



A SHORT HISTORY OF ABA IN THE VIRGINIA LEGISLATURE

As of November 2015

SHORT HISTORY OF THE LAWS REGARDING APPLIED BEHAVIOR ANALYSIS

2011 Autism Insurance Law

- HB2467/
SB1062
- Sponsored by
Del. Tag
Greason, Sen.
Janet Howell
- Now law in the
Code of Virginia
§38.2-4319;
38.2-3418.17

2012 Licensure Law

- HB1106
- Sponsored by
Del. Tag
Greason
- Now law in the
Code of Virginia
§54.1-2900;
54.1-2957.16;
54.1-2957.17

2014 Advisory Board/Exemption Law

- HB926
- Sponsored by
Del. Tag
Greason
- Now law in the
Code of Virginia
§54.1-2957.17;
54.1-2957.18

2015 Autism Insurance Law Update

- HB1940
- Sponsored by
Del. Tag
Greason
- Now law in the
Code of Virginia
§38.2-3418.17

THE AUTISM INSURANCE LAW: §38.2-3418.17 IN THE CODE OF VIRGINIA

More than 10 years of effort by Virginia Autism Project, Autism Speaks and others

Virginia became the 26th state to enact Autism Legislation

Requires insurance companies to cover care for children with ASD prescribed or ordered by a licensed physician or licensed psychologist who says it's medically necessary

Includes behavioral health treatment, pharmacy care, psychiatric care, psychological care, Therapeutic Care (such as speech, OT, PT), and Applied Behavior Analysis by a Licensed Behavior Analyst or Licensed Assistant Behavior Analyst

Source: Virginia General Assembly Legislative Information System: leg1.state.va.us Chapter 3: An Act to amend and reenact § 54.1-2900 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 29 of Title 54.1 sections numbered 54.1-2957.16 and 54.1-2957.17, relating to licensure of behavior analysts and assistant behavior analysts.

MORE DETAILS ON THE 2011 INSURANCE LAW

Persons cannot be denied insurance solely because they are diagnosed with or receive treatment for ASD

Annual dollar cap - \$35,000

Age cap – 2 to 6 years (one of the most restrictive in the US)

State employees are included

Companies with 50 or fewer employees are exempt

Self-funded plans are exempt, but many of them do cover autism, often up to any age (e.g. Capital One, Bon Secours, etc.)

2015 UPDATES TO THE 2011 INSURANCE LAW

The original bill was designed to delete the age restrictions altogether.

A compromise ended with covering ages 2 to 10 (new coverage of children 7 to 10)

Also included language to match a federal law that increased the size of what is considered a small company from 50 employees to 100 employees.

MORE UPDATES TO THE 2011 INSURANCE LAW

The 2008 Wellstone-Domenici Act (which only applies to large group fully-funded and self-funded policies) prohibits treatment limitations and financial requirements on “mental health benefits” if not on physical health benefits (such as the \$35K cap in the 2011 law).

Nine states including Virginia explicitly list autism as a covered diagnosis in their mental health parity laws.

Six states explicitly and 5 states implicitly include autism within their state definition of mental illness, but Virginia is not one of these state (which has ACA implications).

THE BA LICENSURE LAW: §54.1-2900 -2957.16/17 IN THE CODE OF VIRGINIA

Governor McDonnell initiated amendments in March 2011, one of which included that necessity that Behavior Analysts be licensed by the Board of Medicine. This provision did not come from the behavior analysis community.

It shall be unlawful for any person to practice or to hold himself out as practicing as a(n) (assistant) behavior analyst or to use the title "Licensed (Assistant) Behavior Analyst" unless he holds a license as a(n) (assistant) behavior analyst issued by the Board.

Emergency regulations took effect on 9/18/12 and were in effect until 3/20/13, at which time the full regulations took over (with no changes).

THE BA ADVISORY BOARD BILL: §54.1-2957.17, 18 IN THE CODE OF VIRGINIA

The Board of Medicine asked Behavior Analysts to go back to the legislature in 2014 to request an Advisory Board and a Student Exemption

The Student exemption was rewritten to include both intensive practicum and supervised fieldwork (post coursework)

The Department of Education asked to add an exemption so that their employees could continue to perform their duties under IDEA

The bill passed and the first Advisory Board meeting was held October 7, 2014.

- The board meets quarterly and advises the BOM on disciplinary issues and other topics pertaining to behavior analysis.
- Anyone can make public comment and the meetings are open to the public.

EXEMPTIONS TO LICENSURE LAW

There are currently three exemptions:

- Other licensed personnel working within scope of practice
- School Employees (where school is licensed by Board of Education)
- Students

None of these exemptions is meant to preclude Behavior Analysts in those situations from getting a license

CHANGING THE LAW

From time to time it is necessary to add new laws and change existing ones. If you want to be involved with those efforts, feel free to join the following advocacy organizations:

Virginia Association for Behavior Analysts: www.virginiaaba.org

Virginia Autism Project: www.virginiaautismproject.com

Autism Speaks: www.autismspeaks.org/advocacy/state/virginia

HOW A BILL GETS PASSED IN VIRGINIA'S LEGISLATURE

