

Senate Bill 1523

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires coverage of applied behavior analysis and treatment of children with pervasive developmental disorder by self-insured plans offered by Public Employees' Benefit Board, Oregon Educators Benefit Board and Oregon Health and Science University. Clarifies that mental health parity applies to self-insured plans offered by Public Employees' Benefit Board, Oregon Educators Benefit Board and Oregon Health and Science University.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health care coverage; creating new provisions; amending ORS 676.800, 743A.168 and
3 743A.190 and sections 2, 23 and 24, chapter 771, Oregon Laws 2013; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2014 Act is added to and made a part of the Insurance Code.**

6 **SECTION 2. "Public employee plan" means a self-insured health benefit plan offered:**

7 (1) **By the Public Employees' Benefit Board;**

8 (2) **By the Oregon Educators Benefit Board; or**

9 (3) **To employees of Oregon Health and Science University.**

10 **SECTION 3. Section 2, chapter 771, Oregon Laws 2013, is amended to read:**

11 **Sec. 2.** (1) As used in this section and [*sections 3 and 3a of this 2013 Act*] **ORS 676.800:**

12 (a)(A) "Applied behavior analysis" means the design, implementation and evaluation of environ-
13 mental modifications, using behavioral stimuli and consequences, to produce significant improvement
14 in human social behavior, including the use of direct observation, measurement and functional
15 analysis of the relationship between environment and behavior and that is provided by:

16 (i) A licensed health care professional registered under [*section 3 of this 2013 Act*] **ORS**
17 **676.800;**

18 (ii) A behavior analyst or an assistant behavior analyst licensed under [*section 3 of this 2013*
19 *Act*] **ORS 676.800;** or

20 (iii) A behavior analysis interventionist registered under [*section 3 of this 2013 Act*] **ORS**
21 **676.800.**

22 (B) "Applied behavior analysis" excludes psychological testing, neuropsychology, psychotherapy,
23 cognitive therapy, sex therapy, psychoanalysis, hypnotherapy and long-term counseling as treatment
24 modalities.

25 (b) "Autism spectrum disorder" has the meaning given that term in the fifth edition of the Di-
26 agnostic and Statistical Manual of Mental Disorders (DSM-5) published by the American Psychiatric
27 Association.

28 (c) "Diagnosis" means medically necessary assessment, evaluation or testing.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (d) "Health benefit plan" has the meaning given that term in ORS 743.730.

2 (e) "Medically necessary" means in accordance with the definition of medical necessity that is
3 specified in the policy or certificate for the health benefit plan **or by the public employee plan** and
4 that applies to all covered services under the plan.

5 (f) "Treatment for autism spectrum disorder" includes applied behavior analysis for up to 25
6 hours per week and any other mental health or medical services identified in the individualized
7 treatment plan, as described in subsection (6) of this section.

8 (2) A health benefit plan **and a public employee plan** shall provide coverage of:

9 (a) The screening for and diagnosis of autism spectrum disorder by a licensed neurologist,
10 pediatric neurologist, developmental pediatrician, psychiatrist or psychologist, who has experience
11 or training in the diagnosis of autism spectrum disorder; and

12 (b) Medically necessary treatment for autism spectrum disorder and the management of care, for
13 an individual who begins treatment before nine years of age, subject to the requirements of this
14 section.

15 (3) This section does not require coverage for:

16 (a) Services provided by a family or household member;

17 (b) Services that are custodial in nature or that constitute marital, family, educational or
18 training services;

19 (c) Custodial or respite care, equine assisted therapy, creative arts therapy, wilderness or ad-
20 venture camps, social counseling, telemedicine, music therapy, neurofeedback, chelation or
21 hyperbaric chambers;

22 (d) Services provided under an individual education plan in accordance with the Individuals with
23 Disabilities Education Act, 20 U.S.C. 1400 et seq.;

24 (e) Services provided through community or social programs; or

25 (f) Services provided by the Department of Human Services or the Oregon Health Authority,
26 other than employee benefit plans offered by the department and the authority.

27 (4) An insurer **or a third party administrator** may not terminate coverage or refuse to issue
28 or renew coverage for an individual solely because the individual has received a diagnosis of autism
29 spectrum disorder or has received treatment for autism spectrum disorder.

