




House Insurance

House Insurance Committee

10/24/16, 11:00 a.m., B31 Main Capitol

By Andreas Dienner, Pennsylvania Legislative Services

Committee(s):	House Insurance Committee
Audio:	 (click here) (Note: Depending on your audio player and the length of the hearing this could take a few minutes to load.)
Meeting type:	Informational meeting
Subject:	HB 1559 and HB 2010
Bills discussed:	Act 62 of 2008 , HB 1559 , HB 2010
Keyword(s):	insurance law, autism, disability, clinicians, health services
Testimony:	P. Will Ouellette III , President and CEO, Children's Behavioral Health Services, Inc. Meg Lukaszewski , Vice President/Northeast Region, Step By Step, Inc. Ted Dallas, Secretary, Department of Human Services Kate Pompa , Director of Autism Services, Wesley Spectrum Services Cathy DeGuire, Chief Executive Officer, TW Ponessa & Associates Counseling Services, Inc. Richard S. Edley , President and CEO, Rehabilitation and Community Providers Association Rachel Mann , Disability Rights Pennsylvania Cheryl D. Tierney , Section Chief, Behavior and Developmental Pediatrics at Penn State Hershey Children's Hospital and President, ABA in PA Initiative
Members Present:	Chairman Tina Pickett (R-Bradford), and Representatives Eddie Pashinski (D-Luzerne), Warren Kampf (R-Chester), Tina Davis (D-Bucks), Lynda Culver (R-Northumberland), Gary Day (R-Lehigh), Ryan Bizzarro (D-Erie), Steven Mentzer (R-Lancaster), Marguerite Quinn (R-Bucks), Bradley Roae (R-Crawford) Thomas Sankey (R-Clearfield), and Thomas Murt (R-Montgomery).

The committee held an informational hearing on HB 1559 and HB 2010 regarding certifications in [Act 62 of 2008](#).

HB 1559 Murt, Thomas - (PN 2265) Amends Insurance Company Law adding language requiring the State Board of Medicine to issue a temporary graduate behavior specialist license, valid for one year only, to any applicant who meets all the qualifications for licensure. Provides the license shall allow the licensee to practice as a behavior specialist only while under the supervision of a licensed physician, licensed physician assistant, licensed psychologist, licensed clinical social worker, certified registered nurse practitioner or licensed behavior specialist. Effective immediately.

HB 2010 Quinn, Marguerite - (PN 3218) Amends the Insurance Company Law, in casualty insurance, further providing for autism spectrum disorders coverage by adding that "autism service provider" includes an individual who: (1) is enrolled in or has completed a master's or higher degree program; (2) provides treatment of autism spectrum disorders, pursuant to a treatment plan, in satisfaction of the experience requirement of the law; and (3) provides the treatment under the supervision of a licensed behavior specialist, licensed physician or licensed psychologist, except that the physical presence of the supervisor is not required if the supervisor is readily available for consultation. A board-certified behavior

analyst shall be eligible to apply for a license or certification as behavior specialist, provided other criteria are met. The bill also provides for the issuance of a temporary license by the State Board of Medicine to an applicant who meets all of the qualifications for licensure, except as allowed. Effective immediately.

Rep. Quinn, prime sponsor of HB 2010, said Act 62 of 2008 created the license requirement for behavior specialists as a compromise with insurance companies to ensure that therapeutic staff support (TSS) work was clinically developed and monitored. "However, in recent years, a significant problem has arisen due to the narrow licensure requirement for behavior specialists specified in Act 62," she said. According to our constituents, this overly burdensome process has jeopardized access to early intervention services for any children with autism." She said the most problematic requirement for graduate level clinicians is obtaining a thousand hours of direct clinical experience with individuals with behavior challenges, which results in difficult employment while completing course work or taking lower paying jobs to complete the hours. She said the subsequent shortage would hurt the state and said the goal is to make sure children are being served.

