California Board of PSYCHOLOGY

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MEMORANDUM

DATE	March 30, 2016
TO	Policy and Advocacy Committee
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #5 (a)(1) – Legislative Update – AB 796 (Nazarian) Health Care Coverage: Autism: Pervasive Disorders

Background:

This bill:

- Extends the operation of existing law which requires insurance coverage for behavioral health treatment for pervasive developmental disorder or autism.
- Requires the Board of Psychology to convene a committee to create a list of evidence-based treatment modalities for purposes of behavioral health treatment for pervasive development disorder or autism, and to post the list on the Board's Internet Web site.
- Extends the sunset provisions requiring health care service plans to provide health coverage for behavioral health treatment for pervasive development disorder or autism to January 1, 2022.

On March 8, 2016, the Board sent an Oppose position letter to the Senate Health and Human Services Committees, as well as the author's office. To date there have been no further amendments to this bill.

Location: Senate Health Committee

Status: 02/04/2016 to Senate Committee on Health and Human Services.

Action Requested:

The staff recommendation is to recommend the full Board maintain an "Oppose" position AB 796 (Nazarian).

Attachment A is the Analysis for AB 796
Attachment B is the Language for AB 796
Attachment C is the Oppose letter submitted to the Senate Health and Human Services Committees as well as the author's office.
Attachment D is the Assembly floor analysis for AB 796

CALIFORNIA STATE BOARD OF PSYCHOLOGY

BILL ANALYSIS

BILL NUMBER: AB 796 **VERSION:** INTRODUCED FEBRUARY 26, 2015
AMENDED: JANUARY 13, 2016

AUTHOR: NAZARIAN **SPONSOR:** DIR FLOOR TIME COALITION

BOARD POSITION: OPPOSE

SUBJECT: HEALTH CARE COVERAGE: AUTISM AND PERVASIVE DEVELOPMENTAL DISORDERS

Overview: This bill requires the Board of Psychology to convene a committee to create a list of evidence based treatment modalities for purposes of developing mandated behavioral health treatments for pervasive development disorder or autism. The bill also extends the sunset provisions requiring health care service plans to provide health coverage for behavioral health treatment for pervasive development disorder or autism to January 1, 2022.

Existing Law:

1) Requires that every health care service plan or insurance policy that provides hospital, medical or surgical coverage must also provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A). (Health and Safety Code (HSC) §1374.73(a), Insurance Code (IC) §10144.51(a))

2) Requires these health care service plans and health insurers subject to this provision to maintain an adequate network of qualified autism service providers. (HSC §1374.73(b), IC §10144.51(b))

3) Defines "behavioral health treatment" as professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs which develop or restore the functioning of an individual with pervasive developmental disorder or autism, and meets the following criteria (HSC §1374.73(c), IC §10144.51(c):

    a) Is prescribed by a licensed physician and surgeon or is developed by a licensed psychologist;

    b) Is provided under a treatment plan prescribed by a qualified autism service provider and administered by such a provider or by a qualified autism service professional under supervision and employment of a qualified autism service provider;

    c) The treatment plan has measurable goals over a specific timeline and the plan is reviewed by the provider at least once every six months; and

    d) Is not used for purposes of providing or for the reimbursement of respite, day care, or educational services.

4) Defines vendor service codes and sets requirements for regional to classify the following professions (CCR 17 §54342):

   a) Associate Behavior Analysts;

   b) Behavior Analysts;

   c) Behavior Management Assistants;

   d) Behavior Management Consultants; and

   e) Behavior Management Programs.

This Bill:

1) Requires the Board of Psychology to convene a committee to create a list of evidence based treatment modalities for purposes of developing mandated behavioral health treatments for pervasive development disorder or autism.

2) Extends the sunset provisions requiring health care service plans to provide health coverage for behavioral health treatment for pervasive development disorder or autism to January 1, 2022.

Comments:

Author's Intent.

1) The author understands that while there is coverage for physician prescribed evidence based behavioral treatments, they are not defined. The law only references one existing treatment which is ABA. With AB 796, the bill acknowledges that there are many ways to treat those diagnosed with Autism, and is attempting to allow those who need BHT to receive insurance coverage.