30 (5) Coverage under this section may be subject to utilization controls that are reasonable in the
31 context of individual determinations of medical necessity. An insurer **and a third party adminis-**
32 **trator** may require:

33 (a) An autism spectrum disorder diagnosis by a professional described in subsection (2)(a) of this
34 section if the original diagnosis was not made by a professional described in subsection (2)(a) of this
35 section.

36 (b) Prior authorization for coverage of a maximum of 25 hours per week of applied behavior
37 analysis recommended in an individualized treatment plan approved by a professional described in
38 subsection (2)(a) of this section for an individual with autism spectrum disorder, as long as the
39 insurer **or third party administrator** makes a prior authorization determination no later than 30
40 calendar days after receiving the request for prior authorization.

41 (6) If an individual is receiving applied behavior analysis, an insurer **or a third party admin-**
42 **istrator** may require submission of an individualized treatment plan, which shall include all ele-
43 ments necessary for the insurer **or third party administrator** to appropriately determine coverage
44 under the health benefit plan **or public employee plan**. The individualized treatment plan must be
45 based on evidence-based screening criteria. An insurer **or a third party administrator** may require

1 an updated individualized treatment plan, not more than once every six months, that includes ob-
2 served progress as of the date the updated plan was prepared, for the purpose of performing utili-
3 zation review and medical management. The insurer **or third party administrator** may require the
4 individualized treatment plan to be approved by a professional described in subsection (2)(a) of this
5 section, and to include the:

6 (a) Diagnosis;

7 (b) Proposed treatment by type;

8 (c) Frequency and anticipated duration of treatment;

9 (d) Anticipated outcomes stated as goals, including specific cognitive, social, communicative,
10 self-care and behavioral goals that are clearly stated, directly observed and continually measured
11 and that address the characteristics of the autism spectrum disorder; and

12 (e) Signature of the treating provider.

13 (7)(a) Once coverage for applied behavior analysis has been approved, the coverage continues
14 as long as:

15 (A) The individual continues to make progress toward the majority of the goals of the individ-
16 ualized treatment plan; and

17 (B) Applied behavior analysis is medically necessary.

18 (b) An insurer **or a third party administrator** may require periodic review of an individualized
19 treatment plan, as described in subsection (6) of this section, and modification of the individualized
20 treatment plan if the review shows that the individual receiving the treatment is not making sub-
21 stantial clinical progress toward the goals of the individualized treatment plan.

22 (8) Coverage under this section may be subject to requirements and limitations no more re-
23 strictive than those imposed on coverage or reimbursement of expenses arising from the treatment
24 of other medical conditions under the **plan**, policy or certificate, including but not limited to:

25 (a) Requirements and limitations regarding in-network providers; and

26 (b) Provisions relating to deductibles, copayments and coinsurance.

27 (9) This section applies to coverage for up to 25 hours per week of applied behavior analysis for
28 an individual if the coverage is first requested when the individual is under nine years of age. This
29 section does not limit coverage for any services that are otherwise available to an individual under
30 ORS 743A.168 or 743A.190, including but not limited to:

31 (a) Treatment for autism spectrum disorder other than applied behavior analysis or the services
32 described in subsection (3) of this section.

33 (b) Applied behavior analysis for more than 25 hours per week; or

34 (c) Applied behavior analysis for an individual if the coverage is first requested when the indi-
35 vidual is nine years of age or older.

36 (10) Coverage under this section includes treatment for autism spectrum disorder provided in the
37 individual's home or a licensed health care facility or, for treatment provided by a licensed health
38 care professional registered with the Behavior Analysis Regulatory Board or a behavior analyst or
39 assistant behavior analyst licensed under [section 3 of this 2013 Act] **ORS 676.800**, in a setting ap-
40 proved by the health care professional, behavior analyst or assistant behavior analyst.

41 (11) An insurer **or a third party administrator** that provides coverage of applied behavior
42 analysis in accordance with a decision of an independent review organization that was made prior
43 to January 1, 2016, shall continue to provide coverage, subject to modifications made in accordance
44 with subsection (7) of this section.

45 (12) ORS 743A.001 does not apply to this section.

