

Introduced by Senator PortantinoJanuary 24, 2019

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 healthcare coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 163, as introduced, Portantino. Healthcare coverage: pervasive developmental disorder or autism.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to contract with regional centers to provide services and supports to individuals with developmental disabilities and their families. Existing law defines developmental disability for these purposes to include, among other things, autism.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or a health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism, and defines "behavioral health treatment" to mean specified services and treatment programs, including treatment provided pursuant to a treatment plan that is prescribed by a qualified autism service provider and administered either by a qualified autism service provider or by a qualified autism service professional or qualified autism service paraprofessional who is supervised as specified. Existing law defines a "qualified autism service provider" to refer to a person who

is certified or licensed and a “qualified autism service professional” to refer to a person who meets specified educational, training, and other requirements and is supervised and employed by a qualified autism service provider. Existing law defines a “qualified autism service paraprofessional” to mean an unlicensed and uncertified individual who meets specified educational, training, and other criteria, is supervised by a qualified autism service provider or a qualified autism service professional, and is employed by the qualified autism service provider. Existing law also requires a qualified autism service provider to design, in connection with the treatment plan, an intervention plan that describes, among other information, the parent participation needed to achieve the plan’s goals and objectives, as specified. Under existing law, these coverage requirements provide an exception for specialized health care service plans or health insurance policies that do not cover mental health or behavioral health services, accident only, specified disease, hospital indemnity, or Medicare supplement health insurance policies, and health care service plans and health insurance policies in the Medi-Cal program.

Existing federal law, the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), requires group health plans and health insurance issuers that provide both medical and surgical benefits and mental health or substance use disorder benefits to ensure that financial requirements and treatment limitations applicable to mental health or substance use disorder benefits are no more restrictive than the predominant requirements or limitations applied to substantially all medical and surgical benefits. Existing state law subjects nongrandfathered individual and small group health care service plan contracts and health insurance policies that provide coverage for essential health benefits to those provisions of the MHPAEA.

This bill would revise the definition of behavioral health treatment to require the services and treatment programs provided to be based on behavioral, developmental, behavior-based, or other evidence-based models. The bill would remove the exception for health care service plans and health insurance policies in the Medi-Cal program, consistent with the MHPAEA.

This bill also would expand the definition of a “qualified autism service professional” to include behavioral service providers who meet specified educational and professional or work experience qualifications. The bill would revise the definition of a “qualified autism service

paraprofessional” by deleting the reference to an unlicensed and uncertified individual and by requiring the individual to comply with revised educational and training, or professional, requirements. The bill would also revise the definitions of both a qualified autism service professional and a qualified autism service paraprofessional to include the requirement that these individuals complete a background check.

This bill would require the intervention plan designed by the qualified autism service provider, when clinically appropriate, to include parent or caregiver participation that is individualized to the patient and takes into account the ability of the parent or caregiver to participate in therapy sessions and other recommended activities. The bill would specify that the lack of parent or caregiver participation shall not be used to deny or reduce medically necessary services and that the setting, location, or time of treatment not be used as the only reason to deny medically necessary services. Because a willful violation of the bill’s provisions by a health care service plan would be a crime, it would impose a state-mandated local program.

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:

- 1 SECTION 1. Section 1374.73 of the Health and Safety Code,
- 2 as amended by Chapter 385 of the Statutes of 2017, is amended
- 3 to read:
- 4 1374.73. (a) (1) Every health care service plan contract that
- 5 provides hospital, medical, or surgical coverage shall also provide
- 6 coverage for behavioral health treatment for pervasive
- 7 developmental disorder or autism no later than July 1, 2012. The
- 8 coverage shall be provided in the same manner and shall be subject
- 9 to the same requirements as provided in Section 1374.72.
- 10 (2) Notwithstanding paragraph (1), as of the date that proposed
- 11 final rulemaking for essential health benefits is issued, this section
- 12 does not require any benefits to be provided that exceed the
- 13 essential health benefits that all health plans 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) Every health care service plan subject to this section shall
17 maintain an adequate network that includes qualified autism service
18 providers who supervise or employ qualified autism service
19 professionals or paraprofessionals who provide and administer
20 behavioral health treatment. A health care service plan is not
21 prevented from selectively contracting with providers within these
22 requirements.