2) SB 946 (Chapter 650, Statutes of 2011) required health service plans and insurance policies to provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A). Furthermore, SB 946 defined behavioral health treatment as certain professional services and treatment programs that include applied behavior analysis under qualified autism service providers, professionals, and paraprofessionals.

The author's office notes that SB 946 went on to specifically define "qualified autism service professionals" and "qualified autism service paraprofessionals" as behavioral health treatment providers meeting the requirements of Section 54342 if Title 17 of the CCR. However, this section of the CCR only refers to behavioral health treatment providers as applied behavior analyst providers, leaving out other types of evidence-based behavioral health treatment.

Therefore, the author is attempting to have the behavioral health coverage mandated by SB 946 apply to all types of evidence-based behavioral health treatment, not just applied behavior analysis. It does this by codifying the educational and professional requirements listed in Title 17 of the CCR for applied behavior analysts, and applying them to all behavioral health providers.

The author's goal in doing this is to ensure that the qualified medical professional who knows the child best can prescribe the appropriate behavioral health treatment for that child, even if that behavioral health treatment is not applied behavior analysis.

3) **Proposed Licensure of Behavior Analysts.** The author's office writes that the definitions of applied behavioral analysis in Section 54342 of Title 17 of the CCR were written before newer forms of behavioral health treatment therapy had been developed and tested, and that is why current coverage requirements specify applied behavior analysis.

   Applied behavior analysis has become a well-established standard of treatment for PDD/A, and the California Association for Behavior Analysis is currently sponsoring a bill proposal (AB 1715 (Holden)), which would create a licensure category under the Board of Psychology.

   The prospect of competing types of effective behavioral health treatment may raise questions about the implications of establishing a licensure category for one of the treatment types, but not the others.

4) **Previous Legislation.** SB 946 (Chapter 650, Statues of 2011) requires every health care service plan contract and insurance policy that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for PDD/A.

   AB 171 (Beall, 2012), would have required health care service plan contracts and health insurance policies to provide coverage for the screening, diagnosis, and treatment of PDD/A other than behavioral health treatment. This bill died in the Senate Health Committee.

   SB 126 (Chapter 680, Statutes of 2013) extended the provisions of SB 946 until January 1, 2017.

5) **Support and Opposition as of 01/12/2016.**

Support:
- DIR Floor Time Coalition (Sponsor)
- Occupational Therapy Association of California
- 327 Individuals

Oppose:
- California Association of Behavior Analysts (Previous Version)
- Center for Autism and Related Disorders (Previous Version)
- Autism Research Group (previous version)

6) **History**

02/04/16 Referred to Coms. on HEALTH and HUMAN S.
01/25/16 In Senate. Read first time. To Com. on RLS. for assignment.
01/25/16 Read third time. Passed. Ordered to the Senate. (Ayes 75. Noes 0. Page 3476.)
01/21/16 Read second time. Ordered to third reading.
01/21/16 From committee: Do pass. (Ayes 17. Noes 0.) (January 21).
01/14/16 Re-referred to Com. on APPR.
01/13/16 From committee chair, with author's amendments: Amend, and re-refer to Com. on APPR. Read second time and amended.

01/13/16 From committee: Do pass and re-refer to Com. on APPR. (Ayes 18. Noes 0.) (January 12). Re-referred to Com. on APPR.
01/12/16 From committee: Do pass and re-refer to Com. on HEALTH. (Ayes 12. Noes 0.) (January 12). Re-referred to Com. on HEALTH.
01/07/16 (pending re-refer to Com. on HEALTH.)
01/07/16 Assembly Rule 56 suspended. (Page 3366.)
01/04/16 Re-referred to Com. on B. & P.
01/04/16 From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.
05/07/15 In committee: Reconsideration granted.
05/07/15 Joint Rule 62(a), file notice suspended. (Page 1320.)
05/05/15 In committee: Set, first hearing. Failed passage.
04/09/15 (Ayes 51. Noes 26. Page 845.)
04/09/15 Re-referred to Coms. on B. & P. and HEALTH pursuant to Assembly Rule 96.
04/08/15 In committee: Hearing postponed by committee.
03/26/15 In committee: Hearing postponed by committee.
03/12/15 Referred to Coms. on HEALTH and B. & P.
02/27/15 From printer. May be heard in committee March 29.
02/26/15 Read first time. To print.

