

1 **ENGROSSED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 2693**

5 (By Delegates Fleischauer, Ellem, Overington,
6 Hunt, Skaff, Lane and Rodighiero)

7 (Originating in the Committee on Finance)

8 [February 4, 2011]

9

10

11 A BILL to amend and reenact §5-16-7 of the code of West Virginia,
12 1931, as amended; to amend said code by adding thereto a new
13 section, designated §5-16B-6e; to amend said code by adding
14 thereto a new section, designated §9-5-21; to amend said code
15 by adding thereto a new section, designated §33-15-4k; to
16 amend said code by adding thereto a new section, designated
17 §33-16-3v; to amend said code by adding thereto a new section,
18 designated §33-24-7k; and to amend said code by adding
19 thereto a new section, designated §33-25A-8j, all relating to
20 requiring insurance coverage for autism spectrum disorders;
21 providing definitions; and providing reporting requirements by
22 state agencies.

23 *Be it enacted by the Legislature of West Virginia:*

24 That §5-16-7 of the Code of West Virginia, 1931, as amended,
25 be amended and reenacted; that said code be amended by adding
26 thereto a new section, designated §5-16B-6e; that said code be

1 amended by adding thereto a new section, designated §9-5-21; that
2 said code be amended by adding thereto a new section, designated
3 §33-15-4k; that said code be amended by adding thereto a new
4 section, designated §33-16-3v; that said code be amended by adding
5 thereto a new section, designated §33-24-7k; that said code be
6 amended by adding thereto a new section, designated §33-25A-8j, all
7 to read as follows:

8 **CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR,**
9 **SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD**
10 **OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS,**
11 **OFFICES, PROGRAMS, ETC.**

12 **ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

13 **§5-16-7. Authorization to establish group hospital and surgical**
14 **insurance plan, group major medical insurance plan,**
15 **group prescription drug plan and group life and**
16 **accidental death insurance plan; rules for**
17 **administration of plans; mandated benefits; what plans**
18 **may provide; optional plans; separate rating for**
19 **claims experience purposes.**

20 (a) The agency shall establish a group hospital and surgical
21 insurance plan or plans, a group prescription drug insurance plan
22 or plans, a group major medical insurance plan or plans and a group
23 life and accidental death insurance plan or plans for those
24 employees herein made eligible, and to establish and promulgate
25 rules for the administration of these plans, subject to the

1 limitations contained in this article. Those plans shall include:

2 (1) Coverages and benefits for X ray and laboratory services
3 in connection with mammograms when medically appropriate and
4 consistent with current guidelines from the United States
5 Preventive Services Task Force; pap smears, either conventional or
6 liquid-based cytology, whichever is medically appropriate and
7 consistent with the current guidelines from either the United
8 States Preventive Services Task Force or The American College of
9 Obstetricians and Gynecologists; and a test for the human papilloma
10 virus (HPV) when medically appropriate and consistent with current
11 guidelines from either the United States Preventive Services Task
12 Force or The American College of Obstetricians and Gynecologists,
13 when performed for cancer screening or diagnostic services on a
14 woman age eighteen or over;

15 (2) Annual checkups for prostate cancer in men age fifty and
16 over;

17 (3) Annual screening for kidney disease as determined to be
18 medically necessary by a physician using any combination of blood
19 pressure testing, urine albumin or urine protein testing and serum
20 creatinine testing as recommended by the National Kidney
21 Foundation;

22 (4) For plans that include maternity benefits, coverage for
23 inpatient care in a duly licensed health care facility for a mother
24 and her newly born infant for the length of time which the
25 attending physician considers medically necessary for the mother or
26 her newly born child: *Provided*, That no plan may deny payment for

1 a mother or her newborn child prior to forty-eight hours following
2 a vaginal delivery, or prior to ninety-six hours following a
3 caesarean section delivery, if the attending physician considers
4 discharge medically inappropriate;

5 (5) For plans which provide coverages for post-delivery care
6 to a mother and her newly born child in the home, coverage for
7 inpatient care following childbirth as provided in subdivision (4)
8 of this subsection if inpatient care is determined to be medically
9 necessary by the attending physician. Those plans may also
10 include, among other things, medicines, medical equipment,
11 prosthetic appliances and any other inpatient and outpatient
12 services and expenses considered appropriate and desirable by the
13 agency; and

14 (6) Coverage for treatment of serious mental illness.

