

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 796

**Introduced by Assembly Member Nazarian
(Coauthor: Assembly Member Rendon)**

February 26, 2015

An act to amend Section 1374.73 of the Health and Safety Code, and to amend Section 10144.51 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 796, as amended, Nazarian. Health care coverage: autism and pervasive developmental disorders.

Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. A violation of those provisions is a crime. Existing law provides for the licensure and regulation of health insurers by the Department of Insurance.

Existing law requires every health care service plan contract and health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism. Existing law requires every health care service plan and health insurance policy to maintain an adequate network that includes qualified autism service providers who supervise and employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. Existing law defines "qualified autism service professional" and "qualified autism service paraprofessional" for this purpose to mean a person who meets specified educational and training requirements. *autism until January 1, 2017, and defines "behavioral health treatment" to mean specified services provided by,*

among others, a qualified autism service professional supervised and employed by a qualified autism service provider. For purposes of this provision, existing law defines a “qualified autism service professional” to mean a person who, among other requirements, is a behavior service provider approved as a vendor by a California regional center to provide services as an associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program pursuant to specified regulations adopted under the Lanterman Developmental Disabilities Services Act.

~~This bill would expand the eligibility for a person to be a qualified autism service professional to include a person who possesses a bachelor of arts or science degree and meets other specified requirements, a registered psychological assistant, a registered psychologist, or an associate clinical social worker. The bill would also expand the eligibility for a person to be a qualified autism service paraprofessional to include a person with a high school diploma or equivalent and, among other things, 6 months experience working with persons with developmental disabilities.~~ *extend the operation of these provisions to January 1, 2022. By extending the operation of these provisions, the violation of which by a health care service plan would be a crime, the bill would impose a state-mandated local program. The bill would require the Board of Psychology, no later than December 31, 2017, and thereafter as necessary, to convene a committee to create a list of evidence-based treatment modalities for purposes of developing mandated behavioral health treatment modalities for pervasive developmental disorder or autism.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:

1 (a) Autism and other pervasive developmental disorders are
2 complex neurobehavioral disorders that include impairments in
3 social communication and social interaction combined with rigid,
4 repetitive behaviors, interests, and activities.

5 (b) Autism covers a large spectrum of symptoms and levels of
6 impairment ranging in severity from somewhat limiting to a severe
7 disability that may require institutional care.

8 (c) One in 68 children born today will be diagnosed with autism
9 or another pervasive developmental disorder.

10 (d) Research has demonstrated that children diagnosed with
11 autism can often be helped with early administration of behavioral
12 health treatment.

13 (e) There are several forms of evidence-based behavioral health
14 treatment, including, but not limited to, applied behavioral analysis.

15 (f) Children diagnosed with autism respond differently to
16 behavioral health treatment.

17 (g) It is critical that each child diagnosed with autism receives
18 the specific type of evidence-based behavioral health treatment
19 best suited to him or her, as prescribed by his or her physician or
20 developed by a psychologist.

21 (h) The Legislature intends that all forms of evidence-based
22 behavioral health treatment be covered by health care service plans,
23 pursuant to Section 1374.73 of the Health and Safety Code, and
24 health insurance policies, pursuant to Section 10144.51 of the
25 Insurance Code.

26 (i) The Legislature intends that health care service plan provider
27 networks include qualified professionals practicing all forms of
28 evidence-based behavioral health treatment other than just applied
29 behavioral analysis.

30 ~~SEC. 2. Section 1374.73 of the Health and Safety Code is~~
31 ~~amended to read:~~

32 ~~1374.73. (a) (1) Every health care service plan contract that~~
33 ~~provides hospital, medical, or surgical coverage shall also provide~~
34 ~~coverage for behavioral health treatment for pervasive~~
35 ~~developmental disorder or autism no later than July 1, 2012. The~~
36 ~~coverage shall be provided in the same manner and shall be subject~~
37 ~~to the same requirements as provided in Section 1374.72.~~

38 ~~(2) Notwithstanding paragraph (1), as of the date that proposed~~
39 ~~final rulemaking for essential health benefits is issued, this section~~
40 ~~does not require benefits to be provided that exceed the essential~~

1 health benefits that all health plans will be required by federal
2 regulations to provide under Section 1302(b) of the federal Patient
3 Protection and Affordable Care Act (Public Law 111-148), as
4 amended by the federal Health Care and Education Reconciliation
5 Act of 2010 (Public Law 111-152).