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

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

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

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

- 1 (i) A qualified autism service provider.
- 2 (ii) A qualified autism service professional supervised by the
3 qualified autism service provider.
- 4 (iii) A qualified autism service paraprofessional supervised by
5 a qualified autism service provider or qualified autism service
6 professional.
- 7 (C) The treatment plan has measurable goals over a specific
8 timeline that is developed and approved by the qualified autism
9 service provider for the specific patient being treated. The treatment
10 plan shall be reviewed no less than once every six months by the
11 qualified autism service provider and modified whenever
12 appropriate, and shall be consistent with Section 4686.2 of the
13 Welfare and Institutions Code pursuant to which the qualified
14 autism service provider does all of the following:
 - 15 (i) Describes the patient’s behavioral health impairments or
16 developmental challenges that are to be treated.
 - 17 (ii) Designs an intervention plan that includes the service type,
18 number of hours, and parent ~~participation~~ *participation, when*
19 *clinically appropriate*, needed to achieve the plan’s goal and
20 objectives, and the frequency at which the patient’s progress is
21 evaluated and reported. *When clinically appropriate, the plan shall*
22 *include parent or caregiver participation that is individualized to*
23 *the patient and that takes into account the ability of the parent or*
24 *caregiver to participate in therapy sessions and other*
25 *recommended activities.*
 - 26 (iii) Provides intervention plans that utilize evidence-based
27 practices, with demonstrated clinical efficacy in treating pervasive
28 developmental disorder or autism. *“Evidence-based practice”*
29 *means a decisionmaking process that integrates the best available*
30 *scientifically rigorous research, clinical expertise, and individuals’*
31 *characteristics. Evidence-based practice is an approach to*
32 *treatment rather than a specific treatment. Evidence-based practice*
33 *promotes the collection, interpretation, integration, and continuous*
34 *evaluation of valued, important, and applicable individual- or*
35 *family-reported, clinically observed, and research-supported*
36 *evidence. The best available evidence, matched to consumer*
37 *circumstances and preferences, is applied to ensure the quality of*
38 *clinical judgment and facilitate the most cost-effective care.*

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~~, *daycare*, or educational
6 services and is not used to reimburse a parent for participating in
7 the treatment program. The treatment plan shall be made available
8 to the health care service plan upon request.

9 (2) “Pervasive developmental disorder or autism” shall have
10 the same meaning and interpretation as used in Section 1374.72.

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

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

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

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

32 (A) Provides behavioral health treatment, which may include
33 clinical case management and case supervision under the direction
34 and supervision of a qualified autism service provider. *However,*
35 *the services shall be consistent with the experience, training, or*
36 *education of the professional.*

37 (B) Is supervised by a qualified autism service provider.

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

40 ~~(D) Is a behavioral service provider who meets~~

1 (D) Is a behavioral service provider who meets one of the
2 following criteria:

3 (i) Meets the education and experience qualifications described
4 in Section 54342 of Title 17 of the California Code of Regulations
5 for an ~~Associate Behavior Analyst, Behavior Analyst, Behavior~~
6 ~~Management Assistant, Behavior Management Consultant,~~
7 *associate behavior analyst, behavior analyst, behavior management*
8 *assistant, behavior management consultant, or Behavior*
9 ~~Management Program.~~ *behavior management program.*

10 (ii) Possesses a bachelor of arts or science degree and meets
11 one of the following qualifications:

12 (I) One year of experience in designing or implementing
13 behavioral health treatment supervised by a qualified autism
14 service provider and 12 semester units from an accredited
15 institution of higher learning in either applied behavioral analysis
16 or clinical coursework in behavioral health.

17 (II) Two years of experience in designing or implementing
18 behavioral health treatment supervised by a qualified autism
19 service provider.