15 (A) The coverage does not include custodial care, residential
16 care or schooling. For purposes of this section, "serious mental
17 illness" means an illness included in the American Psychiatric
18 Association's diagnostic and statistical manual of mental
19 disorders, as periodically revised, under the diagnostic categories
20 or subclassifications of: (i) Schizophrenia and other psychotic
21 disorders; (ii) bipolar disorders; (iii) depressive disorders; (iv)
22 substance-related disorders with the exception of caffeine-related
23 disorders and nicotine-related disorders; (v) anxiety disorders;
24 and (vi) anorexia and bulimia. With regard to any covered
25 individual who has not yet attained the age of nineteen years,
26 "serious mental illness" also includes attention deficit

1 hyperactivity disorder, separation anxiety disorder and conduct
2 disorder.

3 (B) Notwithstanding any other provision in this section to the
4 contrary, in the event that the agency can demonstrate that its
5 total costs for the treatment of mental illness for any plan
6 exceeded two percent of the total costs for such plan in any
7 experience period, then the agency may apply whatever additional
8 cost-containment measures may be necessary, including, but not
9 limited to, limitations on inpatient and outpatient benefits, to
10 maintain costs below two percent of the total costs for the plan
11 for the next experience period.

12 (C) The agency shall not discriminate between medical-surgical
13 benefits and mental health benefits in the administration of its
14 plan. With regard to both medical-surgical and mental health
15 benefits, it may make determinations of medical necessity and
16 appropriateness, and it may use recognized health care quality and
17 cost management tools, including, but not limited to, limitations
18 on inpatient and outpatient benefits, utilization review, case
19 management, implementation of cost-containment measures,
20 preauthorization for certain treatments, setting coverage levels,
21 setting maximum number of visits within certain time periods, using
22 capitated benefit arrangements, using fee-for-service arrangements,
23 using third-party administrators, using provider networks and using
24 patient cost sharing in the form of copayments, deductibles and
25 coinsurance.

26 (7) Coverage for general anesthesia for dental procedures and

1 associated outpatient hospital or ambulatory facility charges
2 provided by appropriately licensed health care individuals in
3 conjunction with dental care if the covered person is:

4 (A) Seven years of age or younger or is developmentally
5 disabled, and is an individual for whom a successful result cannot
6 be expected from dental care provided under local anesthesia
7 because of a physical, intellectual or other medically compromising
8 condition of the individual and for whom a superior result can be
9 expected from dental care provided under general anesthesia;

10 (B) A child who is twelve years of age or younger with
11 documented phobias, or with documented mental illness, and with
12 dental needs of such magnitude that treatment should not be delayed
13 or deferred and for whom lack of treatment can be expected to
14 result in infection, loss of teeth or other increased oral or
15 dental morbidity and for whom a successful result cannot be
16 expected from dental care provided under local anesthesia because
17 of such condition and for whom a superior result can be expected
18 from dental care provided under general anesthesia.

19 (8) (A) Coverage for diagnosis and treatment of autism spectrum
20 disorder in individuals ages three through eighteen years. Such
21 policy shall provide coverage for treatments that are medically
22 necessary and ordered or prescribed by a licensed physician or
23 licensed psychologist for an individual diagnosed with autism
24 spectrum disorder, in accordance with a treatment plan developed by
25 a licensed physician or licensed psychologist pursuant to a
26 comprehensive evaluation or reevaluation of the individual. Such

1 coverage shall include, but not be limited to, applied behavioral
2 analysis provided by a board certified behavior analyst or applied
3 behavior analysis tutor who is not an parent, grandparent or
4 sibling of individual under the supervision of a board certified
5 behavior analyst: *Provided*, That the annual maximum benefit for
6 applied behavioral analysis required by this subdivision shall be
7 in amount not to exceed \$30,000 per individual, for three
8 consecutive years from the date of diagnosis of autism spectrum
9 disorder. At the conclusion of the third year after a diagnosis,
10 required coverage for applied behavior analysis shall be in an
11 amount not to exceed \$2,000 per month, until the individual reaches
12 eighteen years of age, as long as the treatment is medically
13 necessary and in accordance with a treatment plan developed by a
14 licensed physician or licensed psychologist pursuant to a
15 comprehensive evaluation or reevaluation of the individual. This
16 section shall not be construed as limiting, replacing or affecting
17 any obligation to provide services to an individual under the
18 Individuals with Disabilities Education Act, 20 U.S.C. 1400 et
19 seq., as amended from time to time or other publicly funded
20 programs. Nothing in this section shall be construed as requiring
21 coverage of benefits for services that are or should be included in
22 an individualized family service plan or individualized education
23 program or individualized service plan or other publicly funded
24 programs, including but not limited to reimbursement for services
25 provided at public schools.