6 ~~(3) This section shall not affect services for which an individual
7 is eligible pursuant to Division 4.5 (commencing with Section
8 4500) of the Welfare and Institutions Code or Title 14
9 (commencing with Section 95000) of the Government Code.~~

10 ~~(4) This section shall not affect or reduce any obligation to
11 provide services under an individualized education program, as
12 defined in Section 56032 of the Education Code, or an individual
13 service plan, as described in Section 5600.4 of the Welfare and
14 Institutions Code, or under the federal Individuals with Disabilities
15 Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing
16 regulations.~~

17 ~~(b) Every health care service plan subject to this section shall
18 maintain an adequate network that includes qualified autism service
19 providers who supervise and employ qualified autism service
20 professionals or paraprofessionals who provide and administer
21 behavioral health treatment. Nothing shall prevent a health care
22 service plan from selectively contracting with providers within
23 these requirements.~~

24 ~~(c) For the purposes of this section, the following definitions
25 shall apply:~~

26 ~~(1) “Behavioral health treatment” means professional services
27 and treatment programs, including applied behavior analysis and
28 evidence-based behavior intervention programs, that develop or
29 restore, to the maximum extent practicable, the functioning of an
30 individual with pervasive developmental disorder or autism and
31 that meet all of the following criteria:~~

32 ~~(A) The treatment is prescribed by a physician and surgeon
33 licensed pursuant to Chapter 5 (commencing with Section 2000)
34 of, or is developed by a psychologist licensed pursuant to Chapter
35 6.6 (commencing with Section 2900) of, Division 2 of the Business
36 and Professions Code.~~

37 ~~(B) The treatment is provided under a treatment plan prescribed
38 by a qualified autism service provider and is administered by one
39 of the following:~~

40 ~~(i) A qualified autism service provider.~~

1 ~~(ii) A qualified autism service professional supervised and~~
2 ~~employed by the qualified autism service provider.~~

3 ~~(iii) A qualified autism service paraprofessional supervised and~~
4 ~~employed by a qualified autism service provider.~~

5 ~~(C) The treatment plan has measurable goals over a specific~~
6 ~~timeline that is developed and approved by the qualified autism~~
7 ~~service provider for the specific patient being treated. The treatment~~
8 ~~plan shall be reviewed no less than once every six months by the~~
9 ~~qualified autism service provider and modified whenever~~
10 ~~appropriate, and shall be consistent with Section 4686.2 of the~~
11 ~~Welfare and Institutions Code pursuant to which the qualified~~
12 ~~autism service provider does all of the following:~~

13 ~~(i) Describes the patient's behavioral health impairments or~~
14 ~~developmental challenges that are to be treated.~~

15 ~~(ii) Designs an intervention plan that includes the service type,~~
16 ~~number of hours, and parent participation needed to achieve the~~
17 ~~plan's goal and objectives, and the frequency at which the patient's~~
18 ~~progress is evaluated and reported.~~

19 ~~(iii) Provides intervention plans that utilize evidence-based~~
20 ~~practices, with demonstrated clinical efficacy in treating pervasive~~
21 ~~developmental disorder or autism.~~

22 ~~(iv) Discontinues intensive behavioral intervention services~~
23 ~~when the treatment goals and objectives are achieved or no longer~~
24 ~~appropriate.~~

25 ~~(D) The treatment plan is not used for purposes of providing or~~
26 ~~for the reimbursement of respite, day care, or educational services~~
27 ~~and is not used to reimburse a parent for participating in the~~
28 ~~treatment program. The treatment plan shall be made available to~~
29 ~~the health care service plan upon request.~~

30 ~~(2) "Pervasive developmental disorder or autism" shall have~~
31 ~~the same meaning and interpretation as used in Section 1374.72.~~

32 ~~(3) "Qualified autism service provider" means either of the~~
33 ~~following:~~

34 ~~(A) A person, entity, or group that is certified by a national~~
35 ~~entity, such as the Behavior Analyst Certification Board, that is~~
36 ~~accredited by the National Commission for Certifying Agencies,~~
37 ~~and who designs, supervises, or provides treatment for pervasive~~
38 ~~developmental disorder or autism, provided the services are within~~
39 ~~the experience and competence of the person, entity, or group that~~
40 ~~is nationally certified.~~

1 ~~(B) A person licensed as a physician and surgeon, physical~~
2 ~~therapist, occupational therapist, psychologist, marriage and family~~
3 ~~therapist, educational psychologist, clinical social worker,~~
4 ~~professional clinical counselor, speech-language pathologist, or~~
5 ~~audiologist pursuant to Division 2 (commencing with Section 500)~~
6 ~~of the Business and Professions Code, who designs, supervises,~~
7 ~~or provides treatment for pervasive developmental disorder or~~
8 ~~autism, provided the services are within the experience and~~
9 ~~competence of the licensee.~~

10 ~~(4) “Qualified autism service professional” means an individual~~
11 ~~who meets all of the following criteria:~~

12 ~~(A) Provides behavioral health treatment.~~

13 ~~(B) Is employed and supervised by a qualified autism service~~
14 ~~provider.~~

15 ~~(C) Provides treatment pursuant to a treatment plan developed~~
16 ~~and approved by the qualified autism service provider.~~

17 ~~(D) Is a behavioral service provider who meets one of the~~
18 ~~following criteria:~~

19 ~~(i) Is approved as a vendor by a California regional center to~~
20 ~~provide services as an Associate Behavior Analyst, Behavior~~
21 ~~Analyst, Behavior Management Assistant, Behavior Management~~
22 ~~Consultant, or Behavior Management Program as defined in~~
23 ~~Section 54342 of Title 17 of the California Code of Regulations.~~

24 ~~(ii) Possesses a bachelor of arts or science degree and has either~~
25 ~~of the following:~~

