

E N G R O S S E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2693

(BY DELEGATES FLEISCHAUER, ELLEM, OVERINGTON,
HUNT, SKAFF, LANE AND RODIGHIERO)

(Originating in the Committee on Finance)
[February 4, 2011]

A BILL to amend and reenact §5-16-7 of the code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5-16B-6e; to amend said code by adding thereto a new section, designated §9-5-21; to amend said code by adding thereto a new section, designated §33-15-4k; to

amend said code by adding thereto a new section, designated §33-16-3v; to amend said code by adding thereto a new section, designated §33-24-7k; and to amend said code by adding thereto a new section, designated §33-25A-8j, all relating to requiring insurance coverage for autism spectrum disorders; providing definitions; and providing reporting requirements by state agencies.

Be it enacted by the Legislature of West Virginia:

That §5-16-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §5-16B-6e; that said code be amended by adding thereto a new section, designated §9-5-21; that said code be amended by adding thereto a new section, designated §33-15-4k; that said code be amended by adding thereto a new section, designated §33-16-3v; that said code be amended by adding thereto a new section, designated §33-24-7k; that said code be amended by adding thereto a new section, designated §33-25A-8j, all to read as follows:

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

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

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

1 (a) The agency shall establish a group hospital and
2 surgical insurance plan or plans, a group prescription drug
3 insurance plan or plans, a group major medical insurance
4 plan or plans and a group life and accidental death insurance
5 plan or plans for those employees herein made eligible, and
6 to establish and promulgate rules for the administration of
7 these plans, subject to the limitations contained in this article.

8 Those plans shall include:

9 (1) Coverages and benefits for X ray and laboratory
10 services in connection with mammograms when medically

11 appropriate and consistent with current guidelines from the
12 United States Preventive Services Task Force; pap smears,
13 either conventional or liquid-based cytology, whichever is
14 medically appropriate and consistent with the current
15 guidelines from either the United States Preventive Services
16 Task Force or The American College of Obstetricians and
17 Gynecologists; and a test for the human papilloma virus
18 (HPV) when medically appropriate and consistent with
19 current guidelines from either the United States Preventive
20 Services Task Force or The American College of
21 Obstetricians and Gynecologists, when performed for cancer
22 screening or diagnostic services on a woman age eighteen or
23 over;

24 (2) Annual checkups for prostate cancer in men age fifty
25 and over;

26 (3) Annual screening for kidney disease as determined to
27 be medically necessary by a physician using any combination
28 of blood pressure testing, urine albumin or urine protein
29 testing and serum creatinine testing as recommended by the
30 National Kidney Foundation;

31 (4) For plans that include maternity benefits, coverage for
32 inpatient care in a duly licensed health care facility for a
33 mother and her newly born infant for the length of time
34 which the attending physician considers medically necessary
35 for the mother or her newly born child: *Provided*, That no
36 plan may deny payment for a mother or her newborn child
37 prior to forty-eight hours following a vaginal delivery, or
38 prior to ninety-six hours following a caesarean section
39 delivery, if the attending physician considers discharge
40 medically inappropriate;

41 (5) For plans which provide coverages for post-delivery
42 care to a mother and her newly born child in the home,
43 coverage for inpatient care following childbirth as provided
44 in subdivision (4) of this subsection if inpatient care is
45 determined to be medically necessary by the attending
46 physician. Those plans may also include, among other
47 things, medicines, medical equipment, prosthetic appliances
48 and any other inpatient and outpatient services and expenses
49 considered appropriate and desirable by the agency; and

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

51 (A) The coverage does not include custodial care,
52 residential care or schooling. For purposes of this section,
53 “serious mental illness” means an illness included in the
54 American Psychiatric Association’s diagnostic and statistical
55 manual of mental disorders, as periodically revised, under the
56 diagnostic categories or subclassifications of: (i)
57 Schizophrenia and other psychotic disorders; (ii) bipolar
58 disorders; (iii) depressive disorders; (iv) substance-related
59 disorders with the exception of caffeine-related disorders and
60 nicotine-related disorders; (v) anxiety disorders; and (vi)
61 anorexia and bulimia. With regard to any covered individual
62 who has not yet attained the age of nineteen years, “serious
63 mental illness” also includes attention deficit hyperactivity
64 disorder, separation anxiety disorder and conduct disorder.

