

By: Representatives Massengill, Bain,  
Barker, Barton, Bell, Evans (43rd), Hood,  
Jennings, Ladner, Lamar, Miles, Nelson,  
Oberhausen, Rogers (14th), Staples,  
Steverson, Sullivan, White

To: Insurance

HOUSE BILL NO. 885

1 AN ACT TO REQUIRE INSURANCE COVERAGE FOR AUTISM RELATED  
2 TREATMENT; TO PROVIDE FOR THE REGULATION OF THE PRACTICE OF  
3 APPLIED BEHAVIOR ANALYSIS; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** (1) A health insurance policy will provide  
6 coverage for the screening, diagnosis, and treatment of autism  
7 spectrum disorder in individuals less than twenty-two (22) years  
8 of age. To the extent that the screening, diagnosis, and  
9 treatment of autism spectrum disorder are not already covered by a  
10 health insurance policy, coverage under this section will be  
11 included in health insurance policies that are delivered,  
12 executed, issued, amended, adjusted, or renewed in this state, or  
13 outside this state if insuring residents of this state, on or  
14 after January 1, 2016. No insurer can terminate coverage, or  
15 refuse to deliver, execute, issue, amend, adjust, or renew  
16 coverage to an individual solely because the individual is  
17 diagnosed with or has received treatment for an autism spectrum  
18 disorder.



19           (2) Coverage under this section must not be subject to  
20 dollar limits, deductibles, or coinsurance provisions that are  
21 less favorable to an insured than the dollar limits, deductibles,  
22 or coinsurance provisions that apply to substantially all medical  
23 and surgical benefits under the health insurance policy, except as  
24 otherwise provided in subsection (5) of this section.

25           (3) This section shall not be construed as limiting benefits  
26 that are otherwise available to an individual under a health  
27 insurance policy.

28           (4) As used in this section:

29                   (a) "Applied behavior analysis" means the  
30 individualized design, implementation, and evaluation of  
31 instructional and environmental modifications to produce socially  
32 significant improvement in human behavior, including the use of  
33 direct observation, measurement, and functional analysis of the  
34 relationship between environment and behavior.

35                   (b) "Autism spectrum disorder" means any of the  
36 pervasive developmental disorders or autism spectrum disorders as  
37 defined by the most recent edition of the Diagnostic and  
38 Statistical Manual of Mental Disorders (DSM) or the edition that  
39 was in effect at the time of diagnosis.

40                   (c) "Behavioral health treatment" means behavior  
41 modification and mental health counseling and treatment programs,  
42 including applied behavior analysis, that are:



43 (i) Necessary to develop or restore, to the  
44 maximum extent practicable, the functioning of an individual; and  
45 (ii) Provided or supervised by a licensed behavior  
46 analyst or by a licensed psychologist, so long as the services  
47 performed are commensurate with the licensed behavior analyst or  
48 psychologist's competency area, training, and supervised  
49 experience.

50 (d) "Diagnosis of autism spectrum disorder" means  
51 medically necessary assessment, evaluations, or tests to diagnose  
52 whether an individual has an autism spectrum disorder, as  
53 performed by a licensed psychologist or licensed physician.

54 (e) "Licensed behavior analyst" means a professional  
55 licensed under Section 8(4) of this act to practice applied  
56 behavior analysis in the State of Mississippi.

57 (f) "Health insurance policy" includes any individual  
58 or group policy or contract of insurance as defined and used in  
59 Section 83-9-1, et seq., Mississippi Code of 1972, and the State  
60 and School Employees Health Insurance Plan.

61 (g) "Pharmacy care" means medications approved by the  
62 United States Food and Drug Administration and prescribed by a  
63 licensed physician, and any health-related services deemed  
64 medically necessary to determine the need or effectiveness of the  
65 medications.



66 (h) "Psychiatric care" means direct or consultative  
67 services provided by a psychiatrist licensed to practice in the  
68 State of Mississippi.

69 (i) "Psychological care" means direct or consultative  
70 services provided by a psychologist licensed to practice in the  
71 State of Mississippi.

72 (j) "Therapeutic care" means services provided by  
73 licensed or certified speech therapists, occupational therapists,  
74 or physical therapists as covered by the health insurance policy.

