

AMENDED IN SENATE APRIL 4, 2011

**SENATE BILL**

**No. 166**

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**Introduced by Senator Steinberg**

February 3, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

SB 166, as amended, Steinberg. Health care coverage: *mental illness*: autism spectrum disorders.

*(1) Existing law provides for licensure and regulation of health care service plans by the Department of Managed Health Care. A willful violation of these provisions is a crime. Existing law provides for regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide benefits for specified conditions, including certain mental health conditions.*

*This bill would require those health care service plan contracts and health insurance policies to also provide coverage for behavioral intervention therapy, as defined, for pervasive developmental disorder or autism. The bill would, however, provide that no benefits are required to be provided that exceed the essential health benefits required under federal law. Because a violation of these provisions with respect to health care service plans would be a crime, the bill would thereby impose a state-mandated local program.*

*(2) 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.*

~~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. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires that health care service plan contracts and health insurance policies provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses, including, but not limited to, pervasive developmental disorder or autism, under the same terms and conditions applied to other medical conditions, as specified.~~

~~This bill would state the intent of the Legislature to enact legislation that would develop standards for the diagnosis and treatment by health care service plans and health insurers of individuals with autism spectrum disorders.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. *The Legislature finds and declares all of the*
- 2     *following:*
- 3     (a) *During the past decade, scientific research has established*
- 4     *that behavioral intervention therapy can significantly improve the*
- 5     *cognitive function and emotional capabilities of, and reduce*
- 6     *self-injurious behaviors of, a significant number of individuals*
- 7     *with pervasive developmental disorders or autism.*
- 8     (b) *Scientists, physicians, and other autism experts now consider*
- 9     *that behavioral intervention therapy is an important and medically*
- 10    *necessary treatment for a significant number of individuals with*
- 11    *pervasive developmental disorder or autism.*
- 12    (c) *Controversy, uncertainty, and disparities currently exist*
- 13    *among some health care service plans and health insurers as to*
- 14    *whether behavioral intervention therapy should be a covered*
- 15    *benefit for pervasive developmental disorder or autism.*
- 16    (d) *It is the intent of this act to provide clarification of existing*
- 17    *laws requiring mental health parity and to provide for coverage*

1 of behavioral intervention therapy with regard to pervasive  
2 developmental disorder or autism.

3 SEC. 2. Section 1374.73 is added to the Health and Safety  
4 Code, to read:

5 1374.73. (a) (1) Every health care service plan contract  
6 issued, amended, or renewed on or after January 1, 2012, that  
7 provides hospital, medical, or surgical coverage pursuant to  
8 Section 1374.72 shall provide coverage for behavioral intervention  
9 therapy for pervasive developmental disorder or autism. The  
10 coverage shall be provided in the same manner and shall be subject  
11 to the same requirements as provided in Section 1374.72.

12 (2) Notwithstanding paragraph (1), this section does not require  
13 any benefits to be provided that exceed the essential health benefits  
14 required to be provided under Section 1302(b) of the federal  
15 Patient Protection and Affordable Care Act (Public Law 111-148),  
16 as amended by the federal Health Care and Education  
17 Reconciliation Act of 2010 (Public Law 111-152).

18 (3) This section shall not be construed as reducing any  
19 obligation to provide services to an individual under an  
20 individualized family service plan, an individualized program plan,  
21 a prevention program plan, an individualized education program,  
22 or an individualized service plan.

23 (b) (1) For the purposes of this section, “behavioral  
24 intervention therapy” shall be defined to include, but not be limited  
25 to, the following:

26 (A) The design, implementation, and evaluation of environmental  
27 modifications, such as applied behavioral analysis, using  
28 behavioral stimuli and consequences, to produce significant  
29 improvement in human health functions and behaviors, including  
30 the use of direct observation, measurement, and functional analysis  
31 of the relationship between environment and behavior.

32 (B) Professional services or treatment programs that have been  
33 scientifically validated and have demonstrated clinical efficacy.

34 (C) Professional services or treatment programs that have  
35 measurable treatment outcomes.

36 (2) For the purposes of this section, “pervasive developmental  
37 disorder or autism” shall have the meaning as used in Section  
38 1374.72.

39 SEC. 3. Section 10144.51 is added to the Insurance Code, to  
40 read:

1 10144.51. (a) (1) Every health insurance policy issued,  
2 amended, or renewed on or after January 1, 2012, that provides  
3 hospital, medical, or surgical coverage pursuant to Section 10144.5  
4 shall provide coverage for the behavioral intervention therapy for  
5 pervasive developmental disorder or autism. The coverage shall  
6 be provided in the same manner and shall be subject to the same  
7 requirements as provided in Section 10144.5.

8 (2) Notwithstanding paragraph (1), this section does not require  
9 any benefits to be provided that exceed the essential health benefits  
10 required to be provided under Section 1302(b) of the federal  
11 Patient Protection and Affordable Care Act (Public Law 111-148),  
12 as amended by the federal Health Care and Education  
13 Reconciliation Act of 2010 (Public Law 111-152).

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24 behavioral stimuli and consequences, to produce significant  
25 improvement in human health functions and behaviors, including  
26 the use of direct observation, measurement, and functional analysis  
27 of the relationship between environment and behavior.

28 (B) Professional services or treatment programs that have been  
29 scientifically validated and have demonstrated clinical efficacy.

30 (C) Professional services or treatment programs that have  
31 measurable treatment outcomes.

32 (2) For the purposes of this section, “pervasive developmental  
33 disorder or autism” shall have the meaning as used in Section  
34 10144.5.

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

1 *the Government Code, or changes the definition of a crime within*  
2 *the meaning of Section 6 of Article XIII B of the California*  
3 *Constitution.*

4 ~~SECTION 1.~~ Section 1374.73 is added to the Health and Safety  
5 Code, to read:

6 ~~1374.73.~~ It is the intent of the Legislature to enact legislation  
7 that would develop standards for the diagnosis and treatment by  
8 health care service plans of individuals with autism spectrum  
9 disorders.

10 ~~SEC. 2.~~ Section 10144.51 is added to the Insurance Code, to  
11 read:

12 ~~10144.51.~~ It is the intent of the Legislature to enact legislation  
13 that would develop standards for the diagnosis and treatment by  
14 health insurers of individuals with autism spectrum disorders.

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