20 (E) ~~Has training and experience in providing services for~~
21 ~~pervasive developmental disorder~~

22 (III) ~~The person is a registered psychological assistant or autism~~
23 ~~registered psychologist pursuant to Division 4.5 Chapter 6.6~~
24 ~~(commencing with Section 4500) 2900) of the Welfare and~~
25 ~~Institutions Code or Title 14 (commencing with Section 95000)~~
26 ~~of the Government Code. Division 2 of the Business and~~
27 ~~Professions Code. A registered psychological assistant or~~
28 ~~registered psychologist may not supervise a qualified autism~~
29 ~~service paraprofessional until the registered psychological~~
30 ~~assistant or registered psychologist has obtained at least 500 hours~~
31 ~~of experience in designing or implementing behavioral health~~
32 ~~treatment.~~

33 (IV) ~~The person is an associate clinical social worker registered~~
34 ~~with the Board of Behavioral Sciences pursuant to Section 4996.18~~
35 ~~of the Business and Professions Code. An associate clinical social~~
36 ~~worker may not supervise a qualified autism service~~
37 ~~paraprofessional until the associate clinical social worker has~~
38 ~~obtained at least 500 hours of experience in designing or~~
39 ~~implementing behavioral health treatment.~~

1 (V) *The person is a registered associate marriage and family*
2 *therapist with the Board of Behavioral Sciences pursuant to Section*
3 *4980.44 of the Business and Professions Code. A registered*
4 *associate marriage and family therapist may not supervise a*
5 *qualified autism service paraprofessional until the registered*
6 *associate marriage and family therapist has obtained at least 500*
7 *hours of experience in designing or implementing behavioral health*
8 *treatment.*

9 (VI) *The person is a registered associate professional clinical*
10 *counselor with the Board of Behavioral Sciences pursuant to*
11 *Section 4999.42 of the Business and Professions Code. A registered*
12 *associate professional clinical counselor may not supervise a*
13 *qualified autism service paraprofessional until the registered*
14 *associate professional clinical counselor has obtained at least 500*
15 *hours of experience in designing or implementing behavioral health*
16 *treatment.*

17 (VII) *The person is credentialed or certified by a national entity,*
18 *including, but not limited to, the Behavior Analyst Certification*
19 *Board, which is accredited by the National Commission for*
20 *Certifying Agencies or the American National Standards Institute*
21 *to provide applied behavior analysis or behavioral health*
22 *treatment, which may include case management and case*
23 *supervision under the direction and supervision of a qualified*
24 *autism service provider.*

25 (E) *Has training and experience in providing services for*
26 *pervasive developmental disorder or autism.*

27 (F) *Is employed by the qualified autism service provider or an*
28 *entity or group that employs qualified autism service providers*
29 *responsible for the autism treatment plan.*

30 (G) *Has completed a background check performed by a*
31 *Department of Justice approved agency, with subsequent*
32 *notification to the person's employer pursuant to Section 11105.2*
33 *of the Penal Code.*

34 (5) "Qualified autism service paraprofessional" means an
35 ~~unlicensed and uncertified~~ individual who meets all of the
36 following criteria:

37 (A) *Is supervised by a qualified autism service provider or*
38 *qualified autism service professional at a level of clinical*
39 *supervision that meets professionally recognized standards of*
40 *practice.*

1 (B) Provides treatment and implements services pursuant to a
2 treatment plan developed and approved by the qualified autism
3 service provider.

4 ~~(C) Meets~~

5 (C) *Meets one of the following:*

6 (i) *For applied behavioral analysis, the education and training*
7 *qualifications described in Section 54342 of Title 17 of the*
8 *California Code of Regulations.*

9 (ii) *For other evidence-based behavioral health treatments, all*
10 *of the following qualifications:*

11 (I) *Possesses an associate's degree or has completed two years*
12 *of study from an accredited college or university with coursework*
13 *in a related field of study.*

14 (II) *Has 40 hours of training in the specific form of behavioral*
15 *health treatment developed by a qualified autism service provider*
16 *and administered by a qualified autism service provider or*
17 *qualified autism service professional competent in the form of*
18 *behavioral health treatment to be practiced by the*
19 *paraprofessional.*

20 (III) *Has adequate education, training, and experience, as*
21 *certified by a qualified autism service provider.*