75 (k) "Treatment for autism spectrum disorder" means  
76 evidence-based care prescribed or ordered for an individual  
77 diagnosed with an autism spectrum disorder by a licensed physician  
78 or a licensed psychologist who determines the care to be medically  
79 necessary, including but not limited to:

80 (i) Behavioral health treatment;

81 (ii) Pharmacy care;

82 (iii) Psychiatric care;

83 (iv) Psychological care; and

84 (v) Therapeutic care.

85 (l) "Treatment plan" means a written, comprehensive,  
86 and individualized intervention plan that incorporates specific  
87 treatment goals, individualized with objectives, data collection  
88 and analysis plan, and goal change procedures if goals are not  
89 met.



90 (5) Coverage under this section for applied behavior  
91 analysis shall be limited to twenty-five (25) hours per week,  
92 unless a treatment plan exceeding twenty-five (25) hours is  
93 determined medically necessary by a licensed physician or licensed  
94 psychologist. No more than ten (10) hours per week shall be for  
95 the services of a licensed behavior analyst.

96 (6) Except for inpatient services, if an insured is  
97 receiving treatment for an autism spectrum disorder, an insurer  
98 shall have the right to review the treatment plan every six (6)  
99 months, unless the insurer and the insured's treating physician or  
100 psychologist agree that a more frequent review is necessary. The  
101 cost of obtaining any review of the treatment plan shall be borne  
102 by the insurer.

103 (7) This section shall not be construed to require an  
104 insurer to provide coverage for any services to an individual  
105 under an individualized family service plan, an individualized  
106 education program, or an individualized service plan, required by  
107 federal or state law to be performed by public schools, including,  
108 but not limited to, Individualized Education Programs, Special  
109 Education Services, Individuals with Disabilities Education  
110 Improvement Act programs, Attention Deficit-hyperactivity Disorder  
111 Classrooms, or Autism Spectrum Disorder Classrooms.

112 (8) Nothing in this section shall apply to nongrandfathered  
113 plans in the individual and small group markets that are required  
114 to include essential health benefits under the Patient Protection



115 and Affordable Care Act or to Medicare supplement, accident-only,  
116 specified disease, hospital indemnity, disability income,  
117 long-term care, or other limited benefit hospital insurance  
118 policies.

119 (9) The Insurance Department shall grant a small employer  
120 with a basic group health insurance policy, as defined in Section  
121 83-9-303, Mississippi Code of 1972, a waiver from the provisions  
122 of this section if the small employer demonstrates to the  
123 Insurance Department, by actual claims experience over any  
124 consecutive twelve (12) month period, that compliance with this  
125 section has increased the cost of the health insurance policy by  
126 an amount of two and one-half percent (2.5%) or greater over the  
127 period of a calendar year in premium costs to the small employer.

128 (10) In the event that any part of this legislation is  
129 rendered or declared invalid or unenforceable by a court of  
130 competent jurisdiction, such invalidation shall not invalidate the  
131 remaining portions thereof, and they shall remain in full force  
132 and effect.

133 **SECTION 2. License required.** In order to safeguard life,  
134 health and property, no person shall practice applied behavior  
135 analysis in this state, or use the title "Licensed Behavior  
136 Analyst" or "Licensed Assistant Behavior Analyst" unless such  
137 person has secured a license under this chapter.

138 **SECTION 3. Definitions.** The following definitions apply as  
139 used in this chapter, unless the context otherwise requires:



140 (1) "Board" means the Mississippi Autism Board.

141 (2) "Person" means any individual, organization or corporate  
142 body, except that only an individual may be licensed under this  
143 chapter.

144 (3) "Practice of applied behavior analysis" means  
145 interventions based on scientific research and the direct  
146 observation and measurement of behavior and the environment.  
147 Behavior analysts utilize contextual factors, motivating  
148 operations, antecedent stimuli, positive reinforcement, and other  
149 consequences to help people develop new behaviors, increase or  
150 decrease existing behaviors, and emit behaviors under specific  
151 environmental conditions. The practice of behavior analysis  
152 expressly excludes psychological testing, diagnosis of a mental or  
153 physical disorder, neuropsychology, psychotherapy, cognitive  
154 therapy, sex therapy, psychoanalysis, hypnotherapy, and long-term  
155 counseling as treatment modalities.