65 (B) Notwithstanding any other provision in this section
66 to the contrary, in the event that the agency can demonstrate
67 that its total costs for the treatment of mental illness for any
68 plan exceeded two percent of the total costs for such plan in
69 any experience period, then the agency may apply whatever

70 additional cost-containment measures may be necessary,
71 including, but not limited to, limitations on inpatient and
72 outpatient benefits, to maintain costs below two percent of
73 the total costs for the plan for the next experience period.

74 (C) The agency shall not discriminate between
75 medical-surgical benefits and mental health benefits in the
76 administration of its plan. With regard to both
77 medical-surgical and mental health benefits, it may make
78 determinations of medical necessity and appropriateness, and
79 it may use recognized health care quality and cost
80 management tools, including, but not limited to, limitations
81 on inpatient and outpatient benefits, utilization review, case
82 management, implementation of cost-containment measures,
83 preauthorization for certain treatments, setting coverage
84 levels, setting maximum number of visits within certain time
85 periods, using capitated benefit arrangements, using
86 fee-for-service arrangements, using third-party
87 administrators, using provider networks and using patient
88 cost sharing in the form of copayments, deductibles and
89 coinsurance.

90 (7) Coverage for general anesthesia for dental procedures
91 and associated outpatient hospital or ambulatory facility
92 charges provided by appropriately licensed health care
93 individuals in conjunction with dental care if the covered
94 person is:

95 (A) Seven years of age or younger or is developmentally
96 disabled, and is an individual for whom a successful result
97 cannot be expected from dental care provided under local
98 anesthesia because of a physical, intellectual or other
99 medically compromising condition of the individual and for
100 whom a superior result can be expected from dental care
101 provided under general anesthesia;

102 (B) A child who is twelve years of age or younger with
103 documented phobias, or with documented mental illness, and
104 with dental needs of such magnitude that treatment should
105 not be delayed or deferred and for whom lack of treatment
106 can be expected to result in infection, loss of teeth or other
107 increased oral or dental morbidity and for whom a successful
108 result cannot be expected from dental care provided under

109 local anesthesia because of such condition and for whom a
110 superior result can be expected from dental care provided
111 under general anesthesia.

112 (8)(A) Coverage for diagnosis and treatment of autism
113 spectrum disorder in individuals ages three through eighteen
114 years. Such policy shall provide coverage for treatments that
115 are medically necessary and ordered or prescribed by a
116 licensed physician or licensed psychologist for an individual
117 diagnosed with autism spectrum disorder, in accordance with
118 a treatment plan developed by a licensed physician or
119 licensed psychologist pursuant to a comprehensive evaluation
120 or reevaluation of the individual. Such coverage shall
121 include, but not be limited to, applied behavioral analysis
122 provided by a board certified behavior analyst or applied
123 behavior analysis tutor who is not a parent, grandparent or
124 sibling of individual under the supervision of a board
125 certified behavior analyst: *Provided, That the annual*
126 maximum benefit for applied behavioral analysis required by
127 this subdivision shall be in amount not to exceed \$30,000 per

128 individual, for three consecutive years from the date of
129 diagnosis of autism spectrum disorder. At the conclusion of
130 the third year after a diagnosis, required coverage for applied
131 behavior analysis shall be in an amount not to exceed \$2,000
132 per month, until the individual reaches eighteen years of age,
133 as long as the treatment is medically necessary and in
134 accordance with a treatment plan developed by a licensed
135 physician or licensed psychologist pursuant to a
136 comprehensive evaluation or reevaluation of the individual.
137 This section shall not be construed as limiting, replacing or
138 affecting any obligation to provide services to an individual
139 under the Individuals with Disabilities Education Act, 20
140 U.S.C. 1400 et seq., as amended from time to time or other
141 publicly funded programs. Nothing in this section shall be
142 construed as requiring coverage of benefits for services that
143 are or should be included in an individualized family service
144 plan or individualized education program or individualized
145 service plan or other publicly funded programs, including but
146 not limited to reimbursement for services provided at public
147 schools.

148 (B) On or before January 1 each year, the agency shall
149 file an annual report with the joint committee on government
150 and finance describing its implementation of the coverage
151 provided pursuant to this subdivision. The report shall
152 include, but shall not be limited to the number of individuals
153 in the plan utilizing the coverage required by this subdivision,
154 the fiscal and administrative impact of the implementation,
155 and any recommendations the agency may have as to changes
156 in law or policy related to the coverage provided under this
157 subdivision. In addition, the agency shall provide such other
158 information as may be provided by the joint committee on
159 government and finance as it may from time to time request.

