

**PROPOSED AMENDMENTS TO
SENATE BILL 1523**

1 On page 1 of the printed bill, line 2, delete “creating new provisions;”.

2 Delete lines 5 through 28 and pages 2 through 12 and insert:

3 **“SECTION 1.** Section 2, chapter 771, Oregon Laws 2013, is amended to
4 read:

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

7 “(a)(A) ‘Applied behavior analysis’ means the design, implementation and
8 evaluation of environmental modifications, using behavioral stimuli and
9 consequences, to produce significant improvement in human social behavior,
10 including the use of direct observation, measurement and functional analysis
11 of the relationship between environment and behavior and that is provided
12 by:

13 “(i) A licensed health care professional registered under [*section 3 of this*
14 *2013 Act*] **ORS 676.800;**

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

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

19 “(B) ‘Applied behavior analysis’ excludes psychological testing,
20 neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanal-
21 ysis, hypnotherapy and long-term counseling as treatment modalities.

22 “(b) ‘Autism spectrum disorder’ has the meaning given that term in the

1 fifth edition of the Diagnostic and Statistical Manual of Mental Disorders
2 (DSM-5) published by the American Psychiatric Association.

3 “(c) ‘Diagnosis’ means medically necessary assessment, evaluation or
4 testing.

5 “(d) ‘Health benefit plan’ has the meaning given that term in ORS 743.730.

6 “(e) ‘Medically necessary’ means in accordance with the definition of
7 medical necessity that is specified in the policy or certificate for the health
8 benefit plan **or by the public employee plan** and that applies to all covered
9 services under the plan.

10 “(f) ‘**Public employee plan**’ means a self-insured health benefit plan
11 **offered:**

12 “(A) **By the Public Employees’ Benefit Board;**

13 “(B) **By the Oregon Educators Benefit Board; or**

14 “(C) **To employees of Oregon Health and Science University.**

15 “[~~f~~] (g) ‘Treatment for autism spectrum disorder’ includes applied be-
16 havior analysis for up to 25 hours per week and any other mental health or
17 medical services identified in the individualized treatment plan, as described
18 in subsection (6) of this section.

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

21 “(a) The screening for and diagnosis of autism spectrum disorder by a li-
22 censed neurologist, pediatric neurologist, developmental pediatrician, psy-
23 chiatrist or psychologist, who has experience or training in the diagnosis of
24 autism spectrum disorder; and

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

28 “(3) This section does not require coverage for:

29 “(a) Services provided by a family or household member;

30 “(b) Services that are custodial in nature or that constitute marital,

1 family, educational or training services;

2 “(c) Custodial or respite care, equine assisted therapy, creative arts ther-
3 apy, wilderness or adventure camps, social counseling, telemedicine, music
4 therapy, neurofeedback, chelation or hyperbaric chambers;

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

7 “(e) Services provided through community or social programs; or

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

11 “(4) An insurer **or a third party administrator** may not terminate cov-
12 erage or refuse to issue or renew coverage for an individual solely because
13 the individual has received a diagnosis of autism spectrum disorder or has
14 received treatment for autism spectrum disorder.

15 “(5) Coverage under this section may be subject to utilization controls
16 that are reasonable in the context of individual determinations of medical
17 necessity. An insurer **and a third party administrator** may require:

18 “(a) An autism spectrum disorder diagnosis by a professional described in
19 subsection (2)(a) of this section if the original diagnosis was not made by a
20 professional described in subsection (2)(a) of this section.

21 “(b) Prior authorization for coverage of a maximum of 25 hours per week
22 of applied behavior analysis recommended in an individualized treatment
23 plan approved by a professional described in subsection (2)(a) of this section
24 for an individual with autism spectrum disorder, as long as the insurer **or**
25 **third party administrator** makes a prior authorization determination no
26 later than 30 calendar days after receiving the request for prior authori-
27 zation.

28 “(6) If an individual is receiving applied behavior analysis, an insurer **or**
29 **a third party administrator** may require submission of an individualized
30 treatment plan, which shall include all elements necessary for the insurer

1 **or third party administrator** to appropriately determine coverage under
2 the health benefit plan **or public employee plan**. The individualized treat-
3 ment plan must be based on evidence-based screening criteria. An insurer
4 **or a third party administrator** may require an updated individualized
5 treatment plan, not more than once every six months, that includes observed
6 progress as of the date the updated plan was prepared, for the purpose of
7 performing utilization review and medical management. The insurer **or third**
8 **party administrator** may require the individualized treatment plan to be
9 approved by a professional described in subsection (2)(a) of this section, and
10 to include the:

11 “(a) Diagnosis;

12 “(b) Proposed treatment by type;

13 “(c) Frequency and anticipated duration of treatment;

14 “(d) Anticipated outcomes stated as goals, including specific cognitive,
15 social, communicative, self-care and behavioral goals that are clearly stated,
16 directly observed and continually measured and that address the character-
17 istics of the autism spectrum disorder; and

18 “(e) Signature of the treating provider.

