Alliance for the Betterment of
Citizens with Disabilities

Empowering People: Providers Shaping Policies

Behavioral Supports under the Waiver Must Include a Variety of Services

The Applied Behavior Analyst Licensing Act (The Act) establishes in statute the standards of qualifications, education, training and experience for those seeking to practice as a licensed applied behavior analyst (LBA) and a licensed assistant applied behavior analyst (LABA) in the State of New Jersey. The Act sets forth definitions for the board, applied behavior analysis (ABA), director, LABA and LBA; creates a State Board of Applied Behavior Analyst Examiners (BoABAE); outlines the organization, duties and responsibilities of the BoABAE; defines licensure requirements, eligibility, issuance and renewal, and out of state practice; who the act is construed to apply to; and effective date.

Regarding to whom The Act does not apply which includes but is not limited to certain other licensed professions, teachers, and those who practice with nonhumans, this section exempts individuals from providing ABA without a license in DDD/DHS and EIP/DOH for the first three and five years, respectively, after the effective date of The Act. The reason for the exemption was in recognition that the BoABAE did not exist yet at the time The Act was signed into law and, therefore, could not promulgate NJ licenses to qualified ABAs. The 3 and 5 years were ramp up periods for board members to be appointed and for regulations to be created and approved, which will and did take years. On May 2027 people providing ABA who are not exempt must be licensed.

The Act neither mentions, defines, nor addresses qualifications required to provide Behavioral Support in the DDD Waiver. Indeed, it would be inappropriate to do so as that is neither The Act's nor the BoABAEs function, jurisdiction, or scope, but instead that of the designated federal and state governmental authorities.

The Act establishes the general parameters under which a person can provide ABA services, it does not preclude DDD/DHS from establishing the qualifications for the provision of Behavioral Supports which may include ABA. If Behavioral Supports under the DDD Waiver is limited to those licensed as LABA, LBA, or as an exempted profession, then the provision of Behavioral Supports under the DDD Waiver is only ABA, as established by the authority of the department and division, not the NJ Legislature by way of statute.

We continue to be concerned that limiting Behavioral Supports to the provision of ABA may be in violation of person-centered planning. Providers are free to use other interventions as agreed to in the ISP, like providing other types of behavioral supports from a licensed clinical social worker (LCSW). But the provider will be prohibited from billing for it under Behavioral Supports. In this case, the Waiver is not supporting through distribution of resources to and, instead, signals the lower level of relevance and importance of the behavioral support provided by the LCSW.

The MMCO Behavioral Health Provider List which are benefits available to adults and children with IDD who are receiving FamilyCare, includes Acute/Partial Hospitalization, Partial Care, Outpatient, Independent (Mental Health) Practitioners, and ABA. ABA is available under Waiver and MMCO contracts and affords adults with IDD enrolled in both programs a variety of access points in which to receive ABA. ABA is a necessary, widespread and successful intervention for most but not all our clients in need of behavioral support. But if Behavioral Supports under the Waiver is limited to include only ABA, then the system remains skewed against those with co-occurring mental illness, like PTSD and psychosis.

ABCD continues to advocate that Behavioral Supports under the Waiver include a variety of services and service providers

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