upon request, to the public;
- C. conduct disciplinary hearings, upon specified charges, of a licensee;
- D. refer disciplinary actions of any individual engaged in the practice of applied behavior analysis to the appropriate government agency for prosecution, whether licensed or otherwise, or, if the individual is licensed by another state licensing authority, refer same to the appropriate committee or Board. Actions may also be referred to the BACB at the discretion of the Board.
- E. maintain an up-to-date list of all individuals whose license has been suspended, revoked, or denied and make such list available to public inspection and supply such list to similar regulatory boards in other states or jurisdictions;
- F. keep a record of all proceedings of the Board, and make said record available to the public;
- G. establish a schedule of oral examinations to be administered no less than quarterly. Dates of oral exams shall be published by the Board no later than six (6) months in advance and shall correspond with BACB exam window dates; and
- H. promulgate and implement rules and procedures to carry out the purpose of *Miss. Code Ann. § 73-75-9.*

SOURCE: Miss. Code Ann. § 73-75-9

Part 3301 Chapter 3: Licensure

Rule 3.1 General Requirements.

- A. An application for a license as a behavior analyst or assistant behavior analyst shall be submitted to the Board at its principal office at 401 Mississippi Street, Jackson, Mississippi 39203, on an application form provided by the Board.
- B. Every application shall be typed or written in ink, signed under the penalty of perjury, and accompanied by the appropriate fee and by such evidence, statements, or documents as therein required.
- C. Approved applications and all documents filed in support thereof shall be retained by the Board.
- D. Licenses issued under these regulations shall expire and become invalid at midnight of the expiration date.

SOURCE: Miss. Code Ann. § 73-75-13

Rule 3.2 Qualifications for Licensure as a Behavior Analyst.

- A. **Education**
 - 1) Education qualifications deemed equivalent to those specified in Miss. Code Ann. § 73-75-13 shall be at least a master's degree, e.g., M.S., M.A., or M.Ed.
 - 2) Institutions recognized by the Board within the meaning of *Miss. Code Ann. § 73-75-13* shall be those institutions with academic programs approved by the BACB.
- B. **The National Examination and certification in Applied Behavior Analysis:**
The applicant must have passed the Board Certified Behavior Analyst® Examination and provide evidence of certification as a Board Certified Behavior Analyst (BCBA) or Board Certified Behavior Analyst-Doctoral (BCBA-D) by the BACB.
- C. **Oral Examinations**
 - 1) Applicants for licensure as a behavior analyst must complete an oral examination administered by the Board.
 - 2) Applicants must submit all materials (applications, fee, transcripts, BCBA verification, and fingerprint cards) no later than seven (7) days before the published examination date for which they wish to test.

SOURCE: Miss. Code Ann. § 73-75-13

Rule 3.3 Qualifications for Licensure as an Assistant Behavior Analyst.

- A. **Education**
 - 1) Education qualifications deemed equivalent to those specified in Miss. Code Ann. § 73-75-13 shall be at least a Bachelor's degree, e.g., B.A. or B.S.

- 2) Institutions recognized by the Board within the meaning Miss. Code Ann. § 73-75-13 shall be those institutions with academic programs approved by the BACB.
- B. **The National Examination and certification in Applied Behavior Analysis:** The applicant must have passed the Board Certified Assistant Behavior Analyst Examination and provide evidence of certification as a Board Certified Assistant Behavior Analyst (BCaBA) by the BACB.
- C. **Proof of Ongoing Supervision:** The applicant must submit records to the Board of ongoing supervision by a licensed behavior analyst.

SOURCE: Miss. Code Ann. § 73-75-13

Rule 3.4 Licensure by Reciprocity. An applicant for licensure by reciprocity shall submit to the Board, verified by oath, written evidence in form and content satisfactory to the Board that the applicant has met all requirements set forth in Rule 3.1 and 3.2 or 3.3 of these regulations.

SOURCE: Miss. Code Ann. § 73-75-15

Rule 3.5 Temporary License.

- A. A temporary license to practice a may be granted to:
 - 1) An applicant for licensure meeting the requirements of Rule 3.1 and 3.2 or 3.3 who has taken the approved National Examination and is awaiting release of the applicant's score; and
 - 2) An applicant for licensure as a behavior analyst who is awaiting the next oral examination by the Board.
- B. A temporary license must be issued prior to the beginning of the supervised professional employment.
- C. Any applicant granted a temporary license under this Rule shall apply for full licensure upon receipt of National Examination scores, or such license shall be converted to full licensure upon satisfactory completion of the oral examination.

SOURCE: Miss. Code Ann. § 73-75-17

Rule 3.6 Conditions of Temporary Licensure.

- A. A temporary license shall be issued for a six (6) month period beginning on the date of issuance. All regular license requirements must be completed and submitted to the Board during the temporary licensure period. Supervision by a Licensed Behavior Analyst must be maintained until the temporary license is upgraded to a regular license by the Board.
- B. A temporary licensee shall restrict his practice setting to the State of Mississippi.
 - 1) A temporary licensee shall practice under the supervision of a current licensee holding a corresponding, regular license issued by the Board.
 - 2) A temporary licensee may not supervise any other licensee or behavior technician.

- C. A temporary license will not be issued to any individual who has had a temporary license revoked pursuant to the provisions of these regulations.
- D. Any person who has taken but not passed the required examination in another jurisdiction shall not be eligible for a license of any type until an approved examination is passed.
- E. Any person who has failed either the Board Certified Behavior Analyst or Board Certified Assistant Behavior Analyst Examination three (3) times shall be ineligible for a temporary license.
- F. Any individual who has been granted a temporary license and subsequently receives a failing score on the National Examination will immediately notify the Board and the temporary license shall be deemed revoked.
- G. Any individual who has failed to pass the oral jurisprudence exam will not be granted a temporary licensure.

SOURCE: Miss. Code Ann. § 73-75-17

Rule 3.7 Abandonment. An application shall be deemed abandoned by the Board if, after six (6) months from the date of filing, the requirements for licensing have not been completed and submitted to the Board.

SOURCE: Miss. Code Ann. §73-75-9.

Part 3301 Chapter 4: Professional Identification

Rule 4.1 Production and Display of License. A person licensed to practice Applied Behavior Analysis in Mississippi shall be issued a "Certificate of Licensure." The licensee shall prominently display the "Certificate of Licensure" or copy thereof at their place(s) of employment.

SOURCE: Miss. Code Ann. § 73-75-1

Part 3301 Chapter 5: Renewal of License

Rule 5.1 General Provisions.

