

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 1311 & 1341

95TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industry, April 27, 2010, with recommendation that the Senate Committee Substitute do pass.

3679S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapters 337 and 376, RSMo, by adding thereto eleven new sections relating to the treatment of autism spectrum disorders, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapters 337 and 376, RSMo, are amended by adding thereto
2 eleven new sections, to be known as sections 337.300, 337.305, 337.310, 337.315,
3 337.320, 337.325, 337.330, 337.335, 337.340, 337.345, and 376.1224, to read as
4 follows:

337.300. As used in sections 337.300 to 337.340, the following
2 **terms shall mean:**

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

9 (2) "Board", the behavior analyst advisory board within the state
10 committee of psychologists;

11 (3) "Certifying entity", the nationally accredited Behavior Analyst
12 Certification Board, or other equivalent nationally accredited
13 nongovernmental agency approved by the committee which certifies
14 individuals who have completed academic, examination, training, and
15 supervision requirements in applied behavior analysis;

16 (4) "Committee", the state committee of psychologists;

17 **(5) "Division", the division of professional registration within the**
18 **department of insurance, financial institutions and professional**
19 **registration;**

20 **(6) "Licensed assistant behavior analyst" or "LaBA", an individual**
21 **who is certified by the certifying entity as a certified assistant behavior**
22 **analyst and meets the criteria in section 337.315 and as established by**
23 **committee rule;**

24 **(7) "Licensed behavior analyst" or "LBA", an individual who is**
25 **certified by the certifying entity as a certified behavior analyst and**
26 **meets the criteria in section 337.315 and as established by committee**
27 **rule;**

28 **(8) "Practice of applied behavior analysis", the application of the**
29 **principles, methods, and procedures of the experimental analysis of**
30 **behavior and applied behavior analysis (including principles of operant**
31 **and respondent learning) to assess and improve socially important**
32 **human behaviors. It includes, but is not limited to, applications of**
33 **those principles, methods, and procedures to:**

34 **(a) The design, implementation, evaluation, and modification of**
35 **treatment programs to change behavior of individuals;**

36 **(b) The design, implementation, evaluation, and modification of**
37 **treatment programs to change behavior of groups; and**

38 **(c) Consultation to individuals and organizations.**

39 **Applied behavior analysis does not include cognitive therapies or**
40 **psychological testing, personality assessment, intellectual assessment,**
41 **neuropsychological assessment, psychotherapy, cognitive therapy, sex**
42 **therapy, psychoanalysis, hypnotherapy, family therapy, and long-term**
43 **counseling as treatment modalities.**

337.305. 1. There is hereby created under the state committee of
2 **psychologists within the division of professional registration the**
3 **"Behavior Analyst Advisory Board". The behavior analyst advisory**
4 **board shall consist of the following seven members: three licensed**
5 **behavior analysts, one licensed behavior analyst holding a doctoral**
6 **degree, one licensed assistant behavior analyst, one professional**
7 **member of the committee, and one public member.**

8 **2. Appointments to the board shall be made by the governor**
9 **upon the recommendations of the director of the division, upon the**
10 **advice and consent of the senate. The division, prior to submitting**

11 nominations, shall solicit nominees from professional associations and
12 licensed behavior analysts or licensed assistant behavior analysts in
13 the state.

14 3. The term of office for board members shall be five years. In
15 making initial appointments to the board, the governor shall stagger
16 the terms of the appointees so that one member serves an initial term
17 of two years, three members shall serve an initial term of three years,
18 and three members serve initial terms of four years. Each member of
19 the board shall hold office until his or her successor has been qualified.
20 A vacancy in the membership of the board shall be filled for the
21 unexpired term in the manner provided for the original appointment.
22 A member appointed for less than a full term may serve two full terms
23 in addition to such part of a full term.

24 4. Each board member shall be a resident of this state for a
25 period of one year and a registered voter, shall be a United States
26 citizen, and shall, other than the public member, have been a licensed
27 behavior analyst or licensed assistant behavior analyst in this state for
28 at least three years prior to appointment except for the original
29 members of the board who shall have experience in the practice of
30 applied behavior analysis.

31 5. The public member shall be a person who is not and never was
32 a member of any profession licensed or regulated under sections
33 337.300 to 337.340 or the spouse of such person; and a person who does
34 not have and never has had a material financial interest in either the
35 providing of the professional services regulated by sections 337.300 to
36 337.340, or an activity or organization directly related to any profession
37 licensed or regulated under sections 337.300 to 337.340.