26 (B) On or before January 1 each year, the agency shall file an

1 annual report with the joint committee on government and finance
2 describing its implementation of the coverage provided pursuant to
3 this subdivision. The report shall include, but shall not be
4 limited to the number of individuals in the plan utilizing the
5 coverage required by this subdivision, the fiscal and
6 administrative impact of the implementation, and any
7 recommendations the agency may have as to changes in law or policy
8 related to the coverage provided under this subdivision. In
9 addition, the agency shall provide such other information as may be
10 provided by the joint committee on government and finance as it may
11 from time to time request.

12 (C) For purposes of this subdivision, the term:

13 (i) "Applied Behavior Analysis" means the design,
14 implementation, and evaluation of environmental modifications using
15 behavioral stimuli and consequences, to produce socially
16 significant improvement in human behavior, including the use of
17 direct observation, measurement, and functional analysis of the
18 relationship between environment and behavior.

19 (ii) "Applied Behavior Analysis Tutor" means an individual who
20 has completed at least forty hours of classroom training in applied
21 behavior analysis techniques in accordance with the Behavior
22 Analyst Certification Board Guidelines for Responsible Conduct for
23 Behavior Analysts, undergone a criminal background check, and

24 (I) Completed a minimum of twelve semester hours of college
25 coursework in psychology, education, social work, behavioral
26 sciences, human development or related field, and be currently

1 enrolled in a course of study leading to an associates degree by an
2 accredited college or university; or

3 (II) Completed a minimum of forty-eight semester hours of
4 college course in an accredited college or university; or

5 (III) A high school diploma or GED equivalent and have
6 completed five hundred hours of employment providing applied
7 behavior analysis, as verified by a board certified behavior
8 analyst.

9 (iii) "Autism spectrum disorder" means any pervasive
10 developmental disorder, including autistic disorder, Asperger's
11 Syndrome, Rett syndrome, childhood disintegrative disorder, or
12 Pervasive Development Disorder - Not otherwise specified as, as
13 defined in the most recent edition of the Diagnostic and
14 Statistical Manual of Mental Disorders of the American Psychiatric
15 Association.

16 (iv) "Board certified behavior analyst" means an individual
17 who is certified by the Behavior Analyst Certification Board or
18 certified by a similar nationally recognized organization.

19 (b) The agency shall make available to each eligible employee,
20 at full cost to the employee, the opportunity to purchase optional
21 group life and accidental death insurance as established under the
22 rules of the agency. In addition, each employee is entitled to
23 have his or her spouse and dependents, as defined by the rules of
24 the agency, included in the optional coverage, at full cost to the
25 employee, for each eligible dependent; and with full authorization
26 to the agency to make the optional coverage available and provide

1 an opportunity of purchase to each employee.

2 (c) The finance board may cause to be separately rated for
3 claims experience purposes:

4 (1) All employees of the State of West Virginia;

5 (2) All teaching and professional employees of state public
6 institutions of higher education and county boards of education;

7 (3) All nonteaching employees of the Higher Education Policy
8 Commission, West Virginia Council for Community and Technical
9 College Education and county boards of education; or

10 (4) Any other categorization which would ensure the stability
11 of the overall program.

12 (d) The agency shall maintain the medical and prescription
13 drug coverage for Medicare-eligible retirees by providing coverage
14 through one of the existing plans or by enrolling the Medicare-
15 eligible retired employees into a Medicare-specific plan,
16 including, but not limited to, the Medicare/Advantage Prescription
17 Drug Plan. In the event that a Medicare-specific plan would no
18 longer be available or advantageous for the agency and the
19 retirees, the retirees shall remain eligible for coverage through
20 the agency.