22 (iii) *Is credentialed or certified in applied behavior analysis or*
23 *behavioral health treatment for paraprofessionals or technicians*
24 *by a national entity that is accredited by the National Commission*
25 *for Certifying Agencies or the American National Standards*
26 *Institute.*

27 *However, upon successful completion of the training and*
28 *education necessary for certification or a credential described in*
29 *this clause, if the applicant is otherwise qualified under this section,*
30 *the applicant may provide treatment and implement services for*
31 *up to 180 days while in the process of obtaining the certification*
32 *or credential.*

33 (D) *Has adequate education, training, and experience, as*
34 *certified by a qualified autism service provider or an entity or*
35 *group that employs qualified autism service providers.*

36 (E) *Is employed by the qualified autism service provider or an*
37 *entity or group that employs qualified autism service providers*
38 *responsible for the autism treatment plan.*

39 (F) *Has completed a background check performed by a*
40 *Department of Justice approved agency, with subsequent*

1 notification to the person's employer pursuant to Section 11105.2
2 of the Penal Code.

3 (d) This section shall not apply to the following: a specialized
4 health care service plan that does not deliver mental health or
5 behavioral health services to enrollees.

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

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

11 (e) This section does not limit the obligation to provide services
12 under Section 1374.72.

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

18 (g) (1) *The setting, location, or time of treatment recommended
19 by the qualified autism service provider shall not be used as the
20 only reason to deny or reduce coverage for medically necessary
21 services. The setting shall be consistent with the standard of care
22 for behavioral health treatment. This subdivision does not require
23 a health care service plan to provide reimbursement for services
24 delivered by school personnel pursuant to an enrollee's
25 individualized educational program for the purpose of accessing
26 educational services, unless otherwise required or permitted by
27 federal and state law. This subdivision does not require a health
28 care service plan to cover services rendered outside of the plan's
29 service area unless the services are urgently needed services, as
30 described in subdivision (h) of Section 1345, or emergency
31 services, as defined in Section 1317.1, or unless the benefit plan
32 expressly covers out-of-area services.*

33 (2) *Parent or caregiver participation may be associated with
34 greater improvements in functioning and should be encouraged.
35 However, the lack of parent or caregiver participation shall not
36 be used as a basis for denying or reducing coverage of medically
37 necessary services.*

38 SEC. 2. Section 10144.51 of the Insurance Code, as amended
39 by Chapter 385 of the Statutes of 2017, is amended to read:

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

6 (2) Notwithstanding paragraph (1), as of the date that proposed
7 final rulemaking for essential health benefits is issued, this section
8 does not require any benefits to be provided that exceed the
9 essential health benefits that all health insurers will be required by
10 federal regulations to provide under Section 1302(b) of the federal
11 Patient Protection and Affordable Care Act (Public Law 111-148),
12 as amended by the federal Health Care and Education
13 Reconciliation Act of 2010 (Public Law 111-152).

14 (3) This section shall not affect services for which an individual
15 is eligible pursuant to Division 4.5 (commencing with Section
16 4500) of the Welfare and Institutions Code or Title 14
17 (commencing with Section 95000) of the Government Code.

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

25 (b) Pursuant to Article 6 (commencing with Section 2240) of
26 Subchapter 2 of Chapter 5 of Title 10 of the California Code of
27 Regulations, every health insurer subject to this section shall
28 maintain an adequate network that includes qualified autism service
29 providers who supervise or employ qualified autism service
30 professionals or paraprofessionals who provide and administer
31 behavioral health treatment. A health insurer is not prevented from
32 selectively contracting with providers within these requirements.

33 (c) For the purposes of this section, the following definitions
34 shall apply:

35 (1) “Behavioral health treatment” means professional services
36 and treatment ~~programs~~, *programs based on behavioral,*
37 *developmental, behavior-based, or other evidence-based practice*
38 *models*, including applied behavior analysis and *other*
39 evidence-based behavior intervention programs, that develop or
40 restore, to the maximum extent practicable, the functioning of an

1 individual with pervasive developmental disorder or autism, and
2 that meet all of the following criteria:

3 (A) The treatment is prescribed by a physician and surgeon
4 licensed pursuant to Chapter 5 (commencing with Section 2000)
5 of, or is developed by a psychologist licensed pursuant to Chapter
6 6.6 (commencing with Section 2900) of, Division 2 of the Business
7 and Professions Code.

