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:
§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 surgical insurance plan or plans, a group prescription drug insurance plan or plans, a group major medical insurance plan or plans and a group life and accidental death insurance plan or plans for those employees herein made eligible, and to establish and promulgate rules for the administration of these plans, subject to the limitations contained in this article.

Those plans shall include:

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

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

(3) Annual screening for kidney disease as determined to be medically necessary by a physician using any combination of blood pressure testing, urine albumin or urine protein testing and serum creatinine testing as recommended by the National Kidney Foundation;
(4) For plans that include maternity benefits, coverage for inpatient care in a duly licensed health care facility for a mother and her newly born infant for the length of time which the attending physician considers medically necessary for the mother or her newly born child: Provided, That no plan may deny payment for a mother or her newborn child prior to forty-eight hours following a vaginal delivery, or prior to ninety-six hours following a caesarean section delivery, if the attending physician considers discharge medically inappropriate;

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

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

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

(C) The agency shall not discriminate between medical-surgical benefits and mental health benefits in the administration of its plan. With regard to both medical-surgical and mental health benefits, it may make determinations of medical necessity and appropriateness, and it may use recognized health care quality and cost management tools, including, but not limited to, limitations on inpatient and outpatient benefits, utilization review, case management, implementation of cost-containment measures, preauthorization for certain treatments, setting coverage levels, setting maximum number of visits within certain time periods, using capitated benefit arrangements, using fee-for-service arrangements, using third-party administrators, using provider networks and using patient cost sharing in the form of copayments, deductibles and coinsurance.
(7) Coverage for general anesthesia for dental procedures and associated outpatient hospital or ambulatory facility charges provided by appropriately licensed health care individuals in conjunction with dental care if the covered person is:

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

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

(8)(A) Coverage for diagnosis and treatment of autism spectrum disorder in individuals ages three through eighteen years. Such policy shall provide coverage for treatments that are medically necessary and ordered or prescribed by a licensed physician or licensed psychologist for an individual diagnosed with autism spectrum disorder, in accordance with a treatment plan developed by a licensed physician or licensed psychologist pursuant to a comprehensive evaluation or reevaluation of the individual. Such coverage shall include, but not be limited to, applied behavioral analysis provided by a board certified behavior analyst or applied behavior analysis tutor who is not a parent, grandparent or sibling of individual under the supervision of a board certified behavior analyst: Provided, That the annual maximum benefit for applied behavioral analysis required by this subdivision shall be in amount not to exceed $30,000 per
individual, for three consecutive years from the date of diagnosis of autism spectrum disorder. At the conclusion of the third year after a diagnosis, required coverage for applied behavior analysis shall be in an amount not to exceed $2,000 per month, until the individual reaches eighteen years of age, as long as the treatment is medically necessary and in accordance with a treatment plan developed by a licensed physician or licensed psychologist pursuant to a comprehensive evaluation or reevaluation of the individual. This section shall not be construed as limiting, replacing or affecting any obligation to provide services to an individual under the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., as amended from time to time or other publicly funded programs. Nothing in this section shall be construed as requiring coverage of benefits for services that are or should be included in an individualized family service plan or individualized education program or individualized service plan or other publicly funded programs, including but not limited to reimbursement for services provided at public schools.
(B) On or before January 1 each year, the agency shall file an annual report with the joint committee on government and finance describing its implementation of the coverage provided pursuant to this subdivision. The report shall include, but shall not be limited to the number of individuals in the plan utilizing the coverage required by this subdivision, the fiscal and administrative impact of the implementation, and any recommendations the agency may have as to changes in law or policy related to the coverage provided under this subdivision. In addition, the agency shall provide such other information as may be provided by the joint committee on government and finance as it may from time to time request.

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

(i) “Applied Behavior Analysis” means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.
“Applied Behavior Analysis Tutor” means an individual who has completed at least forty hours of classroom training in applied behavior analysis techniques in accordance with the Behavior Analyst Certification Board Guidelines for Responsible Conduct for Behavior Analysts, undergone a criminal background check, and

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

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

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

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

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

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

(c) The finance board may cause to be separately rated
for claims experience purposes:
(1) All employees of the State of West Virginia;