19 “(7)(a) Once coverage for applied behavior analysis has been approved, the
20 coverage continues as long as:

21 “(A) The individual continues to make progress toward the majority of
22 the goals of the individualized treatment plan; and

23 “(B) Applied behavior analysis is medically necessary.

24 “(b) An insurer **or a third party administrator** may require periodic
25 review of an individualized treatment plan, as described in subsection (6) of
26 this section, and modification of the individualized treatment plan if the re-
27 view shows that the individual receiving the treatment is not making sub-
28 stantial clinical progress toward the goals of the individualized treatment
29 plan.

30 “(8) Coverage under this section may be subject to requirements and

1 limitations no more restrictive than those imposed on coverage or re-
2 imbursement of expenses arising from the treatment of other medical condi-
3 tions under the **plan**, policy or certificate, including but not limited to:

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

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

6 “(9) This section applies to coverage for up to 25 hours per week of ap-
7 plied behavior analysis for an individual if the coverage is first requested
8 when the individual is under nine years of age. This section does not limit
9 coverage for any services that are otherwise available to an individual under
10 ORS 743A.168 or 743A.190, including but not limited to:

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

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

14 “(c) Applied behavior analysis for an individual if the coverage is first
15 requested when the individual is nine years of age or older.

16 “(10) Coverage under this section includes treatment for autism spectrum
17 disorder provided in the individual’s home or a licensed health care facility
18 or, for treatment provided by a licensed health care professional registered
19 with the Behavior Analysis Regulatory Board or a behavior analyst or as-
20 sistant behavior analyst licensed under [*section 3 of this 2013 Act*] **ORS**
21 **676.800**, in a setting approved by the health care professional, behavior ana-
22 lyst or assistant behavior analyst.

23 “(11) An insurer **or a third party administrator** that provides coverage
24 of applied behavior analysis in accordance with a decision of an independent
25 review organization that was made prior to January 1, 2016, shall continue
26 to provide coverage, subject to modifications made in accordance with sub-
27 section (7) of this section.

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

29 “**SECTION 2.** Section 23, chapter 771, Oregon Laws 2013, is amended to
30 read:

1 “**Sec. 23.** Sections 2 and 10, [*of this 2013 Act and*] **chapter 771, Oregon**
2 **Laws 2013**, the amendments to ORS [*743A.190 and*] 750.055 by [*sections 7 and*
3 *8 of this 2013 Act*] **section 8, chapter 771, Oregon Laws 2013, and the**
4 **amendments to ORS 743A.190 by section 6 of this 2014 Act** apply to:

5 “(1) **Public employee plans, as defined in section 2, chapter 771,**
6 **Oregon Laws 2013, and health benefit plan policies and certificates[:]**

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

10 “(2) **Health benefit plan policies and certificates** other than for plans
11 offered by the Public Employees’ Benefit Board, [*or*] **by the Oregon Educa-**
12 **tors Benefit Board or to employees of Oregon Health and Science Uni-**
13 **versity**, for coverage beginning on or after January 1, 2016.

14 “**SECTION 3.** Section 24, chapter 771, Oregon Laws 2013, is amended to
15 read:

16 “**Sec. 24. (1)** The amendments to [*section 3 of this 2013 Act by section 19*
17 *of this 2013 Act and the amendments to ORS 743A.190 and*] **ORS 750.055** by
18 [*sections 20 and 21 of this 2013 Act*] **section 21, chapter 771, Oregon Laws**
19 **2013**, become operative January 2, 2022.

20 **(2) The amendments to ORS 676.800 by sections 4 and 8 of this 2014**
21 **Act become operative January 2, 2022.**

22 “**SECTION 4.** ORS 676.800, as amended by section 19, chapter 771, Oregon
23 Laws 2013, is amended to read:

24 “676.800. (1) There is created, within the Health Licensing Office, the
25 Behavior Analysis Regulatory Board consisting of seven members appointed
26 by the Governor, including:

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

28 “(b) One member who is a licensed psychiatrist or developmental pedia-
29 trician, with experience or training in treating autism spectrum disorder;

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

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

3 “(e) One member of the general public who does not have a financial in-
4 terest in the provision of applied behavior analysis and does not have a ward
5 or family member who has been diagnosed with autism spectrum disorder.

