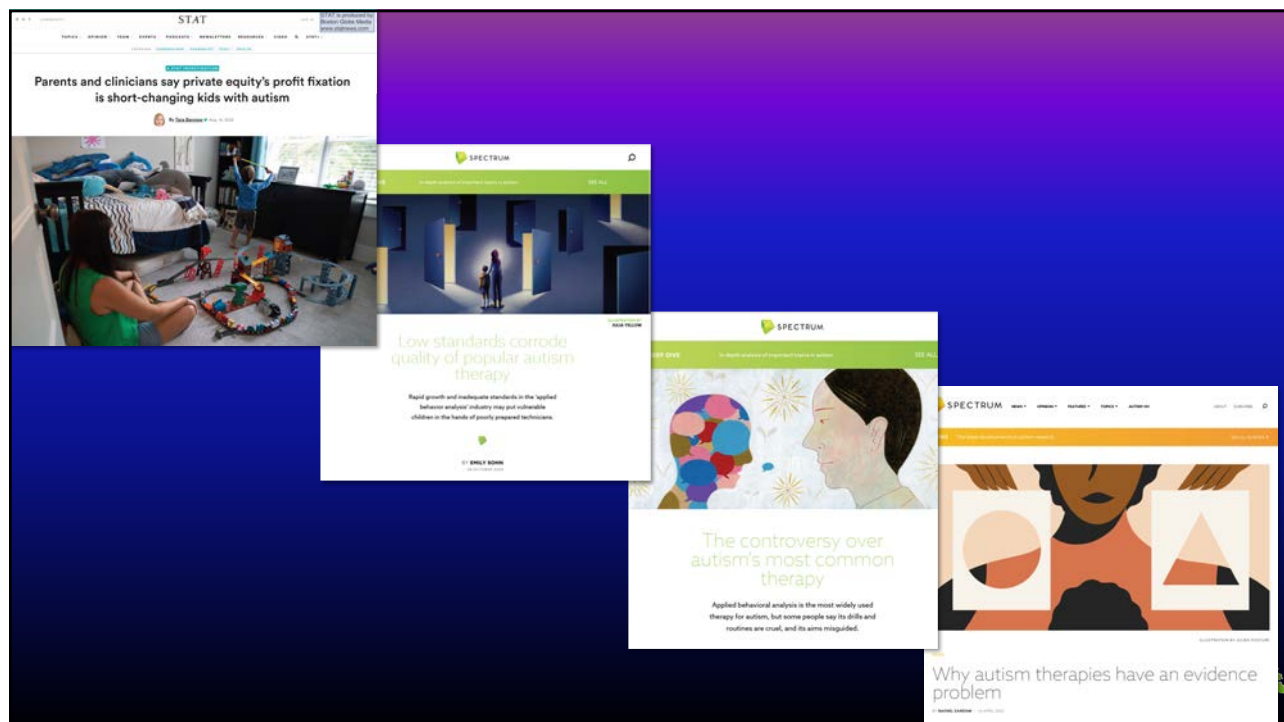


Insurance coverage denials create a conflict of interest

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Autism Law Summit
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What could be wrong with ABA?

If you are a BCBA who is deciding between:

- A. what your training and evaluation tells you is right for your client, or
- B. what your funder tells you they will pay for,

then you have a conflict...



What could be wrong with ABA?

...A conflict between:

THE FAMILY'S interest in obtaining the treatment that they need, and
YOUR financial interest.

What can you do to ensure that you are not putting your financial interest ahead of the family's interest?



Medical Necessity Determination

- The BCBA clinician determines medically necessary treatment in consultation with their consumer, in accordance with their direct observation and analysis of the client's needs.
- The health plan determines what services they will cover, as is their fiduciary duty to their stakeholders.



Medical Necessity Determination

- If the provider determines treatment based upon what the health plan will cover, instead of what the consumer needs and wants, they are putting their financial interest ahead of their contract with their consumer.