21 **ARTICLE 16B. WEST VIRGINIA CHILDREN'S HEALTH INSURANCE PROGRAM.**

22 **§5-16B-6e. Coverage for treatment of autism spectrum disorders.**

23 (a) To the extent that the diagnosis and treatment of autism
24 spectrum disorders are not already covered by this agency, a
25 policy, plan or contract subject to this section shall provide
26 coverage for such diagnosis and treatment, for individuals ages

1 three through eighteen years. Such policy shall provide coverage
2 for treatments that are medically necessary and ordered or
3 prescribed by a licensed physician or licensed psychologist for an
4 individual diagnosed with autism spectrum disorder, in accordance
5 with a treatment plan developed by a licensed physician or licensed
6 psychologist pursuant to a comprehensive evaluation or reevaluation
7 of the individual. Such coverage shall include, but not be limited
8 to, applied behavioral analysis provided by a board certified
9 behavior analyst or applied behavior analysis tutor who is not a
10 parent, grandparent or sibling of the individual under the
11 supervision of a board certified behavior analyst: *Provided, That*
12 the annual maximum benefit for applied behavioral analysis required
13 by this subdivision shall be in amount not to exceed \$30,000 per
14 individual, for three consecutive years from the date of diagnosis
15 of autism spectrum disorder. At the conclusion of the third year
16 after a diagnosis, required coverage for applied behavior analysis
17 shall be in an amount not to exceed \$2,000 per month, until the
18 individual reaches eighteen years of age, as long as the treatment
19 is medically necessary and in accordance with a treatment plan
20 developed by a licensed physician or licensed psychologist pursuant
21 to a comprehensive evaluation or reevaluation of the individual.
22 Nothing in this section shall be construed to require or permit the
23 agency to reduce benefits for autism spectrum disorders already
24 provided that exceed the limits of this section. This section shall
25 not be construed as limiting, replacing or affecting any obligation
26 to provide services to an individual under the Individuals with

1 Disabilities Education Act, 20 U.S.C. 1400 et seq., as amended from
2 time to time or other publicly funded programs. Nothing in this
3 section shall be construed as requiring coverage of benefits for
4 services that are or should be included in an individualized family
5 service plan or individualized education program or individualized
6 service plan or other publicly funded programs, including but not
7 limited to reimbursement for services provided at public schools.

8 (b) On or before January 1 each year, the agency shall file an
9 annual report with the joint committee on government and finance
10 describing its implementation of the coverage provided pursuant to
11 this section. The report shall include, but shall not be limited to
12 the number of individuals in the plan utilizing the coverage
13 required by this section, the fiscal and administrative impact of
14 the implementation, and any recommendations the agency may have as
15 to changes in law or policy related to the coverage provided under
16 this section. In addition, the agency shall provide such other
17 information as may be provided by the joint committee on government
18 and finance as it may from time to time request.

19 (c) For purposes of this section, the term:

20 (1) "Applied Behavior Analysis" means the design,
21 implementation, and evaluation of environmental modifications using
22 behavioral stimuli and consequences, to produce socially
23 significant improvement in human behavior, including the use of
24 direct observation, measurement, and functional analysis of the
25 relationship between environment and behavior.

26 (2) "Applied Behavior Analysis Tutor" means an individual who

1 has completed at least forty hours of classroom training in applied
2 behavior analysis techniques in accordance with the Behavior
3 Analyst Certification Board Guidelines for Responsible Conduct for
4 Behavior Analysts, undergone a criminal background check and

5 (A) Completed a minimum of twelve semester hours of college
6 coursework in psychology, education, social work, behavioral
7 sciences, human development or related field, and be currently
8 enrolled in a course of study leading to an associates degree by an
9 accredited college or university; or

10 (B) Completed a minimum of forty-eight semester hours of
11 college course in an accredited college or university; or

12 (C) A high school diploma or GED equivalent and have completed
13 five hundred hours of employment providing applied behavior
14 analysis, as verified by a board certified behavior analyst.

15 (3) "Autism spectrum disorder" means any pervasive
16 developmental disorder, including autistic disorder, Asperger's
17 Syndrome, Rett syndrome, childhood disintegrative disorder, or
18 Pervasive Development Disorder - Not otherwise specified as, as
19 defined in the most recent edition of the Diagnostic and
20 Statistical Manual of Mental Disorders of the American Psychiatric
21 Association.