26 ~~(I) Twelve semester units from an accredited institute of higher~~
27 ~~learning in either applied behavioral analysis or clinical coursework~~
28 ~~in behavioral health and one year of experience in designing or~~
29 ~~implementing behavioral health treatment.~~

30 ~~(II) two years of experience in designing or implementing~~
31 ~~behavioral health treatment.~~

32 ~~(iii) The person is a registered psychological assistant or~~
33 ~~registered psychologist pursuant to Chapter 6.6 (commencing with~~
34 ~~Section 2900) of Division 2 of the Business and Professions Code.~~

35 ~~(iv) The person is an associate clinical social worker registered~~
36 ~~with the Board of Behavioral Sciences pursuant to Section 4996.18~~
37 ~~of the Business and Professions Code.~~

38 ~~(E) Has training and experience in providing services for~~
39 ~~pervasive developmental disorder or autism pursuant to Division~~
40 ~~4.5 (commencing with Section 4500) of the Welfare and~~

1 ~~Institutions Code or Title 14 (commencing with Section 95000)~~
2 ~~of the Government Code.~~

3 ~~(5) “Qualified autism service paraprofessional” means an~~
4 ~~unlicensed and uncertified individual who meets all of the~~
5 ~~following criteria:~~

6 ~~(A) Is employed and supervised by a qualified autism service~~
7 ~~provider.~~

8 ~~(B) Provides treatment and implements services pursuant to a~~
9 ~~treatment plan developed and approved by the qualified autism~~
10 ~~service provider.~~

11 ~~(C) Meets the criteria set forth in the regulations adopted~~
12 ~~pursuant to Section 4686.3 of the Welfare and Institutions Code~~
13 ~~or meets all of the following:~~

14 ~~(i) Possesses a high school diploma or equivalent.~~

15 ~~(ii) Has six months experience working with persons with a~~
16 ~~developmental disability.~~

17 ~~(iii) Has 30 hours of training in the specific form of~~
18 ~~evidence-based behavioral health treatment administered by a~~
19 ~~qualified autism provider or qualified autism service professional.~~

20 ~~(iv) Has successfully passed a background check conducted by~~
21 ~~a state-approved agency.~~

22 ~~(D) Has adequate education, training, and experience, as~~
23 ~~certified by a qualified autism service provider.~~

24 ~~(d) This section shall not apply to the following:~~

25 ~~(1) A specialized health care service plan that does not deliver~~
26 ~~mental health or behavioral health services to enrollees.~~

27 ~~(2) A health care service plan contract in the Medi-Cal program~~
28 ~~(Chapter 7 (commencing with Section 14000) of Part 3 of Division~~
29 ~~9 of the Welfare and Institutions Code).~~

30 ~~(3) A health care service plan contract in the Healthy Families~~
31 ~~Program (Part 6.2 (commencing with Section 12693) of Division~~
32 ~~2 of the Insurance Code).~~

33 ~~(4) A health care benefit plan or contract entered into with the~~
34 ~~Board of Administration of the Public Employees’ Retirement~~
35 ~~System pursuant to the Public Employees’ Medical and Hospital~~
36 ~~Care Act (Part 5 (commencing with Section 22750) of Division 5~~
37 ~~of Title 2 of the Government Code).~~

38 ~~(e) Nothing in this section shall be construed to limit the~~
39 ~~obligation to provide services under Section 1374.72.~~

1 ~~(f) As provided in Section 1374.72 and in paragraph (1) of~~
 2 ~~subdivision (a), in the provision of benefits required by this section,~~
 3 ~~a health care service plan may utilize case management, network~~
 4 ~~providers, utilization review techniques, prior authorization,~~
 5 ~~copayments, or other cost sharing.~~

6 ~~(g) This section shall remain in effect only until January 1, 2017,~~
 7 ~~and as of that date is repealed, unless a later enacted statute, that~~
 8 ~~is enacted before January 1, 2017, deletes or extends that date.~~

9 ~~SEC. 3. Section 10144.51 of the Insurance Code is amended~~
 10 ~~to read:~~

11 ~~10144.51. (a) (1) Every health insurance policy shall also~~
 12 ~~provide coverage for behavioral health treatment for pervasive~~
 13 ~~developmental disorder or autism no later than July 1, 2012. The~~
 14 ~~coverage shall be provided in the same manner and shall be subject~~
 15 ~~to the same requirements as provided in Section 10144.5.~~

16 ~~(2) Notwithstanding paragraph (1), as of the date that proposed~~
 17 ~~final rulemaking for essential health benefits is issued, this section~~
 18 ~~does not require any benefits to be provided that exceed the~~
 19 ~~essential health benefits that all health insurers will be required by~~
 20 ~~federal regulations to provide under Section 1302(b) of the federal~~
 21 ~~Patient Protection and Affordable Care Act (Public Law 111-148),~~
 22 ~~as amended by the federal Health Care and Education~~
 23 ~~Reconciliation Act of 2010 (Public Law 111-152).~~

24 ~~(3) This section shall not affect services for which an individual~~
 25 ~~is eligible pursuant to Division 4.5 (commencing with Section~~
 26 ~~4500) of the Welfare and Institutions Code or Title 14~~
 27 ~~(commencing with Section 95000) of the Government Code.~~