8 (B) The treatment is provided under a treatment plan prescribed
9 by a qualified autism service provider and is administered by one
10 of the following:

11 (i) A qualified autism service provider.

12 (ii) A qualified autism service professional supervised by the
13 qualified autism service provider.

14 (iii) A qualified autism service paraprofessional supervised by
15 a qualified autism service provider or qualified autism service
16 professional.

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

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

27 (ii) Designs an intervention plan that includes the service type,
28 number of hours, and parent ~~participation~~ *participation, when*
29 *clinically appropriate*, needed to achieve the plan's goal and
30 objectives, and the frequency at which the patient's progress is
31 evaluated and reported. *When clinically appropriate, the plan shall*
32 *include parent or caregiver participation that is individualized to*
33 *the patient and that takes into account the ability of the parent or*
34 *caregiver to participate in therapy sessions and other*
35 *recommended activities.*

36 (iii) Provides intervention plans that utilize evidence-based
37 practices, with demonstrated clinical efficacy in treating pervasive
38 developmental disorder or autism. *"Evidence-based practice"*
39 *means a decisionmaking process that integrates the best available*
40 *scientifically rigorous research, clinical expertise, and individuals'*

1 *characteristics. Evidence-based practice is an approach to*
2 *treatment rather than a specific treatment. Evidence-based practice*
3 *promotes the collection, interpretation, integration, and continuous*
4 *evaluation of valued, important, and applicable individual- or*
5 *family-reported, clinically observed, and research-supported*
6 *evidence. The best available evidence, matched to consumer*
7 *circumstances and preferences, is applied to ensure the quality of*
8 *clinical judgment and facilitate the most cost-effective care.*

9 (iv) Discontinues intensive behavioral intervention services
10 when the treatment goals and objectives are achieved or no longer
11 appropriate.

12 (D) The treatment plan is not used for purposes of providing or
13 for the reimbursement of respite, ~~day care~~, *daycare*, or educational
14 services and is not used to reimburse a parent for participating in
15 the treatment program. The treatment plan shall be made available
16 to the insurer upon request.

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

19 (3) “Qualified autism service provider” means either of the
20 following:

21 (A) A person who is certified by a national entity, such as the
22 Behavior Analyst Certification Board, with a certification that is
23 accredited by the National Commission for Certifying Agencies,
24 *Agencies or the American National Standards Institute*, and who
25 designs, supervises, or provides treatment for pervasive
26 developmental disorder or autism, provided the services are within
27 the experience and competence of the person who is nationally
28 certified.

29 (B) A person licensed as a physician and surgeon, physical
30 therapist, occupational therapist, psychologist, marriage and family
31 therapist, educational psychologist, clinical social worker,
32 professional clinical counselor, speech-language pathologist, or
33 audiologist pursuant to Division 2 (commencing with Section 500)
34 of the Business and Professions Code, who designs, supervises,
35 or provides treatment for pervasive developmental disorder or
36 autism, provided the services are within the experience and
37 competence of the licensee.

