



New York State Association for Behavior Analysis

1732 1st Avenue, #20353

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Office of the Medicaid Inspector General

800 North Pearl Street

Albany, NY 12204

To Whom it May Concern:

Thank you for offering New York State Association for Behavior Analysis (NYSABA) the opportunity to provide comments on the draft audit protocols. NYSABA represents professionals and families whose lives have been touched by applied behavior analysis services. The association advocates for the science, practice, and growth of our field, supports professional development, and promotes the use of culturally responsive, evidence-based practices to protect the diverse populations we serve in our state. We hope that the Office of the Medicaid Inspector General (“the Office”) finds our comments and insight helpful and NYSABA would welcome the opportunity to meet with the Office to provide background and insight into this field.

Applied behavior analysis (ABA) is the science of effecting behavior change by reducing interfering, dangerous, or disruptive behavior and identifying safer, socially appropriate alternatives that maximize an individual’s potential. Although ABA can be delivered across varied settings and diagnoses, it has gained significant attention as a service for individuals diagnosed with autism. These services have received coverage approval only recently by commercial insurance plans and Medicaid, prompting increased scrutiny over expenditure at the federal level. This increase may be related to both meeting the substantial demands of a wide network of individuals in need, as well as recently exposed instances of fraud and misuse of funds. NYSABA

is deeply disheartened to learn of such abuse in our field and are dedicated to identifying a path toward ethical delivery of ABA services that are compliant with regulations at all levels. Thus, NYSABA wholly supports the focus areas that the Office has identified in the draft audit protocols.

We would request a modest revision to protocol 14, entitled “services provided by an unqualified individual.” As with many health care delivery models of care, the delivery of applied behavior analysis services relies upon the active participation of unlicensed individuals to extend the effects across environments and promote durability of positive outcomes. These unlicensed individuals are more commonly referred to as *technicians* within the field of ABA and deliver much of the direct treatment to clients under the supervision of a licensed behavior analyst (LBA). These unlicensed individuals are trained by the LBA to deliver the ABA treatment plan that was developed by that same LBA.

Although these unlicensed individuals are not required to be licensed, certified or registered by the state of New York, they are required by all employers to complete a training module. Many graduate students of ABA, who are completing their required clinical hours and preparing for the national board certification exam, will work part time in these positions. Unlicensed individuals are a key participant in the care plan and should not be regarded as *unqualified*. For this reason, we would ask the Office to revise protocol 14 to read “Services Provided by an Unlicensed Individual.”

As the protocol aptly notes, the LBA is required to supervise the unlicensed individual for a minimum of five percent of the hours that the unlicensed individual spends providing ABA services each calendar month. NYSABA supports the imposition of a range of 5-20% supervision of unlicensed personnel, as supported by Council of Autism Service Providers (CASP) recommendations. While exceptions may be made for children with more challenging or dangerous behaviors, the supervision needed for most ABA cases will fall within the generally accepted standard of 5-20%.

We would also note that the draft protocol does not reference the delivery of ABA via telehealth services, which was not included in the provider manual until October of 2025, but had been previously authorized via a Department of Health regulation in 2022 and remains in place today. The Office will find that a certain amount of supervision and parent training by LBAs is conducted remotely using telehealth. We would also highlight that the Evidence Based Benefit Review Advisory Committee (EBBRAC) published an Evidence Review of the benefit in July 2025, which provided support for the continued delivery of applied behavior analysis services via telehealth.

NYSABA would welcome the opportunity to meet directly with the Office if a review of ABA therapy services would be beneficial to your auditors before you initiate your review. This is still a relatively new benefit to be covered by the NYS Medicaid program, and it is unique with respect

to dosage frequency, approach and patient expectation. We remain committed to educating providers on ethical and best practices and hope to be regarded as a partner to the Office. Thank you for soliciting our feedback and for considering our comments.

Sincerely,

Alan Kinsella & Maureen O'Grady

Co-Chairs, NYSABA Public Policy Committee

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