Advocacy Resource Center
Advocating on behalf of physicians
and patients at the state level

Issue brief: States must take action to enforce mental health and substance use disorder parity

Background

The American Medical Association (AMA) believes that the obligation of demonstrating compliance with the Mental Health Parity and Addiction Equity Act (MHPAEA) is something that health insurance companies can and should do—and be held accountable for violations if they do not. The MHPAEA was enacted in 2008 on a simple principle: Insurance coverage for mental health and addiction treatment should be no more restrictive than insurance coverage for other medical care. In other words, if a person has comprehensive insurance coverage for a chronic disease (such as hypertension), they should have a similar level of comprehensive coverage for mental health and substance use disorders. If it's not as comprehensive—or if it's more restrictive—that likely identifies one or more discriminatory provisions as well as parity violations.

There are multiple ways states can take action¹, including meaningful oversight and enforcement by state departments of insurance and attorneys general as well as by state legislatures taking action to ensure health insurance companies provide the standard of care.

Health insurance companies routinely violate the MHPAEA

There are [numerous examples](#) of health insurance companies being found to violate the MHPAEA:

- The [GAO](#) in December 2019 reported “For example, DOI reported citing 113 violations of MHPAEA parity requirements through its reviews in 2017 and 2018.”
- Pennsylvania examples include recent findings by the Pennsylvania Insurance Department of violations by [Lancaster Blue Cross](#) as well as [United Healthcare](#).
- Massachusetts: the Massachusetts Attorney General found [Lara](#) and [other violations](#) by Harvard Pilgrim Health Care and United Behavioral Health d/b/a Optum, Fallon Community Health Plan and Braintree Health Strategies, Allway Health Partners, Blue Cross Blue Shield of Massachusetts (BCBS), and Tufts Health Plan.
- Rhode Island: the Rhode Island Office of Health Insurance Commissioner found [United](#) and [other violations](#) by United Healthcare and Blue Cross Blue Shield of Rhode Island.
- Illinois: the Illinois Department of Insurance recently released [violation findings](#) from several health insurance carriers, including Cigna and United Healthcare.

¹See Paul Williams and Pam Dinnick: Mental Health Parity and Addiction Equity Act of 2008 (“MHPAEA”), 20 U.S.C.A. § 1181a.
²Mental Health provides a good overview of state enforcement action. See <https://www.mhpolicy.org/2019/06/20/mental-health-parity-enforcement/>.

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California Department of Insurance

RICARDO LARA
Insurance Commissioner

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[News Overview / Press Releases / 2020 Press Releases / Commissioner Lara acts to enforce recently signed landmark state mental health and substance use parity law](#)

Commissioner Lara acts to enforce recently signed landmark state mental health and substance use parity law

News: 2020 Press Release
For Release: December 9, 2020
Media Calls Only: 916-492-3566
Email Inquiries: cdpress@insurance.ca.gov

Commissioner Lara acts to enforce recently signed landmark state mental health and substance use parity law

SAN FRANCISCO, Calif. — Today Insurance Commissioner Ricardo Lara issued a **Notice** to all health insurance companies in California informing them of their obligation to comply with landmark changes to the California Mental Health Parity Act following the recent enactment of **Senate Bill 855**, authored by Senator Scott Wiener. Under the new law, health insurance must cover health care services that are medically necessary to diagnose, prevent, and treat all mental health conditions, as well as substance use disorders, equal to coverage provided for other medical conditions.

“Mental health and substance use disorders are now rightfully covered along with other medical conditions,” said Insurance Commissioner Ricardo Lara. “The pandemic is exposing a greater need for mental health services and substance use continues to rise. My department will guarantee insurance companies provide fair and equal access to coverage for Californians who need this vital care.”

In addition to expanding coverage to all mental health conditions and substance use disorders, Senate Bill 855 requires health insurance companies to adhere to the same standards of care that are followed by addition and mental health care providers. Health insurance must cover all medically necessary care for mental health and substance use disorders and can no longer limit coverage for treatment in ways that conflict with prevailing standards of care.