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

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

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

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

(a) To the extent that the diagnosis and treatment of autism spectrum disorders are not already covered by this agency, a policy, plan or contract subject to this section shall provide coverage for such diagnosis and treatment, for individuals ages three through eighteen years. Such policy shall provide coverage for treatments that are medically necessary and ordered or prescribed by a licensed physician or licensed psychologist for an individual diagnosed with autism spectrum disorder, in accordance with a treatment plan developed by a licensed physician or licensed psychologist pursuant to a comprehensive evaluation or reevaluation of the individual. Such coverage shall include, but not be limited to, applied behavioral analysis provided by a board certified behavior analyst or applied behavior analysis tutor who is not a parent, grandparent or sibling of the individual under the supervision of a board certified
behavior analyst: Provided, That the annual maximum
benefit for applied behavioral analysis required by this
subdivision shall be in amount not to exceed $30,000 per
individual, for three consecutive years from the date of
diagnosis of autism spectrum disorder. At the conclusion of
the third year after a diagnosis, required coverage for applied
behavior analysis shall be in an amount not to exceed $2,000
per month, until the individual reaches eighteen years of age,
as long as the treatment is medically necessary and in
accordance with a treatment plan developed by a licensed
physician or licensed psychologist pursuant to a
comprehensive evaluation or reevaluation of the individual.
Nothing in this section shall be construed to require or permit
the agency to reduce benefits for autism spectrum disorders
already provided that exceed the limits of this section. This
section shall not be construed as limiting, replacing or
affecting any obligation to provide services to an individual
under the Individuals with Disabilities Education Act, 20
U.S.C. 1400 et seq., as amended from time to time or other
publicly funded programs. Nothing in this section shall be construed as requiring coverage of benefits for services that are or should be included in an individualized family service plan or individualized education program or individualized service plan or other publicly funded programs, including but not limited to reimbursement for services provided at public schools.

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

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

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

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

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

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

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

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

(b) For purposes of this section, the term “autism spectrum disorder” means any pervasive developmental disorder, including autistic disorder, Asperger’s Syndrome, Rett Syndrome, childhood disintegrative disorder, or Pervasive Development Disorder - Not otherwise specified as, as defined in the most recent edition of the Diagnostic and
Statistical Manual of Mental Disorders of the American Psychiatric Association.

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.


(a) Notwithstanding any provision of any policy, provision, contract, plan or agreement applicable to this article, any entity regulated by this article shall, for policies issued or renewed on or after September 1, 2011, make available as benefits to all subscribers and members coverage for diagnosis and treatment of autism spectrum disorder in individuals ages three through eighteen years. Such policy shall provide coverage for treatments that are medically necessary and ordered or prescribed by a licensed physician or licensed psychologist for an individual diagnosed with autism spectrum disorder, in accordance with a treatment plan developed by a licensed physician or licensed psychologist pursuant to a comprehensive evaluation or reevaluation of the individual. Such coverage shall include,
but not be limited to, applied behavioral analysis provided by
a board certified behavior analyst or applied behavior
analysis tutor who is not a parent, grandparent or sibling the
individual under the supervision of a board certified behavior
analyst: Provided, That the annual maximum benefit for
applied behavioral analysis required by this subdivision shall
be in amount not to exceed $30,000 per individual, for three
consecutive years from the date of diagnosis of autism
spectrum disorder. At the conclusion of the third year after a
diagnosis, required coverage for applied behavior analysis
shall be in an amount not to exceed $2,000 per month, until
the individual reaches eighteen years of age, as long as the
treatment is medically necessary and in accordance with a
treatment plan developed by a licensed physician or licensed
psychologist pursuant to a comprehensive evaluation or
reevaluation of the individual. Nothing in this section shall be
construed to require or permit the agency to reduce benefits
for autism spectrum disorders already provided that exceed
the limits of this section. This section shall not be construed
as limiting, replacing or affecting any obligation to provide services to an individual under the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., as amended from time to time or other publicly funded programs. Nothing in this section shall be construed as requiring coverage of benefits for services that are or should be included in an individualized family service plan or individualized education program or individualized service plan or other publicly funded programs, including but not limited to reimbursement for services provided at public schools.

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

(1) “Applied Behavior Analysis” means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.
(2) “Applied Behavior Analysis Tutor” means an individual who has completed at least forty hours of classroom training in applied behavior analysis techniques in accordance with the Behavior Analyst Certification Board Guidelines for Responsible Conduct for Behavior Analysts, undergone a criminal background check and