22 (4) "Board certified behavior analyst" means an individual who
23 is certified by the Behavior Analyst Certification Board or
24 certified by a similar nationally recognized organization.

25 **CHAPTER 9. HUMAN SERVICES.**

26 **ARTICLE 5. MISCELLANEOUS PROVISIONS.**

1 §9-5-21. Annual report to joint committee on government and finance
2 regarding treatment for autism spectrum disorders
3 provided by the Bureau for Medical Services.

4 (a) On or before January 1 each year, the agency shall file an
5 annual report with the joint committee on government and finance
6 describing the number of enrolled individuals with autism spectrum
7 disorder, including the fiscal and administrative impact of
8 treatment of autism spectrum disorders, and any recommendations the
9 agency may have as to changes in law or policy related to such
10 disorder. In addition, the agency shall provide such other
11 information as may be provided by the joint committee on government
12 and finance as it may from time to time request.

13 (b) For purposes of this section, the term "autism spectrum
14 disorder" means any pervasive developmental disorder, including
15 autistic disorder, Asperger's Syndrome, Rett syndrome, childhood
16 disintegrative disorder, or Pervasive Development Disorder - Not
17 otherwise specified as, as defined in the most recent edition of
18 the Diagnostic and Statistical Manual of Mental Disorders of the
19 American Psychiatric Association.

20 **CHAPTER 33. INSURANCE.**

21 **ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

22 §33-15-4k. Required coverage for treatment of autism spectrum
23 disorders.

24 (a) Notwithstanding any provision of any policy, provision,
25 contract, plan or agreement applicable to this article, any entity

1 regulated by this article shall, for policies issued or renewed on
2 or after September 1, 2011, make available as benefits to all
3 subscribers and members coverage for diagnosis and treatment of
4 autism spectrum disorder in individuals ages three through eighteen
5 years. Such policy shall provide coverage for treatments that are
6 medically necessary and ordered or prescribed by a licensed
7 physician or licensed psychologist for an individual diagnosed with
8 autism spectrum disorder, in accordance with a treatment plan
9 developed by a licensed physician or licensed psychologist pursuant
10 to a comprehensive evaluation or reevaluation of the individual.
11 Such coverage shall include, but not be limited to, applied
12 behavioral analysis provided by a board certified behavior analyst
13 or applied behavior analysis tutor who is not a parent, grandparent
14 or sibling the individual under the supervision of a board
15 certified behavior analyst: *Provided*, That the annual maximum
16 benefit for applied behavioral analysis required by this
17 subdivision shall be in amount not to exceed \$30,000 per
18 individual, for three consecutive years from the date of diagnosis
19 of autism spectrum disorder. At the conclusion of the third year
20 after a diagnosis, required coverage for applied behavior analysis
21 shall be in an amount not to exceed \$2,000 per month, until the
22 individual reaches eighteen years of age, as long as the treatment
23 is medically necessary and in accordance with a treatment plan
24 developed by a licensed physician or licensed psychologist pursuant
25 to a comprehensive evaluation or reevaluation of the individual.
26 Nothing in this section shall be construed to require or permit the

1 agency to reduce benefits for autism spectrum disorders already
2 provided that exceed the limits of this section. This section shall
3 not be construed as limiting, replacing or affecting any obligation
4 to provide services to an individual under the Individuals with
5 Disabilities Education Act, 20 U.S.C. 1400 et seq., as amended from
6 time to time or other publicly funded programs. Nothing in this
7 section shall be construed as requiring coverage of benefits for
8 services that are or should be included in an individualized family
9 service plan or individualized education program or individualized
10 service plan or other publicly funded programs, including but not
11 limited to reimbursement for services provided at public schools.

12 (b) For purposes of this section, the term:

13 (1) "Applied Behavior Analysis" means the design,
14 implementation, and evaluation of environmental modifications using
15 behavioral stimuli and consequences, to produce socially
16 significant improvement in human behavior, including the use of
17 direct observation, measurement, and functional analysis of the
18 relationship between environment and behavior.