- A. The Board shall issue regular licenses, which shall be renewed prior to the expiration date of the license.
- B. The licensure period shall not exceed three (3) years and will terminate at midnight on the date of expiration unless renewed.

SOURCE: Miss. Code Ann. § 73-75-21

Rule 5.2 Procedure for Renewal of License. The Board shall make renewal applications available electronically and provide copies to licensed individuals by mail if requested by the licensee.

- A. The licensee shall:

- 1) Complete the renewal form;
 - 2) Submit proof of continuing education credit as detailed in Chapter 6 of these regulations;
 - 3) Enclose the renewal fee; and
 - 4) File the above with the Board prior to the licensure expiration date.
- B. Renewal applications filed or postmarked after the licensure expiration date are subject to a late renewal penalty of \$50.00.

SOURCE: Miss. Code Ann. § 73-75-21

Rule 5.3 Failure to Renew. A licensee who does not comply with renewal requirements prior to licensure expiration will be deemed to have allowed his license to lapse. Said license may be reinstated by the Board, in its discretion, by the payment of the "renewal," "late renewal penalty", and the required verification of continuing education hours provided said application for reinstatement is made within two (2) years after its last expiration date. A license may not be reinstated after having lapsed for two (2) consecutive years. A new application must be made and the licensure regulations in effect at the time of application must be met.

SOURCE: Miss. Code Ann. § 73-75-21

Part 3301 Chapter 6: Continuing Education

Rule 6.1 Definition and philosophy. Each individual licensed as a behavior analyst or assistant behavior analyst is responsible for optimum service to the consumer and is accountable to the consumer, the employer, and the profession for evidence of maintaining high levels of skill and knowledge.

- A. Continuing education is defined as education beyond the basic preparation required for entry into the profession, directly related to the performance and practice of applied behavior analysis. Relevancy of continuing education hours will be determined by the Board.
- B. Pursuant to Miss. Code Ann. § 73-75-21, continuing education is mandatory.

SOURCE: Miss. Code Ann. § 73-75-21

Rule 6.2 Requirements:

- A. Each licensee must report a minimum of twelve (12) hours of continuing education each year, including one (1) hour of ethical or legal continuing education. Continuing education hours earned in excess of twelve (12) hours will carryover and apply to subsequent year(s) record.
- B. Continuing education reports are due to the Board no later than June 30.
- C. No more than fifty percent (50%) (number of hours/percentage of total) of the total hours reported may result from asynchronous courses. In extenuating circumstances, a licensee may petition the Board for consideration of approval for asynchronous training beyond that of the 50% limit.

- D. Less than one (1) year licensed: If the licensee has been licensed for less than six (6) months by the June 30 deadline, no continuing education hours must be reported to the Board for that period. If the individual has been licensed for six (6) to nine (9) months, a minimum of six (6) continuing education hours shall be reported. If licensed for ten (10) or more months, twelve (12) continuing education hours shall be reported.

SOURCE: Miss. Code Ann. § 73-75-21

Rule 6.3 Content Criteria: The content must apply to the field of applied behavior analysis and must be designed to meet one of the following goals:

- A. Update knowledge and skills required for competent performance beyond entry level as described in current legislation and regulations.
- B. Allow the licensee to enhance his knowledge and skills.
- C. Provide opportunities for interdisciplinary learning.
- D. Extend limits of professional capabilities and opportunities.
- E. Facilitate personal contributions to the advancement of the profession.

SOURCE: Miss. Code Ann. § 73-75-21

Rule 6.4 Sources of Continuing Education.

- A. Only courses/providers of CE courses approved by the BACB or a verified course sequence accrediting body specific to Behavior Analysis (e.g., ABAI, APBA) will be accepted as continuing education for licensure renewal purposes. A course not approved by the BACB or verified course sequence accrediting body specific to Behavior Analysis may be reviewed by the Board prior to attendance at the course. Contact the Board for information.

- B. Continuing Education of the following types will be accepted:

Type	Engagement Form	CE Value
Learning	Attending CE courses approved by the BACB or a verified course sequence accrediting body specific to Behavior Analysis (e.g., ABAI, APBA)	25 minutes of Learning is equivalent to 0.5 CE
	Completing didactic Behavior Analytic graduate courses with a passing grade ("C" or higher in a graded course or "pass" in a pass/fail system).	1 semester credit hour = 6.0 CE
	Attending Mississippi Autism Board meeting	25 minutes of Learning is equivalent to 0.5 CE (not more than 6 CE may be

		allowed for this engagement each cycle regardless of how many hours are attended)
Teaching	Teaching CE courses approved by the BACB or a verified course sequence accrediting body specific to Behavior Analysis (e.g., ABAI, APBA)	25 minutes of Teaching CE course equivalent to 0.5 CE
	Teaching university courses in Behavior Analysis at an accredited, degree-granting university	1 semester credit hour = 6.0 CE
Scholarship	Publishing an article on Behavior Analysis in a peer-reviewed journal	1 publication = 8.0 CE

B. Specific **UNACCEPTABLE** activities include:

- 1) All in-service programs not approved in accordance with Rule 6.4(a) of these regulations.
- 2) Orientation to specific work-site programs dealing with organizational structures, processes, or procedures.
- 3) Meetings for purposes of policy decision.
- 4) Non-educational meetings at annual conferences, chapter, or organizational meetings.
- 5) Entertainment or recreational meetings or activities.
- 6) Committee meetings, holding of office, serving as an organizational delegate.
- 7) Visiting exhibits.
- 8) CPR education.
- 9) Self-directed studies other than those previously outlined.
- 10) Self-directed podcasts
- 11) Regular work activities as a Behavior Analyst or Associate Behavior Analyst.

SOURCE: Miss. Code Ann. § 73-75-21

Rule 6.5 Reporting Procedures for Continuing Education: Continuing education credit must be awarded by the approved program provider on a form furnished by the program provider. Proof of program approval by an organization in accordance with Rule 6.4(a) must be submitted with the certificate if a recognized approval source is not evident on the CE certificate.

It is the responsibility of the licensee to insure that the following criteria are met with respect to continuing education credit: Attendance at seminars, workshops, presentations, etc., approved by the BACB or a verified course sequence accrediting body specific to Behavior Analysis (e.g., ABAI, APBA) as required by Rule 6.4(a): Certificate of attendance or completion must be submitted no later than June 30 of each year (must include source, number of continuing education hours, form of delivery (synchronous/asynchronous), and date of attendance).