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

161 (i) "Applied Behavior Analysis" means the design,
162 implementation, and evaluation of environmental
163 modifications using behavioral stimuli and consequences, to
164 produce socially significant improvement in human behavior,
165 including the use of direct observation, measurement, and
166 functional analysis of the relationship between environment
167 and behavior.

168 (ii) “Applied Behavior Analysis Tutor” means an
169 individual who has completed at least forty hours of
170 classroom training in applied behavior analysis techniques in
171 accordance with the Behavior Analyst Certification Board
172 Guidelines for Responsible Conduct for Behavior Analysts,
173 undergone a criminal background check, and

174 (I) Completed a minimum of twelve semester hours of
175 college coursework in psychology, education, social work,
176 behavioral sciences, human development or related field, and
177 be currently enrolled in a course of study leading to an
178 associates degree by an accredited college or university; or

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

181 (III) A high school diploma or GED equivalent and have
182 completed five hundred hours of employment providing
183 applied behavior analysis, as verified by a board certified
184 behavior analyst.

185 (iii) “Autism spectrum disorder” means any pervasive
186 developmental disorder, including autistic disorder,
187 Asperger’s Syndrome, Rett Syndrome, childhood

188 disintegrative disorder, or Pervasive Development Disorder -
189 Not otherwise specified as, as defined in the most recent
190 edition of the Diagnostic and Statistical Manual of Mental
191 Disorders of the American Psychiatric Association.

192 (iv) “Board certified behavior analyst” means an
193 individual who is certified by the Behavior Analyst
194 Certification Board or certified by a similar nationally
195 recognized organization.

196 (b) The agency shall make available to each eligible
197 employee, at full cost to the employee, the opportunity to
198 purchase optional group life and accidental death insurance
199 as established under the rules of the agency. In addition,
200 each employee is entitled to have his or her spouse and
201 dependents, as defined by the rules of the agency, included in
202 the optional coverage, at full cost to the employee, for each
203 eligible dependent; and with full authorization to the agency
204 to make the optional coverage available and provide an
205 opportunity of purchase to each employee.

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

- 208 (1) All employees of the State of West Virginia;
- 209 (2) All teaching and professional employees of state
210 public institutions of higher education and county boards of
211 education;
- 212 (3) All nonteaching employees of the Higher Education
213 Policy Commission, West Virginia Council for Community
214 and Technical College Education and county boards of
215 education; or
- 216 (4) Any other categorization which would ensure the
217 stability of the overall program.
- 218 (d) The agency shall maintain the medical and
219 prescription drug coverage for Medicare-eligible retirees by
220 providing coverage through one of the existing plans or by
221 enrolling the Medicare-eligible retired employees into a
222 Medicare-specific plan, including, but not limited to, the
223 Medicare/Advantage Prescription Drug Plan. In the event
224 that a Medicare-specific plan would no longer be available or
225 advantageous for the agency and the retirees, the retirees
226 shall remain eligible for coverage through the agency.

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

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

1 (a) To the extent that the diagnosis and treatment of
2 autism spectrum disorders are not already covered by this
3 agency, a policy, plan or contract subject to this section shall
4 provide coverage for such diagnosis and treatment, for
5 individuals ages three through eighteen years. Such policy
6 shall provide coverage for treatments that are medically
7 necessary and ordered or prescribed by a licensed physician
8 or licensed psychologist for an individual diagnosed with
9 autism spectrum disorder, in accordance with a treatment
10 plan developed by a licensed physician or licensed
11 psychologist pursuant to a comprehensive evaluation or
12 reevaluation of the individual. Such coverage shall include,
13 but not be limited to, applied behavioral analysis provided by
14 a board certified behavior analyst or applied behavior
15 analysis tutor who is not a parent, grandparent or sibling of
16 the individual under the supervision of a board certified

17 behavior analyst: *Provided*, That the annual maximum
18 benefit for applied behavioral analysis required by this
19 subdivision shall be in amount not to exceed \$30,000 per
20 individual, for three consecutive years from the date of
21 diagnosis of autism spectrum disorder. At the conclusion of
22 the third year after a diagnosis, required coverage for applied
23 behavior analysis shall be in an amount not to exceed \$2,000
24 per month, until the individual reaches eighteen years of age,
25 as long as the treatment is medically necessary and in
26 accordance with a treatment plan developed by a licensed
27 physician or licensed psychologist pursuant to a
28 comprehensive evaluation or reevaluation of the individual.
29 Nothing in this section shall be construed to require or permit
30 the agency to reduce benefits for autism spectrum disorders
31 already provided that exceed the limits of this section. This
32 section shall not be construed as limiting, replacing or
33 affecting any obligation to provide services to an individual
34 under the Individuals with Disabilities Education Act, 20
35 U.S.C. 1400 et seq., as amended from time to time or other

36 publicly funded programs. Nothing in this section shall be
37 construed as requiring coverage of benefits for services that
38 are or should be included in an individualized family service
39 plan or individualized education program or individualized
40 service plan or other publicly funded programs, including but
41 not limited to reimbursement for services provided at public
42 schools.