“SB 855 is a long overdue step to ensure mental health parity in California,” said Senator Scott Wiener (D-San Francisco), author of SB 855. “I want to thank Insurance Commissioner Lara for his action to ensure that insurance companies comply with the law as soon as it goes into effect. As a state, we have a responsibility to act quickly and decisively to help people suffering from mental illness and substance use disorder, and we can't wait until they're in crisis to allow them to get help.

Understanding Parity: A Guide to Resources for Families and Caregivers



AMA
American Medical Association

SAMHSA
Substance Abuse and Mental Health Services Administration

institute

Challenges in Service Delivery

- Lack of support for effective services
 - Lack of funding for comprehensive ABA
 - Insufficient funding for personnel preparation
 - Untrained providers
 - Diluted services
 - Challenges from competitors with vested interests in other services
 - Lack of constituency for prevention



Instead of managing the process, let's manage the outcomes!

- **Goals of Optimal Clinical Services**
 - Increase percentage of best outcomes
 - Reduce length of treatment
 - Individualize for challenging children
 - Increase cost effectiveness
 - Increase number of children served
 - Reduce procedural stress on family



Family Centered Planning: Individualizing Treatment Intensity

- **What do we manage for each individual child?**
 - the level of behavioral outcome goals for the child
 - the severity or danger of their behavioral excesses and deficits
 - the needs of the family environment
 - the needs of the community environment
 - the level of intensity in hours per week
 - the levels of case supervision and case management
 - the kinds and amounts of parent training
 - the locations of treatment
 - alternative and supplemental services
 - transitioning to independence in the future



Evidence-Based Levels of Behavior Therapy, Behavior Analysis, and Clinical Supervision

	One to One Behavior Therapy		Additional Clinical Treatment Services		
	Intensive Phase	Transition Phase	Behavior Analysis, Assessment, and Clinical Direction	Parent Training	Clinical ITP Review
Summary	37 hours per week	16 hours per week	10 hours per week	5 hours per week	2 hours per week
Lovaas 1987, McEachin, et al. 1993	An average of 40 hours, with frequent co-therapy, range: 10 to 60 hours per week	An average of 10 hours per week	Daily to weekly direct supervision by direct supervisor, clinical supervisor, and psychologist	The parents also received extensive instruction and supervision on appropriate treatment techniques for 5-8 hours per week	Weekly team clinical review meeting
Amerine, Cohen, Waters, et al. 2006, 2018	35 to 40 hours	not reported	Clinic Supervisors provided ongoing performance feedback	Weekly parent training	Weekly team clinical review meeting & six-month clinical review
Sallows & Graupner 2005	An average of 37 to 39 hours	not reported	6 to 10 hours of weekly co-therapy by the senior therapist and weekly supervision by the clinic supervisor	Parents attended weekly team meetings and extended treatment throughout the day	2 weekly 1-hr team clinical and progress review meetings
Howard, et al. 2005, 2014	35 to 40 hours	not reported	Direct observational data reviewed by program supervisors several times per week	Weekly to monthly parent training	
Eikeseth, et al. 2002, 2007	28 hours of school-based and additional home-based parent therapy	18 hours per week	10 hours per week of apprentice observation and supervision by supervisors, weekly supervision by project directors	4 hours per week of parent training	2 hour meeting weekly
Hayward, et al. 2009	42 hours of scheduled, home- and school-based treatment	18 hours per week	5 hours per week of programme consultant supervision. 11 hours per week of senior tutor supervision. 2 hours per month by programme director	2 to 5 hours per week of parent training	2 hour meeting weekly
Larsson, et al. 2017	37 hours per week, with co-therapy as needed, range 6 to 47 hours	19 hours per week, range 6 to 36 hours	10 hours per week of case supervision as defined by BACB, including clinical direction	6 hours per week of parent training	2 hours per week of ITP review and development & six-month ITP review



Accountability through Periodic Prescriptive Review

Ensure medical necessity for the funder

Ensure accountability to the consumer

- Ensure genuine informed consent
- Regularly updated objective program evaluation
- Focus on relevant, clinically significant measures
- The optimal mode of treatment changes with the individual's progress
 - Rote age prescriptions are irrelevant
 - Rote intensity prescriptions are irrelevant
 - Rote service-delivery prescriptions are irrelevant



Integrity of Treatment Variables

- In evaluating Intensive Treatment, we must measure both the functional outcomes and the process of implementation

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Baer, D.M., Wolf, M.M., & Risley, T.R. (1987). Some still-current dimensions of applied behavior analysis. *Journal of Applied Behavior Analysis*. 20, 313-327.