1 **SECTION 4.** Section 23, chapter 771, Oregon Laws 2013, is amended to read:

2 **Sec. 23.** Sections 2 and 10, [*of this 2013 Act*] **chapter 771, Oregon Laws 2013**, and the amend-
3 ments to ORS 743A.190 and 750.055 by [*sections 7 and 8 of this 2013 Act*] **section 8 of this 2014**
4 **Act and section 8, chapter 771, Oregon Laws 2013**, apply to:

5 (1) **Public employee plans as defined in section 2 of this 2014 Act** and health benefit plan
6 policies and certificates[:]

7 [*(1)*] offered by the Public Employees' Benefit Board, [*or*] **by the Oregon Educators Benefit Board**
8 **or to employees of Oregon Health and Science University**, for coverage beginning on or after
9 January 1, 2015; and

10 (2) **Health benefit plan policies and certificates** other than for plans offered by the Public
11 Employees' Benefit Board, [*or*] **by the Oregon Educators Benefit Board or to employees of Oregon**
12 **Health and Science University**, for coverage beginning on or after January 1, 2016.

13 **SECTION 5.** Section 24, chapter 771, Oregon Laws 2013, is amended to read:

14 **Sec. 24.** The amendments to [*section 3 of this 2013 Act by section 19 of this 2013 Act and the*
15 *amendments to*] ORS **676.800**, 743A.190 and 750.055 [*by sections 20 and 21 of this 2013 Act*] **by section**
16 **21, chapter 771, Oregon Laws 2013, and sections 9 and 10 of this 2014 Act**, become operative
17 January 2, 2022.

18 **SECTION 6.** ORS 676.800, as amended by section 19, chapter 771, Oregon Laws 2013, is
19 amended to read:

20 676.800. (1) There is created, within the Health Licensing Office, the Behavior Analysis Regu-
21 latory Board consisting of seven members appointed by the Governor, including:

22 (a) Three members who are licensed by the board;

23 (b) One member who is a licensed psychiatrist or developmental pediatrician, with experience
24 or training in treating autism spectrum disorder;

25 (c) One member who is a licensed psychologist registered with the board;

26 (d) One member who is a licensed speech-language pathologist registered with the board; and

27 (e) One member of the general public who does not have a financial interest in the provision
28 of applied behavior analysis and does not have a ward or family member who has been diagnosed
29 with autism spectrum disorder.

30 (2) Not more than one member of the Behavior Analysis Regulatory Board may be an employee
31 of an insurer.

32 (3) The term of office of each member is four years, but a member serves at the pleasure of the
33 Governor. Before the expiration of the term of a member, the Governor shall appoint a successor
34 whose term begins on November 1 next following. A member is eligible for reappointment. If there
35 is a vacancy for any cause, the Governor shall make an appointment to become immediately effec-
36 tive for the unexpired term.

37 (4) A member of the Behavior Analysis Regulatory Board is entitled to compensation and ex-
38 penses as provided in ORS 292.495.

39 (5) The Behavior Analysis Regulatory Board shall select one of its members as chairperson and
40 another as vice chairperson, for such terms and with duties and powers necessary for the perform-
41 ance of the functions of such offices as the board determines.

42 (6) A majority of the members of the Behavior Analysis Regulatory Board constitutes a quorum
43 for the transaction of business.

44 (7) The Behavior Analysis Regulatory Board shall meet at least once every three months at a
45 place, day and hour determined by the board. The board may also meet at other times and places

1 specified by the call of the chairperson or of a majority of the members of the board.

2 (8) In accordance with ORS chapter 183, the Behavior Analysis Regulatory Board shall establish
3 by rule criteria for the:

4 (a) Licensing of:

5 (A) Behavior analysts; and

6 (B) Assistant behavior analysts; and

7 (b) Registration of:

8 (A) Licensed health care professionals; and

9 (B) Behavior analysis interventionists.

10 (9) The criteria for the licensing of a behavior analyst must include, but are not limited to, the
11 requirement that the applicant:

12 (a) Be certified by the Behavior Analyst Certification Board, Incorporated, as a Board Certified
13 Behavior Analyst; and

14 (b) Have successfully completed a criminal records check.

15 (10) The criteria for the licensing of an assistant behavior analyst must include, but are not
16 limited to, the requirement that the applicant:

17 (a) Be certified by the Behavior Analyst Certification Board, Incorporated, as a Board Certified
18 Assistant Behavior Analyst;

19 (b) Be supervised by a behavior analyst who is licensed by the Behavior Analysis Regulatory
20 Board; and

21 (c) Have successfully completed a criminal records check.