156 (4) "Licensed behavior analyst" means an individual  
157 currently certified by the Behavior Analyst Certification Board as  
158 a Board Certified Behavior Analyst (BCBA) or Board Certified  
159 Behavior Analyst-Doctoral (BCBA-D) and licensed under Section 8(4)  
160 of this act to practice applied behavior analysis.

161 (5) "Licensed assistant behavior analyst" means an  
162 individual currently certified by the Behavior Analyst  
163 Certification Board as a Board Certified Assistant Behavior  
164 Analyst (BCABA) and licensed pursuant to Section 8(5) of this act



165 to practice applied behavior analysis under the supervision of a  
166 licensed behavior analyst.

167 (6) "Behavior technician" means an individual currently  
168 certified by the Behavior Analyst Certification Board as a  
169 Registered Behavior Technician (RBT) to provide applied behavior  
170 analysis treatments under the supervision and direction of a  
171 licensed behavior analyst or licensed assistant behavior analyst.

172 **SECTION 4. Scope of Chapter.** (1) Nothing in this chapter  
173 shall be construed as preventing or restricting the practice of  
174 any of the following:

175 (a) A licensed psychologist, subject to any rules or  
176 regulations of the Mississippi Board of Psychology;

177 (b) Other licensed health care professionals authorized  
178 to practice in the state, so long as the services of the  
179 professional are commensurate with the professional's demonstrated  
180 competence and training and within the scope of practice regulated  
181 by the professional's licensing authority;

182 (c) A behavior technician who implements certain  
183 applied behavior analysis procedures under the extended authority  
184 and direction of a licensed behavior analyst or licensed assistant  
185 behavior analyst, provided that the behavior technician is  
186 supervised in accordance with the Behavior Analyst Certification  
187 Board's supervision standards.

188 (d) A family member or guardian of a recipient of  
189 applied behavior analysis services who implements certain applied





190 behavior analysis procedures in compliance with the training and  
191 direction of a licensed behavior analyst or licensed psychologist;

192 (e) A behavior analyst who practices with nonhumans,  
193 including applied animal behaviorists and animal trainers; or

194 (f) An individual who is pursuing supervised  
195 experiential training to meet eligibility requirements for  
196 Behavior Analyst Certification Board certification, provided that  
197 such training is supervised by a licensed behavior analyst and who  
198 meet Behavior Analyst Certification Board supervisor requirements,  
199 and that the supervised experience is conducted in accordance with  
200 other Behavior Analyst Certification Board standards and  
201 requirements.

202 (g) An individual who teaches behavior analysis or  
203 conducts behavior analytic research, provided that such teaching  
204 or research does not involve the delivery of direct behavior  
205 analytic services.

206 (h) A professional behavior analyst who provides  
207 general behavior analytic services to organizations, so long as  
208 those services are for the benefit of the organizations and do not  
209 involve direct services to individuals.

210 (i) A matriculated college or university student whose  
211 applied behavior analysis activities are part of a defined course,  
212 internship, practicum, or program of study and are supervised by a  
213 licensed behavior analyst or an instructor in a Behavior Analyst  
214 Certification Board-approved course sequence or practicum.



215 Students and interns must not represent themselves as professional  
216 behavior analysts but must use titles that clearly indicate their  
217 trainee status, such as "student," "intern," or "trainee."

218 (j) Individuals employed by a school board while  
219 performing the regular duties of their office or position. Such  
220 individuals shall not represent themselves as professional  
221 behavior analysts unless they are licensed behavior analysts or  
222 licensed assistant behavior analysts, and shall not offer behavior  
223 analytic services to any persons or entities other than their  
224 school employer or accept remuneration for providing behavior  
225 analytic services other than the remuneration they receive from  
226 their school employer.

227 (2) Subsection (1) of this section shall not be interpreted  
228 to expand the scope of practice of any licensed professional who  
229 is not licensed pursuant to this chapter; no individual described  
230 in subsection (1) may provide applied behavior analysis treatment  
231 outside the scope of their licensed practice.

