

Support HB2421: ABA Licensing Technical Fixes and Consumer Safety

Testimony to House Committee
on Behavioral Health and Health Care by

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Introduction – Paul Terdal

- Resident of Northwest Portland, Senate District 17 / House District 33
- Volunteer health consumer advocate assisting families with insurance appeals related to autism and related medical / mental health coverage
 - Assisted more than 100 families with insurance denials, coverage issues
 - Consulted on multiple class action lawsuits over insurance denials
- Lead consumer advocate on key health legislation since 2011
 - [SB365 \(2013\)](#) – Autism Health Insurance Reform
 - [SB414 \(2013\)](#) – Insurance Commissioner’s restitution authority
 - [SB696 \(2015\)](#) – Behavior Analysis Regulatory Board
 - [HB2931 \(2017\)](#) – Behavior Analysis Interventionist Educational Requirements
 - [HB2839 \(2017\)](#) – Prohibits discrimination in organ transplantation
 - [SB358 \(2021\)](#) – Extended sunset on SB365
- Business Management and Public Policy Consultant
 - Research for National Council on Disability on State’s Use of QALYs in Medicaid (2021-22)
 - MBA, Yale School of Management

Background

- Applied Behavior Analysis (ABA) therapy is a form of behavioral health care commonly used to treat behavioral symptoms of autism and other behavioral health conditions
- Oregon's [Behavior Analysis Regulatory Board \(BARB\)](#) licenses Behavior Analysts and registers Behavioral Analysis Interventionists (technicians who practice under supervision by a Licensed Behavior Analyst, Psychologist, or other licensed behavioral health professional)
 - ABA licensing was established under [SB365 \(2013\)](#) and [SB696 \(2015\)](#)
 - There are now 1,845 active ABA licensees and registrants in Oregon
 - 438 Licensed Behavior Analysts
 - 25 Licensed Assistant Behavior Analysts
 - 1382 Registered Behavior Analysis Interventionists
- After 10 years of implementation, numerous gaps and technical issues have been identified in licensing and regulation of ABA therapists that will be fixed by [HB2421](#)
 - [SB358 \(2021\)](#) originally included all of these provisions – which were recommended by Senate Health with a bipartisan vote – but they were stripped out in the rush in the last hours before sin die

HB2421 fixes gaps and technical issues with regulation of ABA Professionals (1 of 2)

- Child abuse reporting: behavior analysts aren't on the list of professionals that must report child abuse ([ORS 419B.005](#))
- Prohibition on the practice of conversion therapy: Oregon prohibits gay conversion therapy by psychologists, occupational therapists, and other professionals but not specifically by behavior analysts ([ORS 675.850](#))
- Duty to report unprofessional conduct, arrests, and convictions: Oregon requires all other health professionals to report prohibited or unprofessional conduct by other licensees or their own criminal convictions, but this doesn't apply to behavior analysts ([ORS 676.150](#))
- Align minor's treatment by a Behavior Analyst with other behavioral health providers: Oregon allows youth age 14+ to take a more active role in making decisions about their behavioral health treatment by psychologists and other professionals, such as by helping develop and approve their own treatment plans – but behavior analysts aren't included. ([ORS 109.675](#))
 - Does NOT allow children to refuse medically necessary behavioral health treatment authorized by their parents

HB2421 fixes gaps and technical issues with regulation of ABA Professionals (2 of 2)

- Clarify and refine the Health Licensing Office’s enforcement authority, which currently has numerous small quirks and gaps
 - As one example, it is unlawful under [ORS 676.820](#) to use the title of “Licensed Behavior Analyst” if it hasn’t been officially granted – but there is no penalty for doing so and HLO doesn’t have specific enforcement authority.
- Require the Health Licensing Office to consult with the Behavior Analysis Regulatory Board (BARB) regarding enforcement actions
 - Currently, the BARB’s only statutory role is in adopting administrative rules on licensing and the practice of ABA – the board itself has no official role whatsoever in enforcement.
 - All enforcement authority resides with the staff of the Health Licensing Office. As a matter of practice, the HLO staff consults with the BARB before taking action, but nothing in the statute requires or even encourages this.
 - HB2421 will specifically require the HLO staff to consult with the BARB on enforcement issues, as it is required to do with most other boards.
- Professional standards for Interventionists: HLO has no authority over professional misconduct by interventionists (it only has authority over their initial registration). The *-1 Amendment* will allow the Board to set enforceable professional standards

Details of -1 Amendment

Amends [ORS 676.815](#), regarding Registered Behavior Analysis Interventionists

- Requires the Health Licensing Office to consult with the Behavior Analysis Regulatory Board on administrative rules related to Interventionists
- Requires the office to “**adopt rules to establish guidelines for the professional methods and procedures to be used by behavior analysis interventionists registered under this section.**”
- Ensures that the rules on professional methods and procedures are enforceable