38 6. The board shall meet at least quarterly. At one of its regular
39 meetings, the board shall select from among its members a chairperson
40 and a vice chairperson. A quorum of the committee shall consist of a
41 majority of its members. In the absence of the chairperson, the vice
42 chairperson shall conduct the office of the chairperson.

43 7. Each member of the board shall receive as compensation an
44 amount set by the division not to exceed fifty dollars for each day
45 devoted to the affairs of the board and shall be entitled to
46 reimbursement for necessary and actual expenses incurred in the
47 performance of the member's official duties.

48 8. Staff for the board shall be provided by the director of the
49 division of professional registration.

50 9. The governor may remove any member of the board for
51 misconduct, inefficiency, incompetency, or neglect of office.

52 All vacancies shall be filled by appointment of the governor with the
53 advice and consent of the senate, and the member so appointed shall
54 serve for the unexpired term.

 337.310. 1. The behavior analyst advisory board is authorized to:

2 (1) Review all applications for licensure and temporary licensure
3 for behavior analysts and assistant behavior analysts and any
4 supporting documentation submitted with the application to the
5 committee and make recommendations to the committee regarding the
6 resolution of the application;

7 (2) Review all complaints made relating to the practice of
8 behavior analysis and make recommendations to the committee
9 regarding investigation of the complaint, referral for discipline or
10 other resolution of the complaint; and

11 (3) Review any entities responsible for certifying behavior
12 analysts and make recommendations to the committee as to approval
13 or disapproval of the certifying entity based on qualifications
14 established by the committee.

15 2. The board shall recommend to the committee rules to be
16 promulgated pertaining to:

17 (1) The form and content of license applications required and the
18 procedures for filing an application for an initial, provisional
19 temporary or renewal license in this state;

20 (2) The establishment of fees;

21 (3) The educational and training requirements for licensed
22 behavior analysts and licensed assistant behavior analysts;

23 (4) The roles, responsibilities, and duties of licensed behavior
24 analysts and licensed assistant behavior analysts;

25 (5) The characteristics of supervision and supervised clinical
26 practicum experience for the licensed behavior analyst and the licensed
27 assistant behavior analyst;

28 (6) The supervision of licensed assistant behavior analysts;

29 (7) The requirements for continuing education for licensed
30 behavior analysts and licensed assistant behavior analysts;

31 **(8) A code of conduct; and**

32 **(9) Any other policies or procedures necessary to the fulfillment**
33 **of the requirements of sections 337.300 to 337.340.**

34 **3. Only after the board's recommendation and approval by**
35 **majority vote may the committee make any final decisions related to**
36 **licensing, rules and regulations, complaint resolution, approval of**
37 **certifying entities or any actions bearing upon the practice of applied**
38 **behavior analysis unless otherwise authorized by sections 337.300**
39 **through 337.380.**

40 **4. Notwithstanding the provisions of subsection 3 of this section,**
41 **until such time as the governor appoints the board and the board has**
42 **a quorum, the committee shall review and resolve all applications for**
43 **licensure as a licensed behavior analyst or licensed assistant behavior**
44 **analyst.**

45 **5. Any rule or portion of a rule, as that term is defined in section**
46 **536.010, that is created under the authority delegated in this section**
47 **shall become effective only if it complies with and is subject to all of**
48 **the provisions of chapter 536 and, if applicable, section 536.028. This**
49 **section and chapter 536 are nonseverable and if any of the powers**
50 **vested with the general assembly pursuant to chapter 536 to review, to**
51 **delay the effective date, or to disapprove and annul a rule are**
52 **subsequently held unconstitutional, then the grant of rulemaking**
53 **authority and any rule proposed or adopted after August 28, 2010, shall**
54 **be invalid and void.**

337.315. 1. An applied behavior analysis intervention shall
2 **produce socially significant improvements in human behavior through**
3 **skill acquisition, increase or decrease in behaviors under specific**
4 **environmental conditions and the reduction of problematic behavior.**
5 **An applied behavior analysis intervention shall:**

6 **(1) Be based on empirical research and the identification of**
7 **functional relations between behavior and environment, contextual**
8 **factors, antecedent stimuli and reinforcement operations through the**
9 **direct observation and measurement of behavior, arrangement of**
10 **events and observation of effects on behavior, as well as other**
11 **information gathering methods such as record review and interviews;**
12 **and**

13 **(2) Utilize changes and arrangements of contextual factors,**

14 antecedent stimuli, positive reinforcement, and other consequences to
15 produce behavior change.