232 **SECTION 5. Mississippi Autism Board; membership; term of**  
233 **office; appointment; qualifications.** (1) The board shall consist  
234 of five (5) members. The Governor shall appoint one (1) licensed  
235 psychologist practicing in the area of applied behavior analysis,  
236 one (1) licensed behavior analyst, and one (1) public member who  
237 is not licensed in behavior analysis and who is the family member  
238 of a recipient of applied behavior analysis services. The



239 Lieutenant Governor shall appoint two (2) licensed behavior  
240 analysts.

241 (2) The licensed psychologist member shall serve an initial  
242 term of one (1) year, the licensed behavior analyst appointed by  
243 the Governor shall serve an initial term of two (2) years, the  
244 public member shall serve an initial term of three (3) years, and  
245 the two (2) licensed behavior analysts appointed by the Lieutenant  
246 Governor shall serve initial terms of four (4) years. All  
247 subsequent appointees shall serve four (4) year terms.

248 (3) All appointees shall serve at the will and pleasure of  
249 the appointing official.

250 (4) Each board member shall serve without compensation, but  
251 shall receive actual traveling and incidental expenses necessarily  
252 incurred while engaged in the discharge of official duties.

253 **SECTION 6. Authority of the Board.** (1) The board shall  
254 annually elect from its membership a chairman and executive  
255 secretary at a meeting held during the last two (2) quarters of  
256 the fiscal year. The board shall meet at any other times as it  
257 deems necessary or advisable. Reasonable notice of all meetings  
258 shall be given in the manner prescribed by the board and in  
259 accordance with state law. The presence of three (3) members  
260 shall constitute a quorum.

261 (2) The board is authorized and empowered to:

262 (a) Investigate and evaluate each and every applicant  
263 applying for a license to practice applied behavior analysis.



264 (b) Issue subpoenas, examine witnesses and administer  
265 oaths, and shall, at its discretion, investigate allegations or  
266 practices violating the provisions of this chapter.

267 (c) Adopt and, from time to time, revise any rules and  
268 regulations not inconsistent with, and as may be necessary to  
269 carry into effect the provisions of this chapter.

270 **SECTION 7. Financing administration of provisions.** (1) The  
271 administration of the provisions of this chapter shall be financed  
272 from income accruing from fees, licenses and other charges  
273 assessed and collected by the board and from such other funds  
274 available to the board.

275 (2) The board shall receive and account for all funds  
276 received and shall keep such funds in a separate fund. Funds  
277 collected under the provisions of this chapter shall be used  
278 solely for the expenses of the board and to administer the  
279 provisions of this chapter, which may include full or partial  
280 financing of continuing education programs promulgated by the  
281 board under this chapter. Such funds shall be subject to audit by  
282 the Auditor of the State of Mississippi.

283 (3) The board shall be assigned to the Office of the  
284 Secretary of State for administrative and ministerial purposes.

285 **SECTION 8. Eligibility for license.** To be eligible for  
286 licensure by the board as a behavior analyst or assistant behavior  
287 analyst, a person shall:



288 (1) Submit to the board an application, upon such form and  
289 in such manner as the board shall prescribe, along with the  
290 applicable fee and personal references;

291 (2) Certify that the applicant has not been convicted of a  
292 felony as defined by the laws of the State of Mississippi;

293 (3) Undergo a fingerprint-based criminal history records  
294 check of the Mississippi central criminal database and the Federal  
295 Bureau of Investigation criminal history database. Each applicant  
296 shall submit a full set of the applicant's fingerprints in a form  
297 and manner prescribed by the board, which shall be forwarded to  
298 the Mississippi Department of Public Safety and the Federal Bureau  
299 of Investigation Identification Division for this purpose; and

300 (4) For a behavior analyst:

301 (a) Possess at least a master's degree, or its  
302 equivalent, from an educational institution recognized by the  
303 board;

304 (b) Have current and active certification by the  
305 Behavior Analyst Certification Board as a Board Certified Behavior  
306 Analyst (BCBA) or Board Certified Behavior Analyst-Doctoral  
307 (BCBA-D), verified by the Board; and

308 (c) Comply with such other requirements of the board.

309 (5) For an assistant behavior analyst:

310 (a) Possess a bachelor's degree, or its equivalent,  
311 from an educational institution recognized by the board;



312 (b) Have current and active certification by the  
313 Behavior Analyst Certification Board as a Board Certified  
314 Assistant Behavior Analyst (BCABA), verified by the Board; and

315 (c) Provide proof of ongoing supervision by a licensed  
316 behavior analyst.

