



October 20, 2010

Kevin Patrick Beagan
Deputy Commissioner, Health Care Access Bureau and Director, State Rating Bureau
Commonwealth of Massachusetts Division of Insurance
One South Station | Boston, MA 02110

Dear Deputy Commissioner Beagan:

On behalf of the Massachusetts Association for Applied Behavior Analysis (MassABA), the Board of Directors would like to thank the Division of Insurance for the opportunity to outline recommendations relative to the implementation of HB4935. MassABA has over 300 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 and participate in the development of HB4935. There are currently over 600 Board Certified Behavior Analysts (BCBAs) residing in Massachusetts. BCBAs work in a variety of human services settings including public schools, hospitals, and universities. However, the majority of BCBAs are employed to supervise and provide services to individuals with disabilities. Although BCBAs serve individuals with a variety of disabilities, behavior analysts are most well-known and respected for their research and work in providing treatment services to individuals with Autism Spectrum Disorders (ASD).

Since the ground-breaking research of Ivar Lovaas published in 1987, behavior analysis has become synonymous with providing effective evidenced-based treatment to individuals with autism. 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, as provided by or under the direction of Board Certified Behavior Analysts, has also been recommended by a variety of regulatory bodies and well-respected individuals (The National Research Council, 2001¹, The Maine Administrators of Services for Children with Disabilities, 2000², The New York State Department of Health – Clinical Practice Guidelines, 1999³, The U.S. Surgeon General’s Report, 1995⁴.) The professional growth of ABA has also given hope and resulted in astonishing outcomes for numerous families affected by ASD.

MassABA has extensively reviewed the HB4935 and attended the development meeting sponsored by the Division of Insurance. As a result, MassABA respectfully submits these comments for consideration to the DOI when crafting the implementation details of HB4935.

BCBAs have been supervising ABA treatment programs and providing services to individuals with ASD in the Commonwealth for over 13 years through the Division of Developmental Disabilities, Public and Private Schools, and Department of Public Health's Early Intervention Specialty Service Provider program. During this period, the field of applied behavior analysis has grown significantly, due in large part to the exceptional work and research completed by BCBAs. Behavior analysts have published a significant majority of the peer-reviewed articles related to effective services for individuals with ASD, developed many of the graduate level ABA University programs, and provided the high quality service that has improved the lives of children and families impacted by ASD.

The text of HB4935 does not state or imply that BCBAs require supervision by licensed psychologists; nor is there precedent to support this approach in any of the aforementioned sources on the recommended treatments for children with autism (e.g., National Research Council's Educating Children with Autism report, 2001¹). In practical terms, the great majority of licensed psychologists lack the specialized coursework, field-based ABA supervision, and continuing education to ethically or effectively supervise BCBAs providing autism treatment services. This new and costly level of supervision would result in delaying the timely and appropriate implementation of services for children and families. This unnecessary change in the legislation would also add a level of oversight and bureaucracy that would drive up the costs of services without improving the quality or effectiveness of treatment.

Blue Cross/Blue Shield (BC/BS) representatives made statements at a Division of Insurance meeting regarding an internal policy that only allows reimbursement of licensed professionals. In the opinion of MassABA, the BC/BS policy will be a major impediment to the effective implementation of HB4935. In Connecticut, BC/BS enacted a similar policy, where BCBAs are prohibited from becoming in-network providers unless working under the supervision of a licensed psychologist or professional. The justification often made by BC/BS is that the BACB standards are too relaxed and lack the credentialing rigor of similar professions. That the Commonwealth of Massachusetts has not yet ruled on the issue of recognizing the practice guidelines of behavior analysts as a mandatory requirement for practicing these services (i.e., licensure), in the opinion of MassABA, should not preclude that the individuals who provide these services are those who have demonstrated the necessary skills through a voluntary certification process. BC/BS also reports that there is a lack of local control/oversight by the BACB, which may result in a lack of consumer protections.