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

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

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

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

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

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

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

(a) Any insurer who, on or after September 1, 2011, delivers, renews or issues a policy of group accident and sickness insurance in this State under the provisions of this article, shall make available as benefits to all subscribers and members coverage for diagnosis and treatment of autism spectrum disorder in individuals ages three through eighteen years. Such policy shall provide coverage for treatments that
are medically necessary and ordered or prescribed by a licensed physician or licensed psychologist for an individual diagnosed with autism spectrum disorder, in accordance with a treatment plan developed by a licensed physician or licensed psychologist pursuant to a comprehensive evaluation or reevaluation of the individual. Such coverage shall include, but not be limited to, applied behavioral analysis provided by a board certified behavior analyst or applied behavior analysis tutor who is not a parent, grandparent or sibling of the individual under the supervision of a board certified behavior analyst: Provided, That the annual maximum benefit for applied behavioral analysis required by this subdivision shall be in amount not to exceed $30,000 per individual, for three consecutive years from the date of diagnosis of autism spectrum disorder. At the conclusion of the third year after a diagnosis, required coverage for applied behavior analysis shall be in an amount not to exceed $2,000 per month, until the individual reaches eighteen years of age, as long as the treatment is medically necessary and in accordance with a treatment plan developed by a licensed
physician or licensed psychologist pursuant to a comprehensive evaluation or reevaluation of the individual.

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

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

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

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

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

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

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

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

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

ARTICLE 24. HOSPITAL MEDICAL AND DENTAL CORPORATIONS.

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

(a) Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this article applies, any entity regulated by this article, for policies issued
or renewed on or after September 1, 2011, shall provide as benefits to its subscribers and members for coverage for diagnosis and treatment of autism spectrum disorder in individuals ages three through eighteen years. Such policy shall provide coverage for treatments that are medically necessary and ordered or prescribed by a licensed physician or licensed psychologist for an individual diagnosed with autism spectrum disorder, in accordance with a treatment plan developed by a licensed physician or licensed psychologist pursuant to a comprehensive evaluation or reevaluation of the individual. Such coverage shall include, but not be limited to, applied behavioral analysis provided by a board certified behavior analyst or applied behavior analysis tutor who is not a parent, grandparent, or sibling of the individual under the supervision of a board certified behavior analyst: Provided, That the annual maximum benefit for applied behavioral analysis required by this subdivision shall be in an amount not to exceed $30,000 per individual, for three consecutive years from the date of
diagnosis of autism spectrum disorder. At the conclusion of
the third year after a diagnosis, required coverage for applied
behavior analysis shall be in an amount not to exceed $2,000
per month, until the individual reaches eighteen years of age,
as long as the treatment is medically necessary and in
accordance with a treatment plan developed by a licensed
physician or licensed psychologist pursuant to a
comprehensive evaluation or reevaluation of the individual.
This section shall not be construed as limiting, replacing or
affecting any obligation to provide services to an individual
under the Individuals with Disabilities Education Act, 20
U.S.C. 1400 et seq., as amended from time to time or other
publicly funded programs. Nothing in this section shall be
construed as requiring coverage of benefits for services that
are or should be included in an individualized family service
plan or individualized education program or individualized
service plan or other publicly funded programs, including but
not limited to reimbursement for services provided at public
schools.
(b) For purposes of this section, the term:

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

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

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

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

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

(4) “Board certified behavior analyst” means an individual who is certified by the Behavior Analyst Certification Board or certified by a similar nationally recognized organization.
ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.


(a) Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this article applies, for policies issued or renewed on or after September 1, 2011, any entity regulated by this article shall provide as benefits to its subscribers and members for coverage for diagnosis and treatment of autism spectrum disorder in individuals ages three through eighteen years. Such policy shall provide coverage for treatments that are medically necessary and ordered or prescribed by a licensed physician or licensed psychologist for an individual diagnosed with autism spectrum disorder, in accordance with a treatment plan developed by a licensed physician or licensed psychologist pursuant to a comprehensive evaluation or reevaluation of the individual. Such coverage shall include, but not be limited to, applied behavioral analysis provided by
a board certified behavior analyst or applied behavior analysis tutor who is not a parent, grandparent, or sibling of the individual under the supervision of a board certified behavior analyst: Provided, That the annual maximum benefit for applied behavioral analysis required by this subdivision shall be in an amount not to exceed $30,000 per individual, for three consecutive years from the date of diagnosis of autism spectrum disorder. At the conclusion of the third year after a diagnosis, required coverage for applied behavior analysis shall be in an amount not to exceed $2,000 per month, until the individual reaches eighteen years of age, as long as the treatment is medically necessary and in accordance with a treatment plan developed by a licensed physician or licensed psychologist pursuant to a comprehensive evaluation or reevaluation of the individual. This section shall not be construed as limiting, replacing or affecting any obligation to provide services to an individual under the Individuals with Disabilities Education Act, 20
U.S.C. 1400 et seq., as amended from time to time or other publicly funded programs. Nothing in this section shall be construed as requiring coverage of benefits for services that are or should be included in an individualized family service plan or individualized education program or individualized service plan or other publicly funded programs, including but not limited to reimbursement for services provided at public schools.

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

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

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

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

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

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

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

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