16 2. Each person wishing to practice as a licensed behavior analyst
17 shall:

18 (1) Submit a complete application on a form approved by the
19 committee;

20 (2) Pay all necessary fees as set by the committee;

21 (3) Submit a two-inch or three-inch photograph or passport
22 photograph taken no more than six months prior to the application
23 date;

24 (4) Provide two classified sets of fingerprints for processing by
25 the Missouri state highway patrol under section 43.543. One set of
26 fingerprints shall be used by the highway patrol to search the criminal
27 history repository and the second set shall be forwarded to the Federal
28 Bureau of Investigation for searching the federal criminal history files;

29 (5) Have passed an examination and been certified as a board
30 certified behavior analyst by a certifying entity, as defined in section
31 337.300;

32 (6) Provide evidence of active status as a board certified
33 behavior analyst; and

34 (7) If the applicant holds a license as a behavior analyst in
35 another state, a statement from all issuing states verifying licensure
36 and identifying any disciplinary action taken against the license holder
37 by that state.

38 3. Each person wishing to practice as a licensed assistant
39 behavior analyst shall:

40 (1) Submit a complete application on a form approved by the
41 committee;

42 (2) Pay all necessary fees as set by the committee;

43 (3) Submit a two-inch or three-inch photograph or passport
44 photograph taken no more than six months prior to the application
45 date;

46 (4) Provide two classified sets of fingerprints for processing by
47 the Missouri state highway patrol under section 43.543. One set of
48 fingerprints shall be used by the highway patrol to search the criminal
49 history repository and the second set shall be forwarded to the Federal
50 Bureau of Investigation for searching the federal criminal history files;

51 **(5) Have passed an examination and been certified as a board**
52 **certified assistant behavior analyst by a certifying entity, as defined in**
53 **section 337.300;**

54 **(6) Provide evidence of active status as a board certified**
55 **assistant behavior analyst;**

56 **(7) If the applicant holds a license as an assistant behavior**
57 **analyst in another state, a statement from all issuing states verifying**
58 **licensure and identifying any disciplinary action taken against the**
59 **license holder by that state; and**

60 **(8) Submit documentation satisfactory to the committee that the**
61 **applicant will be directly supervised by a licensed behavior analyst in**
62 **a manner consistent with the certifying entity.**

63 **4. The committee shall be authorized to issue a temporary**
64 **license to an applicant for a behavior analyst license or assistant**
65 **behavior analyst license upon receipt of a complete application for**
66 **behavior analyst or assistant behavior analyst or a showing of valid**
67 **licensure as a behavior analyst in another state, only if the applicant**
68 **has submitted fingerprints and no disqualifying criminal history**
69 **appears on the family care safety registry. The temporary license shall**
70 **expire upon issuance of a license or denial of the application but no**
71 **later than ninety days from issuance of the temporary license. Upon**
72 **written request to the committee, the holder of a temporary license**
73 **shall be entitled to one extension of ninety days of the temporary**
74 **license.**

75 **5. No person shall hold himself or herself out to be licensed**
76 **behavior analysts or LBA, licensed assistant behavior analysts or LaBA**
77 **in the state of Missouri unless they meet the applicable requirements.**

78 **6. No persons shall practice applied behavior analysis unless**
79 **they are:**

80 **(1) Licensed behavior analysts;**

81 **(2) Licensed assistant behavior analysts working under the**
82 **supervision of a licensed behavior analyst;**

83 **(3) An individual who has a bachelor's or graduate degree and**
84 **completed course work for licensure as a behavior analyst and is**
85 **obtaining supervised field experience under a licensed behavior analyst**
86 **pursuant to required supervised work experience for licensure at the**
87 **behavior analyst or assistant behavior analyst level; or**

88 **(4) Licensed psychologists practicing within the rules and**
89 **standards of practice for psychologists in the state of Missouri and**
90 **whose practice is commensurate with their level of training and**
91 **experience.**

92 **7. Notwithstanding the provisions in subsection 6 of this section,**
93 **any licensed healthcare professional may practice a component of**
94 **applied behavior analysis, as defined in section 337.300 if he or she is**
95 **acting within his or her applicable scope of practice and ethical**
96 **guidelines.**

97 **8. All licensed behavior analysts and licensed assistant behavior**
98 **analysts shall be bound by the code of conduct adopted by the**
99 **committee by rule.**

100 **9. Licensed assistant behavior analysts shall work under the**
101 **direct supervision of a licensed behavior analyst as established by**
102 **committee rule.**

103 **10. Persons who provide services under the Individuals with**
104 **Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et seq., or are**
105 **enrolled in a course of study at a recognized educational institution**
106 **through which the person provides applied behavior analysis as part**
107 **of supervised clinical experience shall be exempt from the**
108 **requirements of this section.**