22 (11) The criteria for the registration of a behavior analysis interventionist must include, but are
23 not limited to, the requirement that the applicant:

24 (a) Have completed coursework and training prescribed by the Behavior Analysis Regulatory
25 Board by rule;

26 (b) Receive ongoing oversight by a licensed behavior analyst or a licensed assistant behavior
27 analyst, or by another licensed health care professional approved by the board; and

28 (c) Have successfully completed a criminal records check.

29 (12) In accordance with applicable provisions of ORS chapter 183, the Behavior Analysis Regu-
30 latory Board shall adopt rules:

31 (a) Establishing standards and procedures for the licensing of behavior analysts and assistant
32 behavior analysts and for the registration of licensed health care professionals and behavior analysis
33 interventionists in accordance with this section;

34 (b) Establishing guidelines for the professional methods and procedures to be used by individuals
35 licensed and registered under this section;

36 (c) Governing the examination of applicants for licenses and registrations under this section and
37 the renewal, suspension and revocation of the licenses and registrations; and

38 (d) Establishing fees sufficient to cover the costs of administering the licensing and registration
39 procedures under this section.

40 (13) The Behavior Analysis Regulatory Board shall issue a license to an applicant who:

41 (a) Files an application in the form prescribed by the board;

42 (b) Pays fees established by the board; and

43 (c) Demonstrates to the satisfaction of the board that the applicant meets the criteria adopted
44 under this section.

45 (14) The Behavior Analysis Regulatory Board shall establish the procedures for the registration

1 of licensed health care professionals and behavior analysis interventionists.

2 (15) All moneys received by the Behavior Analysis Regulatory Board under subsection (13) of
3 this section shall be paid into the General Fund of the State Treasury and credited to the Health
4 Licensing Office Account.

5 **(16) An individual who has not been licensed or registered by the Behavior Analysis**
6 **Regulatory Board in accordance with criteria and standards adopted under this section may**
7 **not claim reimbursement for services described in section 2, chapter 771, Oregon Laws 2013,**
8 **under a health benefit plan or a public employee plan as defined in section 2 of this 2014 Act.**

9 **SECTION 7.** ORS 743A.168 is amended to read:

10 743A.168. [A *group health insurance policy providing coverage for hospital or medical expenses*]
11 **A health benefit plan, as defined in ORS 743.730, and a public employee plan** shall provide
12 coverage for expenses arising from treatment for chemical dependency, including alcoholism, and for
13 mental or nervous conditions at the same level as, and subject to limitations no more restrictive
14 than, those imposed on coverage or reimbursement of expenses arising from treatment for other
15 medical conditions **covered by the plan**. The following apply to coverage for chemical dependency
16 and for mental or nervous conditions:

17 (1) As used in this section:

18 (a) "Chemical dependency" means the addictive relationship with any drug or alcohol charac-
19 terized by a physical or psychological relationship, or both, that interferes on a recurring basis with
20 the individual's social, psychological or physical adjustment to common problems. For purposes of
21 this section, "chemical dependency" does not include addiction to, or dependency on, tobacco, to-
22 bacco products or foods.

23 **(b) "Enrollee" means a policyholder, certificate holder, enrollee in a health benefit plan,**
24 **a public employee plan or a health maintenance organization, or a beneficiary of a health**
25 **care service contract.**

26 [(b)] (c) "Facility" means a corporate or governmental entity or other provider of services for
27 the treatment of chemical dependency or for the treatment of mental or nervous conditions.

28 [(c)] (d) "[*Group health*] Insurer" means an insurer, **the Public Employees' Benefit Board, the**
29 **Oregon Educators Benefit Board, Oregon Health and Science University, a third party ad-**
30 **ministrator,** a health maintenance organization or a health care service contractor.

31 [(d)] (e) "Program" means a particular type or level of service that is organizationally distinct
32 within a facility.

33 [(e)] (f) "Provider" means a person that:

34 (A) Has met the credentialing requirement of [*a group health*] **an** insurer, is otherwise eligible
35 to receive reimbursement for coverage under the [*policy*] **plan** and is:

36 (i) A health facility as defined in ORS 430.010;

37 (ii) A residential facility as defined in ORS 430.010;

38 (iii) A day or partial hospitalization program as defined in ORS 430.010;

39 (iv) An outpatient service as defined in ORS 430.010; or

40 (v) An individual behavioral health or medical professional licensed or certified under Oregon
41 law; or

42 (B) Is a provider organization certified by the Oregon Health Authority under subsection (13)
43 of this section.

