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Committee: Joint Committee on Consumer Protections and Professional Licensure

Issue: Support of HB 1901; An Act Relative to the Licensure of Behavior Analysts, filed by Rep. John Scibak.

Date: September 20, 2011

The following testimony is provided in opposition to House Bill 1002, An Act Relative to the Licensure of Behavior Analysts, sponsored by Representative Ruth Balser, and in support of House Bill 1901, An Act Relative to the Licensure of Behavior Analysts, filed by Rep. John Scibak.

On behalf of the Massachusetts Association for Applied Behavior Analysis (MassABA), the Board of Directors would like to thank the Commission of Consumer Protection and Licensing for considering the development of a Behavior Analysis License as defined in Representative John Scibak's House Bill 1901. MassABA has over 500 active professional members throughout the Commonwealth and is an affiliated chapter of the Association of Behavior Analysis International (ABAI). MassABA is honored to represent the field of applied behavior analysis (ABA) in the Commonwealth.

Since the ground-breaking research of Ivar Lovaas was published in 1987, applied behavior analysis (ABA) has become synonymous with providing effective evidenced-based treatment to individuals with autism spectrum disorder (ASD). ABA is now the nationally recognized leading treatment for individuals with ASD and has been validated by hundreds of peer reviewed journal articles. Behavior analysis has also been recognized by a variety of regulatory bodies and well-respected individuals (The National Research Council, 2001<sup>1</sup>, The Maine Administrators of Services for Children with Disabilities, 2000<sup>2</sup>, The New York State Department of Health – Clinical Practice Guidelines, 1999<sup>3</sup>, The U.S. Surgeon General's Report, 1995<sup>4</sup>.)

Since 1998, the Behavior Analyst Certification Board (BACB) has been the single governing body for professionals working in the field of applied behavior analysis. Under certification, the field has thrived resulting in increased numbers of BACB certificants and the creation of new graduate training programs with coursework concentrations in applied behavior analysis (ABA). Within the last two years, individual states have created licenses or begun the process of licensing behavior analysts.

BCBAs have been providing services within the Commonwealth for over 13 years. During that period, BCBAs have distinguished themselves through peer-reviewed publications, increased employment on the local/state level, and were specifically written into Massachusetts' ARICA legislation. Massachusetts has the unique status of possessing the densest concentration (on a per capita basis) of BACB certificants in the world. There is one BACB certificant for every 8,431 residents of the Commonwealth, 12 BACB University approved graduate coursework programs, and a total of 782 BCBA/BCaBAs. BCBAs are employed statewide in public schools, private schools, hospitals, and home based service agencies.

### Supporting Representative Scibak's HB 1901 Bill:

One of the major advantages to HB 1901 is the experience of the bill's author, Representative John Scibak. Representative Scibak has a Ph.D. in psychology with a specialty in applied behavior analysis. He has been an invited speaker at Association for Behavior Analysis International (ABAI) conferences and has a deep and clear understanding of ABA's scope of practice, contributions to society, and key elements that differentiate behavior analysts from licensed psychologists. In constructing HB 1901, Representative Scibak consulted widely and built consensus within the behavior analytic community. As a result, this bill has garnered the support of the Massachusetts Association for Behavior Analysis (MassABA), the Berkshire Association for Behavior Analysis and Therapy (BABAT), the Association for Behavior Analysis International (ABAI), the Association for Professional Behavior Analysts (APBA) and the Behavior Analyst Certification Board (BACB). Representative Scibak was able to design HB 1901 with the consensus and support of state and national behavioral associations.

The primary rationale for support of HB 1901 is increased **consumer protections** for individuals receiving behavior analytic services. Currently, the responsibility for protecting consumers served by BCBAs falls under the auspices of the BACB's disciplinary review committee. The BACB review committee has been very effective in monitoring complaints and identifying individuals fraudulently claiming certification. However, this committee reviews only those behavioral professionals who hold a BACB certificate. An individual that practices applied behavior analysis without a certification and does not claim to be a BACB certificiant would not be subject to the authority of the BACB review committee. It is also important to note that the BACB has limited investigation and enforcement capacity, where the harshest action administered by the review committee is limited to the revocation of an active BACB certificate.

