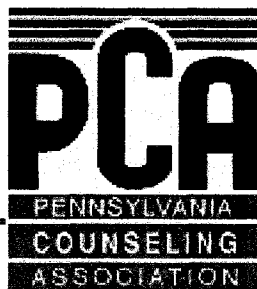


#2820



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INDEPENDENT REGULATORY  
REVIEW COMMISSION

March 15, 2010

Thank you for providing the opportunity for the Pennsylvania Counseling Association to respond to the proposed changes to 49 PA. Code, Chapters 16 and 18. It is our understanding that this proposed change establishes certification requirements for Behavior Specialists for the assessment and treatment of autism spectrum disorder for individuals under the age of 21.

We believe this bill reflects the academic and experiential training necessary for professional certification as a Behavior Specialist. Individuals need to complete an appropriate graduate degree in an established discipline plus a period of demonstrated experience relevant to the specific certification.

We do, however, have concerns about two specific issues presented in this bill. First, the bill recognizes several professions by name but fails to recognize professional counselors. It is assumed that professional counselors would be included under "another related field" but it is our position that it should be listed by name as others have been. Many Licensed Professional Counselors work with autistic children and it is our position that our discipline should be recognized along with the others specifically designated in 18.524(a).

Second, section 18.526 (2) raises fundamental concerns. It appears that this provision has been added to allow for collection of insurance reimbursement for services provided by an individual with a lapsed certificate. Allowing a certificate to lapse and then retroactively activated as though a lapse has not occurred raises concerns regarding inappropriate or unethical behavior occurring during the lapsed period. It is unclear what legal recourse an individual would have if they were subjected to unethical practices received during a lapsed period. Section 18.527 allows for disciplinary action to be taken against certificate holders but cannot be applied to non-certificate holders which would be the case for those with lapsed certificates. A certification board does not have the authority to apply sanctions against a non-certified Behavior Specialist. Behavior Specialists are not required to be licensed so the public does not have recourse to professional licensure sanctions during a period when a certificate has lapsed.

A State Branch of the American Counseling Association  
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Visit PCA on the World Wide Web at <http://www.pacounseling.org>

Subsequent to this second concern is the apparent open-ended time frame for individuals with lapsed certificates to continue to provide services. It seems professionally irresponsible for individuals to continue to provide services indefinitely with a lapsed certificate. A strong case could be made that this sort of irresponsible behavior (continuing to provide services with a lapsed certificate) could reasonably challenge the “good moral character” criteria required for certification.

Respectfully Submitted,

Paul L. West, Ed.D., LPC, NCC  
PCA Treasurer  
PCA Legislative Committee

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**From:** [redacted]  
**Sent:** Monday, March 15, 2010 9:31 AM  
**To:** [redacted]  
**Cc:** [redacted], Stephen F.  
**Subject:** FW: PA State Board of Medicine proposed regulation # 16a-4929 "Behavior Specialist" (IRRC #2820)  
**Attachments:** Behavior Specialist Certification.doc

2820 comments

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**From:** Paul West [mailto:pwest1604@comcast.net]  
**Sent:** Monday, March 15, 2010 9:11 AM  
**To:** Schalles, Scott R.  
**Subject:** RE: PA State Board of Medicine proposed regulation # 16a-4929 "Behavior Specialist" (IRRC #2820)

Good morning Scott. Here is our response to this Proposed regulation.

Paul West Ed.D., LPC, NCC

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**From:** Schalles, Scott R. [mailto:sschalles@IRRC.STATE.PA.US]  
**Sent:** Thursday, February 18, 2010 10:46 AM  
**Subject:** PA State Board of Medicine proposed regulation # 16a-4929 "Behavior Specialist" (IRRC #2820)

FYI...

This past Saturday, the PA State Board of Medicine published the above-referenced proposed regulation in the *Pennsylvania Bulletin*. This rulemaking has a 30-day public comment period that ends on March 15, 2010. This rulemaking implements certain provisions of Act 62 of 2008, commonly referred to as the Autism Insurance Act.

Attached is a link to the rulemaking as it was published online - <http://www.pabulletin.com/secure/data/vol40/40-7/278.html>.

As you may know, submitting comments on a proposed regulation is the most effective way to provide input to the Board. The link above provides instructions for submitting comments to the Board. Please note that any comment submitted to the Board is considered a public document and will appear on the Independent Regulatory Review Commission's website ([www.irrc.state.pa.us](http://www.irrc.state.pa.us)). If you decide to comment, please be aware that any personal information contained in that comment could be viewed by the general public.

After the close of the public comment period, the Independent Regulatory Review Commission has an additional 30 days to submit comments to the Board.

Information about the regulatory review process in Pennsylvania is available at the website noted above. However, feel free to contact with any questions you may have.

Scott Schalles  
Analyst  
IRRC  
717-214-8955