California LEGISLATIVE INFORMATION

AB-796 Health care coverage: autism and pervasive developmental disorders. (2015-2016)

AMENDED IN ASSEMBLY JANUARY 13, 2016

AMENDED IN ASSEMBLY JANUARY 04, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL **No. 796**

Introduced by Assembly Member Nazarian
(Coauthor: Assembly Member Rendon)

February 26, 2015

An act to amend Section 1374.73 of the Health and Safety Code, and to amend Section 10144.51 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 796, as amended, Nazarian. Health care coverage: autism and pervasive developmental disorders.

Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. A violation of those provisions is a crime. Existing law provides for the licensure and regulation of health insurers by the Department of Insurance.

Existing law requires every health care service plan contract and health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism until January 1, 2017, and defines "behavioral health treatment" to mean specified services provided by, among others, a qualified autism service professional supervised and employed by a qualified autism service provider. For purposes of this provision, existing law defines a "qualified autism service professional" to mean a person who, among other requirements, is a behavior service provider approved as a vendor by a California regional center to provide services as an associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program pursuant to specified regulations adopted under the Lanterman Developmental Disabilities Services Act.

This bill would extend the operation of these provisions to January 1, 2022. By extending the operation of these provisions, the violation of which by a health care service plan would be a crime, the bill would impose a state-mandated local program. The bill would require the Board of Psychology, no later than December 31, 2017, and thereafter as necessary, to convene a committee to create a list of evidence-based treatment modalities for purposes of ~~developing mandated~~ behavioral health treatment ~~modalities~~ for pervasive developmental disorder or ~~autism.~~ *autism, and to post the list on the department's Internet Web site no later than January 1, 2019.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Autism and other pervasive developmental disorders are complex neurobehavioral disorders that include impairments in social communication and social interaction combined with rigid, repetitive behaviors, interests, and activities.

(b) Autism covers a large spectrum of symptoms and levels of impairment ranging in severity from somewhat limiting to a severe disability that may require institutional care.

(c) One in 68 children born today will be diagnosed with autism or another pervasive developmental disorder.

(d) Research has demonstrated that children diagnosed with autism can often be helped with early administration of behavioral health treatment.

(e) There are several forms of evidence-based behavioral health treatment, including, but not limited to, applied behavioral analysis.

(f) Children diagnosed with autism respond differently to behavioral health treatment.

(g) It is critical that each child diagnosed with autism receives the specific type of evidence-based behavioral health treatment best suited to him or her, as prescribed by his or her physician or developed by a psychologist.

(h) The Legislature intends that all forms of evidence-based behavioral health treatment be covered by health care service plans, pursuant to Section 1374.73 of the Health and Safety Code, and health insurance policies, pursuant to Section 10144.51 of the Insurance Code.

(i) The Legislature intends that health care service plan provider networks include qualified professionals practicing all forms of evidence-based behavioral health treatment other than just applied behavioral analysis.

SEC. 2. Section 1374.73 of the Health and Safety Code is amended to read:

1374.73. (a) (1) Every health care service plan contract that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism no later than July 1, 2012. The coverage shall be provided in the same manner and shall be subject to the same requirements as provided in Section 1374.72.

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

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

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

(b) Every health care service plan subject to this section shall maintain an adequate network that includes qualified autism service providers who supervise and employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. Nothing shall prevent a health care service plan from selectively contracting with providers within these requirements.

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

(1) "Behavioral health treatment" means professional services and treatment programs, including applied

behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism and that meet all of the following criteria:

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

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

(i) A qualified autism service provider.

(ii) A qualified autism service professional supervised and employed by the qualified autism service provider.

(iii) A qualified autism service paraprofessional supervised and employed by a qualified autism service provider.

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

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

(ii) Designs an intervention plan that includes the service type, number of hours, and parent participation needed to achieve the plan's goal and objectives, and the frequency at which the patient's progress is evaluated and reported.

(iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical efficacy in treating pervasive developmental disorder or autism.

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

(D) The treatment plan is not used for purposes of providing or for the reimbursement of respite, day care, or educational services and is not used to reimburse a parent for participating in the treatment program. The treatment plan shall be made available to the health care service plan upon request.