19 (2) "Applied Behavior Analysis Tutor" means an individual who
20 has completed at least forty hours of classroom training in applied
21 behavior analysis techniques in accordance with the Behavior
22 Analyst Certification Board Guidelines for Responsible Conduct for
23 Behavior Analysts, undergone a criminal background check and

24 (A) Completed a minimum of twelve semester hours of college
25 coursework in psychology, education, social work, behavioral
26 sciences, human development or related field, and be currently

1 enrolled in a course of study leading to an associates degree by an
2 accredited college or university; or

3 (B) Completed a minimum of forty-eight semester hours of
4 college course in an accredited college or university; or

5 (C) A high school diploma or GED equivalent and have completed
6 five hundred hours of employment providing applied behavior
7 analysis, as verified by a board certified behavior analyst.

8 (3) "Autism spectrum disorder" means any pervasive
9 developmental disorder, including autistic disorder, Asperger's
10 Syndrome, Rett syndrome, childhood disintegrative disorder, or
11 Pervasive Development Disorder - Not otherwise specified as, as
12 defined in the most recent edition of the Diagnostic and
13 Statistical Manual of Mental Disorders of the American Psychiatric
14 Association.

15 (4) "Board certified behavior analyst" means an individual who
16 is certified by the Behavior Analyst Certification Board or
17 certified by a similar nationally recognized organization.

18 **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

19 **§33-16-3v. Required coverage for treatment of autism spectrum**
20 **disorders.**

21 (a) Any insurer who, on or after September 1, 2011, delivers,
22 renews or issues a policy of group accident and sickness insurance
23 in this State under the provisions of this article, shall make
24 available as benefits to all subscribers and members coverage for
25 diagnosis and treatment of autism spectrum disorder in individuals

1 ages three through eighteen years. Such policy shall provide
2 coverage for treatments that are medically necessary and ordered or
3 prescribed by a licensed physician or licensed psychologist for an
4 individual diagnosed with autism spectrum disorder, in accordance
5 with a treatment plan developed by a licensed physician or licensed
6 psychologist pursuant to a comprehensive evaluation or reevaluation
7 of the individual. Such coverage shall include, but not be limited
8 to, applied behavioral analysis provided by a board certified
9 behavior analyst or applied behavior analysis tutor who is not a
10 parent, grandparent or sibling of the individual under the
11 supervision of a board certified behavior analyst: *Provided, That*
12 the annual maximum benefit for applied behavioral analysis required
13 by this subdivision shall be in amount not to exceed \$30,000 per
14 individual, for three consecutive years from the date of diagnosis
15 of autism spectrum disorder. At the conclusion of the third year
16 after a diagnosis, required coverage for applied behavior analysis
17 shall be in an amount not to exceed \$2,000 per month, until the
18 individual reaches eighteen years of age, as long as the treatment
19 is medically necessary and in accordance with a treatment plan
20 developed by a licensed physician or licensed psychologist pursuant
21 to a comprehensive evaluation or reevaluation of the individual.
22 Nothing in this section shall be construed to require or permit the
23 agency to reduce benefits for autism spectrum disorders already
24 provided that exceed the limits of this section. This section shall
25 not be construed as limiting, replacing or affecting any obligation
26 to provide services to an individual under the Individuals with

1 Disabilities Education Act, 20 U.S.C. 1400 et seq., as amended from
2 time to time or other publicly funded programs. Nothing in this
3 section shall be construed as requiring coverage of benefits for
4 services that are or should be included in an individualized family
5 service plan or individualized education program or individualized
6 service plan or other publicly funded programs, including but not
7 limited to reimbursement for services provided at public schools.

8 (b) For purposes of this section, the term:

9 (1) "Applied Behavior Analysis" means the design,
10 implementation, and evaluation of environmental modifications using
11 behavioral stimuli and consequences, to produce socially
12 significant improvement in human behavior, including the use of
13 direct observation, measurement, and functional analysis of the
14 relationship between environment and behavior.

15 (2) "Applied Behavior Analysis Tutor" means an individual who
16 has completed at least forty hours of classroom training in applied
17 behavior analysis techniques in accordance with the Behavior
18 Analyst Certification Board Guidelines for Responsible Conduct for
19 Behavior Analysts, undergone a criminal background check and

20 (A) Completed a minimum of twelve semester hours of college
21 coursework in psychology, education, social work, behavioral
22 sciences, human development or related field, and be currently
23 enrolled in a course of study leading to an associates degree by an
24 accredited college or university; or

25 (B) Completed a minimum of forty-eight semester hours of
26 college course in an accredited college or university; or

1 (C)A high school diploma or GED equivalent and have completed
2 five hundred hours of employment providing applied behavior
3 analysis, as verified by a board certified behavior analyst.