Martin, N.T., Bibby, P., Mudford, O.C., & Eikeseth, S. (2003). Toward the use of a standardized assessment for young children with autism. *Autism: The International Journal of Research & Practice*. 7, 321-330.

Reichow, B., Volkmar, F.R., & Cicchetti, D.V. (2008). Development of the evaluative method for evaluating and determining evidence-based practices in autism. *Journal of Autism and Developmental Disorders*. 38, 1311-1319.

Smith, T., Seahill, L., Dawson, G., Guthrie, D., Lord, C., Odom, S., Rogers, S., & Wagner, A. (2007). Designing research studies on psychosocial interventions in autism. *Journal of Autism and Developmental Disorders*. 37, 354-366.

Strain, P.S. (1987). Comprehensive Evaluation of Intervention for Young Autistic Children. *Topics in Early Childhood Special Education*. 7, 97-110.

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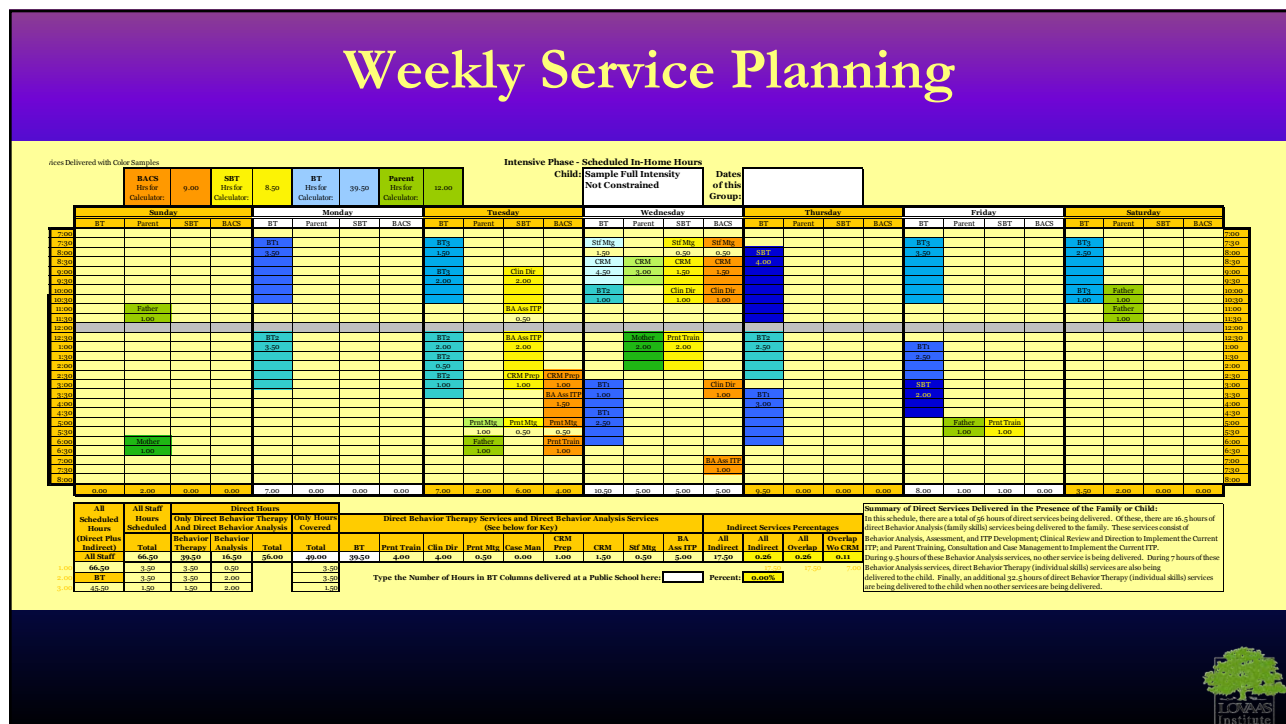
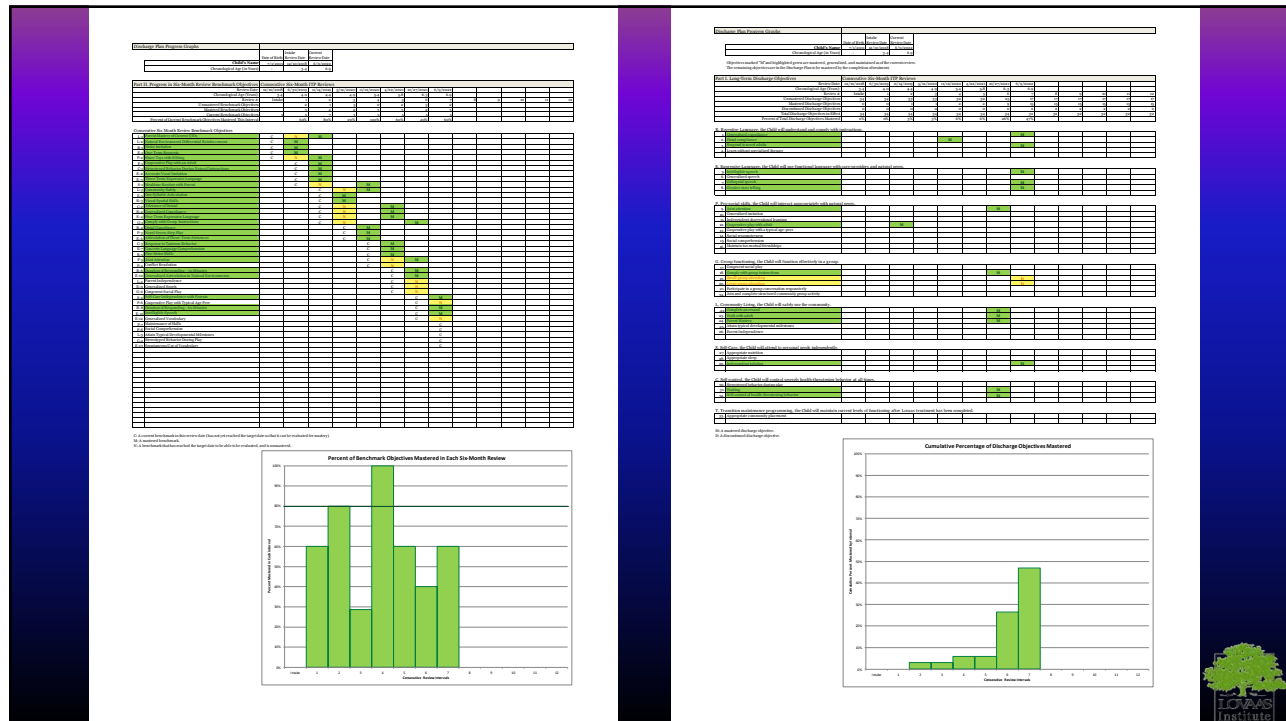


