

Support SB135: Improve Regulation of ABA

Testimony to Oregon Senate Committee on Health Care

by Brenna Legaard

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Introduction: Brenna Legaard

- Resident of Northwest Portland, Senate District 18/House District 36
- Attorney, practicing intellectual property law at Schwabe Williamson & Wyatt
- Autism mom
- Volunteer consumer advocate assisting families with insurance coverage and school district advocacy related to autism and other behavioral health needs
- Occasionally represent families in lawsuits against school districts
- Consumer advocate on key autism regulation
 - SB365 (2013)- Autism Health Insurance Regulatory Reform
 - SB696 (2015)- Behavior Analysis Regulatory Board
- Member, Behavior Analysis Regulatory Board (here in my personal capacity)
- Lead plaintiff, A.F. v. Providence, US Dist. Oregon

-1 Amendment- Employer Accountability

- My family's experience:
 - My son was being treated by a BCBA employed by a larger, California-based provider
 - When we first contacted this company about ABA, we were placed on a waiting list because the company did not have a contract with our insurance carrier
 - About seven months later, they commenced services after confirming that they had entered into a contract with our carrier
 - About four months later, about two hours before a scheduled therapy session, the company sent me an email telling me that they had no contract with our carrier and they were terminating services immediately.

State ethical rules require transition services

- Oregon Administrative Rule 824-060-0010 requires behavior analysts to avoid interruption of services, and requires that discontinuation of services can only occur after efforts to transition to another therapist have been made.
- None of this happened.
- When we objected to the therapist, she informed us that her employer had instructed her to terminate services and she had no choice.
- When we informed her employer that the therapist was violating the ethical rules, they did not care.

We lost the summer

- It took us three months to find and begin services with another therapist.
- My son received no services in the meantime.
- We lost the opportunity to spend that summer working on behavioral gains he needed for the next school year.
- My son will never get that time back.
- A couple of months later, the ABA company emailed me again to tell me that they had made a mistake— they did have a contract with my carrier after all.

Who is accountable?

- Our only recourse was to file an ethics complaint against the therapist herself.
- We did not feel comfortable doing that.
- And if we did not feel comfortable, who would?

-2 Amendment: Teachers do not treat mental health disorders

- The -2 amendment only applies to the unlicensed practice of ABA for the purpose of treating a mental, emotional, or behavioral disorder.
- Teachers do not treat disorders. They are not medical practitioners. Educating a kid with a mental health disorder and providing treatment to that kid are different things.
- This committee should not endorse the view that teachers provide mental health treatment.