4 (3) "Autism spectrum disorder" means any pervasive
5 developmental disorder, including autistic disorder, Asperger's
6 Syndrome, Rett syndrome, childhood disintegrative disorder, or
7 Pervasive Development Disorder - Not otherwise specified as, as
8 defined in the most recent edition of the Diagnostic and
9 Statistical Manual of Mental Disorders of the American Psychiatric
10 Association.

11 (4) "Board certified behavior analyst" means an individual who
12 is certified by the Behavior Analyst Certification Board or
13 certified by a similar nationally recognized organization.

14 **ARTICLE 24. HOSPITAL MEDICAL AND DENTAL CORPORATIONS.**

15 **§33-24-7k. Coverage for diagnosis and treatment of autism spectrum**
16 **disorders.**

17 (a) Notwithstanding any provision of any policy, provision,
18 contract, plan or agreement to which this article applies, any
19 entity regulated by this article, for policies issued or renewed
20 on or after September 1, 2011, shall provide as benefits to its
21 subscribers and members for coverage for diagnosis and treatment of
22 autism spectrum disorder in individuals ages three through eighteen
23 years. Such policy shall provide coverage for treatments that are
24 medically necessary and ordered or prescribed by a licensed
25 physician or licensed psychologist for an individual diagnosed with

1 autism spectrum disorder, in accordance with a treatment plan
2 developed by a licensed physician or licensed psychologist pursuant
3 to a comprehensive evaluation or reevaluation of the individual.
4 Such coverage shall include, but not be limited to, applied
5 behavioral analysis provided by a board certified behavior analyst
6 or applied behavior analysis tutor who is not a parent,
7 grandparent, or sibling of the individual under the supervision of
8 a board certified behavior analyst: *Provided*, That the annual
9 maximum benefit for applied behavioral analysis required by this
10 subdivision shall be in amount not to exceed \$30,000 per
11 individual, for three consecutive years from the date of diagnosis
12 of autism spectrum disorder. At the conclusion of the third year
13 after a diagnosis, required coverage for applied behavior analysis
14 shall be in an amount not to exceed \$2,000 per month, until the
15 individual reaches eighteen years of age, as long as the treatment
16 is medically necessary and in accordance with a treatment plan
17 developed by a licensed physician or licensed psychologist pursuant
18 to a comprehensive evaluation or reevaluation of the individual.
19 This section shall not be construed as limiting, replacing or
20 affecting any obligation to provide services to an individual under
21 the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et
22 seq., as amended from time to time or other publicly funded
23 programs. Nothing in this section shall be construed as requiring
24 coverage of benefits for services that are or should be included in
25 an individualized family service plan or individualized education
26 program or individualized service plan or other publicly funded

1 programs, including but not limited to reimbursement for services
2 provided at public schools.

3 (b) For purposes of this section, the term:

4 (1) "Applied Behavior Analysis" means the design,
5 implementation, and evaluation of environmental modifications using
6 behavioral stimuli and consequences, to produce socially
7 significant improvement in human behavior, including the use of
8 direct observation, measurement, and functional analysis of the
9 relationship between environment and behavior.

10 (2) "Applied Behavior Analysis Tutor" means an individual who
11 has completed at least forty hours of classroom training in applied
12 behavior analysis techniques in accordance with the Behavior
13 Analyst Certification Board Guidelines for Responsible Conduct for
14 Behavior Analysts, undergone a criminal background check and

15 (A) Completed a minimum of twelve semester hours of college
16 coursework in psychology, education, social work, behavioral
17 sciences, human development or related field, and be currently
18 enrolled in a course of study leading to an associates degree by an
19 accredited college or university; or

20 (B) Completed a minimum of forty-eight semester hours of
21 college course in an accredited college or university; or

22 (C) A high school diploma or GED equivalent and have completed
23 five hundred hours of employment providing applied behavior
24 analysis, as verified by a board certified behavior analyst.