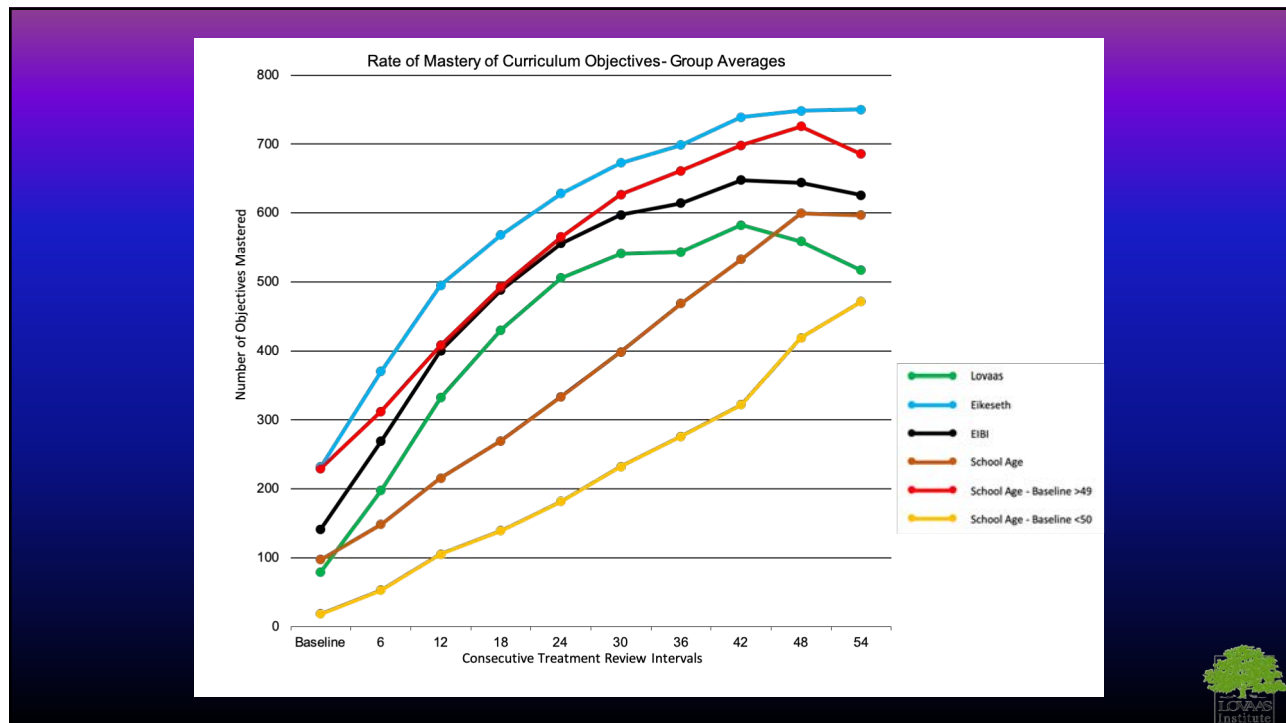
Multi-Modal Evaluation of Dynamic Behavior Therapy

Six-Month Progress Review

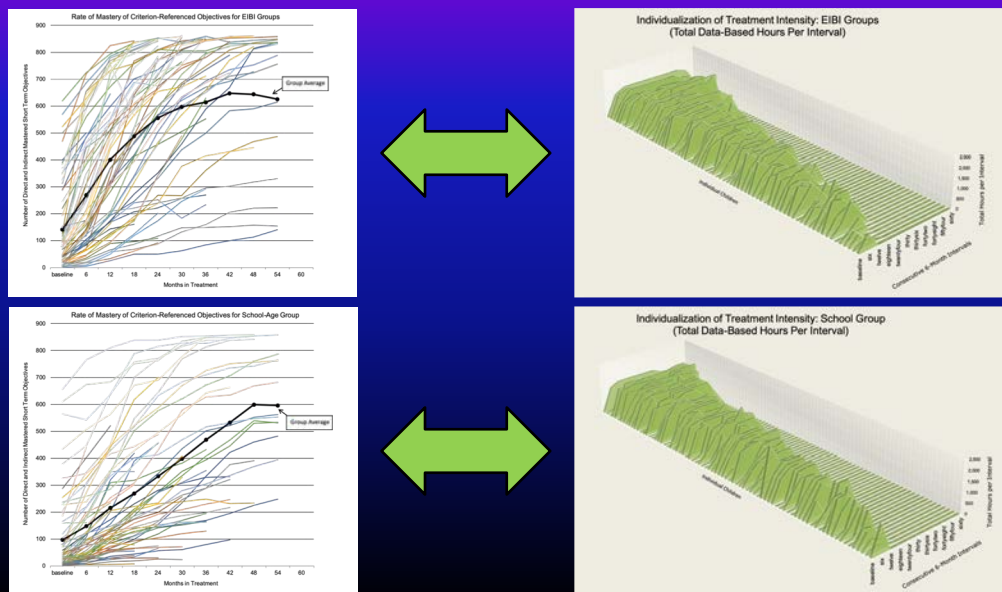
- Long-Term Outcome Objectives
- Task Analyzed into Individualized Treatment Plan Benchmarks
- Quality Features
 - Dynamic Behavior Therapy Framework
- Weekly ITP Progress Assessment
- Internal Curriculum Assessment
- Clinical Focus Evaluation
- Internal Developmental Norms Assessment
- Social Validity Assessments
 - Structured Video-tape Assessment
- Outcome Validity Probes
- External Assessments