Rep. Murt, prime sponsor of HB 1559, said the number of children with autism is increasing while Pennsylvania is experiencing a shortfall of clinicians to treat the cases. He said Act 62 sought to ensure these children receive the best treatment, but did not provide a smooth pathway for master's level clinicians to obtain the experience necessary to become licensed autism service providers. He said there are concerns that not enough are being hired with potential for a shortfall. "This legislation would create a new temporary graduate behavior specialist license that would allow individuals with the appropriate master's degree to work under the supervision of a licensed provider for up to one year while they accumulate the work experience necessary for full licensure," he said. He added that the legislative intent was to start a discussion on adequate resources, but he has not seen evidence of such a referenced shortage. "We should move very deliberately, cautiously, and slowly before we consider changing or lowering the status quo."

[P. Will Ouellette, III](#), President and CEO, Children's Behavioral Health Services, Inc., said Act 62 was noble but left no pathway for aspiring behavior specialists to get licensed. "Other professions have internships, temporary permits, or fellowships designed to provide hands-on training while being supervised," he said, citing psychologists, doctors, and graduate nurses. "By creating a provisional license or temporary permit, master's level professionals would be able to gain the necessary experience under supervision and allow for a time period to gather and submit necessary documentation for licensure." He specifically outlined issues with recruitment and retention forcing competition with the other providers in the area for licensed behavior specialists. "Creating a provisional license or temporary permit for aspiring behavior specialists is not only necessary, but clinically appropriate," he concluded.

Rep. Murt asked if the referenced shortages could be regional. Ouellette said no because he has heard providers across the state complaining of the same issue, as well as issues with managed care services.

Rep. Pashinski clarified there are more people who need care and fewer people who are qualified to take care of them. He asked if colleges are producing enough candidates. Ouellette said there are currently no pathways from colleges that prepare graduates for the license. Rep. Pashinski asked what the pay rate is, to which Ouellette said \$35,000 to \$50,000 at his company.

[Meg Lukaszewski](#), Vice President/Northeast Region, Step By Step, Inc., spoke on the impact of Act 62 and the licensing requirements for Behavior Specialist Consultants (BSCs) providing Applied Behavioral Analysis (ABA) services. She said the Act required a license that new masters level graduates hadn't always met in respect to clinical or Functional Behavior Assessment (FBA) experience. She said this caused a wide range of issues including limited availability of BSCs, caseload issues, demand, availability, competition, and benefits. "With so few BSCs available, and with reimbursement rates limiting our ability to increase wages, it has become increasingly difficult to attract BSCs," she added. She said they are not interested in lower level positions, and said there is no reliable pathway to licensure. "My biggest concern is addressing the immediate need that is present now. I realize there is resistance to opening up Act 62, but unfortunately a more immediate solution is needed which would be addressed by

HB 2010 and HB 1559." She said the shortage could impact children's services and described early intervention as "imperative." She finished, saying "unless the state adopts one of the measures being discussed here today, or dramatically increases the rate of reimbursement, there is simply not enough available experienced and qualified staff to meet the needs of this population."

Rep. Quinn asked if there have been stories of kids regressing in their progress from BSCs having to diminish their hours. Lukaszewski said she would hope not but said there could be more attention paid to the programs they receive in the appropriate hours. She said families get a choice of how to handle their program when a BSC leaves.

Ted Dallas, Secretary, Department of Human Services (DHS), said the department agrees with the goal of the legislation but opposes both bills. "We have taken some steps over the last couple months to address that goal and I think that we all want to make sure there's enough providers, I think there is just some honest disagreement about what's the best way to do that and maintain the quality of services that we have." Sec. Dallas said Act 62 was meant to require experience and certification in services, saying the service must be by someone with proper training. He referenced a federal lawsuit settlement agreement regarding the provision of ABA which he said would be impeded by the legislation if passed. "The lawsuit says that newly licensed behavior specialists who meet the current requirements have at least 45 hours of their required ABA training. In addition it requires our MCOs (managed care organizations) to take steps as we monitor shortages in coverage. Allowing individuals who don't meet the requirements of Act 62 would certainly make it much harder for us to be in compliance with that federal lawsuit." He said the department believes there is adequate coverage now with 3,000 licensed providers, but referenced regional weaknesses that he said could be addressed without changing requirements. "We believe about 85 percent of counties have the number that is needed right now." He outlined steps in place to help the other 15 percent, including written guidance, revising past guidance, allowing registered behavioral technicians to deliver TSS to facilitate capacity building initiatives, and an industry partnership program. He reiterated his position that requirements should not be reduced.

