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*TESTIMONY OF
ATTORNEY GENERAL RICHARD BLUMENTHAL
BEFORE THE EDUCATION COMMITTEE
MARCH 8, 2010*

I appreciate the opportunity to support section 2 of House Bill 5425, An Act Concerning Special Education.

Section 2 requires local boards of education that use applied behavior analysts for special education of children with autism to ensure that such analysts are certified by the Behavior Analyst Certification Board (BACB). The provision specifically states that local boards of education are not required to use applied behavior analysis -- leaving that decision to the individuals who develop the individualized education plan for the student. Further, the local boards of education have discretion whether to provide such services through an applied behavior analyst or other licensed or certified professional who can provide such services within the profession's scope of practice.

In 2008, a group of parents contacted my office regarding an individual who was performing behavior analysis services for their children who have autism spectrum disorder. These services were contracted through the local public school system as well as individually by the parents. In the course of my investigation of this particular person, it became clear that local school systems do not rely on any state certification or license to ensure that the person they hire for behavior analysis services meets minimum educational and professional criteria.

Working with parents of children with autism spectrum disorder, I recommended legislation to require local school districts to only hire individuals to perform behavior analysis services for children with autism spectrum disorder who were certified by the Behavior Analyst Certification Board. The Education Committee sought more information on this issue by charging my office with discussing this matter with the Connecticut Departments of Education and Higher Education and reporting back to the Committee with recommendations.

My staff met with -- and received comment from -- members of the Department of Education, the Department of Higher Education, the Department of Developmental Disabilities, school superintendents, heads of school special education departments, school psychologists, parents and advocates of children with autism spectrum disorder, private providers of behavior analysis services and representatives from the Behavior Analyst Certification Board.

In my report to the committee, I urged that individuals who are employed or contracted by local boards of education to provide behavior analysis for all special education students -- not just those with autism spectrum disorder -- meet professional and educational standards. As a first step toward full licensure through the Department of Public Health, I recommended that the committee support a statutory requirement for local boards of education to hire only behavior analysts who are certified by a national board such as the Behavior Analyst Certification Board or who, in their scope of professional practice, may engage in behavior analysis, such as school psychologists.

Section 2 enacts this recommendation -- though it restricted the scope to children in special education with autism spectrum disorder. As my report concluded, it is often difficult to determine at initial stages of the special education process whether a child has autism spectrum disorder and that it was best to provide the same requirement for certification for applied behavior analysts regardless of the underlying condition of the student in a special education setting. I urge the committee to consider including all special education students under this requirement.

Subsequent to the issuance of the report, questions were raised about the appropriateness of relying on the BACB for certification. The BACB is a non-profit, 501(c)(3) organization based in Florida, see www.bacb.com. Its certification program was developed as part of the state of Florida's certification of behavior analysts and has been certified by the National Council for Certifying Agencies. As its website indicates, the organization has been endorsed by the Association of Professional Behavior Analysts and the American Psychological Association, among others.

Within the state of Connecticut, the Department of Developmental Services has relied on the BACB for its behavior analyst services since at least July 1, 2000. Recently, the General Assembly required BACB certification as a prerequisite for health insurance coverage for behavior therapists. See, Public Act 09-115.

Other states rely on the BACB certification, including Arkansas (Arkansas Code Annotated § 20-77-124), California (Cal. Education Code § 56525); Colorado (10 Colorado Code Regs. 2505-10-8.519), Florida (Florida Statutes Annotated § 393.17), Illinois (105 Illinois Code of Statutes, 5/14-1.09d), Indiana (Indiana Code 25-41-1-1), Kentucky (907 Kentucky Administrative Regs 3:090), Maryland (Code of Maryland Administrative Regulations 10.09.56.07), Minnesota (Minnesota Statutes Annotated § 125A.0942), and Montana (Montana Code Annotated 33-22-515).

I urge your favorable consideration of section 2 of House Bill 5425.