
MEMORANDUM

Legislative Fiscal Office
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To: Human Services Subcommittee of the Joint Committee on Ways and Means

From: Linda Ames, Legislative Fiscal Office
503-986-1816

Date: May 27, 2015

Subject: SB 696-A Relating to autism spectrum
Work Session Recommendation

SB 696-A modifies statutes relating to the Behavior Analysis Regulatory Board, within the Health Licensing Office of the Oregon Health Authority. The bill defines applied behavior analysis, and includes criteria for licensing behavior analysts and assistant behavior analysts. It eliminates the requirement to register licensed health care professionals that are already licensed under another board. The bill also grandfathers in those individuals practicing behavior analysis on August 14, 2013, and does not require a license until July 1, 2018.

The measure previously had hearings in the Senate Committee on Health Care on 4/8/2015 and 4/20/15 and in this Subcommittee on 5/19/15. The measure, the original staff measure summary, and fiscal impact statement are available on the Oregon Legislative Information System (OLIS).

The proposed -A7 amendment modifies the composition of the Board, but maintains the overall Board membership at nine. It also changes the date that documentation is required to be submitted to Health Licensing Office from December 31, 2015 to April 30, 2016 by certain providers.

The fiscal impact of the bill is expected to be minimal, and is not changed by the amendment. The Board is funded with fees charged for licenses. The addition of two Board members will increase expenditures slightly. On the other hand, several provisions in the bill are expected to streamline Board activities and reduce expenditures, including clarifying license category definitions, defining criteria for licensure and registration, and moving the Board under Health Licensing Office statutes. The largest uncertainty is on the revenue side, since it is difficult to predict how many individuals will seek licensing and registration.

The measure is recommended to be amended and moved to the Full Committee on Joint Ways and Means.

Motion: I move to adopt the -A7 amendment and move SB 696-A as amended to the Joint Committee on Ways and Means with a “do pass” recommendation.

Assignment of Carriers

Full: _____

Senate: _____

House: _____

PRELIMINARY STAFF MEASURE SUMMARY

Joint Committee On Ways and Means

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date:

Action:

Meeting Dates:

Prepared By: Linda Ames, Budget Analyst

WHAT THE MEASURE DOES:

Increases the Behavior Analysis Regulatory Board (BARB) membership from seven members to nine. Eliminates the BARB requirement to register licensed health care professionals and behavior analysis interventionists. Permits criteria for licensure to include certification by another agency approved by BARB. Requires fingerprinting for licensure. Directs Health Licensing Office to register behavior analysis interventionists. Creates title protections. Incorporates BARB under health professional regulatory boards and Health Licensing Office provisions. Permits insurance reimbursement to certain licensed health care professionals actively practicing applied behavior analysis through July 1, 2018 and requires documentation to Health Licensing Office. Allows health benefit plan to establish credentialing requirements for provision of behavior analysis. Creates operative date of November 1, 2015. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT:

The -A7 amendment modifies the composition of the Board, but maintains the overall Board membership at nine. It also changes the date that documentation is required to be submitted to Health Licensing Office from December 31, 2015 to April 30, 2016 by certain providers actively practicing. FISCAL: Indeterminate REVENUE: No revenue impact

BACKGROUND:

Applied behavior analysis is a therapeutic modality that is often used to treat people with autism spectrum disorder (ASD). ASD is a developmental disability that can cause mild to significant social, communication and behavioral difficulties. The Behavioral Analysis Regulatory Board (BARB) was created by Senate Bill 365 (2013). Senate Bill 365 also required coverage of ASD by health benefit plans. The BARB licenses behavioral analysts and assistant behavioral analysts. It also provides registration for behavior analysis interventionists, as well as other licensed health care professionals whose scope of practice includes behavior analysis (e.g., psychologists). These health care professionals must currently be dual registered with their respective boards and the BARB. Oregon is one of sixteen states which licenses behavior analysts and one of six states to have a licensing board. Some providers are not certified or licensed because they completed training and education before licensing was available in 2013.