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

(3) "Qualified autism service provider" means either of the following:

(A) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited by the National Commission for Certifying Agencies, and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person, entity, or group that is nationally certified.

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

(4) "Qualified autism service professional" means an individual who meets all of the following criteria:

(A) Provides behavioral health treatment.

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

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

(D) Is a behavioral service provider approved as a vendor by a California regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program as defined in Section 54342 *of Subchapter 2 of Chapter 3 of*

Division 2 of Title 17 of the California Code of Regulations.

(E) Has training and experience in providing services for pervasive developmental disorder or autism pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

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

(A) Is employed and supervised by a qualified autism service provider.

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

(C) Meets the criteria set forth in the regulations adopted pursuant to Section 4686.3 of the Welfare and Institutions Code.

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

(d) This section shall not apply to the following:

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

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

(3) A health care service plan contract in the Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code).

(4) A health care benefit plan or contract entered into with the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).

(e) Nothing in this section shall be construed to limit the obligation to provide services under Section 1374.72.

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

(g) No later than December 31, 2017, and thereafter as necessary, the Board of Psychology, upon appropriation of the Legislature, shall convene a committee to create a list of evidence-based treatment modalities for purposes of ~~developing mandated~~ behavioral health treatment ~~modalities~~ for pervasive developmental disorder or autism. *The Board of Psychology shall post the list of evidence-based treatment modalities on its Internet Web site no later than January 1, 2019.*

(h) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 3. Section 10144.51 of the Insurance Code is amended to read:

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

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

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

(4) This section shall not affect or reduce any obligation to provide services under an individualized education

program, as defined in Section 56032 of the Education Code, or an individual service plan, as described in Section 5600.4 of the Welfare and Institutions Code, or under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(b) Pursuant to Article 6 (commencing with Section 2240) *of Subchapter 2 of Chapter 5* of Title 10 of the California Code of Regulations, every health insurer subject to this section shall maintain an adequate network that includes qualified autism service providers who supervise and employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. Nothing shall prevent a health insurer from selectively contracting with providers within these requirements.

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

(1) "Behavioral health treatment" means professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism, and that meet all of the following criteria:

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

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

(i) A qualified autism service provider.

(ii) A qualified autism service professional supervised and employed by the qualified autism service provider.

(iii) A qualified autism service paraprofessional supervised and employed by a qualified autism service provider.

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

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

(ii) Designs an intervention plan that includes the service type, number of hours, and parent participation needed to achieve the plan's goal and objectives, and the frequency at which the patient's progress is evaluated and reported.

(iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical efficacy in treating pervasive developmental disorder or autism.

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

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

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

(3) "Qualified autism service provider" means either of the following:

(A) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited by the National Commission for Certifying Agencies, and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person, entity, or group that is nationally certified.

(B) A person licensed as a physician and surgeon, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or audiologist pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who designs, supervises, or provides treatment for pervasive developmental

disorder or autism, provided the services are within the experience and competence of the licensee.

(4) "Qualified autism service professional" means an individual who meets all of the following criteria:

(A) Provides behavioral health treatment.

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

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

(D) Is a behavioral service provider approved as a vendor by a California regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program as defined in Section 54342 *of Subchapter 2 of Chapter 3 of Division 2* of Title 17 of the California Code of Regulations.

(E) Has training and experience in providing services for pervasive developmental disorder or autism pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code.

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

(A) Is employed and supervised by a qualified autism service provider.

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

(C) Meets the criteria set forth in the regulations adopted pursuant to Section 4686.3 of the Welfare and Institutions Code.

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

(d) This section shall not apply to the following:

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

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

(3) A health insurance policy in the Healthy Families Program (Part 6.2 (commencing with Section 12693)).

(4) A health care benefit plan or policy entered into with the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government Code).

(e) Nothing in this section shall be construed to limit the obligation to provide services under Section 10144.5.

