

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



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LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Health care coverage: mental illness: autism.

(1) Existing law provides for licensing and regulation of health care service plans by the Department of Managed Health Care. A willful violation of these provisions is a crime. Existing law provides for licensing and regulation of health insurers by the Insurance Commissioner. Existing law requires health care service plan contracts and health insurance policies to provide benefits for specified conditions, including certain mental health conditions.

This bill would require health care service plan contracts and health insurance policies to also provide coverage for behavioral intervention therapy, as defined, for pervasive developmental disorder or autism. The bill would, however, provide that no benefits are required to be provided that exceed the essential health benefits required under federal law. Because the bill would change the definition of a crime with respect to health care service plans, it would thereby impose a state-mandated local program.



(2) 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: yes. State-mandated local program: yes.



THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

(a) During the past decade, scientific research has established that behavioral intervention therapy can significantly improve the cognitive function and emotional capabilities of, and reduce self-injurious behaviors of, a significant number of individuals with pervasive developmental disorders or autism.

(b) Scientists, physicians, and other autism experts now consider that behavioral intervention therapy is an important and medically necessary treatment for a significant number of individuals with pervasive developmental disorder or autism.

(c) Controversy, uncertainty, and disparities currently exist among some health care service plans and health insurers as to whether behavioral intervention therapy should be a covered benefit for pervasive developmental disorder or autism. ~~Because these cases are not subject to the independent medical review process, the welfare of consumers may be jeopardized.~~

(d) It is the intent of this act to provide clarification of existing laws requiring mental health parity and to provide for coverage of behavioral intervention therapy with regard to pervasive developmental disorder or autism.

SEC. 2. Section 1374.73 is added to the Health and Safety Code, to read:

1374.73. (a) (1) Every health care service plan contract issued, amended, or renewed on or after January 1, 2012, that provides hospital, medical, or surgical coverage pursuant to Section 1374.72 shall provide coverage for behavioral intervention therapy for pervasive developmental disorder or autism. The coverage shall be provided



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in the same manner and shall be subject to the same requirements as provided in Section 1374.72.

(2) Notwithstanding paragraph (1), this section does not require any benefits to be provided that exceed the essential health benefits required to be provided under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(3) This section shall not be construed as reducing any obligation to provide services to an individual under an individualized family service plan, an individualized program plan, a prevention program plan, an individualized education program, or an individualized service plan.

(b) (1) For the purposes of this section, “behavioral intervention therapy” shall be defined to include, but not be limited to, the following:

(A) The design, implementation, and evaluation of environmental modifications, such as applied behavioral analysis, using behavioral stimuli and consequences, to produce significant improvement in human health functions and behaviors, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(B) Professional services or treatment programs that have been scientifically validated and have demonstrated clinical efficacy.

(C) Professional services or treatment programs that have measurable treatment outcomes.



(2) For the purposes of this section, “pervasive developmental disorder or autism” shall have the meaning as used in Section 1374.72.

SEC. 3. Section 10144.51 is added to the Insurance Code, to read:

10144.51. (a) (1) Every health insurance policy issued, amended, or renewed on or after January 1, 2012, that provides hospital, medical, or surgical coverage pursuant to Section 10144.5 shall provide coverage for the behavioral intervention therapy for pervasive developmental disorder or autism. The coverage shall be provided in the same manner and shall be subject to the same requirements as provided in Section 10144.5.

(2) Notwithstanding paragraph (1), this section does not require any benefits to be provided that exceed the essential health benefits required to be provided under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(3) This section shall not be construed as reducing any obligation to provide services to an individual under an individualized family service plan, an individualized program plan, a prevention program plan, an individualized education program, or an individualized service plan.

(b) (1) For the purposes of this section, “behavioral intervention therapy” shall be defined to include, but not be limited to, the following:

(A) The design, implementation, and evaluation of environmental modifications, such as applied behavioral analysis, using behavioral stimuli and consequences, to produce significant improvement in human health functions and behaviors, including



the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(B) Professional services or treatment programs that have been scientifically validated and have demonstrated clinical efficacy.

(C) Professional services or treatment programs that have measurable treatment outcomes.

(2) For the purposes of this section, “pervasive developmental disorder or autism” shall have the meaning as used in Section 10144.5.

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