25 (3) "Autism spectrum disorder" means any pervasive
26 developmental disorder, including autistic disorder, Asperger's

1 Syndrome, Rett syndrome, childhood disintegrative disorder, or
2 Pervasive Development Disorder - Not otherwise specified as, as
3 defined in the most recent edition of the Diagnostic and
4 Statistical Manual of Mental Disorders of the American Psychiatric
5 Association.

6 (4) "Board certified behavior analyst" means an individual who
7 is certified by the Behavior Analyst Certification Board or
8 certified by a similar nationally recognized organization.

9 **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

10 **§33-25A-8j. Coverage for diagnosis and treatment of autism**
11 **spectrum disorders.**

12 (a) Notwithstanding any provision of any policy, provision,
13 contract, plan or agreement to which this article applies, for
14 policies issued or renewed on or after September 1, 2011, any
15 entity regulated by this article shall provide as benefits to its
16 subscribers and members for coverage for diagnosis and treatment of
17 autism spectrum disorder in individuals ages three through eighteen
18 years. Such policy shall provide coverage for treatments that are
19 medically necessary and ordered or prescribed by a licensed
20 physician or licensed psychologist for an individual diagnosed with
21 autism spectrum disorder, in accordance with a treatment plan
22 developed by a licensed physician or licensed psychologist pursuant
23 to a comprehensive evaluation or reevaluation of the individual.
24 Such coverage shall include, but not be limited to, applied
25 behavioral analysis provided by a board certified behavior analyst

1 or applied behavior analysis tutor who is not a parent,
2 grandparent, or sibling of the individual under the supervision of
3 a board certified behavior analyst: *Provided*, That the annual
4 maximum benefit for applied behavioral analysis required by this
5 subdivision shall be in amount not to exceed \$30,000 per
6 individual, for three consecutive years from the date of diagnosis
7 of autism spectrum disorder. At the conclusion of the third year
8 after a diagnosis, required coverage for applied behavior analysis
9 shall be in an amount not to exceed \$2,000 per month, until the
10 individual reaches eighteen years of age, as long as the treatment
11 is medically necessary and in accordance with a treatment plan
12 developed by a licensed physician or licensed psychologist pursuant
13 to a comprehensive evaluation or reevaluation of the individual.
14 This section shall not be construed as limiting, replacing or
15 affecting any obligation to provide services to an individual under
16 the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et
17 seq., as amended from time to time or other publicly funded
18 programs. Nothing in this section shall be construed as requiring
19 coverage of benefits for services that are or should be included in
20 an individualized family service plan or individualized education
21 program or individualized service plan or other publicly funded
22 programs, including but not limited to reimbursement for services
23 provided at public schools.

24 (b) For purposes of this section, the term:

25 (1) "Applied Behavior Analysis" means the design,
26 implementation, and evaluation of environmental modifications using

1 behavioral stimuli and consequences, to produce socially
2 significant improvement in human behavior, including the use of
3 direct observation, measurement, and functional analysis of the
4 relationship between environment and behavior.

5 (2) "Applied Behavior Analysis Tutor" means an individual who
6 has completed at least forty hours of classroom training in applied
7 behavior analysis techniques in accordance with the Behavior
8 Analyst Certification Board Guidelines for Responsible Conduct for
9 Behavior Analysts, undergone a criminal background check and

10 (A) Completed a minimum of twelve semester hours of college
11 coursework in psychology, education, social work, behavioral
12 sciences, human development or related field, and be currently
13 enrolled in a course of study leading to an associates degree by an
14 accredited college or university; or

15 (B) Completed a minimum of forty-eight semester hours of
16 college course in an accredited college or university; or

17 (C) A high school diploma or GED equivalent and have completed
18 five hundred hours of employment providing applied behavior
19 analysis, as verified by a board certified behavior analyst.

20 (3) "Autism spectrum disorder" means any pervasive
21 developmental disorder, including autistic disorder, Asperger's
22 Syndrome, Rett syndrome, childhood disintegrative disorder, or
23 Pervasive Development Disorder - Not otherwise specified as, as
24 defined in the most recent edition of the Diagnostic and
25 Statistical Manual of Mental Disorders of the American Psychiatric
26 Association.

1 (4) "Board certified behavior analyst" means an individual who
2 is certified by the Behavior Analyst Certification Board or
3 certified by a similar nationally recognized organization.