



BlueCross of Northeastern Pennsylvania

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19 North Main Street, Wilkes-Barre, Pennsylvania 18711-0302

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March 15, 2010

Regulatory Unit Counsel
Pennsylvania Department of State
P.O. Box 2649
Harrisburg, PA 17105-2649

Re: Proposed regulation No. 16A-4929 – Behavior Specialist

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Dear Regulatory Counsel:

Blue Cross of Northeastern Pennsylvania (BCNEPA) submits for your consideration the following comments on the proposed regulation No. 16A-4929 – Behavior Specialist.

BCNEPA strongly supports efforts in the clinical community to set a minimum standard of qualifications and training for individuals interacting with patients in the health care delivery system. BCNEPA maintains a strong commitment to ensuring access to quality providers, regardless of the condition for which treatment is sought, through our extensive credentialing and contracting efforts. We seek to admit into our networks providers who are qualified, well-trained and competent. We strongly believe that the State Board of Medicine (Board) through these regulations should advance this notion of setting adequate minimum standards by issuing regulations for the *licensure* of Behavior Specialist. Unfortunately, the current proposed regulation merely sets forth a standard of certification, which we believe is a less stringent standard and will present significant hurdles for health plans when attempting to credential and contract with this new class of provider. By choosing to create a certification requirement instead of a licensure requirement, the Board has created a conflict between how BCNEPA currently credentials and contracts with all level of providers and what would be required of us for those holding this specific certification of Behavior Specialist.

BCNEPA maintains specific policies, in accordance with current Pennsylvania Department of Health regulations pertaining to managed care plans (28 PA Code § 9.762), which require health plans to verify that the practitioner, at a minimum, holds a valid state *license* and requisite level of malpractice coverage. This minimum standard of *licensure* is the basis for our credentialing criteria and is supported by the National Committee for Quality Assurance, a national accrediting body widely recognized as the leader in evaluating issues surrounding health care quality, which requires health plans to verify licensure of ALL applicants to its network. By permitting individuals to become designated as a "behavior specialist" for purposes of treating autism spectrum disorders under the coverage enacted in Act 62 of 2008 (P.L. 885, No. 62) without first requiring that these individuals become licensed will create a regulatory conflict for health plans in the Commonwealth.

To cure this issue and to ensure that children in the Commonwealth who are diagnosed with an autism spectrum disorder have access to qualified and well-trained providers, BCNEPA recommends that the Board issue regulations establishing criteria for *licensure* of Behavior Specialist. There exists a clear precedent for licensure when the Commonwealth decides to officially recognize a certain class of provider; Marriage and Family Therapists and Professional Counselors are two of the most recent examples. The State Board of Social Workers issued regulations requiring licensure of Marriage and Family Therapists and Professional Counselors to ensure a minimum level of competency and consistency within a new field of practice.



In order to protect individuals seeking treatment from these new practitioners, the State Board of Social Workers established specific licensure requirements for any individual who sought to hold themselves out to patients as a Marriage and Family Therapist or Professional Counselor. This same standard of licensure should be followed by the Board when determining the minimum standards for recognizing an individual as a Behavior Specialist. BCNEPA recommends the Board closely review the licensure requirements for Marriage and Family Therapists as an example of what should be enacted for Behavior Specialist. The licensure regulations for Marriage and Family Therapist can be found at 49 PA Code § 48.13.

If the Board is concerned about placing an undue burden on individuals who already possess a valid state license for a different area of clinical practice, such as psychology or social work, then it can account for that in the regulation by allowing individuals who are already a licensed clinician in the Commonwealth to obtain a certification as a behavior specialist, similar to how a licensed physician can obtain further certification in a specialty by receiving board certification. However, for those individuals who do not currently hold a clinical license the minimum standard required for Behavior Specialist needs to be licensure not certification.

BCNEPA also possess some concerns with § 18.526(c) and (d) of the proposed regulation that allow a previously certified behavior specialist to reactivate an inactive certification by merely paying the current renewal fee and a reactivation fee. Under the proposed regulation, reactivation can even be retroactive to an undefined number of renewal periods by only paying the previous periods' renewal fee plus a \$5 per month late fee for each month or part of the month that the certification was expired. The science behind the treatment and assessment of autism spectrum disorder is constantly developing and advancing and it is critical that any individual seeking to engage in treatment of these conditions be versed in the latest research and findings and trained in the most recent evidence based practices.

Allowing reactivation without ensuring continued education in the practice area will place our members in jeopardy of receiving sub-par care and is something we strongly advise against. Like all other licensed professions in the Commonwealth, a behavior specialist should be subject to on-going continuing education requirements (which is not contained in the proposed regulations) and more importantly it is necessary that any individual whose certificate has lapsed should not be allowed to reactivate that certificate until he/she has completed a requisite number of continuing education credits – as approved by the Board.

BCNEPA greatly appreciates the opportunity to comment on the Board's proposed regulations pertaining to Behavior Specialist. We firmly believe our intentions are the same as the Board and that is to ensure individuals accessing these providers can be assured they are receiving care from properly trained and educated practitioners, and we firmly believe this can only be guaranteed by imposition of a licensure requirement for Behavior Specialist. Should you have any questions regarding the information provided, please contact me at 570-200-4348 or via e-mail at Thomas.Curry@bcnepa.com. Thank you.

Respectfully,



Thomas A. Curry, M.D., FAAP
Medical Director Network Management & Provider Advocacy

TAC/MO:jcr

cc: The Honorable Robert M. Tomlinson, Majority Chairman, Consumer Protection & Professional Licensure
The Honorable Lisa M. Boscola, Minority Chairman, Consumer Protection & Professional Licensure
The Honorable Michael P. McGeehan, Majority Chairman, Professional Licensure
The Honorable Julie Harhart, Minority Chairman, Professional Licensure