109 **11. A violation of this section shall be punishable by probation,**
110 **suspension, or loss of any license held by the violator.**

337.320. 1. The division shall mail a renewal notice to the last
2 **known address of each licensee or registrant prior to the renewal date.**

3 **2. Each person wishing to renew the behavior analyst license or**
4 **the assistant behavior analyst license shall:**

5 **(1) Submit a complete application on a form approved by the**
6 **committee;**

7 **(2) Pay all necessary fees as set by the committee; and**

8 **(3) Submit proof of active certification and fulfillment of all**
9 **requirements for renewal and recertification with the certifying entity.**

10 **3. Failure to provide the division with documentation required**
11 **by subsection 2 of this section or other information required for**
12 **renewal shall effect a revocation of the license after a period of sixty**
13 **days from the renewal date.**

14 **4. Each person wishing to restore the license, within two years**

15 of the renewal date, shall:

16 (1) Submit a complete application on a form approved by the
17 committee;

18 (2) Pay the renewal fee and a delinquency fee as set by the
19 committee; and

20 (3) Submit proof of current certification from a certifying body
21 approved by the committee.

22 5. A new license to replace any certificate lost, destroyed, or
23 mutilated may be issued subject to the rules of the committee, upon
24 payment of a fee established by the committee.

25 6. The committee shall set the amount of the fees authorized by
26 sections 337.300 to 337.340 and required by rules promulgated under
27 section 536.021. The fees shall be set at a level to produce revenue
28 which shall not substantially exceed the cost and expense of
29 administering sections 337.300 to 337.340.

30 7. The committee is authorized to issue an inactive license to any
31 licensee who makes written application for such license on a form
32 provided by the committee and remits the fee for an inactive license
33 established by the committee. An inactive license may be issued only
34 to a person who has previously been issued a license to practice as a
35 licensed behavior analyst or a licensed assistant behavior analyst who
36 is no longer regularly engaged in such practice and who does not hold
37 himself or herself out to the public as being professionally engaged in
38 such practice in this state. Each inactive license shall be subject to all
39 provisions of this chapter, except as otherwise specifically
40 provided. Each inactive license may be renewed by the committee
41 subject to all provisions of this section and all other provisions of this
42 chapter. The inactive licensee shall not be required to submit evidence
43 of completion of continuing education as required by this chapter.

44 8. An inactive licensee may apply for a license to regularly
45 engage in the practice of behavioral analysis by:

46 (1) Submitting a complete application on a form approved by the
47 committee;

48 (2) Paying the reactivation fee as set by the committee; and

49 (3) Submitting proof of current certification from a certifying
50 body approved by the committee.

337.325. A licensed behavior analyst and licensed assistant

2 behavior analyst shall limit his or her practice to demonstrated areas
3 of competence as documented by relevant professional education,
4 training, or experience. A licensed behavior analyst and licensed
5 assistant behavior analyst trained in one area shall not practice in
6 another area without obtaining additional relevant professional
7 education, training, and experience.

337.330. 1. The committee may refuse to issue any license
2 required under this chapter for one or any combination of causes
3 stated in subsection 2 of this section. The committee shall notify the
4 applicant in writing of the reasons for the refusal and shall advise the
5 applicant of the applicant's right to file a complaint with the
6 administrative hearing commission as provided by chapter 621.

7 2. The committee may cause a complaint to be filed with the
8 administrative hearing commission, as provided by chapter 621, against
9 any holder of any license required by this chapter or any person who
10 has failed to renew or has surrendered the person's license for any one
11 or any combination of the following causes:

12 (1) Use of any controlled substance, as defined in chapter 195, or
13 alcoholic beverage to an extent that such use impairs a person's ability
14 to perform the work of any profession licensed or regulated by this
15 chapter;

16 (2) The person has been finally adjudicated and found guilty, or
17 entered a plea of guilty or nolo contendere, in a criminal prosecution
18 under the laws of any state or of the United States, for any offense
19 reasonably related to the qualifications, functions, or duties of any
20 profession licensed or regulated under this chapter, for any offense an
21 essential element of which is fraud, dishonesty or an act of violence, or
22 for any offense involving moral turpitude, whether or not sentence is
23 imposed;

24 (3) Use of fraud, deception, misrepresentation or bribery in
25 securing any permit or license issued under this chapter or in
26 obtaining permission to take any examination given or required under
27 sections 337.300 to 337.340;

28 (4) Obtaining or attempting to obtain any fee, charge, tuition, or
29 other compensation by fraud, deception or misrepresentation;

