



Vermont Developmental Disabilities Council

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Testimony before the Senate Committee on Government Operations, April 15, 2015

Thank you for the opportunity to speak on behalf of the Vermont Developmental Disabilities Council in support of licensing and regulating applied behavior analysts and their assistants. Licensure will bring the appropriate level of oversight to this professional group which often works with vulnerable individuals.

Background

Applied Behavior Analysis (ABA) is an evidence-based approach that has been shown to be highly effective in treating the interfering symptoms associated with autism spectrum disorder (ASD), a condition that affects one in every 54 children, according to the Centers for Disease Control. Currently ABA is identified as medically necessary treatment for ASD by the Surgeon General. It is the only evidence-based treatment for autism identified by the National Standards Project of the National Autism Center.

Although the primary consumers of ABA services are young children with autism, ABA is also used to promote pro-social behavior in older children and teens and to support individuals with a wide range of intellectual and developmental disabilities.

In 2012, the Vermont General Assembly passed Act 158, an act relating to health insurance coverage for early childhood developmental disorders, including ASD, with the intent of expanding access to coverage for diagnosis, assessment, and treatment. The legislation specifically included coverage for (ABA) [8 V.S.A. § 4088i(f)]. Significantly, the bill mandated ABA coverage not only by state-regulated private insurance carriers, but also through the Vermont Medicaid program, making Vermont the first state to require publicly funded coverage. Last July, the Centers for Medicare and Medicaid Services (CMS) issued guidance clearly establishing ABA as a therapy accessible through Medicaid's Early Periodic Screening Diagnosis and Treatment (EPSDT) program.

Reasons for Licensure:

As you have heard in earlier testimony, there are significant consumer protection issues that can and must be addressed by licensure.

By law, the OPR regulates a profession only when: “(1) it can be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is recognizable and not remote or speculative; (2) the public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and (3) the public cannot be effectively protected by other means” [26 V.S.A. §3105(a)].

The practice of ABA meets these criteria.

1. Regarding public safety: Behavioral science and its therapeutic application carries with it significant ethical responsibilities. Many behavior analytic methods are powerful, and can easily be misused and abused by those who lack the necessary training. Obvious harm can and has been done when practitioners use aversive techniques (punishment, rather than positive behavior supports). In addition, failure to accurately assess the developmental needs of young children can lead to a program that does not target the appropriate skills in the right sequence. Early childhood is a critically important time during which therapeutic intervention has been shown to be especially effective. Time lost to poor practice wastes the opportunity afforded by this developmental window.
2. Regarding the public benefit of assuring professional ability. Behavioral science is a highly technical field, and family caregivers cannot be expected to have the expertise to identify well trained practitioners. Certification, however, is not sufficient to protect the vulnerable populations with whom BCBA's typically work. Only licensure will provide families with recourse if harm is done by a certified professional.
3. Regarding other means of protection the public: The Behavior Analyst Certification Board (BACB) was established in 1998 to develop uniform, objective, verifiable standards and procedures for consumers, governments, and funding sources to use to identify individuals with the training and competencies required to practice ABA. At present, the BACB is the only entity that is accredited to certify practitioners of ABA, and administers the only psychometrically and legally validated professional examinations in the practice of ABA. However, the BACB is not a government entity.

Suggested Change to S. 136.

In Subchapter 2, § 4912, ADVISOR APPOINTEES (a)(2) replace the phrase “an individual with autism” to “a child with a developmental disorder.” Hence, “One of the appointees shall be a parent of a child with a developmental disorder who is a recipient of applied behavior analysis services.” This is consistent with 8 V.S.A. § 4088i and the legislature’s intent that ABA be available when medically necessary for any child with a developmental disorder, not solely for children with autism.

Thank you for considering these remarks.

With Best Regards,

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