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: SB 696 - A6**Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***

Prepared by: Kim To
Reviewed by: Linda Ames, Michelle Deister, John Borden
Date: 5/22/2015

Measure Description:

Modifies statutes relating to the Behavior Analysis Regulatory Board. Requires Board to establish by rule criteria and procedures for the licensing of behavior analysts, and assistant behavior analysts, as well as the registration of behavior analysis interventionists

Government Unit(s) Affected:

Oregon Health Authority (OHA), Oregon Employment Department (OED), Department of Justice (DOJ)

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

Senate Bill 696 with the – A6 amendment modifies statutes relating to the Behavior Analysis Regulatory Board (BARB), including:

- Defining “applied behavior analysis;”
- Defining “licensed health care professional” to mean an individual whose scope of practice already includes applied behavior analysis and who is licensed by the Occupational Therapy Licensing Board, the Oregon Board of Licensed Professional Counselors and Therapists, the Oregon Medical Board, the Oregon State Board of Nursing, the Physical Therapist Licensing Board, the State Board of Examiners for Speech-Language Pathology and Audiology, the State Board of Licensed Social Workers, or the State Board of Psychologist Examiners.
- Extending the provision that individuals actively practicing applied behavior analysis on August 14, 2013 may continue to claim reimbursement from a benefit plan, PEBB or OEGB for services provided without a license, from July 1, 2016 to July 1, 2018.
- Adding two additional members to BARB;
- Requiring BARB to establish by rule criteria and procedures for the licensing of behavior analysts, and assistant behavior analysts, as well as the registration of behavior analysis interventionists;
- Specifying that applicants for behavior analyst and assistant behavior analyst licensing must undergo a national criminal records check including fingerprinting;
- Requiring the Health Licensing Office (HLO) establish by rule the criteria for registration of behavior analysis interventionists;
- Adding BARB to the list of health professional regulatory boards, and to the list of boards under the Health Licensing Office administrative and regulatory oversight;

Oregon Health Authority (OHA)

Passage of this bill is anticipated to have minimal Other Fund impact, and will modify licensing fees for the Behavior Analysis Regulatory Board. However, at this time, the exact changes to the fee structure cannot be quantified. BARB will calculate the cost of complying with the provisions of this bill and work with stakeholders to determine a fair fee structure to offset the cost.

Senate Bill 365 (2013) established the Behavior Analysis Regulatory Board (BARB) in the Health Licensing Office. HLO oversees licensing and regulation of multiple health and related professions represented by 12 volunteer citizen boards. HLO is financed solely from Other Funds derived from

licensing fees. The Office segregates expenditures into shared costs (general expenditures that support activities that span all of the 12 boards in the HLO portfolio) and direct costs (expenditures made to support a specific board). With the addition of two more board members, passage of this bill will require a nominal increase in expenditures for compensation and expenses of these new members. In addition, BARB could incur additional costs for Department of Justice and Office of Administrative Hearings expenses related to contested cases resulting from actions by BARB in denying licensure or imposing disciplinary measures. These additional costs will factor in the fee structure for BARB.

However, the greatest uncertainty in determining the fee structure lies in the fact that, at this time, BARB cannot predict how passage of this bill will affect the number of individuals seeking licensing and registration. The bill (Section 11) extends the provision that individuals actively practicing applied behavior analysis on August 14, 2013 may continue to claim reimbursement from a benefit plan, PEBB or OEBB for services provided without a license from July 1, 2016 to July 1, 2018. These individuals are required to submit documentation to the Health Licensing Office not later than April 30, 2016. As written, HLO does not know how many individuals will fall into this category. HLO will have a better idea of this number by the end of April 2016 when these individuals are required to submit required documentation and declaration. In addition, there is some concern that there may not be enough practicing behavior analysts, assistant behavior analysts, and behavior analysis interventionists seeking licensing and registration for BARB to recover its operating costs through licensing and registration fees. Currently, BARB has fewer than 50 licensees.

Oregon Employment Department (OED), Department of Justice (DOJ)

Passage of this bill is anticipated to have minimal impact on the OED and DOJ.

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 696**

1 On page 2 of the printed A-engrossed bill, line 6, delete “Three” and insert
2 “Four”.

3 In line 7, delete “or developmental pediatrician,”.

4 In line 9, before the semicolon insert “, with experience or training in
5 treating autism spectrum disorder”.

6 Delete lines 10 and 11 and insert:

7 “(d) One member who is a licensed developmental pediatrician, with ex-
8 perience or training in treating autism spectrum disorder;”.

9 In line 12, restore “(e)” and delete “(f)”.

10 In line 15, delete “(g)” and insert “(f)”.

11 On page 8, line 30, delete “December 31, 2015” and insert “April 30,
12 2016”.

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