28 ~~(4) This section shall not affect or reduce any obligation to~~
 29 ~~provide services under an individualized education program, as~~
 30 ~~defined in Section 56032 of the Education Code, or an individual~~
 31 ~~service plan, as described in Section 5600.4 of the Welfare and~~
 32 ~~Institutions Code, or under the federal Individuals with Disabilities~~
 33 ~~Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing~~
 34 ~~regulations.~~

35 ~~(b) Pursuant to Article 6 (commencing with Section 2240) of~~
 36 ~~Title 10 of the California Code of Regulations, every health insurer~~
 37 ~~subject to this section shall maintain an adequate network that~~
 38 ~~includes qualified autism service providers who supervise and~~
 39 ~~employ qualified autism service professionals or paraprofessionals~~
 40 ~~who provide and administer behavioral health treatment. Nothing~~

1 shall prevent a health insurer from selectively contracting with
2 providers within these requirements.

3 (e) For the purposes of this section, the following definitions
4 shall apply:

5 (1) “Behavioral health treatment” means professional services
6 and treatment programs, including applied behavior analysis and
7 evidence-based behavior intervention programs, that develop or
8 restore, to the maximum extent practicable, the functioning of an
9 individual with pervasive developmental disorder or autism, and
10 that meet all of the following criteria:

11 (A) The treatment is prescribed by a physician and surgeon
12 licensed pursuant to Chapter 5 (commencing with Section 2000)
13 of, or is developed by a psychologist licensed pursuant to Chapter
14 6.6 (commencing with Section 2900) of, Division 2 of the Business
15 and Professions Code.

16 (B) The treatment is provided under a treatment plan prescribed
17 by a qualified autism service provider and is administered by one
18 of the following:

19 (i) A qualified autism service provider.

20 (ii) A qualified autism service professional supervised and
21 employed by the qualified autism service provider.

22 (iii) A qualified autism service paraprofessional supervised and
23 employed by a qualified autism service provider.

24 (C) The treatment plan has measurable goals over a specific
25 timeline that is developed and approved by the qualified autism
26 service provider for the specific patient being treated. The treatment
27 plan shall be reviewed no less than once every six months by the
28 qualified autism service provider and modified whenever
29 appropriate, and shall be consistent with Section 4686.2 of the
30 Welfare and Institutions Code pursuant to which the qualified
31 autism service provider does all of the following:

32 (i) Describes the patient’s behavioral health impairments or
33 developmental challenges that are to be treated.

34 (ii) Designs an intervention plan that includes the service type,
35 number of hours, and parent participation needed to achieve the
36 plan’s goal and objectives, and the frequency at which the patient’s
37 progress is evaluated and reported.

38 (iii) Provides intervention plans that utilize evidence-based
39 practices, with demonstrated clinical efficacy in treating pervasive
40 developmental disorder or autism.

1 ~~(iv) Discontinues intensive behavioral intervention services~~
2 ~~when the treatment goals and objectives are achieved or no longer~~
3 ~~appropriate.~~

4 ~~(D) The treatment plan is not used for purposes of providing or~~
5 ~~for the reimbursement of respite, day care, or educational services~~
6 ~~and is not used to reimburse a parent for participating in the~~
7 ~~treatment program. The treatment plan shall be made available to~~
8 ~~the insurer upon request.~~

9 ~~(2) “Pervasive developmental disorder or autism” shall have~~
10 ~~the same meaning and interpretation as used in Section 10144.5.~~

11 ~~(3) “Qualified autism service provider” means either of the~~
12 ~~following:~~

13 ~~(A) A person, entity, or group that is certified by a national~~
14 ~~entity, such as the Behavior Analyst Certification Board, that is~~
15 ~~accredited by the National Commission for Certifying Agencies,~~
16 ~~and who designs, supervises, or provides treatment for pervasive~~
17 ~~developmental disorder or autism, provided the services are within~~
18 ~~the experience and competence of the person, entity, or group that~~
19 ~~is nationally certified.~~

20 ~~(B) A person licensed as a physician and surgeon, physical~~
21 ~~therapist, occupational therapist, psychologist, marriage and family~~
22 ~~therapist, educational psychologist, clinical social worker,~~
23 ~~professional clinical counselor, speech-language pathologist, or~~
24 ~~audiologist pursuant to Division 2 (commencing with Section 500)~~
25 ~~of the Business and Professions Code, who designs, supervises,~~
26 ~~or provides treatment for pervasive developmental disorder or~~
27 ~~autism, provided the services are within the experience and~~
28 ~~competence of the licensee.~~

29 ~~(4) “Qualified autism service professional” means an individual~~
30 ~~who meets all of the following criteria:~~

31 ~~(A) Provides behavioral health treatment.~~

32 ~~(B) Is employed and supervised by a qualified autism service~~
33 ~~provider.~~

34 ~~(C) Provides treatment pursuant to a treatment plan developed~~
35 ~~and approved by the qualified autism service provider.~~

36 ~~(D) Is a behavioral service provider who meets one of the~~
37 ~~following criteria:~~