30 (5) Incompetency, misconduct, gross negligence, fraud,
31 misrepresentation, or dishonesty in the performance of the functions

32 or duties of any profession licensed by sections 337.300 to 337.340;

33 (6) Violation of, or assisting or enabling any person to violate,
34 any provision of sections 337.300 to 337.340, or of any lawful rule
35 adopted thereunder;

36 (7) Impersonation of any person holding a certificate of
37 registration or authority, permit or license or allowing any person to
38 use his or her certificate of registration or authority, permit, license,
39 or diploma from any school;

40 (8) Disciplinary action against the holder of a license or other
41 right to practice any profession regulated by sections 337.300 to 337.340
42 granted by another state, territory, federal agency, or country upon
43 grounds for which revocation or suspension is authorized in this state;

44 (9) A person is finally adjudged insane or incapacitated by a
45 court of competent jurisdiction;

46 (10) Assisting or enabling any person to practice or offer to
47 practice any profession licensed or regulated by sections 337.300 to
48 337.340 who is not registered and currently eligible to practice as
49 provided in sections 337.300 to 337.340;

50 (11) Issuance of a certificate of registration or authority, permit,
51 or license based upon a material mistake of fact;

52 (12) Failure to display a valid certificate or license if so required
53 by sections 337.300 to 337.340 or any rule promulgated thereunder;

54 (13) Violation of any professional trust or confidence;

55 (14) Use of any advertisement or solicitation which is false,
56 misleading, or deceptive to the general public or persons to whom the
57 advertisement or solicitation is primarily directed;

58 (15) Being guilty of unethical conduct as defined in the code of
59 conduct as adopted by the committee and filed with the secretary of
60 state.

61 3. After the filing of such complaint, the proceedings shall be
62 conducted in accordance with the provisions of chapter 621. Upon a
63 finding by the administrative hearing commission that the grounds,
64 provided in subsection 2 of this section, for disciplinary action are met,
65 the committee may, singly or in combination, censure or place the
66 person named in the complaint on probation on such terms and
67 conditions as the department deems appropriate for a period not to
68 exceed five years, or may suspend, for a period not to exceed three

69 years, or revoke the license, certificate, or permit.

337.335. 1. Any person found guilty of violating any provision of
2 sections 337.300 to 337.340 is guilty of a class A misdemeanor and upon
3 conviction thereof shall be punished as provided by law.

4 2. All fees or other compensation received for services rendered
5 in violation of sections 337.300 to 337.340 shall be refunded.

6 3. The committee shall inquire as to any violation of any
7 provision of sections 337.300 to 337.340 and may institute actions for
8 penalties herein prescribed, and shall enforce generally the provisions
9 of sections 337.300 to 337.340.

10 4. Any person, organization, association or corporation who
11 reports or provides information to the committee or the division under
12 sections 337.300 to 337.380 and who does so in good faith shall not be
13 subject to an action for civil damages as a result thereof.

14 5. Upon application by the committee the attorney general may
15 on behalf of the committee request that a court of competent
16 jurisdiction grant an injunction, restraining order, or other order as
17 may be appropriate to enjoin a person from:

18 (1) Offering to engage or engaging in the performance of any acts
19 or practices for which a certificate of registration or authority, permit,
20 or license is required upon a showing that such acts or practices were
21 performed or offered to be performed without a certificate of
22 registration or authority, permit or license; or

23 (2) Engaging in any practice or business authorized by a
24 certificate of registration or authority, permit, or license issued under
25 sections 337.300 to 337.340 upon a showing that the holder presents a
26 substantial probability of serious harm to the health, safety, or welfare
27 of any resident of this state or client or patient of the licensee.

28 6. Any action brought under the provisions of this section shall
29 be commenced either in the county in which such conduct occurred or
30 in the county in which the defendant resides.

31 7. Any action brought under this section may be in addition to
32 or in lieu of any penalty provided by sections 337.300 to 337.380 and
33 may be brought concurrently with other actions to enforce sections
34 337.300 to 337.340.

337.340. All fees authorized under sections 337.300 to 337.340
2 shall be collected by the director of the division of professional

3 registration and shall be transmitted to the department of revenue for
4 deposit in the state treasury to the credit of the state committee of
5 psychologists fund.

337.345. 1. Prior to August 28, 2012, each person desiring to
2 obtain a provisional license shall make application to the committee
3 upon such forms and in such manner as may be prescribed by the
4 committee and shall pay the required application fee. The application
5 fee shall not be refundable. Each application shall contain a statement
6 that it is made under oath or affirmation and that its representations
7 are true and correct to the best knowledge and belief of the person
8 signing the application, subject to the penalties of making a false
9 affidavit or declaration.