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

(g) No later than December 31, 2017, and thereafter as necessary, the Board of Psychology, upon appropriation by the Legislature, shall convene a committee to create a list of evidence-based treatment modalities for purposes of ~~developing mandated~~ behavioral health treatment ~~modalities~~ for pervasive developmental disorder or autism. *The Board of Psychology shall post the list of evidence-based treatment modalities on its Internet Web site no later than January 1, 2019.*

(h) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

California Board of
PSYCHOLOGY

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March 8, 2016

The Honorable Ed Hernandez
California State Senate
State Capitol, Room 2080
Sacramento, CA 95814

RE: **AB 796 (Nazarian) – Health care coverage: autism and pervasive developmental disorders - OPPOSE**

Dear Senator Hernandez:

At its February 25, 2016 meeting, the Board of Psychology (Board) adopted an **Oppose** position on **AB 796**. The bill would require that the Board of Psychology convene a committee to create a list of evidence-based treatment modalities for purposes of behavioral health treatment for pervasive developmental disorder or autism, and extend the health insurance coverage for this treatment until January 1, 2022.

Developing practice based lists for insurance coverage is not the statutory charge of the Board. It is unprecedented in the Department of Consumer Affairs to engage in such a charge. As such, the Board opposes the bill.

The Board's mission is to advance quality psychological services for Californians by ensuring ethical and legal practice and supporting the evolution of the profession. It is not within its purview to evaluate disparate research and vet acceptable treatment approaches. The Board is intended to evaluate the ethical and legal obligations of our licensees and registrants by referring to, among other things, the standard of care in the field. It would be antithetical to that process to involve ourselves in dictating the standard of care, which is a constantly evolving standard dictated by the professionals competent to practice with the relevant population.

If you have any questions or concerns regarding this position, please feel free to contact the Board's Executive Officer, Antonette Sorrick, at (916) 574-7113. Thank you.

Sincerely,

STEPHEN C. PHILLIPS, JD, PsyD
President, Board of Psychology

cc: Assembly Member Adrin Nazarian
Senate Committee on Health
Senate Committee on Health Consultant Reyes Diaz

ASSEMBLY THIRD READING
AB 796 (Nazarian)
As Amended January 13, 2016
Majority vote

Committee	Votes	Ayes	Noes
Business & Professions	12-0	Bonilla, Jones, Baker, Bloom, Campos, Chang, Dodd, Gatto, Holden, Mullin, Ting, Wood	
Health	18-0	Bonta, Maienschein, Bonilla, Burke, Chiu, Gomez, Gonzalez, Roger Hernández, Lackey, Nazarian, Patterson, Ridley-Thomas, Rodriguez, Santiago, Steinorth, Thurmond, Waldron, Wood	
Appropriations	17-0	Gomez, Bigelow, Bloom, Bonilla, Bonta, Calderon, Chang, Daly, Eggman, Gallagher, Eduardo Garcia, Holden, Jones, Quirk, Wagner, Weber, Wood	

SUMMARY: Requires the Board of Psychology (BOP) to convene a committee to create a list of evidence-based treatment modalities for purposes of developing mandated behavioral health treatment (BHT) modalities for pervasive development disorder or autism (PDD/A). Extends the sunset provisions requiring health care service plans to provide health coverage for BHT for PDD/A to January 1, 2022.

FISCAL EFFECT: According to the Assembly Appropriations Committee:

1) Costs to BOP of under $50,000 for each update to the list of evidence-based BHT models for an unspecified number of updates between 2017 and the bill's sunset in 2022.

2) The California Health Benefits Review Program (CHBRP) estimated no impact on private insurance premium cost or on public health from a previous bill (SB 126 (Steinberg), Chapter 680, Statutes of 2013) that extended the sunset on the BHT mandate from January 1, 2014 to January 1, 2017, given that state mental health parity laws already require coverage for this treatment. Although a CHBRP analysis was not performed on the current version of this bill, it appears as through the same reasoning would hold, and there would be no premium cost impact from a provision extending the mandate for additional years.

3) Potential minor and absorbable costs to the Department of Managed Health Care (DMHC) (Managed Care Fund) and the California Department of Insurance (Insurance Fund) to oversee compliance with the existing mandate for an additional five years. Compliance costs for coverage of BHT generally are due to state and federal mental health parity laws, and not to this mandate. However, extending this mandate would extend important definitions of

qualified providers and network requirements, as well as some specificity in what must be covered, for an additional five years.