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

- 1 (A) Provides behavioral health treatment, which may include
 2 clinical case management and case supervision under the direction
 3 and supervision of a qualified autism service provider. *However,*
 4 *the services shall be consistent with the experience, training, or*
 5 *education of the professional.*
- 6 (B) Is supervised by a qualified autism service provider.
- 7 (C) Provides treatment pursuant to a treatment plan developed
 8 and approved by the qualified autism service provider.
- 9 ~~(D) Is a behavioral service provider who meets~~
 10 *(D) Is a behavioral service provider who meets one of the*
 11 *following criteria:*
- 12 *(i) Meets the education and experience qualifications described*
 13 *in Section 54342 of Title 17 of the California Code of Regulations*
 14 *for an ~~Associate Behavior Analyst, Behavior Analyst, Behavior~~*
 15 *~~Management Assistant, Behavior Management Consultant,~~*
 16 *~~associate behavior analyst, behavior analyst, behavior management~~*
 17 *~~assistant, behavior management consultant, or ~~Behavior~~~~*
 18 *~~Management Program.~~ behavior management program.*
- 19 *(ii) Possesses a bachelor of arts or science degree and meets*
 20 *one of the following qualifications:*
- 21 *(I) One year of experience in designing or implementing*
 22 *behavioral health treatment supervised by a qualified autism*
 23 *service provider and 12 semester units from an accredited*
 24 *institution of higher learning in either applied behavioral analysis*
 25 *or clinical coursework in behavioral health.*
- 26 *(II) Two years of experience in designing or implementing*
 27 *behavioral health treatment supervised by a qualified autism*
 28 *service provider.*
- 29 ~~(E) Has training and experience in providing services for~~
 30 ~~pervasive developmental disorder~~
- 31 *(III) The person is a registered psychological assistant or ~~autism~~*
 32 *registered psychologist pursuant to ~~Division 4.5 Chapter 6.6~~*
 33 *(commencing with Section ~~4500~~ 2900) of the ~~Welfare and~~*
 34 *~~Institutions Code or Title 14 (commencing with Section 95000)~~*
 35 *~~of the Government Code. Division 2 of the Business and~~*
 36 *~~Professions Code. A registered psychological assistant or~~*
 37 *~~registered psychologist may not supervise a qualified autism~~*
 38 *~~service paraprofessional until the registered psychological~~*
 39 *~~assistant or registered psychologist has obtained at least 500 hours~~*

1 *of experience in designing or implementing behavioral health*
2 *treatment.*

3 *(IV) The person is an associate clinical social worker registered*
4 *with the Board of Behavioral Sciences pursuant to Section 4996.18*
5 *of the Business and Professions Code. An associate clinical social*
6 *worker may not supervise a qualified autism service*
7 *paraprofessional until the associate clinical social worker has*
8 *obtained at least 500 hours of experience in designing or*
9 *implementing behavioral health treatment.*

10 *(V) The person is a registered associate marriage and family*
11 *therapist with the Board of Behavioral Sciences pursuant to Section*
12 *4980.44 of the Business and Professions Code. A registered*
13 *associate marriage and family therapist may not supervise a*
14 *qualified autism service paraprofessional until the registered*
15 *associate marriage and family therapist has obtained at least 500*
16 *hours of experience in designing or implementing behavioral health*
17 *treatment.*

18 *(VI) The person is a registered associate professional clinical*
19 *counselor with the Board of Behavioral Sciences pursuant to*
20 *Section 4999.42 of the Business and Professions Code. A registered*
21 *associate professional clinical counselor may not supervise a*
22 *qualified autism service paraprofessional until the registered*
23 *associate professional clinical counselor has obtained at least 500*
24 *hours of experience in designing or implementing behavioral health*
25 *treatment.*

26 *(VII) The person is credentialed or certified by a national entity,*
27 *including, but not limited to, the Behavior Analyst Certification*
28 *Board, which is accredited by the National Commission for*
29 *Certifying Agencies or the American National Standards Institute*
30 *to provide applied behavior analysis or behavioral health*
31 *treatment, which may include case management and case*
32 *supervision under the direction and supervision of a qualified*
33 *autism service provider.*

34 *(E) Has training and experience in providing services for*
35 *pervasive developmental disorder or autism.*

36 *(F) Is employed by the qualified autism service provider or an*
37 *entity or group that employs qualified autism service providers*
38 *responsible for the autism treatment plan.*

39 *(G) Has completed a background check performed by a*
40 *Department of Justice approved agency, with subsequent*

1 notification to the person's employer pursuant to Section 11105.2
2 of the Penal 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 supervised by a qualified autism service provider or
7 qualified autism service professional at a level of clinical
8 supervision that meets professionally recognized standards of
9 practice.

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

13 ~~(C) Meets~~

14 (C) Meets one of the following:

15 (i) For applied behavioral analysis, the education and training
16 qualifications described in Section 54342 of Title 17 of the
17 California Code of Regulations.