44 (2) The coverage may be made subject to provisions of the [*policy*] **plan** that apply to other
45 benefits under the [*policy*] **plan**, including but not limited to provisions relating to deductibles and

1 coinsurance. Deductibles and coinsurance for treatment in health facilities or residential facilities
 2 may not be greater than those under the *[policy]* **plan** for expenses of hospitalization in the treat-
 3 ment of other medical conditions. Deductibles and coinsurance for outpatient treatment may not
 4 be greater than those under the *[policy]* **plan** for expenses of outpatient treatment of other medical
 5 conditions.

6 (3) The coverage may not be made subject to treatment limitations, limits on total payments for
 7 treatment, limits on duration of treatment or financial requirements unless **the plan imposes** similar
 8 limitations or requirements *[are imposed]* on coverage of other medical conditions. The coverage of
 9 eligible expenses may be limited to treatment that is medically necessary as determined under the
 10 *[policy]* **plan** for other medical conditions.

11 (4)(a) Nothing in this section requires coverage for:

12 (A) Educational or correctional services or sheltered living provided by a school or halfway
 13 house;

14 (B) A long-term residential mental health program that lasts longer than 45 days;

15 (C) Psychoanalysis or psychotherapy received as part of an educational or training program,
 16 regardless of diagnosis or symptoms that may be present; or

17 (D) A court-ordered sex offender treatment program.

18 (b) Notwithstanding paragraph (a)(A) of this subsection, an *[insured]* **enrollee** may receive cov-
 19 ered outpatient services under the terms of the *[insured's policy]* **plan** while *[the insured is]* living
 20 temporarily in a sheltered living situation.

21 (5) A provider is eligible for reimbursement under this section if:

22 (a) The provider is approved or certified by the Oregon Health Authority;

23 (b) The provider is accredited for the particular level of care for which reimbursement is being
 24 requested by the Joint Commission on Accreditation of Hospitals or the Commission on Accredi-
 25 tation of Rehabilitation Facilities;

26 (c) The *[patient]* **enrollee** is staying overnight at the facility and is involved in a structured
 27 program at least eight hours per day, five days per week; or

28 (d) The provider is providing a covered benefit under the *[policy]* **plan**.

29 (6) Payments may not be made under this section for support groups.

30 (7) If specified *[in the policy]* **by the terms of the plan**, outpatient coverage may include
 31 follow-up in-home service or outpatient services. The *[policy]* **plan** may limit coverage for in-home
 32 service to persons who are homebound under the care of a physician.

33 (8) Nothing in this section prohibits *[a group health]* **an** insurer from managing the provision of
 34 benefits through common methods, including but not limited to selectively contracted panels, health
 35 plan benefit differential designs, preadmission screening, prior authorization of services, utilization
 36 review or other mechanisms designed to limit eligible expenses to those described in subsection (3)
 37 of this section.

38 (9) The Legislative Assembly has found that health care cost containment is necessary and in-
 39 tends to encourage *[insurance policies]* **health benefit plans and public employee plans** designed
 40 to achieve cost containment by ensuring that reimbursement is limited to appropriate utilization
 41 under criteria incorporated into such *[policies]* **plans**, either directly or by reference.

42 (10)(a) Subject to the patient or client confidentiality provisions of ORS 40.235 relating to phy-
 43 sicians, ORS 40.240 relating to nurse practitioners, ORS 40.230 relating to psychologists, ORS 40.250
 44 and 675.580 relating to licensed clinical social workers and ORS 40.262 relating to licensed profes-
 45 sional counselors and licensed marriage and family therapists, *[a group health]* **an** insurer may pro-

1 vide for review for level of treatment of admissions and continued stays for treatment in health
 2 facilities, residential facilities, day or partial hospitalization programs and outpatient services, **to**
 3 **the extent consistent with ORS 743.804**, by [*either group health insurer*] **the insurer's** staff or
 4 [*personnel under contract to the group health insurer, or by a utilization review*] **a** contractor, who
 5 shall have the authority to certify for or deny level of payment.