10 2. For a provisional behavioral analyst license, the applicant
11 shall:

12 (1) Submit a two-inch or three-inch photograph or passport
13 photograph taken no more than six months prior to the application
14 date, and only if the applicant has submitted fingerprints and no
15 disqualifying criminal history appears on the family care safety
16 registry;

17 (2) Have passed an examination and been certified as a board
18 certified behavior analyst by the Behavior Analyst Certification Board
19 or a certifying entity listed in subdivision (3) of section 337.300; and

20 (3) Provide evidence of active status as a board certified
21 behavior analyst.

22 3. For a provisional assistant behavioral analyst license, the
23 applicant shall:

24 (1) Submit a two-inch or three-inch photograph or passport
25 photograph taken no more than six months prior to the application
26 date, and only if the applicant has submitted fingerprints and no
27 disqualifying criminal history appears on the family care safety
28 registry;

29 (2) Have passed an examination and been certified as a board
30 certified assistant behavior analyst by a certifying entity listed in
31 subdivision (3) of section 337.300;

32 (3) Provide evidence of active status as a board certified
33 assistant behavior analyst; and

34 (4) Submit documentation satisfactory to the board that the

35 applicant will be directly supervised by a licensed behavior analyst in
36 a manner consistent with the certifying entity.

37 4. Each applicant for provisional licensure shall meet the
38 applicable requirements of section 337.315 within three months of the
39 date of issuance of the provisional license.

40 5. The provisional license shall be effective only until the later
41 to occur of:

42 (1) Grant or rejection of a license pursuant to section 337.315; or

43 (2) August 28, 2012.

44 The holder of a provisional license which has not expired, been
45 suspended, or revoked, shall be deemed to be the holder of a license
46 issued under section 337.315 until such provisional license expires, is
47 suspended, or revoked.

376.1224. 1. For purposes of this section, the following terms
2 shall mean:

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

9 (2) "Autism service provider":

10 (a) Any person, entity, or group that provides diagnostic or
11 treatment services for autism spectrum disorders who is licensed or
12 certified by the state of Missouri;

13 (b) Any person who is certified as a board certified behavior
14 analyst by the behavior analyst certification board; or

15 (c) Any person, if not licensed or certified, who is supervised by
16 a person who is certified as a board certified behavioral analyst by the
17 Behavioral Analyst Certification Board, whether such board certified
18 behavioral analyst supervises as an individual or as an employee of or
19 in association with an entity or group; provided however, the definition
20 of autism service provider shall specifically exclude parents and
21 siblings of autistic persons to the extent such parents or siblings are
22 providing diagnostic or treatment services to their child or sibling;

23 (3) "Autism spectrum disorders", a neurobiological disorder, an
24 illness of the nervous system, which includes Autistic Disorder,

25 **Asperger's Disorder, Pervasive Developmental Disorder Not Otherwise**
26 **Specified, Rett's Disorder, and Childhood Disintegrative Disorder, as**
27 **defined in the most recent edition of the Diagnostic and Statistical**
28 **Manual of Mental Disorders of the American Psychiatric Association;**

29 (4) **"Diagnosis of autism spectrum disorders", medically necessary**
30 **assessments, evaluations, or tests in order to diagnose whether an**
31 **individual has an autism spectrum disorder;**

32 (5) **"Habilitative or rehabilitative care", professional, counseling,**
33 **and guidance services and treatment programs, including applied**
34 **behavior analysis, that are necessary to develop the functioning of an**
35 **individual;**

36 (6) **"Health benefit plan", shall have the same meaning ascribed**
37 **to it as in section 376.1350;**

38 (7) **"Health carrier", shall have the same meaning ascribed to it**
39 **as in section 376.1350;**

40 (8) **"Pharmacy care", medications used to address symptoms of an**
41 **autism spectrum disorder prescribed by a licensed physician, and any**
42 **health-related services deemed medically necessary to determine the**
43 **need or effectiveness of the medications;**

44 (9) **"Psychiatric care", direct or consultative services provided by**
45 **a psychiatrist licensed in the state in which the psychiatrist practices;**

46 (10) **"Psychological care", direct or consultative services**
47 **provided by a psychologist licensed in the state in which the**
48 **psychologist practices;**

49 (11) **"Therapeutic care", services provided by licensed speech**
50 **therapists, occupational therapists, or physical therapists;**

51 (12) **"Treatment for autism spectrum disorders", care prescribed**
52 **or ordered for an individual diagnosed with an autism spectrum**
53 **disorder by a licensed physician or licensed psychologist, including,**
54 **equipment medically necessary for such care, pursuant to the powers**
55 **granted under such licensed physician's or licensed psychologist's**
56 **license, including, but not limited to:**

57 (a) **Psychiatric care;**

58 (b) **Psychological care;**

59 (c) **Habilitative or rehabilitative care, including applied behavior**
60 **analysis therapy;**

61 (d) **Therapeutic care;**

62 (e) Pharmacy care.