MassABA disputes these claims. There is no evidence of deterioration of services as a result of national versus local oversight and MassABA cites almost all other health insurance companies that support individuals with ASD routinely reimburse BCBAs without the need of supervision by a licensed

professional (Athena, Tri-Care, United Behavioral Health). MassABA is hopeful that the Division of Insurance can take preemptive action to prevent BC/BSs internal policy which could delay services to hundreds of families impacted by ASD throughout the Commonwealth.

Oversight of the professional behavior of BCBAs is provided by the Behavior Analysis Certification Board (BACB) and outlined in the BACB's guidelines for responsible conduct. The BACB guidelines for responsible conduct govern ethical and professional standards to govern the behavior of BCBAs. The BACB also has a recognized review committee that responds to professional concerns within a 30-day period. BCBAs undergo a rigorous certification process with required course work, supervised field work, and passage of a competency-based exam, analogous to the bar exam for prospective lawyers. BCBAs also have specific continuing education requirements to maintain their certification.

MassABA would also recommend the establishment of four billing categories consistent with evidenced-based ABA service delivery model: 1) program assessment by a BCBA, 2) supervision of paraprofessional therapists by a BCBA, 3) paraprofessional therapist direct service, and 4) direct service by a BCBA. This service model differs significantly from a traditional model, where treatment may be exclusively delivered by the physician. An ABA service delivery model also differs from a traditional model in that the intensity of services (up to between 20 to 40 hours per week of direct treatment) is cost prohibitive when provided by highly compensated and masters degree or higher level providers.

Upon starting a new case, BCBAs typically conduct a program assessment to target behaviors for increase/reduction, identify adaptive/social/communication goals, and create data collection systems to objectively measure an individual's progress. MassABA recommends billing codes that permit eight billable hours of program assessment at six month intervals.

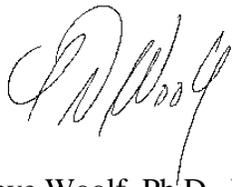
In a best practice ABA model, especially for children, the majority of direct service therapy hours are provided by a paraprofessional therapist under the supervision of a BCBA. Supervision of the paraprofessional by the BCBA is typically provided within the context of services through a session overlap. A session overlap occurs when both the paraprofessional and BCBA are simultaneously present at a session. During the supervision event, the BCBA may provide written/oral performance feedback to the paraprofessional, examine data to determine if a program change is appropriate, and insure the overall procedural integrity of programming. It is critical that HB4935 support this level of BCBA supervision. MassABA supports a supervision ratio established in other states of 1 hour of BCBA supervision for every 10 hours of program implementation from a paraprofessional.

MassABA recommends that paraprofessional therapists' services be reimbursable only under the direct supervision of a BCBA. Paraprofessional therapists should have a minimum of bachelor's degree and complete competency-based training delivered by a BCBA from a state approved curriculum on the implementation of ABA procedures in the treatment of individuals with ASD. MassABA would

volunteer a committee to develop the standards and competencies of this training curriculum. The association would also volunteer a committee to review paraprofessional therapist training curriculums and determine if the curricula meet the standards needed for effective ABA implementation.

MassABA sincerely appreciates the open and thorough deliberations that have occurred at the Division of Insurance meeting relative to the development of HB4935. We hope these suggestions and recommendations are helpful in developing the implementation procedures needed to effectively serve individuals affected by ASD.

Sincerely,



Steve Woolf, Ph.D., BCBA-D

President

Massachusetts Association for Applied Behavior Analysis

CC: MassABA Board of Directors

Barbara L'Italien, State Representative

Judith Ursitti, Autism Speaks

Amy K. Weinstock, Advocates for Autism of Massachusetts (AFAM)

Footnotes:

1. <http://www.nap.edu/openbook.php?isbn=0309072697>
2. <http://www.madsec.org/LinkClick.aspx?fileticket=YmikqkW4tFk%3D&tabid=81>
3. <http://www.nyhealth.gov/publications/4216.pdf>
4. <http://www.surgeongeneral.gov/library/mentalhealth/chapter3/sec6.html#autism>