317 (6) All licenses issued pursuant to this section shall be  
318 for a term of three (3) years, but shall not exceed the expiration  
319 of the licensee's certification by the Behavior Analyst  
320 Certification Board.

321 **SECTION 9. Waiver of eligibility requirements.** The board  
322 may waive the examination for licensure of any applicant who  
323 presents proof of current licensure in another state, including  
324 the District of Columbia, or territory of the United States which  
325 maintains professional standards considered by the board to be  
326 equivalent to those set forth in this chapter. The issuance of a  
327 license by reciprocity to a military-trained applicant or military  
328 spouse shall be subject to the provisions of Section 73-50-1.

329 **SECTION 10. Temporary licenses.** The board shall draft rules  
330 and regulations for the granting and renewal of temporary licenses  
331 for applicants who have met all eligibility requirements for  
332 certification by the Behavior Analyst Certification Board, have  
333 taken a certification examination, and are awaiting results of the  
334 examination, but otherwise meet the requirements of this chapter.

335 **SECTION 11. License denial, suspension, or revocation.** (1)  
336 The board, by an affirmative vote of at least three (3) of its



337 five (5) members, shall withhold, deny, revoke or suspend any  
338 license issued or applied for in accordance with the provisions of  
339 this chapter, or otherwise discipline a licensed behavior analyst  
340 or licensed assistant behavior analyst upon finding that the  
341 applicant or licensee:

342 (a) Has violated the current Behavior Analyst  
343 Certification Board Professional Disciplinary and Ethical  
344 Standards, the Behavior Analyst Certification Board Guidelines for  
345 Responsible Conduct for Behavior Analysts, or other codes of  
346 ethical standards adopted by the board, or has lost or failed to  
347 renew certification by the Behavior Analyst Certification Board;  
348 or

349 (b) Has been convicted of a felony or any offense  
350 involving moral turpitude, the record of conviction being  
351 conclusive evidence thereof; or

352 (c) Is using any narcotic or any alcoholic beverage to  
353 an extent or in a manner dangerous to any other person or the  
354 public, or to an extent that such use impairs his ability to  
355 perform the work of a licensed behavior analyst or licensed  
356 assistant behavior analyst; or

357 (d) Has impersonated another person holding a license  
358 issued under this chapter or allowed another person to use his  
359 license; or

360 (e) Has used fraud or deception in applying for a  
361 license provided for in this chapter; or



362 (f) Has accepted commissions or rebates or other forms  
363 of remuneration for referring clients to other professional  
364 persons; or

365 (g) Has allowed his name or license issued under this  
366 chapter to be used in connection with any person or persons who  
367 perform applied behavior analysis services outside the area of  
368 their training, experience or competence; or

369 (h) Is legally adjudicated mentally incompetent, the  
370 record of such adjudication being conclusive evidence thereof; or

371 (i) Has willfully or negligently violated any of the  
372 provisions of this chapter.

373 (2) The board may recover from any person disciplined under  
374 this chapter the costs of investigation, prosecution, and  
375 adjudication of the disciplinary action.

376 (3) Notice shall be effected by registered mail or personal  
377 service setting forth the particular reasons for the proposed  
378 action and fixing a date not less than thirty (30) days nor more  
379 than sixty (60) days from the date of such mailing or such  
380 service, at which time the applicant or licensee shall be given an  
381 opportunity for a prompt and fair hearing. For the purpose of  
382 such hearing the board, acting by and through its executive  
383 secretary, may exercise all authority granted to conduct  
384 investigations and hearings pursuant to Section 6(2)(a) and (b) of  
385 this act. At such hearing the applicant or licensee may appear by  
386 counsel and personally on his own behalf. On the basis of any





387 such hearing, or upon default of applicant or licensee, the board  
388 shall make a determination specifying its findings of fact and  
389 conclusions of law. A copy of such determination shall be sent by  
390 registered mail or served personally upon the applicant or  
391 licensee. The decision of the board denying, revoking or  
392 suspending the license shall become final thirty (30) days after  
393 so mailed or served unless within that period the licensee appeals  
394 the decision to the Chancery Court of Madison or Rankin Counties,  
395 pursuant to the provisions hereof, and the proceedings in chancery  
396 shall be conducted as other matters coming before the court. All  
397 proceedings and evidence, together with exhibits, presented at  
398 such hearing before the board in the event of appeal, shall be  
399 admissible in evidence in the court.