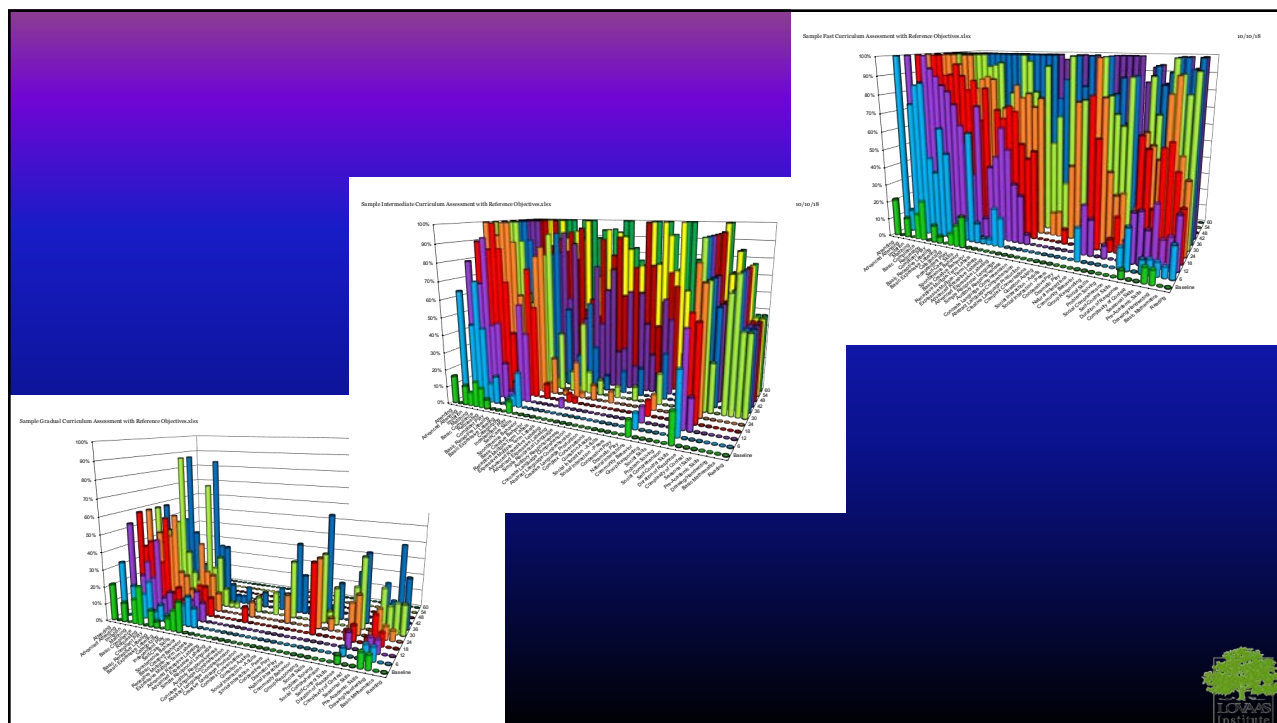






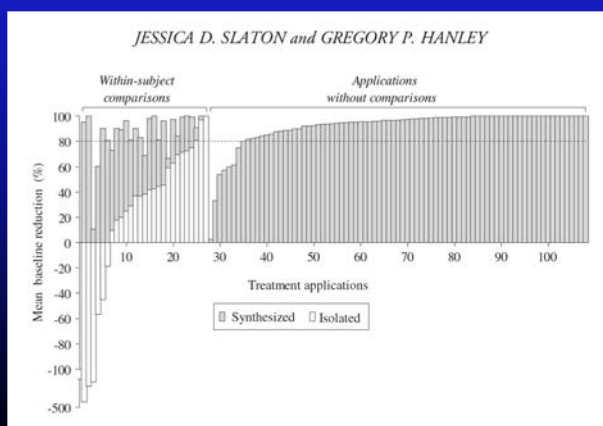
Managing the Outcomes by Individualizing for Each Child





ABA Effects on Challenging Behavior

Average Mean Baseline Reduction for each individual application, across all synthesized treatment applications was 90.2%, compared to -0.3% across all isolated treatment comparisons.



Slaton, J. D., & Hanley, G. P. (2018). Nature and scope of synthesis in functional analysis and treatment of problem behavior. *Journal of Applied Behavior Analysis*, 51, 943–973.

What is the relevance to our Outcome Evaluations?

- The within-subject ABA results are the most significant results.
- We are not only looking at the global outcome measures.
- We are examining the impact of treatment on the specific individual targets of each child's treatment.



Flexibly Re-Focus the Treatment Plan

- Quality of Life Process
 - Family-centered Planning
 - Strengths-based
 - Becoming Independent
(Cooke and Apolloni, 1981)

Total Goals	793 goals
Personal Management	157 goals
Social Development	111 goals
Household Management	214 goals
Academic Skills	89 goals
Home Leisure	157 goals
Community Leisure	17 goals
Job Readiness	48 goals

Lovaas Institute Midwest					Becoming Independent Quality of Life Assessment		Name:	Date:			
Goal	Current	Future	Skill	Met	Priority	Priority	Area #	STO	Assessment Conditions	Materials	Mastery Criteria
Personal Management 1.0: Grooming 1.1											