SOURCE: Miss. Code Ann. § 73-75-21

Part 3301 Chapter 7: Revocation, Suspension and Denial of License

Rule 7.1 Standards of Conduct: Licensees subject to these regulations shall conduct their activities, services, and practice in accordance with this section. Licensees may be subject to the exercise of the disciplinary sanctions enumerated in 8.6 of these regulations if the Board finds that a licensee is guilty of any of the following:

- A. Negligence in the practice or performance of professional services or activities.
- B. Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public in the course of professional services or activities.
- C. Perpetrating or cooperating in fraud or material deception in obtaining or renewing a license or attempting the same.
- D. Being convicted of any crime which has a substantial relationship to the licensee's activities and services or an essential element of which is misstatement, fraud, or dishonesty.
- E. Being convicted of any crime, which is a felony under the laws of this state or the United States.
- F. Engaging in or permitting the performance of unacceptable services personally or by others working under the licensee's supervision due to the licensee's deliberate or negligent act or acts or failure to act, regardless of whether actual damage to the public is established.
- G. Continued practice although the licensee has become unfit to practice as a behavior analyst or assistant behavior analyst due to:
 - 1) failure to keep abreast of current professional theory or practice; or
 - 2) physical or mental disability; the entry of an order or judgment by a court of competent jurisdiction that a licensee is in need of mental treatment or is incompetent shall constitute mental disability; or
 - 3) addiction or severe dependency upon alcohol or other drugs which may endanger the public by impairing the licensee's ability to practice.
- H. Having disciplinary action taken against the licensee's license in another state.
- I. Making differential, detrimental treatment against any person because of race, color, creed, sex, religion, sexual orientation, or national origin.
- J. Engaging in lewd conduct in connection with professional services or activities.
- K. Engaging in false or misleading advertising.

- L. Contracting, assisting, or permitting unlicensed persons to perform services for which a license is required under these regulations.
- M. Violation of any probation requirements placed on a license by the Board.
- N. Revealing confidential information except as may be required by law.
- O. Failing to inform clients of the fact that the client no longer needs the services or professional assistance of the licensee.
- P. Charging excessive or unreasonable fees or engaging in unreasonable collection practices.
- Q. For treating or attempting to treat ailments or other health conditions of human beings other than by applied behavior analysis therapy as authorized by these regulations.
- R. Violations of the current codes for behavior analyst or assistant behavior analyst adopted by the Behavior Analyst Certification Board.
- S. Violations of any rules or regulations promulgated pursuant to these regulations.
- T. Has engaged in any conduct considered by the Board to be detrimental to the profession of applied behavior analysis.
- U. The Board may order a licensee to submit to a reasonable physical or mental examination if the licensee's physical or mental capacity to practice safely is at issue in a disciplinary proceeding. Failure to comply with a board order to submit to a physical or mental examination shall render a licensee subject to the summary suspension procedures described in Rule 8.3 of these regulations.
- V. Any individual who has failed to pass the oral jurisprudence examination upon the third (3rd) attempt must register as a Registered Behavior Technician (RBT™) and engage in remedial supervision. The Board will not accept an application for licensure from such individual until the passage of one (1) year from the last examination date.

SOURCE: Miss. Code Ann. § 73-75-19

Rule 7.2 Rules For Professional Conduct. All licensees must comply with the requirements of the Professional and Ethical Compliance Code for Behavior Analysts published by the BACB.

SOURCE: Miss. Code Ann. § 73-75-19

Rule 7.3 Summary Suspension.

- A. The Board may summarily suspend a license without a hearing, simultaneously with the filing of a formal complaint and notice of hearing, if the Board determines that:
 - 1) the health, safety, or welfare of the public is in immediate danger; or
 - 2) the licensee's physical capacity to practice his/her profession is in issue; or
 - 3) the licensee's mental capacity to practice his/her profession is in issue.
- B. If the Board summarily suspends a license, a hearing must begin not earlier than thirty (30) days after such suspension begins, and must be commenced within sixty days of such suspension unless continued at the request of the licensee.

SOURCE: Miss. Code Ann. § 73-75-19

Rule 7.4 Complaints. All complaints concerning a licensee, the licensee's business, or professional practice, shall be reviewed by the Board. Each complaint received shall be logged, recording at a minimum the following information:

- A. licensee's name;
- B. behavior technician and supervisor's names, if applicable;
- C. name of the complaining party, if known;
- D. date of complaint;
- E. brief statement of complaint; and
- F. disposition.

SOURCE: Miss. Code Ann. § 73-75-9

Rule 7.5 Investigation.

A. Complaints should be submitted to the Board Administrator at the Board office.

- 1. If needed, the Board Administrator shall send the appropriate complaint forms to the complainant, but can otherwise be found on the agency website.
- 2. The complaint should be on the complaint forms approved by the Board.
- 3. The complaint should include the street address, phone numbers, email address, and any other reasonable contact information and releases of information of the individual filing the complaint.
- 4. The complaint should include any witness information.
- 5. For complaints submitted on the printed complaint forms, the complainant is responsible for completing, notarizing, and returning the forms to the Board Office.

B. Upon receipt of a complaint, the Board Administrator will:

- 1. Assign a complaint number and enter complaint information in the Complaint Log;
- 2. Prepare a file for the original documents of the complaint;
- 3. Copy the original documents;
- 4. Notify the Accused of the allegations. This can be done by sending a copy of the complaint to the Accused via certified mail. The Accused shall have thirty (30) calendar days from the date of the letter to respond to the allegations in writing and return via mail to Mississippi Autism Board, PO Box 20, Jackson, MS 39205;
- 5. Send the copy to the Board member assigned the complaint or, at the direction of the Board, an external investigator, and the Board attorney;
- 6. Complaints shall be assigned among Board members as the Board investigator on a rotating basis; and
- 7. The option of assigning a complaint to an external investigator shall be determined by the Board on a case-by-case basis.

C. The Board member or investigator shall:

1. Investigate the complaint to determine validity, appropriateness, and jurisdiction of the complaint based on the Code of Ethics, the Rules and Regulations, and the statutes governing Licensees;
2. All official notices to the Accused should be completed using certified return receipt mail;
3. Appropriate documentation should be copied to the Board Administrator and the Board attorney; and

D. The Board shall conduct a meeting, with a quorum present, to hear a case presented by the assigned/designated Board member or investigator.

1. The assigned case number will be used in referring to the case.
2. Only a minimal description of the case should be offered at this juncture of the proceedings.

E. All disciplinary hearing proceedings are matters of public record and shall be preserved pursuant to state law.

F. All final orders issued by the Board shall be reflected in the Board minutes.

SOURCE: Miss. Code Ann. § 73-75-9

Rule 7.6 Notice of Charges and Hearing.

