

Association of



*Professional
Behavior Analysts*

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MEMO

DATE: September 14, 2011

TO: William Ahearn, PhD, BCBA-D
Chair of Professional Practice
Berkshire Association for Behavior Analysis and Therapy (BABAT)

FROM: Gina Green, PhD, BCBA-D
Executive Director, APBA

RE: Request for opinion on proposed bills to license behavior analysts in MA

Thank you for asking for APBA's analysis of two bills to establish licensure of behavior analysts that will be heard by the legislature of the Commonwealth of Massachusetts on September 20. Comments on the general provisions of each bill, its likely effect on practitioners and consumers of applied behavior analysis (ABA) services, and our recommendations follow.

H01901 (Scibak)

This bill has a number of **strengths**:

- It proposes to establish a board to license and oversee the practice of behavior analysts that consists of qualified professional behavior analysts, along with two members of the public. In doing so, the bill recognizes that behavior analysis has long been established as a distinct discipline, and that the practice of ABA is a distinct profession. It also respects and recognizes the importance of having the practice of

behavior analysis regulated *by members of that profession*, as we believe is the case for other professions that are licensed in MA.

- In making certification by the Behavior Analyst Certification Board, Inc. (BACB) the foundational requirement for licensure, the bill (if adopted) will enable the Commonwealth and its citizens to benefit from several facts about the BACB:
 - Its programs are accredited by the well-respected National Commission on Certifying Agencies (NCCA) of the National Organization for Competency Assurance. The NCCA standards are grounded in case law and best practices regarding professional credentialing. The NCCA accredits certifications in a number of professions, many of which are written into laws and regulations. Indeed, the NCCA-accredited BACB credentials are now recognized in many laws and regulations around the U.S.
 - Over the past 13 years, the BACB has developed standards for certifying practitioners of ABA based on extensive job analyses involving thousands of professional behavior analysts. Those standards include degrees, coursework, supervised experiential training, and passage of a psychometrically valid and reliable objective examination to obtain certification, and continuing education to maintain certification. Thus MA citizens can be confident that individuals who are licensed to practice ABA have met requirements established by knowledgeable members of that profession.
 - The BACB certification programs have built-in, empirical mechanisms for evaluating the certification standards periodically and upgrading them as needed. Those mechanisms ensure that the certification requirements – and therefore the MA licensure requirements -- reflect new developments in research, professional practice, laws and regulations, social and cultural norms, and other factors affecting the delivery of ABA services to consumers.
 - The BACB has also established Guidelines for Responsible Conduct for Behavior Analysts and Professional Disciplinary and Ethical Standards, both of which are designed to protect consumers as well as BACB-certified practitioners. The latter are enforced by the BACB. By making BACB certification the main requirement for licensure, H01901 affords MA consumers of ABA services more protection than many other licensure laws, because the practice of Licensed Behavior Analysts and Licensed Assistant Behavior Analysts will be overseen by both the BACB and the state behavior analyst licensure board.
 - Basing licensure of behavior analysts on BACB certification is likely to save money for the Commonwealth. For instance, the state will not have to undertake the very arduous and expensive task of developing a psychometrically and legally validated behavior analyst licensure exam, because applicants will be required to have passed the BACB exam. Additionally, since all licensure applicants' degrees, coursework, and experiential training will be vetted by the BACB, that will save the behavior analyst licensure board a great deal of time and labor.

- Basing licensure on BACB certification is consistent with the recently adopted MA autism insurance law, which recognizes Board Certified Behavior Analysts as qualified providers of ABA services for people with autism spectrum disorders. Adoption of H01901 will help ensure that there is a cadre of properly credentialed ABA providers in the state, thereby fostering smooth implementation of the autism insurance law.

Our **recommendation** is to support H01901.

H01002 (Balsler)

APBA respects the right of qualified psychologists to practice psychology within the bounds of relevant laws and the American Psychological Association (APA) Code of Ethics, and to have the licensure and practice of clinical psychologists overseen by members of that profession. With respect to licensing and overseeing the practice of *behavior analysts*, however, this bill is **problematic** for many reasons:

- It defines ABA incorrectly as a “subset of psychological treatment methodologies” and the practice of ABA as a “technical set of skills” that are useful only with a few client populations. That definition ignores several decades of published work on the conceptual and methodological underpinnings of the discipline of behavior analysis *as distinct from psychology* and the efficacy of ABA interventions for a wide array of socially important behaviors in a variety of populations.
- The bill does not reflect an accurate understanding of the BACB, which is accredited to issue professional credentials to those who have met requirements for practicing ABA that have been set by the profession of behavior analysis, *distinct from psychology and other professions*. In fact, the APA’s Council of Specialties in Professional Psychology states explicitly that “The BACB certifies behavior analysts. The BACB certification is not psychological certification; instead, the BACB’s certification reflects the practice of applied behavior analysis in a variety of professional fields.” (<http://cospp.org/specialties/behavioral-and-cognitive-psychology>).
- Although some behavior analysts have degrees in psychology, many have earned degrees from a variety of other academic departments. It is not clear that the APA Code of Ethics, which is included in this bill, could be enforced with behavior analysts who do not have degrees or licenses in psychology.
- This bill would have the practice of ABA overseen not by members of that profession, but by psychologists. With due respect to that field, relatively few psychologists have the training that the profession of behavior analysis has determined to be necessary to practice ABA at even a basic level. Just as it would be inappropriate for the practice of psychology to be overseen by professionals who do

not hold credentials in psychology, it is inappropriate for psychologists who are not credentialed in ABA to oversee the practice of ABA.

- Adoption of this bill would likely have several effects:
 - Relatively few people with bona fide training and credentials in ABA would be eligible for licensure, and relatively few people who are truly qualified to do so would be available to supervise the delivery of ABA services. That would make it difficult for consumers to access those services, which would impede implementation of the autism insurance law and possibly other extant laws and regulations. It would also increase the cost of ABA services unnecessarily.
 - Conscientious licensed psychologists would be put in the difficult position of having to decide whether to practice outside of the bounds of their competence and training by overseeing the delivery of ABA services. If they decline, some MA consumers (such as children with autism) might not receive mandated medically necessary treatment. If they accept, those consumers may not receive ABA treatment, or that treatment might be compromised. Further, those psychologists might risk having complaints of unethical practice filed with their licensing board.
 - The Commonwealth would be forced to develop a licensure program for behavior analysts “from scratch.” That would likely be very costly, especially if it included development of a new licensure exam as provided in this bill, and other functions that would have to be carried out by a committee on behavior analysis within the Board of Registration of Psychologists. It would also likely take a substantial amount of time, again limiting consumers’ access to ABA services and driving up their costs. Those costs and delays are unnecessary. The legislature can avoid them by adopting H01901 instead of this bill.

Our **recommendation** is to strongly oppose H01002.

Please don’t hesitate to contact me if you have questions or if APBA can provide any additional information.