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

8 “(3) The term of office of each member is four years, but a member serves
9 at the pleasure of the Governor. Before the expiration of the term of a
10 member, the Governor shall appoint a successor whose term begins on No-
11 vember 1 next following. A member is eligible for reappointment. If there is
12 a vacancy for any cause, the Governor shall make an appointment to become
13 immediately effective for the unexpired term.

14 “(4) A member of the Behavior Analysis Regulatory Board is entitled to
15 compensation and expenses as provided in ORS 292.495.

16 “(5) The Behavior Analysis Regulatory Board shall select one of its
17 members as chairperson and another as vice chairperson, for such terms and
18 with duties and powers necessary for the performance of the functions of
19 such offices as the board determines.

20 “(6) A majority of the members of the Behavior Analysis Regulatory
21 Board constitutes a quorum for the transaction of business.

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

26 “(8) In accordance with ORS chapter 183, the Behavior Analysis Regula-
27 tory Board shall establish by rule criteria for the:

28 “(a) Licensing of:

29 “(A) Behavior analysts; and

30 “(B) Assistant behavior analysts; and

1 “(b) Registration of:

2 “(A) Licensed health care professionals; and

3 “(B) Behavior analysis interventionists.

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

6 “(a) Be certified by the Behavior Analyst Certification Board, Incorpo-
7 rated, as a Board Certified Behavior Analyst; and

8 “(b) Have successfully completed a criminal records check.

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

11 “(a) Be certified by the Behavior Analyst Certification Board, Incorpo-
12 rated, as a Board Certified Assistant Behavior Analyst;

13 “(b) Be supervised by a behavior analyst who is licensed by the Behavior
14 Analysis Regulatory Board; and

15 “(c) Have successfully completed a criminal records check.

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

19 “(a) Have completed coursework and training prescribed by the Behavior
20 Analysis Regulatory Board by rule;

21 “(b) Receive ongoing oversight by a licensed behavior analyst or a li-
22 censed assistant behavior analyst, or by another licensed health care pro-
23 fessional approved by the board; and

24 “(c) Have successfully completed a criminal records check.

25 “(12) In accordance with applicable provisions of ORS chapter 183, the
26 Behavior Analysis Regulatory Board shall adopt rules:

27 “(a) Establishing standards and procedures for the licensing of behavior
28 analysts and assistant behavior analysts and for the registration of licensed
29 health care professionals and behavior analysis interventionists in accord-
30 ance with this section;

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

3 “(c) Governing the examination of applicants for licenses and registra-
4 tions under this section and the renewal, suspension and revocation of the
5 licenses and registrations; and

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

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

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

11 “(b) Pays fees established by the board; and

12 “(c) Demonstrates to the satisfaction of the board that the applicant
13 meets the criteria adopted under this section.

14 “(14) The Behavior Analysis Regulatory Board shall establish the proce-
15 dures for the registration of licensed health care professionals and behavior
16 analysis interventionists.

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

20 “(16) **An individual who has not been licensed or registered by the**
21 **Behavior Analysis Regulatory Board in accordance with criteria and**
22 **standards adopted under this section may not claim reimbursement for**
23 **services described in section 2, chapter 771, Oregon Laws 2013, under**
24 **a health benefit plan or a public employee plan as defined in section**
25 **2, chapter 771, Oregon Laws 2013.**

26 “**SECTION 5.** ORS 743A.168 is amended to read:

27 “743A.168. [A group health insurance policy providing coverage for hospital
28 or medical expenses] **A health benefit plan and a public employee plan**
29 **shall provide coverage for expenses arising from treatment for chemical de-**
30 **pendency, including alcoholism, and for mental or nervous conditions at the**

1 same level as, and subject to limitations no more restrictive than, those im-
2 posed on coverage or reimbursement of expenses arising from treatment for
3 other medical conditions **covered by the plan**. The following apply to cov-
4 erage for chemical dependency and for mental or nervous conditions:

5 “(1) As used in this section:

6 “(a) ‘Chemical dependency’ means the addictive relationship with any
7 drug or alcohol characterized by a physical or psychological relationship, or
8 both, that interferes on a recurring basis with the individual’s social, psy-
9 chological or physical adjustment to common problems. For purposes of this
10 section, ‘chemical dependency’ does not include addiction to, or dependency
11 on, tobacco, tobacco products or foods.

12 “(b) ‘Enrollee’ means a policyholder, certificate holder, enrollee in
13 a health benefit plan, a public employee plan or a health maintenance
14 organization, or a beneficiary of a health care service contract.