- A. Following the investigative process, the Board may file formal charges against the licensee. Such formal complaint shall, at a minimum, inform the licensee of the facts which are the basis of the charge and which are specific enough to enable the licensee to defend against the charges.
- B. Each licensee, whose conduct is the subject of a formal charge which seeks to impose disciplinary action against the licensee, shall be served notice of the formal charge at least thirty (30) days before the date of hearing. A hearing shall be presided over by the Board or the Board's designee. Service shall be considered to have been given if the notice was personally received by the licensee, or the notice was mailed certified, return receipt requested, to the licensee at the licensee's last known address as listed with the Board. The notice of the formal hearing shall consist at a minimum of the following information:
 - 1) the time, place and date of hearing;
 - 2) that the licensee shall appear personally at the hearing and may be represented by counsel;
 - 3) that the licensee shall have the right to produce witnesses and evidence in the licensee's behalf and shall have the right to cross-examine adverse witnesses and evidence;

- 4) that the hearing could result in disciplinary action being taken against the licensee's license;
 - 5) that rules for the conduct of these hearings exist and it may be in the licensee's best interest to obtain a copy; and
 - 6) that the Board, or its designee, shall preside at the hearing and following the conclusion of the hearing shall make findings of facts, conclusions of law and recommendations, separately stated, to the Board as to what disciplinary action, if any, should be imposed on the licensee.
- C. The Board may order a licensee to submit to a reasonable physical or mental examination if the licensee's physical or mental capacity to practice safely is at issue in a disciplinary proceeding. Failure to comply with a board order to submit to a physical or mental examination shall render a licensee subject to the summary suspension procedures described in Rule 7.3 of these regulations.
- D. The Board or its designee shall hear evidence produced in support of the formal charges and contrary evidence produced by the licensee. At the conclusion of the hearing, the Board shall issue an order, within sixty (60) days.
- E. Disposition of any complaints may be made by consent order or stipulation between the Board and the licensee.
- F. All proceedings pursuant to this section are matters of public record and shall be preserved pursuant to state law.

SOURCE: Miss. Code Ann. § 73-75-19

Rule 7.7 Sanctions. The Board may impose any of the following sanctions, singly or in combination, when it finds that a licensee or applicant for license is guilty of any violations of the practice act or any lawful order, rule or regulation rendered or adopted by the Board:

- A. Revoke the license.
- B. Suspend the license, for a period not to exceed one (1) year.
- C. Censure the licensee.
- D. The Board shall have the right to recover applicable costs of investigation, prosecution, and adjudication of the disciplinary action from the offending licensee or applicant.
- E. Place a licensee on probationary status and require the licensee to submit to any of the following:
 - 1) report regularly to the Board, or its designee, upon matters which are the basis of probation;
 - 2) continue to renew professional education until a satisfactory degree of skill has been attained in those areas which are the basis of probation; or
 - 3) such other reasonable requirements or restrictions as are proper.
- F. Refuse to renew a license.
- G. Revoke probation which has been granted and impose any other disciplinary action in this subsection when the requirements of probation have not been fulfilled or have been violated.
- H. The Board may reinstate any licensee to good standing under this chapter if, after hearing, the board is satisfied that the applicant's renewed practice is in the public interest.

SOURCE: Miss. Code Ann. § 73-75-19

Rule 7.8 Criteria For Rehabilitation. Upon the suspension or revocation of a license, the Board, in evaluating the rehabilitation of such person and his eligibility for licensure, will consider the following:

- A. The nature and severity of the act(s) which resulted in the suspension or revocation of his license.
- B. The extent of time elapsed since the commission of the act(s) which resulted in the suspension or revocation.
- C. Whether he has committed any act(s) which if done by a licensee would be grounds for suspension or revocation of a license since the date of suspension or revocation.
- D. Whether he has done any act(s) involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or another, or substantially injure another since the date of the suspension or revocation.
- E. Whether he has complied with any or all conditions or probation or restitution, or any other civil or criminal sanction imposed against him as a result of the act(s) including such administrative penalties and conditions or probation as have been imposed on him by the Board; and
- F. Such other evidence of rehabilitation as the person may submit.

SOURCE: Miss. Code Ann. § 73-75-19

Rule 7.9 Appeals. Any person aggrieved by a decision of the Board shall have a right of appeal in the manner provided for in the Act and the Laws of the State of Mississippi.

SOURCE: Miss. Code Ann. § 73-75-19

Part 3301 Chapter 8: Exceptions and Exemptions

Rule 8.1 Exemptions. Nothing in these rules shall be construed or interpreted in such a manner as to limit a qualified assistant or paraprofessional in performing duties related to applied behavior analysis as assigned by a professional exempt by statute from the rules and regulations herein; except that, no supervised assistant or paraprofessional shall perform duties under such supervision that the exempt professional is not otherwise qualified to perform.

SOURCE: Miss. Code Ann. § 73-75-5

Rule 8.2 Good Samaritan Act. [LEFT BLANK ON PURPOSE]

SOURCE: Miss. Code Ann. § 73-75-1

Part 3301 Chapter 9: Regulations Governing Supervision and Registration of Behavior Technicians

Rule 9.1 Purpose. The purpose of these regulations is to provide guidelines specific to supervision and registration of behavior technicians by licensed behavior analysts or licensed assistant behavior analysts; to provide for the denial, suspension and revocation of such registration; to provide for the denial, suspension and revocation of licenses of behavior analysts and assistant behavior analysts employing or supervising behavior technicians; and for related purposes. The licensed behavior analyst is responsible for all conduct of the behavior technician. The behavior technician in the state of Mississippi is not a separately licensed professional and works solely under the license of the behavior analyst.

SOURCE: Miss. Code Ann. § 73-75-23

Rule 9.2 Powers and Duties of the Board.

- A. To deny, suspend or revoke licensure of behavior analysts and assistant behavior analysts or otherwise discipline licensed behavior analysts and assistant behavior analysts who employ or supervise behavior technicians, and who engage in unethical or questionable practices, or who fail to provide appropriate supervision of behavior technicians or who have encouraged or participated in any intentional act or omission that caused or assisted their behavior technicians to violate these regulations and/or any law.
- B. To investigate alleged or suspected violations of the provisions of these regulations or other laws of this state pertaining to behavior technicians.
- C. To maintain a register listing the name of every behavior technician registered in this state, his/her last known place of business and last known place of residence, and the date and number of his/her registration. Such a list shall be made publicly available by the Board.
- D. To be responsible for all disputed matters involving whether an applicant shall be registered.

SOURCE: Miss. Code Ann. § 73-75-9 and Miss. Code Ann. § 73-75-19

Rule 9.3 Registration.