63 2. All health benefit plans that are delivered, issued for delivery,
64 continued, or renewed on or after January 1, 2011, if written inside the
65 state of Missouri, or written outside the state of Missouri but insuring
66 Missouri residents, shall provide individuals coverage for the diagnosis
67 and treatment of autism spectrum disorders to the extent that such
68 diagnosis and treatment is not already covered by the health benefit
69 plan.

70 3. With regards to a health benefit plan, a health carrier shall
71 not deny or refuse to issue coverage on, refuse to contract with, or
72 refuse to renew or refuse to reissue or otherwise terminate or restrict
73 coverage on an individual or their dependent because the individual is
74 diagnosed with autism spectrum disorder or because the individual
75 receives coverage under this section.

76 4. (1) Coverage provided under this section is limited to the
77 treatment plan that is ordered by the insured's treating licensed
78 physician or licensed psychologist, pursuant to the powers granted
79 under such licensed physician's or licensed psychologist's license, in
80 accordance with a treatment plan. Service exclusions contained in the
81 insurance policy or health maintenance organization contract that are
82 inconsistent with this section shall be considered invalid as to autism
83 spectrum disorder;

84 (2) The treatment plan, upon request by the health benefit plan
85 or health carrier, shall include all elements necessary for the health
86 benefit plan or health carrier to pay claims. Such elements include, but
87 are not limited to, a diagnosis, proposed treatment by type, frequency
88 and duration of treatment, and goals;

89 (3) Except for inpatient services, if an individual is receiving
90 treatment for an autism spectrum disorder, a health carrier shall have
91 the right to review the treatment plan not more than once every six
92 months unless the health carrier and the individual's treating physician
93 or psychologist agree that a more frequent review is necessary. Any
94 such agreement regarding the right to review a treatment plan more
95 frequently shall only apply to a particular individual being treated for
96 an autism spectrum disorder and shall not apply to all individuals
97 being treated for autism spectrum disorders by a physician or
98 psychologist. The cost of obtaining any review or treatment plan shall

99 be borne by the health benefit plan or health carrier, as applicable.

100 5. Coverage provided under this section for applied behavior
101 analysis shall be subject to a maximum benefit of forty-five thousand
102 dollars per calendar year for individuals through eighteen years of
103 age. Payments made by a health carrier on behalf of a covered
104 individual for any care, treatment, intervention, service or item, the
105 provision of which was for the treatment of a health condition
106 unrelated to the covered individual's autism spectrum disorder, shall
107 not be applied toward any maximum benefit established under this
108 subsection. Any coverage required under this section, other than the
109 coverage for applied behavior analysis, shall not be subject to the age
110 and dollar limitations described in this subsection.

111 6. Beginning January 1, 2012, and annually thereafter, the
112 maximum benefit limitation for applied behavior analysis described in
113 subsection 5 of this section shall be adjusted annually by the same
114 percentage as the increase in the general price level as measured by
115 the Consumer Price Index for All Urban Consumers for the United
116 States, or its successor index, as defined and officially published by the
117 United States Department of Labor, or its successor agency. The
118 current value of the maximum benefit limitation for applied behavior
119 analysis coverage shall be calculated by the director of the department
120 of insurance, financial institutions and professional registration, who
121 shall furnish the calculated value to the secretary of state, who shall
122 publish such value in the Missouri Register as soon after each January
123 first as practicable, but it shall otherwise be exempt from the
124 provisions of section 536.021.

125 7. Subject to the provisions set forth in subdivision (3) of
126 subsection 4 of this section, coverage provided under this section shall
127 not be subject to any limits on the number of visits an individual may
128 make to an autism service provider, except that the maximum total
129 benefit for applied behavior analysis set forth in subsection 5 of this
130 section shall apply to this subsection.

131 8. This section shall not be construed as limiting benefits which
132 are otherwise available to an individual under a health benefit
133 plan. Subject to the provisions of subsection 5 of this section, the
134 coverage required by this section shall not be subject to any greater
135 deductible, coinsurance, co-payment, or utilization review of health

136 care services, including review of medical necessity, than other
137 physical health care services provided by a health benefit
138 plan. Coverage for treatment under this section shall not be denied on
139 the basis that it is educational or habilitative in nature.