43 (b) On or before January 1 each year, the agency shall file
44 an annual report with the joint committee on government and
45 finance describing its implementation of the coverage
46 provided pursuant to this section. The report shall include,
47 but shall not be limited to the number of individuals in the
48 plan utilizing the coverage required by this section, the fiscal
49 and administrative impact of the implementation, and any
50 recommendations the agency may have as to changes in law
51 or policy related to the coverage provided under this
52 section. In addition, the agency shall provide such other
53 information as may be provided by the joint committee on
54 government and finance as it may from time to time request.

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

56 (1) “Applied Behavior Analysis” means the design,
57 implementation, and evaluation of environmental
58 modifications using behavioral stimuli and consequences, to
59 produce socially significant improvement in human behavior,
60 including the use of direct observation, measurement, and
61 functional analysis of the relationship between environment
62 and behavior.

63 (2) “Applied Behavior Analysis Tutor” means an
64 individual who has completed at least forty hours of
65 classroom training in applied behavior analysis techniques in
66 accordance with the Behavior Analyst Certification Board
67 Guidelines for Responsible Conduct for Behavior Analysts,
68 undergone a criminal background check and

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

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

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

80 (3) “Autism spectrum disorder” means any pervasive
81 developmental disorder, including autistic disorder,
82 Asperger’s Syndrome, Rett syndrome, childhood
83 disintegrative disorder, or Pervasive Development Disorder -
84 Not otherwise specified as, as defined in the most recent
85 edition of the Diagnostic and Statistical Manual of Mental
86 Disorders of the American Psychiatric Association.

87 (4) “Board certified behavior analyst” means an
88 individual who is certified by the Behavior Analyst
89 Certification Board or certified by a similar nationally
90 recognized organization.

CHAPTER 9. HUMAN SERVICES.

ARTICLE 5. MISCELLANEOUS PROVISIONS.

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

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

11 (b) For purposes of this section, the term “autism
12 spectrum disorder” means any pervasive developmental
13 disorder, including autistic disorder, Asperger’s Syndrome,
14 Rett Syndrome, childhood disintegrative disorder, or
15 Pervasive Development Disorder - Not otherwise specified
16 as, as defined in the most recent edition of the Diagnostic and

17 Statistical Manual of Mental Disorders of the American
18 Psychiatric Association.

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

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

1 (a) Notwithstanding any provision of any policy,
2 provision, contract, plan or agreement applicable to this
3 article, any entity regulated by this article shall, for policies
4 issued or renewed on or after September 1, 2011, make
5 available as benefits to all subscribers and members coverage
6 for diagnosis and treatment of autism spectrum disorder in
7 individuals ages three through eighteen years. Such policy
8 shall provide coverage for treatments that are medically
9 necessary and ordered or prescribed by a licensed physician
10 or licensed psychologist for an individual diagnosed with
11 autism spectrum disorder, in accordance with a treatment
12 plan developed by a licensed physician or licensed
13 psychologist pursuant to a comprehensive evaluation or
14 reevaluation of the individual. Such coverage shall include,

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

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

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

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

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

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

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

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

18 (3) “Autism spectrum disorder” means any pervasive
19 developmental disorder, including autistic disorder,

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

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

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

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

1 (a) Any insurer who, on or after September 1, 2011,
2 delivers, renews or issues a policy of group accident and
3 sickness insurance in this State under the provisions of this
4 article, shall make available as benefits to all subscribers and
5 members coverage for diagnosis and treatment of autism
6 spectrum disorder in individuals ages three through eighteen
7 years. Such policy shall provide coverage for treatments that