			1.1.1						Demonstrates knowledge of the importance of acceptable hygiene.	Ask the person: Why should you be clean and well groomed?	The person will answer the question with at least two of the following ideas expressed verbally in their own words: a. For general community acceptance. b. Employers require acceptable appearance. c. Attractiveness heightens self-image. d. Proper hygiene is necessary for sanitation when working around food. e. Proper hygiene helps self and others to maintain good health.
			1.1.2						Knows how often to perform each grooming task.	Ask the person to: a. Name four things you do to keep well groomed. b. Name two things you do once a week to keep well groomed.	The person will answer the first question by naming at least four of the following tasks: shower, brush teeth, comb hair, apply deodorant, shave, and wear clean clothes. The person will answer second question by naming two of the following tasks: polish shoes, wash clothes, clip nails, wash comb and brush.
			1.1.3						Maintains adequate supply of grooming aids.	Inspect the person's bathroom to determine if they are keeping an adequate supply of grooming aids on hand. Include these items on your list: Toothpaste, hand soap, shampoo, crème rinse, nail clipper, dental floss, shaving cream, clean handkerchief or tissue, deodorant, tampons or napkins, acne cream, makeup.	During inspection of the person's bathroom, the person or supervisor will locate and check off at least six of the items on checklist.
			1.1.4						Identifies ten different grooming aids.	Place grooming aids on table along with other items. Tell the person: Show me the grooming aids used on your hair, teeth, face, clothing, and underarms.	Ten or more different grooming aids, and ten or more non-grooming items (food, clothing, utensils, etc.). The person will name or point to at least two appropriate grooming aids for each grooming area.

