

MEMORANDUM

DATE	February 26, 2017
TO	Policy and Advocacy Committee
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #7(a)(i)(B) – AB 1074 (Maienschein) Knox-Keene Health Care Service Plan Act of 1975

Background:

This bill would require a qualified autism service professional or a qualified autism service paraprofessional to be supervised by a qualified autism service provider for purposes of providing behavioral health treatment. This bill would also authorize a qualified autism service professional to supervise a qualified autism service paraprofessional. This bill would also specify that the behavioral health treatment may include clinical case management and case supervision.

Location: Assembly

Status: 02/16/2017 Introduced.

Action Requested:

The staff recommendation is for the Committee to watch AB 1074 (Maienschein). Staff will continue to monitor the development of the bill as stakeholders debate the merits of the bill's proposed expedited process.

Attachment A: Analysis of AB 1074 (Maienschein)

Attachment B: AB 1074 (Maienschein) Bill Text

2017 Bill Analysis

Author: Maienschien	Bill Number: AB 1074	Related Bills: SB 399
Sponsor: Center for Autism and Related Disorders and the California Association for Behavior Analysis	Version: Introduced 02/16/2017	(Portantino)
Subject: Health care coverage: Pervasive Developmental Disorder or Autism		

SUMMARY

This bill would modify the employment requirements for the Qualified Autism Service Professional (Professional) and Qualified Autism Service Paraprofessional (Paraprofessional). Additionally, this bill would modify when a Professional can supervise a Paraprofessional. This bill would also remove the requirement for the Professional to be an approved vendor by a California Regional Center. Lastly, this bill would make additional technical clarifying changes to the law.

RECOMMENDATION

WATCH - This bill makes multiple technical clarifying changes to the law. Board of Psychology (Board) staff do not have concerns with these provisions, with the caveat that these amendments do not remove any State oversight of these providers. Board staff will continue to monitor this as the bill moves through the legislative process.

REASON FOR THE BILL

According to the author, this bill would clarify employment requirements for Professionals and Paraprofessionals, remove the requirement for providers to first be a vendor at a regional center; while maintaining the existing education and training standards for these providers, and clarify when a Professional can supervise a Paraprofessional.

The author states that changes in the bill reflect existing practices in the field and remove unnecessary barriers for providers. According to the author, making these minor changes will provide clarity for employers, health plans, and increase access to care.

Other Boards/Departments that may be affected:	
<input type="checkbox"/> Change in Fee(s)	<input type="checkbox"/> Affects Licensing Processes
<input type="checkbox"/> Urgency Clause	<input type="checkbox"/> Affects Enforcement Processes
<input type="checkbox"/> Regulations Required	<input type="checkbox"/> Legislative Reporting
<input type="checkbox"/> New Appointment Required	
Policy & Advocacy Committee Position:	Full Board Position:
<input type="checkbox"/> Support	<input type="checkbox"/> Support
<input type="checkbox"/> Support if Amended	<input type="checkbox"/> Support if Amended
<input type="checkbox"/> Oppose	<input type="checkbox"/> Oppose
<input type="checkbox"/> Oppose Unless Amended	<input type="checkbox"/> Oppose Unless Amended
<input type="checkbox"/> Neutral	<input type="checkbox"/> Neutral
<input type="checkbox"/> Watch	<input type="checkbox"/> Watch
Date: _____	Date: _____
Vote: _____	Vote: _____

Healthy Families Program and those under the Public Employees Retirement System health care benefit plan or contract.

According to the sponsor, clinical case management is currently being completed as amended and the change in statute would bring the codes up to date with current practice. The removal of the Welfare and Institutions Code reference is because the reference is incorrect and references an unrelated section. The exemptions are no longer necessary, as Healthy Families no longer exists, and PERS plans are required to provide the services under the now permanent health insurance mandate.

Board staff has no concerns regarding these technical amendments.

LEGISLATIVE HISTORY

AB 796 (Nazarian, Chapter 493, Statutes of 2016) removed the sunset provision set forth in SB 796 (Steinberg).

AB 1715 (Holden, 2016) would have required the Board of Psychology to license the practice of Behavior Analysis. This bill died in the Senate Business Professions and Economic Development Committee.

SB 1034 (Mitchell, 2016) would have made similar changes to AB 796, but was held in the Assembly Committee of Appropriations.

SB 946 (Steinberg, Chapter 650, Statutes of 2011) requires health plans and health insurance policies to cover behavioral health therapy for individuals with PDD or ASD. Additionally, it requires plans and insurers to maintain adequate networks of ASD service providers, and established an Autism Advisory Task Force in the Department of Managed Health Care.

OTHER STATES' INFORMATION

No applicable

PROGRAM BACKGROUND

The Board advances quality psychological services for Californians by ensuring ethical and legal practice and supporting the evolution of the practice. To accomplish this, the Board regulates licensed psychologists, psychological assistants, and registered psychologists.

Although the Board does not have direct involvement with QASP's, Professionals, and Paraprofessionals, the Board has advocated for enhanced oversight of these providers and for their licensure under the Board of Psychology. As no additional oversight of these providers has been instituted in the form of licensure, the Board has a vested interest in ensuring that these providers have some form of oversight to determine they are qualified to be providing services to this vulnerable population.