38 ~~(i) Is approved as a vendor by a California regional center to~~
39 ~~provide services as an Associate Behavior Analyst, Behavior~~
40 ~~Analyst, Behavior Management Assistant, Behavior Management~~

1 Consultant, or Behavior Management Program as defined in
2 Section 54342 of Title 17 of the California Code of Regulations:
3 (ii) Possesses a bachelor of arts or science degree and has either
4 of the following:
5 (I) Twelve semester units from an accredited institute of higher
6 learning in either applied behavioral analysis or clinical coursework
7 in behavioral health and one year of experience in designing or
8 implementing behavioral health treatment.
9 (II) Two years of experience in designing or implementing
10 behavioral health treatment.
11 (iii) The person is a registered psychological assistant or
12 registered psychologist pursuant to Chapter 6.6 (commencing with
13 Section 2900) of Division 2 of the Business and Professions Code.
14 (iv) The person is an associate clinical social worker registered
15 with the Board of Behavioral Sciences pursuant to Section 4996.18
16 of the Business and Professions Code.
17 (E) Has training and experience in providing services for
18 pervasive developmental disorder or autism pursuant to Division
19 4.5 (commencing with Section 4500) of the Welfare and
20 Institutions Code or Title 14 (commencing with Section 95000)
21 of the Government Code.
22 (5) “Qualified autism service paraprofessional” means an
23 unlicensed and uncertified individual who meets all of the
24 following criteria:
25 (A) Is employed and supervised by a qualified autism service
26 provider.
27 (B) Provides treatment and implements services pursuant to a
28 treatment plan developed and approved by the qualified autism
29 service provider.
30 (C) Meets the criteria set forth in the regulations adopted
31 pursuant to Section 4686.3 of the Welfare and Institutions Code
32 or meets all of the following:
33 (i) Possesses a high school diploma or equivalent.
34 (ii) Has six months experience working with persons with a
35 developmental disability.
36 (iii) Has 30 hours of training in the specific form of
37 evidence-based behavioral health treatment administered by a
38 qualified autism provider or qualified autism service professional.
39 (iv) Has successfully passed a background check conducted by
40 a state-approved agency.

1 ~~(D) Has adequate education, training, and experience, as~~
2 ~~certified by a qualified autism service provider.~~

3 ~~(d) This section shall not apply to the following:~~

4 ~~(1) A specialized health insurance policy that does not cover~~
5 ~~mental health or behavioral health services or an accident only,~~
6 ~~specified disease, hospital indemnity, or Medicare supplement~~
7 ~~policy.~~

8 ~~(2) A health insurance policy in the Medi-Cal program (Chapter~~
9 ~~7 (commencing with Section 14000) of Part 3 of Division 9 of the~~
10 ~~Welfare and Institutions Code).~~

11 ~~(3) A health insurance policy in the Healthy Families Program~~
12 ~~(Part 6.2 (commencing with Section 12693)).~~

13 ~~(4) A health care benefit plan or policy entered into with the~~
14 ~~Board of Administration of the Public Employees' Retirement~~
15 ~~System pursuant to the Public Employees' Medical and Hospital~~
16 ~~Care Act (Part 5 (commencing with Section 22750) of Division 5~~
17 ~~of Title 2 of the Government Code).~~

18 ~~(e) Nothing in this section shall be construed to limit the~~
19 ~~obligation to provide services under Section 10144.5.~~

20 ~~(f) As provided in Section 10144.5 and in paragraph (1) of~~
21 ~~subdivision (a), in the provision of benefits required by this section,~~
22 ~~a health insurer may utilize case management, network providers,~~
23 ~~utilization review techniques, prior authorization, copayments, or~~
24 ~~other cost sharing.~~

25 ~~(g) This section shall remain in effect only until January 1, 2017,~~
26 ~~and as of that date is repealed, unless a later enacted statute, that~~
27 ~~is enacted before January 1, 2017, deletes or extends that date.~~

28 *SEC. 2. Section 1374.73 of the Health and Safety Code is*
29 *amended to read:*

30 1374.73. (a) (1) Every health care service plan contract that
31 provides hospital, medical, or surgical coverage shall also provide
32 coverage for behavioral health treatment for pervasive
33 developmental disorder or autism no later than July 1, 2012. The
34 coverage shall be provided in the same manner and shall be subject
35 to the same requirements as provided in Section 1374.72.

36 (2) Notwithstanding paragraph (1), as of the date that proposed
37 final rulemaking for essential health benefits is issued, this section
38 does not require any benefits to be provided that exceed the
39 essential health benefits that all health plans will be required by
40 federal regulations to provide under Section 1302(b) of the federal

1 Patient Protection and Affordable Care Act (Public Law 111-148),
2 as amended by the federal Health Care and Education
3 Reconciliation Act of 2010 (Public Law 111-152).

4 (3) This section shall not affect services for which an individual
5 is eligible pursuant to Division 4.5 (commencing with Section
6 4500) of the Welfare and Institutions Code or Title 14
7 (commencing with Section 95000) of the Government Code.

8 (4) This section shall not affect or reduce any obligation to
9 provide services under an individualized education program, as
10 defined in Section 56032 of the Education Code, or an individual
11 service plan, as described in Section 5600.4 of the Welfare and
12 Institutions Code, or under the federal Individuals with Disabilities
13 Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing
14 regulations.