- A. **Application for Registration:** An application for registration for a behavior technician shall be submitted by the supervising licensee to the Board at its principal office, 401 Mississippi Street, Jackson, Mississippi 39203, on an application form provided by the Board. Every application shall be typed or written in ink, the signatures notarized and accompanied by the appropriate fee and by such evidence, statements, or documents as herein required.
- B. **Abandonment of Application:** If the application process for registration is not completed within six (6) months, the application shall be considered abandoned, and a new application must be submitted before registration may be granted.
- C. **Education Requirements:** The educational requirements for registration as a behavior technician shall be a minimum of a high school diploma or the equivalent.

- D. **General Requirements:** The licensed behavior analyst or assistant behavior analyst who registers behavior technicians must determine that the applicant:
- 1) Is at least 18 years of age;
 - 2) Is of good moral character;
 - 3) Has met the minimum educational requirements;
 - 4) Has adequate communication skills and the ability to relate to the clinical population;
 - 5) Has current qualifications as a Registered Behavior Technician™ from the BACB®;
 - 6) Works under the supervision of a licensed behavior analyst or assistant behavior analyst; and
 - 7) Shall be registered by the Board. No examination shall be required for registration.
- E. **Supervision Requirements:** A licensed behavior analyst or assistant behavior analyst must comply with the supervision policy of the BACB. The Board may audit supervision record(s) of a licensee at its discretion. The licensee shall provide the applicable record(s) to the Board upon request and without undue delay.

SOURCE: Miss. Code Ann. § 73-75-23

Rule 9.4 Termination of Supervision. Notice of Termination: Within seven (7) days after the termination of the supervision of a behavior technician, the supervising licensee shall notify the Board, in writing, of such termination and the date of termination and return the certificate of registration to the Board. Failure of a supervising licensee to comply with the provisions of this section may result in disciplinary action pursuant to these regulations.

SOURCE: Miss. Code Ann. § 73-75-23

Rule 9.5 Roles and Responsibilities of Licensees and Registrants. Within the provision of applied behavior analysis service there are two recognized levels of personnel: the professional behavior analyst or assistant behavior analyst who is licensed to practice applied behavior analysis; and the behavior technician who is registered, but is usually an on-job-trained individual who provides support activities for the behavior analyst or assistant behavior analyst. The behavior analyst or assistant behavior analyst shall assume primary responsibility for applied behavior analysis care rendered by and all conduct of the licensee and his/her behavior technician(s). The behavior technician in the state of Mississippi is not a separately licensed professional and works solely under the license of the behavior analyst.

SOURCE: Miss. Code Ann. § 73-75-23

Rule 9.6 Duties of the Behavior Technician.

Behavior technicians will comply with all restrictions on practice and requirements established by the BACB.

SOURCE: Miss. Code Ann. § 73-75-23

Rule 9.7 Standards of Conduct for Behavior Technician; Duties of Supervisory Behavior Analyst or Assistant Behavior Analyst.

- A. **Standards of Conduct:** Behavior analysts or assistant behavior analysts may, at the discretion of the Board, have their licensure suspended, revoked, or denied, or have their supervision authority limited, if the Board determines that a behavior technician under supervision of a behavior analyst or assistant behavior analyst:
- 1) Was convicted of a felony or an offense involving moral turpitude. The record of such conviction, or certified copy thereof from the clerk of the court where such conviction occurred or by the judge of that court, shall be sufficient evidence to warrant revocation or suspension.
 - 2) Is guilty of securing, or attempting to secure a registration or certificate through fraud or deceit.
 - 3) Is guilty of unethical conduct, or gross ignorance, or inefficiency in the conduct of his practice.
 - 4) Is guilty of knowingly practicing while suffering with a contagious or infectious disease.
 - 5) Has used a false name or alias in the practice of his profession.
 - 6) Is unfit or incompetent by reason of negligence, habits, or other causes of incompetence.
 - 7) Is habitually intemperate in the use of alcoholic beverages.
 - 8) Is addicted to, or has improperly obtained, possessed, used or distributed, habit-forming drugs or narcotics.
 - 9) Has practiced as a behavior technician after his registration or supervision has been terminated or suspended.
 - 10) Has practiced as a behavior technician under cover of any permit or registration illegally or fraudulently obtained or issued.
 - 11) Has violated or aided or abetted others in violation of any provision of the Act or regulations promulgated thereto.
 - 12) Has engaged in any conduct considered by the Board to be detrimental to the profession of applied behavior analysis.
 - 13) Has violated the provisions of any applicable state or federal laws, or regulations.
 - 14) Has been disciplined by another jurisdiction if at least one (1) of the grounds for the discipline is the same or substantially equivalent to those set forth in the Act or rules and regulations promulgated pursuant to the Act.
 - 15) Has violated any rule or policy of the BACB applicable to behavior technicians.
- B. **Duties of Supervisory Behavior Analyst or Assistant Behavior Analyst:** It shall be the responsibility of the supervising behavior analyst or assistant behavior analyst to ensure adherence to the above listed standards of conduct in Rule 9.7(a) by any behavior technicians providing treatment and/or services under their direction. A behavior analyst or assistant behavior analyst will

terminate supervision of a behavior technician in violation of the standards of conduct and report the same to the Board.

- C. **Summary Suspensions:** The Board may summarily suspend a licensed behavior analyst or licensed assistant behavior analyst without a hearing, following the procedures set forth in Rule 7.3.
- D. **Notice of Charges and Hearing:** Following the investigative process, the Board may file formal charges against the behavior technician and/or the supervising licensee. Such formal complaint shall follow the same procedures as provided in Rule 7.6
- E. **Board Sanctions:** The Board may impose any of the following sanctions against the supervising behavior analyst or assistant behavior analyst of the behavior technician, singularly or in combination, when it finds that a behavior technician is guilty of any of the above offenses:
 - 1) Revoke the license;
 - 2) Suspend the registration, for any period of time;
 - 3) Censure the licensee;
 - 4) Place the licensee and/or offending technician on probationary status and require the licensee or offending technician to submit to any of the following:
 - i. report regularly to the Board, or its designee, upon matters which are the basis of probation; or
 - ii. such other reasonable requirements or restrictions as are proper;
 - 5) Refuse a license or registration; or
 - 6) Revoke probation which has been granted and impose any other disciplinary action in this subsection when the requirements of probation have not been fulfilled or have been violated.
 - 7) The Board may reinstate any behavior analyst, assistant behavior analyst, or behavior technician to good standing under these regulations if, after hearing, the Board is satisfied that the individual's renewed practice is in the public interest.
 - 8) The Board may limit a licensed behavior analyst or assistant behavior analyst's authority to supervise behavior technicians.
- F. **Appeal:** Any person aggrieved by a decision of the Board shall have a right of appeal in the manner provided for in the Act and the Laws of the State of Mississippi.