15 “[*b*] (c) ‘Facility’ means a corporate or governmental entity or other
16 provider of services for the treatment of chemical dependency or for the
17 treatment of mental or nervous conditions.

18 “(d) ‘Health benefit plan’ has the meaning given that term in ORS
19 **743.730**.

20 “[*c*] (e) [*Group health*] ‘Insurer’ means an insurer, **the Public**
21 **Employees’ Benefit Board, the Oregon Educators Benefit Board,**
22 **Oregon Health and Science University, a third party administrator, a**
23 health maintenance organization or a health care service contractor.

24 “(f) ‘Public employee plan’ means a self-insured health benefit plan
25 **offered:**

26 “(A) **By the Public Employees’ Benefit Board;**

27 “(B) **By the Oregon Educators Benefit Board; or**

28 “(C) **To employees of Oregon Health and Science University.**

29 “[*d*] (g) ‘Program’ means a particular type or level of service that is
30 organizationally distinct within a facility.

1 “[*e*] (h) ‘Provider’ means a person that:
2 “(A) Has met the credentialing requirement of [*a group health*] **an** insurer,
3 is otherwise eligible to receive reimbursement for coverage under the
4 [*policy*] **plan** and is:
5 “(i) A health facility as defined in ORS 430.010;
6 “(ii) A residential facility as defined in ORS 430.010;
7 “(iii) A day or partial hospitalization program as defined in ORS 430.010;
8 “(iv) An outpatient service as defined in ORS 430.010; or
9 “(v) An individual behavioral health or medical professional licensed or
10 certified under Oregon law; or
11 “(B) Is a provider organization certified by the Oregon Health Authority
12 under subsection (13) of this section.
13 “(2) The coverage may be made subject to provisions of the [*policy*] **plan**
14 that apply to other benefits under the [*policy*] **plan**, including but not limited
15 to provisions relating to deductibles and coinsurance. Deductibles and
16 coinsurance for treatment in health facilities or residential facilities may not
17 be greater than those under the [*policy*] **plan** for expenses of hospitalization
18 in the treatment of other medical conditions. Deductibles and coinsurance
19 for outpatient treatment may not be greater than those under the [*policy*]
20 **plan** for expenses of outpatient treatment of other medical conditions.
21 “(3) The coverage may not be made subject to treatment limitations, lim-
22 its on total payments for treatment, limits on duration of treatment or fi-
23 nancial requirements unless **the plan imposes** similar limitations or
24 requirements [*are imposed*] on coverage of other medical conditions. The
25 coverage of eligible expenses may be limited to treatment that is medically
26 necessary as determined under the [*policy*] **plan** for other medical conditions.
27 “(4)(a) Nothing in this section requires coverage for:
28 “(A) Educational or correctional services or sheltered living provided by
29 a school or halfway house;
30 “(B) A long-term residential mental health program that lasts longer than

1 45 days;

2 “(C) Psychoanalysis or psychotherapy received as part of an educational
3 or training program, regardless of diagnosis or symptoms that may be pres-
4 ent; or

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

6 “(b) Notwithstanding paragraph (a)(A) of this subsection, an [*insured*]
7 **enrollee** may receive covered outpatient services under the terms of the
8 [*insured’s policy*] **plan** while [*the insured is*] living temporarily in a sheltered
9 living situation.

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

11 “(a) The provider is approved or certified by the Oregon Health Author-
12 ity;

13 “(b) The provider is accredited for the particular level of care for which
14 reimbursement is being requested by the Joint Commission on Accreditation
15 of Hospitals or the Commission on Accreditation of Rehabilitation Facilities;

16 “(c) The [*patient*] **enrollee** is staying overnight at the facility and is in-
17 volved in a structured program at least eight hours per day, five days per
18 week; or

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

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

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

25 “(8) Nothing in this section prohibits [*a group health*] **an** insurer from
26 managing the provision of benefits through common methods, including but
27 not limited to selectively contracted panels, health plan benefit differential
28 designs, preadmission screening, prior authorization of services, utilization
29 review or other mechanisms designed to limit eligible expenses to those de-
30 scribed in subsection (3) of this section.

1 “(9) The Legislative Assembly has found that health care cost contain-
2 ment is necessary and intends to encourage [*insurance policies*] **health ben-**
3 **efit plans and public employee plans** designed to achieve cost containment
4 by ensuring that reimbursement is limited to appropriate utilization under
5 criteria incorporated into such [*policies*] **plans**, either directly or by refer-
6 ence.