15 (b) Every health care service plan subject to this section shall
16 maintain an adequate network that includes qualified autism service
17 providers who supervise and employ qualified autism service
18 professionals or paraprofessionals who provide and administer
19 behavioral health treatment. Nothing shall prevent a health care
20 service plan from selectively contracting with providers within
21 these requirements.

22 (c) For the purposes of this section, the following definitions
23 shall apply:

24 (1) “Behavioral health treatment” means professional services
25 and treatment programs, including applied behavior analysis and
26 evidence-based behavior intervention programs, that develop or
27 restore, to the maximum extent practicable, the functioning of an
28 individual with pervasive developmental disorder or autism and
29 that meet all of the following criteria:

30 (A) The treatment is prescribed by a physician and surgeon
31 licensed pursuant to Chapter 5 (commencing with Section 2000)
32 of, or is developed by a psychologist licensed pursuant to Chapter
33 6.6 (commencing with Section 2900) of, Division 2 of the Business
34 and Professions Code.

35 (B) The treatment is provided under a treatment plan prescribed
36 by a qualified autism service provider and is administered by one
37 of the following:

38 (i) A qualified autism service provider.

39 (ii) A qualified autism service professional supervised and
40 employed by the qualified autism service provider.

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2 employed by a qualified autism service provider.

3 (C) The treatment plan has measurable goals over a specific
4 timeline that is developed and approved by the qualified autism
5 service provider for the specific patient being treated. The treatment
6 plan shall be reviewed no less than once every six months by the
7 qualified autism service provider and modified whenever
8 appropriate, and shall be consistent with Section 4686.2 of the
9 Welfare and Institutions Code pursuant to which the qualified
10 autism service provider does all of the following:

11 (i) Describes the patient's behavioral health impairments or
12 developmental challenges that are to be treated.

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14 number of hours, and parent participation needed to achieve the
15 plan's goal and objectives, and the frequency at which the patient's
16 progress is evaluated and reported.

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18 practices, with demonstrated clinical efficacy in treating pervasive
19 developmental disorder or autism.

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21 when the treatment goals and objectives are achieved or no longer
22 appropriate.

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24 for the reimbursement of respite, day care, or educational services
25 and is not used to reimburse a parent for participating in the
26 treatment program. The treatment plan shall be made available to
27 the health care service plan upon request.

28 (2) "Pervasive developmental disorder or autism" shall have
29 the same meaning and interpretation as used in Section 1374.72.

30 (3) "Qualified autism service provider" means either of the
31 following:

32 (A) A person, entity, or group that is certified by a national
33 entity, such as the Behavior Analyst Certification Board, that is
34 accredited by the National Commission for Certifying Agencies,
35 and who designs, supervises, or provides treatment for pervasive
36 developmental disorder or autism, provided the services are within
37 the experience and competence of the person, entity, or group that
38 is nationally certified.

39 (B) A person licensed as a physician and surgeon, physical
40 therapist, occupational therapist, psychologist, marriage and family

1 therapist, educational psychologist, clinical social worker,
2 professional clinical counselor, speech-language pathologist, or
3 audiologist pursuant to Division 2 (commencing with Section 500)
4 of the Business and Professions Code, who designs, supervises,
5 or provides treatment for pervasive developmental disorder or
6 autism, provided the services are within the experience and
7 competence of the licensee.

8 (4) “Qualified autism service professional” means an individual
9 who meets all of the following criteria:

10 (A) Provides behavioral health treatment.

11 (B) Is employed and supervised by a qualified autism service
12 provider.

13 (C) Provides treatment pursuant to a treatment plan developed
14 and approved by the qualified autism service provider.

15 (D) Is a behavioral service provider approved as a vendor by a
16 California regional center to provide services as an Associate
17 Behavior Analyst, Behavior Analyst, Behavior Management
18 Assistant, Behavior Management Consultant, or Behavior
19 Management Program as defined in Section 54342 of Title 17 of
20 the California Code of Regulations.

21 (E) Has training and experience in providing services for
22 pervasive developmental disorder or autism pursuant to Division
23 4.5 (commencing with Section 4500) of the Welfare and
24 Institutions Code or Title 14 (commencing with Section 95000)
25 of the Government Code.

26 (5) “Qualified autism service paraprofessional” means an
27 unlicensed and uncertified individual who meets all of the
28 following criteria:

29 (A) Is employed and supervised by a qualified autism service
30 provider.

31 (B) Provides treatment and implements services pursuant to a
32 treatment plan developed and approved by the qualified autism
33 service provider.

34 (C) Meets the criteria set forth in the regulations adopted
35 pursuant to Section 4686.3 of the Welfare and Institutions Code.

36 (D) Has adequate education, training, and experience, as
37 certified by a qualified autism service provider.

38 (d) This section shall not apply to the following:

39 (1) A specialized health care service plan that does not deliver
40 mental health or behavioral health services to enrollees.

1 (2) A health care service plan contract in the Medi-Cal program
2 (Chapter 7 (commencing with Section 14000) of Part 3 of Division
3 9 of the Welfare and Institutions Code).