6 (b) Review shall be made according to criteria made available to providers in advance upon re-
 7 quest.

8 (c) Review shall be performed by or under the direction of a medical or osteopathic physician
 9 licensed by the Oregon Medical Board, a psychologist licensed by the State Board of Psychologist
 10 Examiners, a clinical social worker licensed by the State Board of Licensed Social Workers or a
 11 professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed
 12 Professional Counselors and Therapists, in accordance with standards of the National Committee for
 13 Quality Assurance or Medicare review standards of the Centers for Medicare and Medicaid Ser-
 14 vices.

15 (d) Review may involve prior approval, concurrent review of the continuation of treatment,
 16 post-treatment review or any combination of these. However, if prior approval is required, provision
 17 shall be made to allow for payment of urgent or emergency admissions, subject to subsequent re-
 18 view. If prior approval is not required, [*group health insurers*] **an insurer** shall permit **an enrollee's**
 19 providers, [*policyholders*] **the enrollee** or persons acting on [*their*] behalf **of the enrollee** to make
 20 advance inquiries regarding the appropriateness of a particular admission to a treatment program.
 21 [*Group health*] Insurers shall provide a timely response to such inquiries. Noncontracting providers
 22 must cooperate with these procedures to the same extent as contracting providers to be eligible for
 23 reimbursement.

24 (11) Health maintenance organizations may limit the receipt of covered services by enrollees to
 25 services provided by or upon referral by providers contracting with the health maintenance organ-
 26 ization. Health maintenance organizations and health care service contractors may create substan-
 27 tive plan benefit and reimbursement differentials at the same level as, and subject to limitations no
 28 more restrictive than, those imposed on coverage or reimbursement of expenses arising out of other
 29 medical conditions and apply them to contracting and noncontracting providers.

30 (12) Nothing in this section prevents [*a group health*] **an** insurer from contracting with providers
 31 of health care services to furnish services to [*policyholders or certificate holders*] **enrollees** according
 32 to ORS 743.531 or 750.005, subject to the following conditions:

33 (a) [*A group health*] **An** insurer is not required to contract with all providers that are eligible
 34 for reimbursement under this section.

35 (b) An insurer [*or health care service contractor*] shall, subject to subsections (2) and (3) of this
 36 section, pay benefits toward the covered charges of noncontracting providers of services for the
 37 treatment of chemical dependency or mental or nervous conditions. The [*insured*] **enrollee** shall,
 38 subject to subsections (2) and (3) of this section, have the right to use the services of a noncon-
 39 tracting provider of services for the treatment of chemical dependency or mental or nervous condi-
 40 tions, whether or not the services for chemical dependency or mental or nervous conditions are
 41 provided by contracting or noncontracting providers.

42 (13) The Oregon Health Authority shall establish a process for the certification of an organiza-
 43 tion described in subsection [(1)(e)(B)] **(1)(f)(B)** of this section that:

44 (a) Is not otherwise subject to licensing or certification by the authority; and

45 (b) Does not contract with the authority, a subcontractor of the authority or a community

1 mental health program.

2 (14) The Oregon Health Authority shall adopt by rule standards for the certification provided
3 under subsection (13) of this section to ensure that a certified provider organization offers a distinct
4 and specialized program for the treatment of mental or nervous conditions.

5 (15) The Oregon Health Authority may adopt by rule an application fee or a certification fee,
6 or both, to be imposed on any provider organization that applies for certification under subsection
7 (13) of this section. Any fees collected shall be paid into the Oregon Health Authority Fund estab-
8 lished in ORS 413.101 and shall be used only for carrying out the provisions of subsection (13) of this
9 section.

10 (16) The intent of the Legislative Assembly in adopting this section is to reserve benefits for
11 different types of care to encourage cost effective care and to ensure continuing access to levels
12 of care most appropriate for the [*insured's*] **enrollee's** condition and progress. This section does not
13 prohibit an insurer from requiring a provider organization certified by the Oregon Health Authority
14 under subsection (13) of this section to meet the insurer's credentialing requirements as a condition
15 of entering into a contract.

16 (17) The Director of the Department of Consumer and Business Services and the Oregon Health
17 Authority, after notice and hearing, may adopt reasonable rules not inconsistent with this section
18 that are considered necessary for the proper administration of this section.