SOURCE: Miss. Code Ann. § 73-75-23

Part 3301 Chapter 10: Fees

Rule 10.1 Method of Payment. In accordance with state law, the following non-refundable fees, where applicable, are payable to the Board by check or money order.

SOURCE: Miss. Code Ann. § 73-75-21

Rule 10.2 Schedule of Fees.

Application and Renewal for a Behavior Analyst	\$250.00
Application and Renewal for Assistant Behavior Analyst.....	\$100.00
Late Renewal Penalty	\$ 50.00
Temporary License	\$ 75.00
Duplicate License Certificate Fee	\$ 25.00
Criminal Background Investigation Fee	\$35.00
Application for Registration of Behavior Technicians	\$25.00
Pre-Licensure Determination Fee	\$25.00

SOURCE: Miss. Code Ann. § 73-75-21

Part 3301 Chapter 11: Administrative Grievance Procedure

Rule 11.1 Administrative Appeals. Any person aggrieved by a decision regarding the initial application for licensure or the renewal of licensure shall have the right of a second review by the Board or a designated member of the Board.

SOURCE: Miss. Code Ann. § 73-75-19

Rule 11.2 Notification. Written notice will be provided to all applicants regarding denial of an original license or a renewal license. Such notice shall contain the reason thereof.

SOURCE: Miss. Code Ann. § 73-75-19

Rule 11.3 Hearing. If requested in writing within the specified time frame a hearing will be provided in which the applicant may show cause why the license should be granted or renewed. Within sixty (60) days of the hearing, or other such time frame as determined during the hearing, written findings of fact, together with a recommendation for action on the license in question, shall be forwarded to the Board. The Board shall decide what action will be taken on the recommendation within five days of its receipt. Written notice shall be provided to the applicant.

SOURCE: Miss. Code Ann. § 73-75-13

Part 3301 Chapter 12: Suspension for Failure to Pay Child Support

Rule 12.1 Suspension for Failure to Pay Child Support. In addition, the Board is authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or

93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SOURCE: Miss. Code Ann. § 93-11-153

Part 3301 Chapter 13: Open Meetings

Rule 13.1 The Mississippi Autism Board shall adhere to the Open Meetings Law, Section 25-41-3, Mississippi Code Ann. (1972) as amended.

SOURCE: Miss. Code Ann. § 25-41-1 and Miss. Code Ann. § 25-41-3

Part 3301 Chapter 14: Public Records

Rule 14.1 Authority and Purpose. (a) “It is the policy of the Legislature that public records must be available for inspection by any person unless otherwise provided by this act. Furthermore, providing access to public records is a duty of each public body and automation of public records must not erode the right of access to those records.” Section 25-61-1, Miss. Code of 1972.

(b) “[A]ll public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body in accordance with reasonable written procedures adopted by the public body concerning the cost, time, place and method of access, and public notice of the procedures shall be given by the public body.” Section 25-61-5, Miss. Code of 1972.

(c) The act defines “public record” to include “all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body.” Section 25-61-3(b). The purpose of these rules is to establish the procedures the Mississippi Autism Board will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the Mississippi Autism Board and establish processes for both requestors and the Board staff that are designed to best assist members of the public in obtaining such access.

(d) The purpose of the act is to provide the public full access to public records concerning the conduct of government. These rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the Board will be guided by the provisions of the act describing its purposes and interpretation.

(e) Any individual seeking to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of the board should make a written request, signed by themselves to be mailed to the Board Administrator, Mississippi Board of Autism, Post Office Box 20, Jackson, MS 39205.

(f) The written request must be typed or clearly hand printed on a letter size piece of paper and shall specify in detail the public record sought. The request should include, if possible, a description of the type of record, dates, title of a publication, and other information which may aid in locating the record.

(g) The written request must specify what the applicant proposes to do with the record, i.e., inspect, copy, etc. state the date and time for the proposed activity; state the number of persons scheduled to participate; and shall provide the name, address, and home and office telephone number of the applicant.

(h) The Board Administrator, upon receipt of any such request, shall review same and determine whether the records sought are exempt under the Mississippi Public Records Act, and shall either produce records or access to records or deny access to or production of the records sought within seven (7) working days from the date of the receipt of the request for the production of the record. If the Board is unable to produce a public record by the seventh working day after the request is made, the Board will provide a written explanation to the person making the request stating that the record requested will be produced and specifying with particularity why the records cannot be produced within the seven-day period. Unless there is a mutual agreement of the parties, in no event shall the date for the Board's production of the request records be any later than fourteen (14) working days from the receipt of the original request.

(i) All inspection, copying or mechanical reproduction shall be done in the offices of the Board or such other reasonable place within the State of Mississippi as may be designated by the Board. It shall be the duty of the applicant to contact the Board Administrator y by phone before noon of the first working day preceding the proposed date set out in the application to determine if same is acceptable and, if not, what date and/or time will be substituted.

(j) Where possible, nonexempt material will be separated from exempt material and only the exempt material will be withheld.

(k) If the Board Administrator determines that the records requested are exempt or privileged under the law, she shall deny the request and shall send the person making the request a statement of the specific exemption relied upon by the Board for the denial. Such denials shall be kept on file for inspection by any person for three (3) years. This file shall be made available for inspection or copying or both during regular office hours to any person upon written request.

(l) The Board Administrator is authorized to calculate the estimated cost of searching, obtaining from storage, reviewing, shipping and/or duplicating records and to require payment in advance of such estimated charges prior to complying with the request. There shall be a charge of \$0.50 per page for each copy. Copies printed on both sides (front & back) shall be considered as two pages for copy charge purposes. Mailing cost shall be calculated at the applicable rate for each such mailing. If request involves notice to be given to a third party, the cost of mailing such notice via certified mail return receipt requested shall be charged to the person requesting such public records. In the event the actual cost of such activity exceeds the estimate, the Board Administrator is authorized to withhold mailing or delivery of said documents or to delay the inspection until the difference is paid.

(m). There shall be no charge for inspection of the current Board's records maintained at the Board office. Cost of obtaining records from any state storage facilities and the search for it shall be charged to the applicant.

(n). The Board Administrator may waive any or all the foregoing requirements related to written notice, time, and method of access prepayment of expenses whenever the determination is made that such waiver would be in the public interest.