4 (3) A health care service plan contract in the Healthy Families
5 Program (Part 6.2 (commencing with Section 12693) of Division
6 2 of the Insurance Code).

7 (4) A health care benefit plan or contract entered into with the
8 Board of Administration of the Public Employees' Retirement
9 System pursuant to the Public Employees' Medical and Hospital
10 Care Act (Part 5 (commencing with Section 22750) of Division 5
11 of Title 2 of the Government Code).

12 (e) Nothing in this section shall be construed to limit the
13 obligation to provide services under Section 1374.72.

14 (f) As provided in Section 1374.72 and in paragraph (1) of
15 subdivision (a), in the provision of benefits required by this section,
16 a health care service plan may utilize case management, network
17 providers, utilization review techniques, prior authorization,
18 copayments, or other cost sharing.

19 (g) *No later than December 31, 2017, and thereafter as*
20 *necessary, the Board of Psychology, upon appropriation of the*
21 *Legislature, shall convene a committee to create a list of*
22 *evidence-based treatment modalities for purposes of developing*
23 *mandated behavioral health treatment modalities for pervasive*
24 *developmental disorder or autism.*

25 (~~g~~)

26 (h) This section shall remain in effect only until January 1, ~~2017,~~
27 ~~2022~~, and as of that date is repealed, unless a later enacted statute,
28 that is enacted before January 1, ~~2017,~~ 2022, deletes or extends
29 that date.

30 *SEC. 3. Section 10144.51 of the Insurance Code is amended*
31 *to read:*

32 10144.51. (a) (1) Every health insurance policy shall also
33 provide coverage for behavioral health treatment for pervasive
34 developmental disorder or autism no later than July 1, 2012. The
35 coverage shall be provided in the same manner and shall be subject
36 to the same requirements as provided in Section 10144.5.

37 (2) Notwithstanding paragraph (1), as of the date that proposed
38 final rulemaking for essential health benefits is issued, this section
39 does not require any benefits to be provided that exceed the
40 essential health benefits that all health insurers will be required by

1 federal regulations to provide under Section 1302(b) of the federal
2 Patient Protection and Affordable Care Act (Public Law 111-148),
3 as amended by the federal Health Care and Education
4 Reconciliation Act of 2010 (Public Law 111-152).

5 (3) This section shall not affect services for which an individual
6 is eligible pursuant to Division 4.5 (commencing with Section
7 4500) of the Welfare and Institutions Code or Title 14
8 (commencing with Section 95000) of the Government Code.

9 (4) This section shall not affect or reduce any obligation to
10 provide services under an individualized education program, as
11 defined in Section 56032 of the Education Code, or an individual
12 service plan, as described in Section 5600.4 of the Welfare and
13 Institutions Code, or under the federal Individuals with Disabilities
14 Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing
15 regulations.

16 (b) Pursuant to Article 6 (commencing with Section 2240) of
17 Title 10 of the California Code of Regulations, every health insurer
18 subject to this section shall maintain an adequate network that
19 includes qualified autism service providers who supervise and
20 employ qualified autism service professionals or paraprofessionals
21 who provide and administer behavioral health treatment. Nothing
22 shall prevent a health insurer from selectively contracting with
23 providers within these requirements.

24 (c) For the purposes of this section, the following definitions
25 shall apply:

26 (1) “Behavioral health treatment” means professional services
27 and treatment programs, including applied behavior analysis and
28 evidence-based behavior intervention programs, that develop or
29 restore, to the maximum extent practicable, the functioning of an
30 individual with pervasive developmental disorder or autism, and
31 that meet all of the following criteria:

32 (A) The treatment is prescribed by a physician and surgeon
33 licensed pursuant to Chapter 5 (commencing with Section 2000)
34 of, or is developed by a psychologist licensed pursuant to Chapter
35 6.6 (commencing with Section 2900) of, Division 2 of the Business
36 and Professions Code.

37 (B) The treatment is provided under a treatment plan prescribed
38 by a qualified autism service provider and is administered by one
39 of the following:

40 (i) A qualified autism service provider.

1 (ii) A qualified autism service professional supervised and
2 employed by the qualified autism service provider.

3 (iii) A qualified autism service paraprofessional supervised and
4 employed by a qualified autism service provider.

5 (C) The treatment plan has measurable goals over a specific
6 timeline that is developed and approved by the qualified autism
7 service provider for the specific patient being treated. The treatment
8 plan shall be reviewed no less than once every six months by the
9 qualified autism service provider and modified whenever
10 appropriate, and shall be consistent with Section 4686.2 of the
11 Welfare and Institutions Code pursuant to which the qualified
12 autism service provider does all of the following:

13 (i) Describes the patient's behavioral health impairments or
14 developmental challenges that are to be treated.

15 (ii) Designs an intervention plan that includes the service type,
16 number of hours, and parent participation needed to achieve the
17 plan's goal and objectives, and the frequency at which the patient's
18 progress is evaluated and reported.

19 (iii) Provides intervention plans that utilize evidence-based
20 practices, with demonstrated clinical efficacy in treating pervasive
21 developmental disorder or autism.

