

AMENDED IN ASSEMBLY JUNE 24, 2010

AMENDED IN SENATE MAY 26, 2010

AMENDED IN SENATE APRIL 28, 2010

AMENDED IN SENATE MARCH 23, 2010

**SENATE BILL**

**No. 1282**

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**Introduced by Senator Steinberg**

February 19, 2010

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~~An act to add and repeal Chapter 5.2 (commencing with Section 2529.50) of Division 2 of the Business and Professions Code, relating to healing arts.~~ *An act relating to health care coverage.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1282, as amended, Steinberg. ~~Applied behavior analysis.~~ *Health care coverage.*

*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 health care service plan contracts and health insurance policies to 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 to provide clarification on the duties imposed upon health care service plans and health insurers to inform consumers about the coverage provided for the diagnosis and treatment of autism and pervasive developmental disorders under the existing mental health parity law.*

Existing law provides for the licensure and regulation of various healing arts practitioners, including, but not limited to, marriage and family therapists, clinical social workers, educational psychologists, and professional clinical counselors, by the Board of Behavioral Sciences in the Department of Consumer Affairs.

~~This bill would, until January 1, 2017, make it an unfair business practice for a person to use certain titles or other terms implying that he or she is certified as an applied behavior analyst unless he or she holds a current certification from a specified organization, or to state, advertise, or represent that he or she is certified or licensed by a governmental agency as an applied behavior analyst. The bill would make its provisions subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection.~~

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

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

1     SECTION 1. *It is the intent of the Legislature to enact*  
2 *legislation to provide clarification on the duties imposed upon*  
3 *health care service plans and health insurers to inform consumers*  
4 *about the coverage provided for the diagnosis and treatment of*  
5 *autism and pervasive developmental disorders under the existing*  
6 *mental health parity law.*

7     ~~SECTION 1. It is the intent of the Legislature in enacting this~~  
8 ~~act to provide state recognition of educated, trained, and~~  
9 ~~experienced individuals that provide applied behavior analysis to~~  
10 ~~individuals with medical conditions such as autism spectrum~~  
11 ~~disorder and other conditions that are responsive to applied~~  
12 ~~behavior analysis.~~

13     ~~SEC. 2. Chapter 5.2 (commencing with Section 2529.50) is~~  
14 ~~added to Division 2 of the Business and Professions Code, to read:~~

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16             ~~CHAPTER 5.2. APPLIED BEHAVIOR ANALYSIS~~

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18     ~~2529.50. For purposes of this chapter, “applied behavior~~  
19 ~~analyst” means a person who provides applied behavior analysis.~~

20     ~~2529.51. (a) For purposes of this chapter, “applied behavior~~  
21 ~~analysis” means any of the following functions:~~

1 ~~(1) Designing, implementing, and evaluating systematic~~  
2 ~~instructional and environmental modifications to produce social~~  
3 ~~improvements in the behavior of individuals or groups.~~

4 ~~(2) Applying the principles, methods, and procedures of behavior~~  
5 ~~analysis.~~

6 ~~(3) Utilizing contextual factors and establishing operations,~~  
7 ~~antecedent stimuli, positive reinforcement, other consequences,~~  
8 ~~and other behavior analysis procedures to help people develop~~  
9 ~~new behaviors, increase or decrease existing behaviors, and emit~~  
10 ~~behaviors under specific environmental conditions.~~

11 ~~(4) Assessing functional relations between behavior and~~  
12 ~~environmental factors, known as functional assessment and~~  
13 ~~functional analysis.~~

14 ~~(5) Using procedures based on scientific research and the direct~~  
15 ~~observation and measurement of behavior and environment.~~

16 ~~(6) Determining whether a nonlicensed or noncertified individual~~  
17 ~~shall be deemed as qualified to perform all of the functions under~~  
18 ~~this subdivision, subject to his or her supervision.~~

19 ~~(b) “Applied behavior analysis” does not include psychological~~  
20 ~~testing, neuropsychology, psychotherapy, sex therapy,~~  
21 ~~psychoanalysis, hypnotherapy, or long-term counseling.~~

22 ~~(c) The definition in this section shall apply regardless of the~~  
23 ~~source of payment or reimbursement.~~

24 ~~2529.52. It is an unfair business practice for a person to state~~  
25 ~~or advertise or put out any sign or card or other device, or to~~  
26 ~~represent to the public through any print or electronic media, that~~  
27 ~~he or she is certified, registered, or licensed by a governmental~~  
28 ~~agency as an applied behavior analyst.~~

29 ~~2529.53. It is an unfair business practice for any person to hold~~  
30 ~~himself or herself out or to use the title of “certified applied~~  
31 ~~behavior analyst” or any other term, such as “licensed,”~~  
32 ~~“registered,” or “CABA,” that implies or suggests that the person~~  
33 ~~is certified as an applied behavior analyst without holding a current~~  
34 ~~certification from a national organization that certifies applied~~  
35 ~~behavior analysts and that is accredited by the National~~  
36 ~~Commission on Certifying Agencies.~~

37 ~~2529.54. The superior court in and for the county in which any~~  
38 ~~person acts in violation of the provisions of this chapter, may, upon~~  
39 ~~a petition by any person, issue an injunction or other appropriate~~  
40 ~~order restraining the conduct. The proceedings under this paragraph~~

1 shall be governed by Chapter 3 (commencing with Section 525)  
2 of Title 7 of Part 2 of the Code of Civil Procedure.

3 ~~2529.55. (a) Nothing in this chapter shall be construed to~~  
4 ~~prevent applied behavior analysis providers who are vendorized~~  
5 ~~by one of the California Regional Centers or hold state accredited~~  
6 ~~nonpublic agency status from developing, providing, or supervising~~  
7 ~~applied behavior analysis consistent with the requirements of their~~  
8 ~~Regional Center vendorization or nonpublic agency certification~~  
9 ~~or accreditation, provided their practice of applied behavior analysis~~  
10 ~~is commensurate with their level of training and experience, and~~  
11 ~~they do not hold themselves out to the public by any title or~~  
12 ~~description stating or implying that they are Certified Behavior~~  
13 ~~Analysts, that they are “certified” to practice applied behavior~~  
14 ~~analysis if they are not in fact certified, or that they are recognized~~  
15 ~~or certified by the state to practice applied behavior analysis.~~

16 ~~(b) Nothing in this chapter shall be construed to require~~  
17 ~~certification, licensure, recognition, or authorization to provide~~  
18 ~~applied behavior analysis nor to add to or increase requirements~~  
19 ~~for providing applied behavior analysis.~~

20 ~~(c) Nothing in this chapter shall be construed to prevent a~~  
21 ~~physician and surgeon, psychologist, clinical social worker,~~  
22 ~~marriage and family therapist, speech-language pathologist,~~  
23 ~~occupational therapist, physical therapist, or professional clinical~~  
24 ~~counselor from providing applied behavior analysis when acting~~  
25 ~~within the scope of his or her license, formal training, experience,~~  
26 ~~and accepted standards of his or her profession.~~

27 ~~2529.56. This chapter shall be subject to the review required~~  
28 ~~by Division 1.2 (commencing with Section 473).~~

29 ~~2529.57. This chapter shall remain in effect only until January~~  
30 ~~1, 2017, and as of that date is repealed, unless a later enacted~~  
31 ~~statute, that is enacted before January 1, 2017, deletes or extends~~  
32 ~~that date.~~