(o). Applications for licensure shall be exempt from the provisions of this chapter.

(p) Test questions in the possession that are to be used in future license examinations, shall be exempt from the provisions of this chapter.

(q) Recommendations in the possession of any state board which is authorized to hold examinations and grant licenses or certificates to practice any profession, respecting any application for a professional license or certificate, shall be exempt from the provisions of this chapter.

SOURCE: Miss. Code Ann. § 73-75-9, Miss. Code Ann. § 25-61-5, Miss. Code Ann. § 25 -61-9, & Miss. Code Ann. § 73-52-1.

Part 3301 Chapter 15: Executive Sessions

Rule 15.1 (a). Any member may enter into executive session for the transaction of public business; however, all meetings of any public body shall commence as an open meeting.

(b) The procedure to be followed by any public body in declaring an executive session shall be as follows: Any member shall have the right to request the motion a closed determination upon the issue of whether to declare an executive session. The motion, by majority vote, shall require the meeting to be closed for a preliminary hearing determination of the necessity for executive session. No other business shall be transacted until the discussion of the nature of the matter requiring executive session has been completed and a vote, as required in subsection (1) hereof, has been taken on the issue.

(c) An executive session shall be limited to matter allowed to be exempted from open meetings. The reason for holding an executive session shall be stated in an open meeting, and the reason so stated shall be recorded in the minutes of the meeting. Nothing in this section shall be construed to require that any meeting be closed to the public, nor shall any executive session be used to circumvent or to defeat the purposes of this chapter.

(d) A public body may hold an executive session pursuant to this section for one or more of the following reasons:

(1) Transaction of business and discussion of personnel matters relating to competence of licensure and materials related to licensure – including professional competence, character, or physical or mental health of a licensee or potential licensee.

(2) Strategy sessions or negotiations with respect to prospective litigation, litigation or issuance of an appealable order when an open meeting would have a detrimental effect on the litigating position of the public body.

(3) Transaction of business and discussion regarding the report, development or course of action regarding security personnel, plans or devices.

(4) Investigative proceedings by any public body regarding allegations of misconduct or violation of the law, as well as all disciplinary matters concerning applicants and/or licensees.

(5) Any public body of the Legislature which is meeting on matters within jurisdiction of that body.

(6) Cases of extraordinary emergency which would pose immediate or irrevocable harm or damage to persons or property, or both, within the jurisdiction of the public body.

(7) Transaction of business and discussion concerning the preparation of tests for admission to practice in the recognized professions.

(8) Transactions of business and discussions regarding employment or job performance of a person in a specific position or termination of an employee holding a specific position.

(9) Discussions regarding material or data exempt from the Mississippi Public Records Act of 1983 pursuant to Section 25-11-121.

(10) The total vote on the question of entering into an executive session shall be recorded and spread upon the minutes of the public body.

(11) Any note whereby an executive session is declared shall be applicable only to that meeting on that day.

SOURCE: Miss. Code Ann. § 25-41-7

Part 3301 Chapter 16: Military and Spouse Applicants

Rule 16.1 Military and Spouse Applicant

1. The Mississippi Autism Board (Board) shall issue a license, certification or registration to a military-trained applicant, or an applicant who is married to or is dependent of a member of the military to allow the applicant to lawfully practice the applicant's occupation in Mississippi if, upon application to the Board, the applicant satisfies the following conditions:

- (a) Has been awarded a BCBA or BCaBA and has completed all of the following at a level that is substantially equivalent to or exceeds the requirements for licensure, certification or registration of the Board in this state: completed a military program of training, completed testing or equivalent training and experience as determined by the Board, and performed as a BCBA or BCaBA; and
- (b) Has engaged in active practice as a BCBA or BCaBA for at least two (2) of the five (5) years preceding the date of the application under this section; and
- (c) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice as a licensed behavior analyst or licensed assistant behavior analyst in this state at the time that it was committed; and
- (d) Pays any fees required by the Board.

2. The Board shall issue a license, certification or registration to a military spouse to allow the military spouse to lawfully practice the military spouse's occupation in Mississippi if, upon application to the Board, the military spouse satisfies the following conditions:

- (a) Holds a current license, certification or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification or registration are substantially equivalent to or exceed the requirements for licensure, certification or registration of the Board; and
- (b) Can demonstrate competency as a licensed behavior analyst or licensed assistant behavior analyst through methods as determined by the Board, such as having completed continuing education units or having had recent experience for at least two (2) of the five (5) years preceding the date of the application under this section; and
- (c) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice as a licensed behavior analyst or a licensed assistant behavior analyst in this state at the time the act was committed; and
- (d) Is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license, certification or permit; and
- (e) Pays any fees required by the Board.

3. The Board when issuing a license to a military spouse under Section 73-75-13 of the Miss. Code Ann., as amended, shall issue or deny the license within four (4) months of the military spouse's application if the spouse's orders are in Mississippi for thirty-six (36) months or less.

4. A nonresident licensed, certified or registered under this section shall be entitled to the same rights and obligations as required of a resident licensed, certified or registered by the Board.

5. Nothing in this section shall be considered to prohibit a military-trained applicant or military spouse from proceeding under the existing licensure, certification or registration requirements by the Board. A license under this section is only valid in Mississippi.

6. An occupation licensing board shall require an applicant to pass a jurisprudential examination specific to relevant state laws Mississippi that regulate the occupation if the issuance of a license in Mississippi requires an applicant to pass a jurisdictional examination specific to relevant state statutes and administrative rules in Mississippi that regulate the occupation.

7. The occupational licensing board shall issue or deny the license to the applicant within one hundred twenty days (120) days after receiving an application. If the application requires longer than two (2) weeks to process, the occupational licensing board shall issue a temporary practice permit within thirty (30) days after receiving the application if the applicant submits an affidavit, under penalties of perjury, affirming that he or she satisfies the provisions of section and pays all applicable fees.

SOURCE: Miss. Code Ann. § 73-50-1

Part 3301 Chapter 17: Pre-Licensure Determination

Rule 17.1: Request for Pre-Licensure Determination

1. An individual may request the Board for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. The determination request shall be in writing, filed on a form supplied by the Board and signed in the presence of a notary. The request shall also be accompanied by a judgment of conviction and a fee of \$25.00.

An individual shall be denied a license or permit based on a felony or misdemeanor conviction which includes the following: a deferred conviction, a deferred prosecution, a deferred sentence, finding or verdict of guilt, admission of guilt or a plea of nolo contendere to a crime involving moral turpitude.