22 (iv) Discontinues intensive behavioral intervention services
23 when the treatment goals and objectives are achieved or no longer
24 appropriate.

25 (D) The treatment plan is not used for purposes of providing or
26 for the reimbursement of respite, day care, or educational services
27 and is not used to reimburse a parent for participating in the
28 treatment program. The treatment plan shall be made available to
29 the insurer upon request.

30 (2) "Pervasive developmental disorder or autism" shall have
31 the same meaning and interpretation as used in Section 10144.5.

32 (3) "Qualified autism service provider" means either of the
33 following:

34 (A) A person, entity, or group that is certified by a national
35 entity, such as the Behavior Analyst Certification Board, that is
36 accredited by the National Commission for Certifying Agencies,
37 and who designs, supervises, or provides treatment for pervasive
38 developmental disorder or autism, provided the services are within
39 the experience and competence of the person, entity, or group that
40 is nationally certified.

1 (B) A person licensed as a physician and surgeon, physical
2 therapist, occupational therapist, psychologist, marriage and family
3 therapist, educational psychologist, clinical social worker,
4 professional clinical counselor, speech-language pathologist, or
5 audiologist pursuant to Division 2 (commencing with Section 500)
6 of the Business and Professions Code, who designs, supervises,
7 or provides treatment for pervasive developmental disorder or
8 autism, provided the services are within the experience and
9 competence of the licensee.

10 (4) “Qualified autism service professional” means an individual
11 who meets all of the following criteria:

12 (A) Provides behavioral health treatment.

13 (B) Is employed and supervised by a qualified autism service
14 provider.

15 (C) Provides treatment pursuant to a treatment plan developed
16 and approved by the qualified autism service provider.

17 (D) Is a behavioral service provider approved as a vendor by a
18 California regional center to provide services as an Associate
19 Behavior Analyst, Behavior Analyst, Behavior Management
20 Assistant, Behavior Management Consultant, or Behavior
21 Management Program as defined in Section 54342 of Title 17 of
22 the California Code of Regulations.

23 (E) Has training and experience in providing services for
24 pervasive developmental disorder or autism pursuant to Division
25 4.5 (commencing with Section 4500) of the Welfare and
26 Institutions Code or Title 14 (commencing with Section 95000)
27 of the Government Code.

28 (5) “Qualified autism service paraprofessional” means an
29 unlicensed and uncertified individual who meets all of the
30 following criteria:

31 (A) Is employed and supervised by a qualified autism service
32 provider.

33 (B) Provides treatment and implements services pursuant to a
34 treatment plan developed and approved by the qualified autism
35 service provider.

36 (C) Meets the criteria set forth in the regulations adopted
37 pursuant to Section 4686.3 of the Welfare and Institutions Code.

38 (D) Has adequate education, training, and experience, as
39 certified by a qualified autism service provider.

40 (d) This section shall not apply to the following:

1 (1) A specialized health insurance policy that does not cover
2 mental health or behavioral health services or an accident only,
3 specified disease, hospital indemnity, or Medicare supplement
4 policy.

5 (2) A health insurance policy in the Medi-Cal program (Chapter
6 7 (commencing with Section 14000) of Part 3 of Division 9 of the
7 Welfare and Institutions Code).

8 (3) A health insurance policy in the Healthy Families Program
9 (Part 6.2 (commencing with Section 12693)).

10 (4) A health care benefit plan or policy entered into with the
11 Board of Administration of the Public Employees' Retirement
12 System pursuant to the Public Employees' Medical and Hospital
13 Care Act (Part 5 (commencing with Section 22750) of Division 5
14 of Title 2 of the Government Code).

15 (e) Nothing in this section shall be construed to limit the
16 obligation to provide services under Section 10144.5.

17 (f) As provided in Section 10144.5 and in paragraph (1) of
18 subdivision (a), in the provision of benefits required by this section,
19 a health insurer may utilize case management, network providers,
20 utilization review techniques, prior authorization, copayments, or
21 other cost sharing.

22 (g) *No later than December 31, 2017, and thereafter as*
23 *necessary, the Board of Psychology, upon appropriation by the*
24 *Legislature, shall convene a committee to create a list of*
25 *evidence-based treatment modalities for purposes of developing*
26 *mandated behavioral health treatment modalities for pervasive*
27 *developmental disorder or autism.*

28 ~~(g)~~

29 (h) This section shall remain in effect only until January 1, ~~2017,~~
30 2022, and as of that date is repealed, unless a later enacted statute,
31 that is enacted before January 1, ~~2017,~~ 2022, deletes or extends
32 that date.

33 *SEC. 4. No reimbursement is required by this act pursuant to*
34 *Section 6 of Article XIII B of the California Constitution because*
35 *the only costs that may be incurred by a local agency or school*
36 *district will be incurred because this act creates a new crime or*
37 *infraction, eliminates a crime or infraction, or changes the penalty*
38 *for a crime or infraction, within the meaning of Section 17556 of*
39 *the Government Code, or changes the definition of a crime within*

- 1 *the meaning of Section 6 of Article XIII B of the California*
- 2 *Constitution.*

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