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RE: AN ACT to amend the insurance law and the public health law, in relation to coverage for the screening, diagnosis and treatment of autism spectrum disorder

S.7000-A (Breslin)

MEMORANDUM OF SUPPORT

Submitted on behalf of the New York State Association for Behavior Analysis

This bill would require insurance coverage for treatment of autism spectrum disorders. The New York State Association for Behavior Analysis ("NYSABA") strongly supports the enactment of this important bill.

NYSABA is the State chapter of the Association for Behavior Analysis International ("ABAI"), and affiliate of the Association of Professional Behavior Analysts. These organizations are devoted to the application of evidence based treatment and educational practices derived from the experimental analysis of behavior. NYSABA represents scientists, scholars, practitioners, and students in psychology, education and related fields in and outside of New York, and consumers of applied behavior analysis. We support quality education and treatment in all areas of human service in New York through the application of ethical, humane and effective principles of behavior analysis.

By way of background, the practice of behavior analysis is recognized both nationally and internationally for the scientific development and empirical evaluation of treatment of socially important human behaviors¹.

¹ There is a well developed and identified Behavior Analyst Certification Board® ("Board"). Established in May, 1998, the Board is a non-profit organization designed to meet professional credentialing needs for behavior analysts and consumers of behavior analysis, and is accredited by the National Commission for Certifying Agencies in Washington, DC. The NCCA is the accreditation body of the National Organization for Competency Assurance. Information on the Board may be obtained at <http://www.bacb.com>. *Board Certified Behavior Analyst® (BCBA®)* means an individual who is currently credentialed as a Board Certified Behavior Analyst by the *Behavior Analyst Certification Board, Inc. (BACB)*. This includes an individual who is credentialed as a *Board Certified Behavior Analyst - Doctoral® (BACB-D®)* by the BACB. A *Board Certified Assistant Behavior Analyst® (BCaBA®)* means an individual who is currently credentialed as a Board Certified Assistant Behavior Analyst by the BACB. The BCaBA® requires supervision from a BCBA® or BACB-D®.

While behavior analysis providers serve individuals with diverse behavioral treatment needs, one of the more pronounced human service areas that behavior analysis impacts is in treatment with individuals with Autism Spectrum Disorders (“ASD”). The effective treatment of ASD, in our view, requires specific training and experience in the application of behavior analysis. According to the New York State Education Department (the “Department”), in 2007, there were 15,459 children between the ages of four and 21 who were identified with ASD in New York; 11,569 (or over 70%) were between the ages of four and 13. These numbers, according to the Department, have been increasing significantly since 2001 when only 7,918 children were so identified. (Education programs and services for students with ASD, including Asperger's Syndrome, EMSC- VESID Committee Report, October 10, 2007, p. 3).

Given the increasing need, insurance coverage for this disorder is essential. Although ASD is considered a disorder for life, it is treatable and early intensive behavior analytic intervention has been demonstrated to provide the same benefits to individuals with autism that medication or medical procedures provide to individuals afflicted with other similar physical or bioneurological disorders.

NYSABA believes it is critical to ensure proper definitions are used to define the treatment to be provided. As such, it recommends the following definitions of applied behavior analysis and its practice as the bill moves forward. “Applied behavior analysis” means the design, implementation, and evaluation of systematic instructional and environmental modifications by a behavior analyst to produce socially significant improvements in human behavior. It includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis. Applied behavior analysis interventions are based on scientific research and the direct observation and measurement of behavior and environment. They utilize contextual factors, establishing operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.

The practice of applied behavior analysis is defined as the application of the principles, methods, and procedures of the experimental analysis of behavior and applied behavior analysis (including principles of operant and respondent learning) to assess and improve socially important human behaviors. It includes, but is not limited to, applications of those principles, methods, and procedures to (a) the design, implementation, evaluation, and modification of treatment programs to change behavior of individuals; (b) the design, implementation, evaluation, and modification of treatment programs to change behavior of groups; and (c) consultation to individuals and organizations. The practice of behavior analysis expressly excludes psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and long-term counseling as treatment modalities.

In addition, because proper treatment is so critical, NYSABA recommends that applied behavior analysis treatment of autism spectrum disorders be supervised by an individual who meets one of the following requirements (qualification methods 2 and 3 would expire five [5] years after this law goes into effect):

1. Currently credentialed by the Behavior Analyst Certification Board® (BACB®) as a Board Certified Behavior Analyst® (BCBA®), or a Board Certified Assistant Behavior Analyst® (BCaBA®) working under the supervision of a BCBA; **OR**
2. Currently approved by the BACB to take the BCBA examination and
 - a. Is supervised by or supervises ABA treatment jointly with a BCBA; and
 - b. Submits to the health plan a copy of the approval notification on BACB letterhead that is dated not more than one year prior to the application to be an approved provider; **OR**
3. Currently approved by the BACB as meeting the minimum degree requirements to be eligible to sit for the BCBA examination, and
 - a. Submits to the BACB documentation of having completed at least 169 classroom hours of graduate-level instruction in the content areas specified by the BACB; and
 - b. Submits to the BACB documentation of having completed at least 75% of the supervised experience requirements to be eligible to sit for the BCBA examination; and
 - c. Is supervised by a BCBA; and
 - d. Submits to the health plan a copy of the approval notification on BACB letterhead that is dated not more than one year prior to the application to be an approved provider.

Consistent with language in many insurance plans, we believe *habilitative* or *rehabilitative* care includes applied behavior analysis treatment provided or supervised by a Board Certified Behavior Analyst, a Board Certified Assistant Behavior Analyst under the supervision of a BCBA, or an individual who has been approved by the Behavior Analyst Certification Board as having adequate training in applied behavior analysis and who is supervised by a BCBA.

NYSABA also believes it is important to *distinguish* those who *diagnose* or *prescribe* treatment from those who *provide* treatment. "Treatment of autism spectrum disorders" includes the following care prescribed or ordered for an individual diagnosed with one of the autism spectrum disorders by a licensed physician or a licensed psychologist who determines the care to be medically necessary, and provided and supervised by the relevant qualified professionals:

- a. *habilitative* or *rehabilitative* care;
- b. pharmacy care;
- c. psychiatric care;
- d. psychological care; and
- e. therapeutic care.

Unfortunately, many children with ASD are not properly diagnosed until years after the first symptoms appear. In the absence of coverage, families can often pay significant medical expenses out-of-pocket. In the process of ensuring that their children receive proper medical care, however, many risk their homes and the educations of their unaffected children. This bill would expedite diagnosis and treatment by providing insurance parity for individuals with autism by requiring equitable coverage of the disorder by insurance companies.

Because better identification and treatment will lead to more active citizens with improved quality of life among those diagnosed with ASD, insurance coverage is a small cost burden relative to the broader social goals that will be obtained. For these reasons, NYSABA strongly supports the enactment of this legislation.

Respectfully submitted,

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