ASSEMBLY BILL

No. 1074

Introduced by Assembly Member Maienschein

February 16, 2017

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 1074, as introduced, Maienschein. Health care coverage: pervasive developmental disorder or autism.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or a health insurance policy to provide coverage for behavioral health treatment for pervasive developmental disorder or autism, 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.

This bill would revise those provisions, for purposes of health care service plans and health insurers, to require a qualified autism service professional or a qualified autism service paraprofessional to be supervised by a qualified autism service provider for purposes of providing behavioral health treatment. The bill would require a qualified autism service professional and a qualified autism service paraprofessional to be employed by a qualified autism service provider

1 4500) of the Welfare and Institutions Code or Title 14
2 (commencing with Section 95000) of the Government Code.

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

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

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

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

25 (A) The treatment is prescribed by a physician and surgeon
26 licensed pursuant to Chapter 5 (commencing with Section 2000)
27 of, or is developed by a psychologist licensed pursuant to Chapter
28 6.6 (commencing with Section 2900) of, Division 2 of the Business
29 and Professions Code.

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

33 (i) A qualified autism service provider.

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

36 (iii) A qualified autism service paraprofessional supervised ~~and~~
37 employed by a qualified autism service ~~provider~~. *provider or*
38 *qualified autism service professional.*

39 (C) The treatment plan has measurable goals over a specific
40 timeline that is developed and approved by the qualified autism

1 or provides treatment for pervasive developmental disorder or
2 autism, provided the services are within the experience and
3 competence of the licensee.

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

6 (A) Provides behavioral health ~~treatment~~; *treatment, which may*
7 *include clinical case management and case supervision under the*
8 *direction and supervision of a qualified autism service provider.*

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

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

13 (D) ~~Is a behavioral service provider approved as a vendor by a~~
14 ~~California regional center to provide services as who meets the~~
15 ~~education and experience qualifications described in Section 54342~~
16 ~~of Title 17 of the California Code of Regulations for an Associate~~
17 ~~Behavior Analyst, Behavior Analyst, Behavior Management~~
18 ~~Assistant, Behavior Management Consultant, or Behavior~~
19 ~~Management Program as defined in Section 54342 of Article 3 of~~
20 ~~Subchapter 2 of Chapter 3 of Division 2 of Title 17 of the~~
21 ~~California Code of Regulations: Program.~~

22 (E) Has training and experience in providing services for
23 pervasive developmental disorder or autism pursuant to Division
24 4.5 (commencing with Section 4500) of the Welfare and
25 Institutions Code or Title 14 (commencing with Section 95000)
26 of the Government Code.

27 (F) *Is employed by a qualified autism service provider or an*
28 *entity or group that employs qualified autism service providers.*

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

32 (A) ~~Is employed and supervised by a qualified autism service~~
33 ~~provider; *provider or qualified autism service professional.*~~

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

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

39 (C) *Meets the education and training qualifications described*
40 *in Section 54342 of Title 17 of the California Code of Regulations.*

1 as amended by the federal Health Care and Education
2 Reconciliation Act of 2010 (Public Law 111-152).

3 (3) This section shall not affect services for which an individual
4 is eligible pursuant to Division 4.5 (commencing with Section
5 4500) of the Welfare and Institutions Code or Title 14
6 (commencing with Section 95000) of the Government Code.

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

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

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

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

31 (A) The treatment is prescribed by a physician and surgeon
32 licensed pursuant to Chapter 5 (commencing with Section 2000)
33 of, or is developed by a psychologist licensed pursuant to Chapter
34 6.6 (commencing with Section 2900) of, Division 2 of the Business
35 and Professions Code.

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

39 (i) A qualified autism service provider.

1 the services are within the experience and competence of the
2 ~~person, entity, or group that~~ *person who* is nationally certified.

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

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

14 (A) Provides behavioral health ~~treatment.~~ *treatment, which may*
15 *include clinical case management and case supervision under the*
16 *direction and supervision of a qualified autism service provider.*

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

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

21 (D) Is a behavioral service provider ~~approved as a vendor by a~~
22 ~~California regional center to provide services as~~ *who meets the*
23 *education and experience qualifications described in Section 54342*
24 *of Title 17 of the California Code of Regulations for an Associate*
25 *Behavior Analyst, Behavior Analyst, Behavior Management*
26 *Assistant, Behavior Management Consultant, or Behavior*
27 *Management Program as defined in Section 54342 of Article 3 of*
28 ~~Subchapter 2 of Chapter 3 of Division 2 of Title 17 of the~~
29 ~~California Code of Regulations.~~ *Program.*

30 (E) Has training and experience in providing services for
31 pervasive developmental disorder or autism pursuant to Division
32 4.5 (commencing with Section 4500) of the Welfare and
33 Institutions Code or Title 14 (commencing with Section 95000)
34 of the Government Code.

35 (F) *Is employed by a qualified autism service provider or an*
36 *entity or group that employs qualified autism service providers.*

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

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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