4) The creation of a state-sanctioned list of evidence-based treatments is intended to lead to coverage of more types of behavioral health treatment by health plans and insurers. Although the current mandate already requires coverage of BHT, which is defined to include "evidence-based behavior intervention programs," to the extent this bill increases coverage for and utilization of various BHTs, it could result in unknown cost pressure to premiums in the private market. State-provided health insurance, including Medi-Cal and plans offered by CalPERS, are exempt from this mandate.

COMMENTS: According to the author, this bill recognizes that there is no one size fits all BHT for an individual diagnosed with autism. Every child on the autism spectrum presents differently, as such treatment options must reflect that spectrum. The author states that this bill ensures children diagnosed with autism will receive insurance coverage for the type of evidence-based BHT that is right and selected for them by the medical professional that knows the child best.

1) **DMHC Autism Advisory Task Force.** SB 946 (Steinberg), Chapter 650, Statutes of 2011, requires DMHC to convene an Autism Advisory Task Force (Task Force) by February 1, 2012, to develop recommendations regarding medically necessary BHT for individuals with PDD/A, as well as the appropriate qualifications, training, and supervision for providers of such treatment. SB 946 also requires the Task Force to develop recommendations regarding the education, training, and experience requirements that unlicensed individuals providing BHT must meet in order to obtain licensure from the state. The Task Force consisted of 18 members including research experts, treating providers, health plan representatives, consumer advocates, and members-at-large, many of whom were also parents of individuals with PDD/A.

   The Task Force concluded that behavioral health interventions need to be highly individualized and that treatment selection should be made by a team of individuals who can consider the unique needs and history of the individual with PDD/A. The Task Force determined that it would not be informative to state policy makers to merely develop a list of BHTs that are determined to be effective, based solely on current scientific literature.

2) **Pervasive Developmental Disorders and Autism.** PDD/As are neurodevelopmental disorders that typically become symptomatic in children aged two to three years. They are chronic conditions characterized by impairments in social interactions, communication, sensory processing, repetitive behaviors or interests, and sometimes cognitive function. Symptoms range from mild to severe, as reflected by the phrase "autism spectrum disorders" (ASD). CHBRP estimates that approximately 87,000 Californians have PDD/A. Many persons with PDD/A (primarily children) are treated with Intensive Behavioral Intervention Therapy, which aim to improve behavior, cognitive function, language, and social skills.

3) **Behavioral Health Treatment.** Behavior analysis focuses on the principles that explain how learning takes place. Positive reinforcement is one such principle. When a behavior is followed by some sort of reward, the behavior is more likely to be repeated. Through decades of research, the field of behavior analysis has developed many techniques for increasing useful behaviors and reducing those that may cause harm or interfere with learning. Applied Behavior Analysis (ABA) is the use of these techniques and principles to

bring about meaningful and positive change in behavior. ABA emerged in the early 1960's as a treatment therapy and is therefore one of the most researched and recognized therapies. However, PDD/A is a complex disorder that impacts every child differently and typically involves more than one type of treatment therapy, of which there are many. Other therapies include the Early Start Denver Model, a developmental, relationship-based intervention approach that utilizes teaching techniques consistent with ABA, Developmental, Individual-differences, & Relationship-based Floortime (DIR/Floortime) a specific technique to both follow the child's natural emotional interests and at the same time challenge the child towards mastery of the social, emotional, and intellectual capacities.

Hundreds of individuals writing in support of a previous version of this bill state that by requiring frontline providers to be vendored by the regional centers, SB 946 limits treatment for ASD to only one therapy, ABA. This bill would apply the same level of requirements to other evidence-based forms of therapy and will allow parents the opportunity to receive insurance coverage for the BHT that is the most appropriate for their child.

The DIR/Floortime Coalition of California writes in strong support to a previous version of the bill that by allowing frontline personnel trained in the specific form of treatment contained within the scope of the treatment plan developed by their physician or psychologist, parents, and treatment providers will be able to seek the most appropriate treatment for their child with Autism.

Center for Autism & Related Disorders (CARD) states in opposition to a previous version of this bill, that it will amend California's landmark autism mandate to expand the definition of "qualified autism service professional" to include individuals who are not qualified to provide evidence-based BHT and who were never intended to be included in the definition of QAS professional. CARD argues that the effectiveness of evidence-based autism treatment requires trained and experienced individuals to oversee and implement it.

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