Sec. Dallas was joined by Dennis Marion, Deputy Secretary for the Office of Mental Health and Substance Abuse Services, and Nina Wall-Cote, Head of the Bureau of Autism Services, to answer questions.

Chairman Pickett asked if there is a waiting list of children needing services. Marion said numbers have been relatively stable but acknowledged shortfalls in some rural areas. He reiterated Sec. Dallas's comments on programs in place to address the issue. He mentioned areas with limited access recruiting providers in neighboring communities to potentially expand services in a mobile based way.

Rep. Pashinski said it is imperative that caretakers be completely prepared and certified. He asked about counties with no providers. Marion said he wouldn't describe the areas as having no providers, but said 15 percent of counties have a gap between current and needed providers. Rep. Pashinski asked if the state would provide a mobile service to travel to people with limited access. Sec. Dallas said mobile based means facilitating service in a location nearby the patient. Marion also agreed that \$35,000 to \$50,000 is a reasonable salary assumption. Rep. Pashinski asked if there has been a financial analysis of providers. Sec. Dallas said Medicaid always has a tight budget but said the study has not been done. He clarified the department is willing to expand service but said the bills offer an approach they disagree with. Rep. Pashinski said he has reservations about reducing qualifications.

Rep. Quinn asked how many new licenses have been granted in the past few years. Marion said the data is tracked on a monthly basis and would be provided. Rep. Quinn said the bills have no intent to reduce qualification but rather ensure adequate service in the state.

Rep. Roae asked when colleges were advised on the license requirements and if any state universities have adjusted their programs since receiving the guidance. Wall-Cote said the communication have gone out looking to generate correspondence through outreach and has been ongoing since 2008.

Rep. Day said stratification of licensure is happening across the state and said this could be an opportunity to look at how to maximize efficiency in the process. "Don't lose this opportunity," he said. Sec. Dallas said it is a discussion worth having but said there is no silver bullet.

[Cathy DeGuire](#), Chief Executive Officer, TW Ponessa & Associates Counseling Services, Inc., said the legislation should be enacted to support kids and allow compliance with Act 62. She said the current process has negatively impacted service and needs to be changed. She clarified her organization supports full training and certification but said the legislation could benefit all parties. DeGuire listed concerns with current requirements including ineligible recent graduates, attainment of qualified clinicians, high staff changes and turnover, and fulfillment of prescribed hours. She finished, saying the referenced 3,000 licensed providers number may not be accurate due to licensed individuals who are not practicing.

[Richard S. Edley](#), President and CEO, Rehabilitation and Community Providers Association, said both bills would make it easier for behavioral health providers to comply with Act 62 and are supported by his association. "To be clear, our concern about this aspect of the Act is not a desire to lower the bar or water down credentialing standards. Rather, it is to find a way to help professionals get to that standard in a reasonable manner." He said 200 of 236 autism provider agencies reported they were having difficulty hiring individuals who are licensed as behavior specialists. He also said providers do whatever they can to make ends meet and outlined a proposal for DHS to administratively take on the issue. Lastly, Edley said legislation is needed if a conversation cannot be put together to solve the problem internally.

[Rachel Mann](#), Disability Rights Pennsylvania, said she supports a pathway to licensure but opined the legislation would lower qualifications to a point of disservice to children with autism. She referenced recent court cases which "opened the door to highly qualified providers," and said more work could be done in this aspect to help with the issue. She said significant improvements in the behavior specialist numbers is expected due to DHS requirements from several settlements, and recommended a behavior specialist assistant position for a person who meets or will soon meet all of the requirements to obtain a license as a behavior specialist except for the experience requirement. "Every child who needs behavior specialist services must have a fully qualified professional in charge of his or her case. It is not enough to have a supervisor available for consultation. Creating this assistant position would enable an individual to get the experience needed for his or her license."