18 (ii) For other evidence-based behavioral health treatments, all
19 of the following qualifications:

20 (I) Possesses an associate's degree or has completed two years
21 of study from an accredited college or university with coursework
22 in a related field of study.

23 (II) Has 40 hours of training in the specific form of behavioral
24 health treatment developed by a qualified autism service provider
25 and administered by a qualified autism service provider or
26 qualified autism service professional competent in the form of
27 behavioral health treatment to be practiced by the
28 paraprofessional.

29 (III) Has adequate education, training, and experience, as
30 certified by a qualified autism service provider.

31 (iii) Is credentialed or certified in applied behavior analysis or
32 behavioral health treatment for paraprofessionals or technicians
33 by a national entity that is accredited by the National Commission
34 for Certifying Agencies or the American National Standards
35 Institute.

36 However, upon successful completion of the training and
37 education necessary for certification or a credential described in
38 this clause, if the applicant is otherwise qualified under this section,
39 the applicant may provide treatment and implement services for

1 *up to 180 days while in the process of obtaining the certification*
2 *or credential.*

3 (D) Has adequate education, training, and experience, as
4 certified by a qualified autism service provider or an entity or
5 group that employs qualified autism service providers.

6 (E) Is employed by the qualified autism service provider or an
7 entity or group that employs qualified autism service providers
8 responsible for the autism treatment plan.

9 (F) *Has completed a background check performed by a*
10 *Department of Justice approved agency, with subsequent*
11 *notification to the person's employer pursuant to Section 11105.2*
12 *of the Penal Code.*

13 (d) This section shall not apply to ~~the following:~~ *a specialized*
14 *health insurance policy that does not cover mental health or*
15 *behavioral health services or an accident only, specified disease,*
16 *hospital indemnity, or Medicare supplement policy.*

17 ~~(1) A specialized health insurance policy that does not cover~~
18 ~~mental health or behavioral health services or an accident only,~~
19 ~~specified disease, hospital indemnity, or Medicare supplement~~
20 ~~policy.~~

21 ~~(2) A health insurance policy in the Medi-Cal program (Chapter~~
22 ~~7 (commencing with Section 14000) of Part 3 of Division 9 of the~~
23 ~~Welfare and Institutions Code).~~

24 (e) This section does not limit the obligation to provide services
25 under Section 10144.5.

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

31 (g) *(1) The setting, location, or time of treatment recommended*
32 *by the qualified autism service provider shall not be used as the*
33 *only reason to deny or reduce coverage for medically necessary*
34 *services. The setting shall be consistent with the standard of care*
35 *for behavioral health treatment. This subdivision does not require*
36 *a health insurer to provide reimbursement for services delivered*
37 *by school personnel pursuant to an enrollee's individualized*
38 *educational program for the purpose of accessing educational*
39 *services, unless otherwise required or permitted by federal and*
40 *state law. This subdivision does not require a health insurer to*

1 *cover services rendered outside of the health insurer’s service*
 2 *area unless the services are urgently needed services to prevent*
 3 *serious deterioration of a covered person’s health resulting from*
 4 *unforeseen illness or injury for which treatment cannot be delayed*
 5 *until the covered person returns to the insurer’s service area, or*
 6 *emergency services, as defined in Section 1317.1 of the Health*
 7 *and Safety Code, or unless the benefit plan expressly covers*
 8 *out-of-area services.*

9 *(2) Parent or caregiver participation may be associated with*
 10 *greater improvements in functioning and should be encouraged.*
 11 *However, the lack of parent or caregiver participation shall not*
 12 *be used as a basis for denying or reducing coverage of medically*
 13 *necessary services.*

14 SEC. 3. No reimbursement is required by this act pursuant to
 15 Section 6 of Article XIII B of the California Constitution because
 16 the only costs that may be incurred by a local agency or school
 17 district will be incurred because this act creates a new crime or
 18 infraction, eliminates a crime or infraction, or changes the penalty
 19 for a crime or infraction, within the meaning of Section 17556 of
 20 the Government Code, or changes the definition of a crime within
 21 the meaning of Section 6 of Article XIII B of the California
 22 Constitution.