19 **SECTION 8.** ORS 743A.190, as amended by sections 7 and 20, chapter 771, Oregon Laws 2013,
20 is amended to read:

21 743A.190. (1) A health benefit plan, as defined in ORS 743.730, **and a public employee plan** must
22 cover for a child enrolled in the plan who is under 18 years of age and who has been diagnosed with
23 a pervasive developmental disorder all medical services, including rehabilitation services, that are
24 medically necessary and are otherwise covered under the plan.

25 (2) The coverage required under subsection (1) of this section, including rehabilitation services,
26 may be made subject to other provisions of the health benefit plan **or public employee plan** that
27 apply to covered services, including but not limited to:

- 28 (a) Deductibles, copayments or coinsurance;
 - 29 (b) Prior authorization or utilization review requirements; or
 - 30 (c) Treatment limitations regarding the number of visits or the duration of treatment.
- 31 (3) As used in this section:

32 (a) "Medically necessary" means in accordance with the definition of medical necessity that is
33 specified in the policy, certificate or contract for the health benefit plan **or public employee plan**
34 and that applies uniformly to all covered services under the [*health benefit*] plan.

35 (b) "Pervasive developmental disorder" means a neurological condition that includes autism
36 spectrum disorder, developmental delay, developmental disability or mental retardation.

37 (c) "Rehabilitation services" means physical therapy, occupational therapy or speech therapy
38 services to restore or improve function.

39 (4) The provisions of ORS 743A.001 do not apply to this section.

40 (5) The definition of "pervasive developmental disorder" is not intended to apply to coverage
41 required under ORS 743A.168 **or section 2, chapter 771, Oregon Laws 2013.**

42 **SECTION 9.** ORS 743A.190, as amended by sections 7 and 20, chapter 771, Oregon Laws 2013,
43 and section 8 of this 2014 Act, is amended to read:

44 743A.190. (1) A health benefit plan, as defined in ORS 743.730, and a public employee plan must
45 cover for a child enrolled in the plan who is under 18 years of age and who has been diagnosed with

1 a pervasive developmental disorder all medical services, including rehabilitation services, that are
 2 medically necessary and are otherwise covered under the plan.

3 (2) The coverage required under subsection (1) of this section, including rehabilitation services,
 4 may be made subject to other provisions of the health benefit plan or public employee plan that
 5 apply to covered services, including but not limited to:

- 6 (a) Deductibles, copayments or coinsurance;
- 7 (b) Prior authorization or utilization review requirements; or
- 8 (c) Treatment limitations regarding the number of visits or the duration of treatment.

9 (3) As used in this section:

10 (a) “Medically necessary” means in accordance with the definition of medical necessity that is
 11 specified in the policy, certificate or contract for the health benefit plan or public employee plan
 12 and that applies uniformly to all covered services under the plan.

13 (b) “Pervasive developmental disorder” means a neurological condition that includes autism
 14 spectrum disorder, developmental delay, developmental disability or mental retardation.

15 (c) “Rehabilitation services” means physical therapy, occupational therapy or speech therapy
 16 services to restore or improve function.

17 (4) The provisions of ORS 743A.001 do not apply to this section.

18 (5) The definition of “pervasive developmental disorder” is not intended to apply to coverage
 19 required under ORS 743A.168 [*or section 2, chapter 771, Oregon Laws 2013*].

20 **SECTION 10.** ORS 676.800, as amended by section 19, chapter 771, Oregon Laws 2013, and
 21 section 6 of this 2014 Act, is amended to read:

22 676.800. (1) There is created, within the Health Licensing Office, the Behavior Analysis Regu-
 23 latory Board consisting of seven members appointed by the Governor, including:

- 24 (a) Three members who are licensed by the board;
- 25 (b) One member who is a licensed psychiatrist or developmental pediatrician, with experience
 26 or training in treating autism spectrum disorder;
- 27 (c) One member who is a licensed psychologist registered with the board;
- 28 (d) One member who is a licensed speech-language pathologist registered with the board; and
- 29 (e) One member of the general public who does not have a financial interest in the provision
 30 of applied behavior analysis and does not have a ward or family member who has been diagnosed
 31 with autism spectrum disorder.

32 (2) Not more than one member of the Behavior Analysis Regulatory Board may be an employee
 33 of an insurer.