2. Determination Notification
 - a. Time for Response. The Board or its designee shall issue a written determination notification to the individual within 30 days from the board's receipt of the individual's request.
 - b. Standing. The individual shall be provided one of the following responses:
 - i. Insufficient Information. If the individual's request contains insufficient information, the licensing authority or its designee will notify the individual that a determination cannot be made at this -time as to the individual's standing or whether or not the criminal record will disqualify the individual from obtaining a license.
 - ii. Disqualification Notification. The licensing authority or its designee shall notify the individual of the following:
 1. Grounds and reasons for denial or disqualification.
 2. The right to a hearing;

3. The earliest date to reapply for a license;
 4. Evidence of rehabilitation may be considered upon reapplication.
- c. Administrative Hearing. The notice will advise the individual of the right to a hearing to challenge the licensing authority or its designee's decision. A denial under the provision of this rule shall be heard by the Board and appealed in the same manner as a denial of licensure under Rule 7.1.

Source: *Miss. Code Ann. § 73-77-9*

PART 3301 CHAPTER 18: DECLARATORY OPINIONS

RULE 18.1: SCOPE. These Rules are intended to set forth the Board's rules governing the form and content of requests for declaratory opinions and the Board's procedures regarding the requests, as required by Mississippi Code Annotated Section 25-43-2.103.

RULE 18.2: PERSONS WHO MAY REQUEST DECLARATORY OPINIONS. Any person with a substantial interest in the subject matter may request a declaratory opinion from the Board by following the specified procedures. A substantial interest in the subject matter means: an individual, business, group or other entity that is directly affected by the Board's administration of the laws within its primary jurisdiction. A Primary jurisdiction of the agency means the agency has a constitutional or statutory grant of authority in the subject matter at issue.

RULE 18.3: SUBJECTS THAT MAY BE ADDRESSED IN DECLARATORY OPINIONS. The Board will issue declaratory opinions regarding the applicability to specified facts of: (1) a statute administered or enforceable by the Board or (2) a rule promulgated by the Board. The Board will not issue a declaratory opinion regarding a statute or rule which is outside the primary jurisdiction of the Board.

RULE 18.4: CIRCUMSTANCES IN WHICH DECLARATORY OPINIONS WILL NOT BE ISSUED. The Board may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

- A. Lack of clarity concerning the question presented;
- B. There is pending or anticipated litigation, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
- C. The statute or rule on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
- D. The facts presented in the request are not sufficient to answer the question presented;
- E. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
- F. The request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the statute or rule on which a declaratory opinion is sought;

- G. No controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statute or rule;
- H. The question presented by the request concerns the legal validity of a statute or rule;
- I. The request is not based upon facts calculated to aid in the planning of future conduct but is, instead, based on past conduct in an effort to establish the effect of that conduct;
- J. No clear answer is determinable;
- K. The question presented by the request involves the application of a criminal statute or a set of facts which may constitute a crime;
- L. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
- M. The question is currently the subject of an Attorney General's opinion request or has been answered by an Attorney General's opinion;
- N. A similar request is pending before this agency or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law.
- O. Where issuance of a declaratory opinion may adversely affect the interests of the State, the Board or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise;
- P. The question involves eligibility for a license, permit, certificate or other approval by the Board or some other agency, and there is a statutory or regulatory application process by which eligibility for said license, permit, certificate or other approval would be determined.

RULE 18.5: WRITTEN REQUEST REQUIRED. Each request must be printed or typewritten or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Board.

RULE 18.6: WHERE TO SEND REQUESTS. All requests must be submitted by certified mail to: Mississippi Autism Board, P.O. Box 20, Jackson, MS 39205.

RULE 18.7: DECLARATORY OPINION REQUEST. The request shall clearly state that it is a request for a declaratory opinion. No oral, telephone requests, or electronic mail requests will be accepted for official opinions.

RULE 18.8: NAME, ADDRESS AND SIGNATURE OF REQUESTOR. Each request must include the full name, telephone number, and mailing address of the requestor. The person or persons filing the request shall sign the request and attest that the request complies with the requirements set forth in these rules. The requirements include, but are not limited to a full, complete, and accurate statement of relevant facts, and that there are no related proceedings pending before any other administrative or judicial tribunal.

RULE 18.9: QUESTION PRESENTED. Each request shall contain the following:

- A. A clear and concise statement of all facts on which the opinion is requested;
- B. A citation to the statute or rule at issue;

- C. The question(s) sought to be answered in the opinion, stated clearly;
- D. A suggested proposed opinion from the requestor, stating the answers desired by the petitioner and a summary of the reasons in support of those answers;
- E. The identity of all other known persons involved in or impacted by the described factual situation, including their relationship to the facts, name, mailing address and telephone number; and
- F. A statement to show that the person seeking the opinion has a substantial interest in the subject matter.

RULE 18.10: TIME FOR BOARD RESPONSE. Within forty-five (45) working days after the receipt of a request for a declaratory opinion that complies with the requirements of these rules, the Board shall, in writing:

- A. Issue a declaratory opinion regarding the specified statute or rule as applied to the specified circumstances,
- B. Decline to issue a declaratory opinion, stating the reasons for its action, or
- C. Agree to issue a declaratory opinion by a specified time but no later than ninety (90) calendar days after receipt of the written request. The forty-five (45) working day period shall begin running on the first State of Mississippi business day on or after the request is received by the Board, whichever is sooner.

RULE 18.11: OPINION NOT FINAL FOR SIXTY DAYS. A declaratory opinion shall not become final until the expiration of sixty (60) calendar days after the issuance of the opinion. Prior to the expiration of sixty (60) calendar days, the Board may, in its discretion, withdraw or amend the declaratory opinion for any reason that is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.

RULE 18.12: NOTICE BY BOARD TO THIRD PARTIES. The Board may give notice to any person, agency, or entity that a declaratory opinion has been requested and may receive and consider data, facts, arguments, and opinions from other persons, agencies, or other entities other than the requestor.

RULE 18.13: PUBLIC AVAILABILITY OF REQUESTS AND DECLARATORY OPINIONS. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with the Public Records Act and the Board's public records request procedure. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests that contain information that is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

RULE 18.14: EFFECT OF A DECLARATORY OPINION. The Board will not pursue any civil, criminal or administrative action against a person who is issued a declaratory opinion from the Board and who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent jurisdiction holds that the opinion is manifestly wrong. Any declaratory opinion rendered by the Board shall be binding only on the Board and the person to

whom the opinion is issued. No declaratory opinion will be used as precedent for any other transaction or occurrence beyond that set forth by the requesting person.

Source: Miss. Code Ann. §73-75-9 & 25-43-2.103.