140 9. To the extent any payments or reimbursements are being made
141 for applied behavior analysis, such payments or reimbursements shall
142 be made to either:

143 (1) The autism service provider, as defined in section 337.300;

144 (2) The person who is supervising an autism service provider,
145 who is also certified as a board certified behavior analyst by the
146 Behavior Analyst Certification Board and licensed by the state of
147 Missouri; or

148 (3) The entity or group for whom such supervising person, who
149 is certified as a board certified behavior analyst by the Behavior
150 Analyst Certification Board, works or is associated.

151 10. If a request for qualifications is made of a person who is not
152 licensed as an autism service provider, such person shall provide
153 documented evidence of education and professional training.

154 11. The provisions of this section shall apply to any health care
155 plans issued to employees and their dependents under the Missouri
156 consolidated health care plan established pursuant to chapter 103, that
157 are delivered, issued for delivery, continued, or renewed in this state
158 on or after January 1, 2011. The terms "employees" and "health care
159 plans" shall have the same meaning ascribed to them in section 103.003.

160 12. The provisions of this section shall also apply to the following
161 types of plans that are established, extended, modified, or renewed on
162 or after January 1, 2011:

163 (1) All self-insured governmental plans, as that term is defined
164 in 29 U.S.C. Section 1002(32);

165 (2) All self-insured group arrangements, to the extent not
166 preempted by federal law;

167 (3) All plans provided through a multiple employer welfare
168 arrangement, or plans provided through another benefit arrangement,
169 to the extent permitted by the Employee Retirement Income Security
170 Act of 1974, or any waiver or exception to that act provided under
171 federal law or regulation; and

172 (4) All self-insured school district health plans.

173 **13. The provisions of this section shall not automatically apply**
174 **to an individually underwritten health benefit plan, but shall be offered**
175 **as an option to any such plan.**

176 **14. The provisions of this section shall not apply to a**
177 **supplemental insurance policy, including a life care contract, accident-**
178 **only policy, specified disease policy, hospital policy providing a fixed**
179 **daily benefit only, Medicare supplement policy, long-term care policy,**
180 **short-term major medical policy of six months or less duration, or any**
181 **other supplemental policy.**

182 **15. Any health carrier or other entity subject to the provisions**
183 **of this section shall not be required to provide reimbursement for the**
184 **applied behavior analysis delivered to a person insured by such health**
185 **carrier or other entity to the extent such health carrier or other entity**
186 **is billed for such services by any Part C early intervention program or**
187 **any school district for applied behavior analysis rendered to the person**
188 **covered by such health carrier or other entity. This section shall not**
189 **be construed as affecting any obligation to provide services to an**
190 **individual under an individualized family service plan, an**
191 **individualized education plan, or an individualized service plan. This**
192 **section shall not be construed as affecting any obligation to provide**
193 **reimbursement pursuant to section 376.1218.**

194 **16. The provisions of sections 376.383, 376.384, and 376.1350 to**
195 **376.1399 shall apply to this section.**

196 **17. The director of the department of insurance, financial**
197 **institutions and professional registration shall grant a small employer**
198 **with a group health plan, as that term is defined in section 379.930, a**
199 **waiver from the provisions of this section if the small employer**
200 **demonstrates to the director by actual experience over any consecutive**
201 **twelve month period that compliance with this section has increased**
202 **the cost of the health insurance policy by an amount that results in a**
203 **two and a half percent increase over the period of a calendar year, in**
204 **premium costs to the small employer.**

205 **18. The provisions of this section shall not apply to the Mo**
206 **HealthNet program as described in chapter 208.**

207 **19. (1) By February 1, 2012, and every February first thereafter,**
208 **the department of insurance, financial institutions and professional**
209 **registration shall submit a report to the general assembly regarding the**

210 **implementation of the coverage required under this section. The report**
211 **shall include, but shall not be limited to, the following:**

212 **(a) The total number of insureds diagnosed with autism spectrum**
213 **disorder;**

214 **(b) The total cost of all claims paid out in the immediately**
215 **preceding calendar year for coverage required by this section;**

216 **(c) The cost of such coverage per insured per month; and**

217 **(d) The average cost per insured for coverage of applied**
218 **behavior analysis;**

219 **(2) All health carriers and health benefit plans subject to the**
220 **provisions of this section shall provide the department with the data**
221 **requested by the department for inclusion in the annual report.**

✓

Bill

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