1 are medically necessary and ordered or prescribed by a
2 licensed physician or licensed psychologist for an individual
3 diagnosed with autism spectrum disorder, in accordance with
4 a treatment plan developed by a licensed physician or
5 licensed psychologist pursuant to a comprehensive evaluation
6 or reevaluation of the individual. Such coverage shall
7 include, but not be limited to, applied behavioral analysis
8 provided by a board certified behavior analyst or applied
9 behavior analysis tutor who is not a parent, grandparent or
10 sibling of the individual under the supervision of a board
11 certified behavior analyst: *Provided, That the annual*
12 maximum benefit for applied behavioral analysis required by
13 this subdivision shall be in amount not to exceed \$30,000 per
14 individual, for three consecutive years from the date of
15 diagnosis of autism spectrum disorder. At the conclusion of
16 the third year after a diagnosis, required coverage for applied
17 behavior analysis shall be in an amount not to exceed \$2,000
18 per month, until the individual reaches eighteen years of age,
19 as long as the treatment is medically necessary and in
20 accordance with a treatment plan developed by a licensed

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

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

18 (1) “Applied Behavior Analysis” means the design,
19 implementation, and evaluation of environmental
20 modifications using behavioral stimuli and consequences, to

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

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

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

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

18 (C) A high school diploma or GED equivalent and have
19 completed five hundred hours of employment providing

1 applied behavior analysis, as verified by a board certified
2 behavior analyst.

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

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

ARTICLE 24. HOSPITAL MEDICAL AND DENTAL CORPORATIONS.

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

1 (a) Notwithstanding any provision of any policy,
2 provision, contract, plan or agreement to which this article
3 applies, any entity regulated by this article, for policies issued

1 or renewed on or after September 1, 2011, shall provide as
2 benefits to its subscribers and members for coverage for
3 diagnosis and treatment of autism spectrum disorder in
4 individuals ages three through eighteen years. Such policy
5 shall provide coverage for treatments that are medically
6 necessary and ordered or prescribed by a licensed physician
7 or licensed psychologist for an individual diagnosed with
8 autism spectrum disorder, in accordance with a treatment
9 plan developed by a licensed physician or licensed
10 psychologist pursuant to a comprehensive evaluation or
11 reevaluation of the individual. Such coverage shall include,
12 but not be limited to, applied behavioral analysis provided by
13 a board certified behavior analyst or applied behavior
14 analysis tutor who is not a parent, grandparent, or sibling of
15 the individual under the supervision of a board certified
16 behavior analyst: *Provided*, That the annual maximum
17 benefit for applied behavioral analysis required by this
18 subdivision shall be in an amount not to exceed \$30,000 per
19 individual, for three consecutive years from the date of

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

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

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

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

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

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

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

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

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

**ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION
ACT.****§33-25A-8j. Coverage for diagnosis and treatment of autism
spectrum disorders.**

1 (a) Notwithstanding any provision of any policy,
2 provision, contract, plan or agreement to which this article
3 applies, for policies issued or renewed on or after September
4 1, 2011, any entity regulated by this article shall provide as
5 benefits to its subscribers and members for coverage for
6 diagnosis and treatment of autism spectrum disorder in
7 individuals ages three through eighteen years. Such policy
8 shall provide coverage for treatments that are medically
9 necessary and ordered or prescribed by a licensed physician
10 or licensed psychologist for an individual diagnosed with
11 autism spectrum disorder, in accordance with a treatment
12 plan developed by a licensed physician or licensed
13 psychologist pursuant to a comprehensive evaluation or
14 reevaluation of the individual. Such coverage shall include,
15 but not be limited to, applied behavioral analysis provided by

1 a board certified behavior analyst or applied behavior
2 analysis tutor who is not a parent, grandparent, or sibling of
3 the individual under the supervision of a board certified
4 behavior analyst: *Provided*, That the annual maximum
5 benefit for applied behavioral analysis required by this
6 subdivision shall be in an amount not to exceed \$30,000 per
7 individual, for three consecutive years from the date of
8 diagnosis of autism spectrum disorder. At the conclusion of
9 the third year after a diagnosis, required coverage for applied
10 behavior analysis shall be in an amount not to exceed \$2,000
11 per month, until the individual reaches eighteen years of age,
12 as long as the treatment is medically necessary and in
13 accordance with a treatment plan developed by a licensed
14 physician or licensed psychologist pursuant to a
15 comprehensive evaluation or reevaluation of the individual.
16 This section shall not be construed as limiting, replacing or
17 affecting any obligation to provide services to an individual
18 under the Individuals with Disabilities Education Act, 20

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

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

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

17 (2) “Applied Behavior Analysis Tutor” means an
18 individual who has completed at least forty hours of

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

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

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

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

17 (3) “Autism spectrum disorder” means any pervasive
18 developmental disorder, including autistic disorder,
19 Asperger’s Syndrome, Rett Syndrome, childhood

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

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