[Cheryl D. Tierney](#), Section Chief, Behavior and Developmental Pediatrics at Penn State Hershey Children's Hospital, and President, ABA in PA Initiative, said the legislation could harm children and families affected by autism. "Evidence is clear that ABA, Speech therapy, occupational therapy, and social skills programming are the most important interventions for children with autism," she explained. "Each therapy has its own provider-type that delivers that therapy." She continued, "There are documented problems with how children respond to therapy with providers who hold the licensed behavior specialist licensure but are not also board certified. Both House bills will reward behavioral health rehabilitation services providers by allowing them to use underqualified, uncertified, and inexperienced recent graduates to staff their autism cases and obtain reimbursement for those services using the current reimbursement structure... Another concern is that if you allow those with temporary licenses to delivery intervention, families may falsely believe that their child is receiving ABA when they are not. If a provider does not have their certification, they should not be able to deliver ABA because they just don't know how." Tierney offered several recommendations in place of the legislation, including:

- Increase pay commensurate with the standards in the industry
- Incentivize providers in related fields to go back to obtain their certification
- Increase continuing education opportunities
- Reward furthering education (going from a master's level to doctoral level provider)
- Ensure that TSS staff are registered behavior technicians so that board certified behavior analysts are working with behavior techs trained to deliver the therapy they design and manage
- Reward providers for quality and outcomes
- Reach out to training programs to increase acceptance for those going into ABA fields

- Incentivize providers to work in underserved areas.

"While we are looking to the regulations process to improve the quality of what is delivered in Pennsylvania, we urge you to first do no harm by working against the best one thing we have to improve the lives of children with autism," Tierney concluded. "Please don't lend your name to a bill that may cause harm to those you seek to help the most."

Rep. Murt asked how many credits are needed for a graduate degree in the discipline. Tierney said there is a list of related fields where master's degrees are appropriate, but do not all qualify for ABA therapy. Rep. Murt asked about adding three to nine credits to the program requiring they are in a clinical setting under supervision of an ABA certified professional. Edley said he is concerned on the timing, but said there are solutions in place to establish a pipeline that would yield benefits in the near future. He said there is no perfect answer.

Rep. Pashinski said he believes all parties most importantly have the child in mind. However, he said, adequate ABA is absolutely necessary and he asked about the level of pay. He asked if lower paying areas have a more significant shortage. "It seems as though the conversation is going on... it's a matter now of making sure that the conversation can take place and there is an actual outcome that actually addresses the issue." He said the legislation should be considered in that process to address all clients' needs. Mann said she previously worked in the New England area and has outlook on how to ensure integrity of service while expanding availability. Edley said he thinks conversation and tweaking could yield an effective fix soon. Rep. Pashinski agreed.

Rep. Murt asked if access is better in Pennsylvania than New England. Mann said yes for the three service lines outside of ABA, and said there has been momentum in the past two years and is making great strides.

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Committee Member Contact Information (click or mouse over): [Pickett, Tina \(R\)](#) / [Quinn, Marguerite \(R\)](#) / [Regan, Mike \(R\)](#) / [Culver, Lynda \(R\)](#) / [Day, Gary \(R\)](#) / [Evankovich, Eli \(R\)](#) / [Godshall, Robert \(R\)](#) / [Kampf, Warren \(R\)](#) / [Mentzer, Steven \(R\)](#) / [Murt, Thomas \(R\)](#) / [Roae, Brad \(R\)](#) / [Sankey, Thomas \(R\)](#) / [Simmons, Justin \(R\)](#) / [Sonney, Curt \(R\)](#) / [Stephens, Todd \(R\)](#) / [Tobash, Mike \(R\)](#) / [DeLuca, Anthony \(D\)](#) / [Costa, Dom \(D\)](#) / [Pashinski, Eddie Day \(D\)](#) / [Bizzarro, Ryan \(D\)](#) / [Boyle, Kevin \(D\)](#) / [Davidson, Margo \(D\)](#) / [Davis, Tina \(D\)](#) / [Driscoll, Michael \(F\) \(D\)](#) / [Flynn, Marty \(D\)](#) / [Gainey, Ed \(D\)](#) / [Matzie, Robert \(D\)](#)