With the establishment of a behavior analyst's license, the Commonwealth would have the authority to conduct localized investigations into claims of professional misconduct or misrepresentation using the resources of a local state investigatory department. A state licensing board investigation would also provide the BACB review committee additional evidence for potential professional misconduct. The BACB review committee would also gain increased enforcement authority by referring certificants that also hold a state license to local state licensing boards for potential violations of professional practice.

Behavior Analysts work with some of the most vulnerable and disabled populations in the Commonwealth. In Massachusetts, ABA services are often conducted in schools or homes by non-certified paraprofessional staff under the supervision of a BCBA. Licensure will offer families a regulated process to investigate accusations of misconduct and prosecute those who violate their scope of practice or the BACB guidelines for responsible conduct. These increased regulatory standards should also serve to protect the field, as all practitioners of ABA would be subject to regulatory standards consistent with other established licensed professional disciplines (such as speech language therapists, physical therapists, and psychologists).

HB 1901 also contains a clear description of the Licensed Behavior Analyst's (LBA's) scope of professional practice. This scope of practice defines the procedures, actions, and processes that are permitted for the licensed individuals. Representative Scibak's bill defines a scope of practice that is consistent with and similar to the definition of the Practice of Behavior Analysis promulgated by the BACB. The HB 1901 scope of practice is a contemporary and evidenced based description that covers the scope of professional duties of a practicing behavior analyst.

HB1901 also specifies some clarifications and restrictions of practice as a behavior analyst. For example, LBA's would be prohibited from psychological testing, neuropsychological assessment, diagnosis of psychiatric conditions, psychotherapy, cognitive therapy, sex therapy, psychoanalysis and hypnotherapy. This bill would not prohibit those BCBAs who are also licensed psychologists from engaging in those activities while representing themselves as psychologists. Implementation of HB 1904 would not restrict or prohibit psychologists or other helping professionals from treating others utilizing the principles or procedures of ABA. The legislation would only prohibit individuals from promoting themselves as an LBA without a supporting license. Psychologists

would be permitted to treat clients utilizing ABA or behavior procedures if they were properly trained as defined through their professional scope of practice.

Opposition to House Bill 1002:

MassABA is opposing the passage of House Bill 1002, which would significantly restrict the scope of practice of BCBA certificants in the Commonwealth. The passage of HB 1002 would also cede supervision of BCBA's and treatment decision authority regarding behavior analytic treatment to licensed psychologists. The fact that fewer than 20 Massachusetts licensed psychologists have a BACB credential suggests there would be a lack of qualified professionals available to supervise ABA based treatment if HB 1002 was enacted into law. This would substantially restrict the ABA services available to children, adults, and families affected by ASD in the Commonwealth. HB 1002 would also have the deleterious effect of driving up the overall cost of services per client by adding the expense of supervision from a licensed psychologist. The increased per case cost and limited number of licensed psychologists required to supervise BCBA's would most certainly slow the implementation of Massachusetts' recently enacted ARICA bill (*An Act Relative to Insurance Coverage for Autism*), which mandated health insurance for children, adults, and families affected by ASD, and sought to improve access to effective treatment. It is worth noting that the great majority of licensed MA psychologists would not meet the minimum course requirements or supervision standards for approval to sit for the BACB examination. Given the relative paucity of qualified psychologists who can conduct or supervise behavioral services, it is possible that a psychologist-dominated licensing board would inadvertently limit access to services to families and clients.

Implication for the Field of ABA in Massachusetts

House Bill 1904 currently has the support of the state's two main organizations representing behavior analysts, the Massachusetts Association for Behavior Analysis (MassABA) and the Berkshire Association for Behavior Analysis and Therapy (BABAT). The continued passage of HB 1901 ensures growth and expansion of the field and most importantly ensures that the citizens of the Commonwealth of Massachusetts finally receive the consumer protections they require to guarantee access to effective treatment.

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