400 (4) Nothing in this subsection shall be interpreted to  
401 prohibit the board from immediately suspending any license prior  
402 to a hearing under subsection (3) of this section, when in its  
403 sole discretion the suspension is required for the instruction,  
404 safety or well-being of any member of the public.

405 (5) Every order and judgment of the board shall take effect  
406 immediately upon its promulgation unless the board in such order  
407 or judgment fixes a probationary period for applicant or licensee.  
408 Such order and judgment shall continue in effect unless upon  
409 appeal the court by proper order or decree terminates it earlier.  
410 The board may make public its order and judgments in such manner  
411 and form as it deems proper.



412 (6) Suspension by the board of a license issued under this  
413 chapter shall be for a period not to exceed one (1) year. At the  
414 end of this period the board shall reevaluate the suspension, and  
415 shall either reinstate or revoke the license. A person whose  
416 license has been revoked under the provisions of this section may  
417 reapply for license after more than two (2) years have elapsed  
418 from the date such revocation is legally effective.

419 (7) In addition to the reasons specified in subsection (1)  
420 of this section, the board shall be authorized to suspend the  
421 license of any licensee for being out of compliance with an order  
422 for support, in compliance with the procedures set forth in  
423 Sections 93-11-151 through 93-11-163.

424 **SECTION 12. Procedure and fees for renewal.** (1) Except as  
425 provided in Section 33-1-39, every applicant for license or  
426 renewal pursuant to this chapter shall pay to the board a fee  
427 determined by the board, but not to exceed:

428 (a) Two Hundred Fifty Dollars (\$250.00), in addition to  
429 the cost of obtaining the criminal history record, for behavior  
430 analysts; and

431 (b) Hundred Dollars (\$100.00), in addition to the cost  
432 of obtaining the criminal history record, for assistant behavior  
433 analysts.

434 (2) Individuals licensed pursuant to this chapter shall  
435 apply for renewal every three (3) years, or upon renewal of  
436 certification by the Behavior Analyst Certification Board, have



437 current certification by the Behavior Analyst Certification Board  
438 verified by the board, and present evidence of the satisfactory  
439 completion of continuing education requirements as determined by  
440 the board. The board shall issue a renewal of the license for a  
441 term of three (3) years to any licensee complying with the  
442 requirements of this section.

443 (3) A lapsed license under this chapter may be renewed  
444 within a period of two (2) years after the lapse, upon payment of  
445 all fees in arrears and verification by the board that the  
446 applicant is currently certified by the Behavior Analyst  
447 Certification Board. An individual wishing to renew a license  
448 that has been lapsed for more than two (2) years shall be required  
449 to reapply for licensure.

450 **SECTION 13. Duty to register behavior technicians.** Licensed  
451 behavior analysts and licensed assistant behavior analysts must  
452 register with the board all behavior technicians providing  
453 services under their supervision. The licensed behavior analyst  
454 or licensed assistant behavior analyst shall update the board of  
455 the termination of supervision as required by the board.

456 **SECTION 14. Offenses and penalties.** Any person who violates  
457 any provision of this chapter shall, upon conviction, be guilty of  
458 a misdemeanor and shall be punished by a fine of not more than One  
459 Thousand Dollars (\$1,000.00) or imprisoned in the county jail for  
460 a period not exceeding six (6) months, or both.



461           **SECTION 15.**   **Fees deposited in special fund.**   All fees  
462 collected by the board under this chapter and any penalties  
463 collected by the board for violations of this chapter shall be  
464 deposited in a special fund hereby created in the State Treasury  
465 and shall be used for the implementation and administration of  
466 this chapter when appropriated by the Legislature for such  
467 purpose.

468           **SECTION 16.**   (1)   Section 1 of this act shall be codified as  
469 a new section in Chapter 9, Title 83, Mississippi Code of 1972.

470           (2)   Sections 2 through 15 of this act shall be codified as a  
471 new chapter in Title 73, Mississippi Code of 1972.

472           **SECTION 17.**   This act shall take effect and be in force from  
473 and after July 1, 2015.