34 (3) The term of office of each member is four years, but a member serves at the pleasure of the
 35 Governor. Before the expiration of the term of a member, the Governor shall appoint a successor
 36 whose term begins on November 1 next following. A member is eligible for reappointment. If there
 37 is a vacancy for any cause, the Governor shall make an appointment to become immediately effec-
 38 tive for the unexpired term.

39 (4) A member of the Behavior Analysis Regulatory Board is entitled to compensation and ex-
 40 penses as provided in ORS 292.495.

41 (5) The Behavior Analysis Regulatory Board shall select one of its members as chairperson and
 42 another as vice chairperson, for such terms and with duties and powers necessary for the perform-
 43 ance of the functions of such offices as the board determines.

44 (6) A majority of the members of the Behavior Analysis Regulatory Board constitutes a quorum
 45 for the transaction of business.

1 (7) The Behavior Analysis Regulatory Board shall meet at least once every three months at a
2 place, day and hour determined by the board. The board may also meet at other times and places
3 specified by the call of the chairperson or of a majority of the members of the board.

4 (8) In accordance with ORS chapter 183, the Behavior Analysis Regulatory Board shall establish
5 by rule criteria for the:

6 (a) Licensing of:

7 (A) Behavior analysts; and

8 (B) Assistant behavior analysts; and

9 (b) Registration of:

10 (A) Licensed health care professionals; and

11 (B) Behavior analysis interventionists.

12 (9) The criteria for the licensing of a behavior analyst must include, but are not limited to, the
13 requirement that the applicant:

14 (a) Be certified by the Behavior Analyst Certification Board, Incorporated, as a Board Certified
15 Behavior Analyst; and

16 (b) Have successfully completed a criminal records check.

17 (10) The criteria for the licensing of an assistant behavior analyst must include, but are not
18 limited to, the requirement that the applicant:

19 (a) Be certified by the Behavior Analyst Certification Board, Incorporated, as a Board Certified
20 Assistant Behavior Analyst;

21 (b) Be supervised by a behavior analyst who is licensed by the Behavior Analysis Regulatory
22 Board; and

23 (c) Have successfully completed a criminal records check.

24 (11) The criteria for the registration of a behavior analysis interventionist must include, but are
25 not limited to, the requirement that the applicant:

26 (a) Have completed coursework and training prescribed by the Behavior Analysis Regulatory
27 Board by rule;

28 (b) Receive ongoing oversight by a licensed behavior analyst or a licensed assistant behavior
29 analyst, or by another licensed health care professional approved by the board; and

30 (c) Have successfully completed a criminal records check.

31 (12) In accordance with applicable provisions of ORS chapter 183, the Behavior Analysis Regu-
32 latory Board shall adopt rules:

33 (a) Establishing standards and procedures for the licensing of behavior analysts and assistant
34 behavior analysts and for the registration of licensed health care professionals and behavior analysis
35 interventionists in accordance with this section;

36 (b) Establishing guidelines for the professional methods and procedures to be used by individuals
37 licensed and registered under this section;

38 (c) Governing the examination of applicants for licenses and registrations under this section and
39 the renewal, suspension and revocation of the licenses and registrations; and

40 (d) Establishing fees sufficient to cover the costs of administering the licensing and registration
41 procedures under this section.

42 (13) The Behavior Analysis Regulatory Board shall issue a license to an applicant who:

43 (a) Files an application in the form prescribed by the board;

44 (b) Pays fees established by the board; and

45 (c) Demonstrates to the satisfaction of the board that the applicant meets the criteria adopted

1 under this section.

2 (14) The Behavior Analysis Regulatory Board shall establish the procedures for the registration
3 of licensed health care professionals and behavior analysis interventionists.

4 (15) All moneys received by the Behavior Analysis Regulatory Board under subsection (13) of
5 this section shall be paid into the General Fund of the State Treasury and credited to the Health
6 Licensing Office Account.

7 *[(16) An individual who has not been licensed or registered by the Behavior Analysis Regulatory*
8 *Board in accordance with criteria and standards adopted under this section may not claim reimburse-*
9 *ment for services described in section 2, chapter 771, Oregon Laws 2013, under a health benefit plan*
10 *or a public employee plan as defined in section 2 of this 2014 Act.]*

11 **SECTION 11. This 2014 Act being necessary for the immediate preservation of the public**
12 **peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect**
13 **on its passage.**

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