7 “(10)(a) Subject to the patient or client confidentiality provisions of ORS
8 40.235 relating to physicians, ORS 40.240 relating to nurse practitioners, ORS
9 40.230 relating to psychologists, ORS 40.250 and 675.580 relating to licensed
10 clinical social workers and ORS 40.262 relating to licensed professional
11 counselors and licensed marriage and family therapists, [*a group health*] **an**
12 insurer may provide for review for level of treatment of admissions and
13 continued stays for treatment in health facilities, residential facilities, day
14 or partial hospitalization programs and outpatient services, **to the extent**
15 **consistent with ORS 743.804**, by [*either group health insurer*] **the insurer’s**
16 staff or [*personnel under contract to the group health insurer, or by a utili-*
17 *zation review*] **a contractor**, who shall have the authority to certify for or
18 deny level of payment.

19 “(b) Review shall be made according to criteria made available to pro-
20 viders in advance upon request.

21 “(c) Review shall be performed by or under the direction of a medical or
22 osteopathic physician licensed by the Oregon Medical Board, a psychologist
23 licensed by the State Board of Psychologist Examiners, a clinical social
24 worker licensed by the State Board of Licensed Social Workers or a profes-
25 sional counselor or marriage and family therapist licensed by the Oregon
26 Board of Licensed Professional Counselors and Therapists, in accordance
27 with standards of the National Committee for Quality Assurance or Medi-
28 care review standards of the Centers for Medicare and Medicaid Services.

29 “(d) Review may involve prior approval, concurrent review of the contin-
30 uation of treatment, post-treatment review or any combination of these.

1 However, if prior approval is required, provision shall be made to allow for
2 payment of urgent or emergency admissions, subject to subsequent review.
3 If prior approval is not required, [*group health insurers*] **an insurer** shall
4 permit **an enrollee's** providers, [*policyholders*] **the enrollee** or persons act-
5 ing on [*their*] behalf **of the enrollee** to make advance inquiries regarding the
6 appropriateness of a particular admission to a treatment program. [*Group*
7 *health*] Insurers shall provide a timely response to such inquiries. Noncon-
8 tracting providers must cooperate with these procedures to the same extent
9 as contracting providers to be eligible for reimbursement.

10 “(11) Health maintenance organizations may limit the receipt of covered
11 services by enrollees to services provided by or upon referral by providers
12 contracting with the health maintenance organization. Health maintenance
13 organizations and health care service contractors may create substantive
14 plan benefit and reimbursement differentials at the same level as, and subject
15 to limitations no more restrictive than, those imposed on coverage or re-
16 imbursement of expenses arising out of other medical conditions and apply
17 them to contracting and noncontracting providers.

18 “(12) Nothing in this section prevents [*a group health*] **an** insurer from
19 contracting with providers of health care services to furnish services to
20 [*policyholders or certificate holders*] **enrollees** according to ORS 743.531 or
21 750.005, subject to the following conditions:

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

24 “(b) An insurer [*or health care service contractor*] shall, subject to sub-
25 sections (2) and (3) of this section, pay benefits toward the covered charges
26 of noncontracting providers of services for the treatment of chemical de-
27 pendency or mental or nervous conditions. The [*insured*] **enrollee** shall,
28 subject to subsections (2) and (3) of this section, have the right to use the
29 services of a noncontracting provider of services for the treatment of chem-
30 ical dependency or mental or nervous conditions, whether or not the services

1 for chemical dependency or mental or nervous conditions are provided by
2 contracting or noncontracting providers.

3 “(13) The Oregon Health Authority shall establish a process for the cer-
4 tification of an organization described in subsection [(1)(e)(B)] **(1)(h)(B)** of
5 this section that:

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

8 “(b) Does not contract with the authority, a subcontractor of the author-
9 ity or a community mental health program.

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

14 “(15) The Oregon Health Authority may adopt by rule an application fee
15 or a certification fee, or both, to be imposed on any provider organization
16 that applies for certification under subsection (13) of this section. Any fees
17 collected shall be paid into the Oregon Health Authority Fund established
18 in ORS 413.101 and shall be used only for carrying out the provisions of
19 subsection (13) of this section.

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

27 “(17) The Director of the Department of Consumer and Business Services
28 and the Oregon Health Authority, after notice and hearing, may adopt rea-
29 sonable rules not inconsistent with this section that are considered necessary
30 for the proper administration of this section.

1 **“SECTION 6.** ORS 743A.190, as amended by sections 7 and 20, chapter
2 771, Oregon Laws 2013, is amended to read:

3 “743A.190. (1) A health benefit plan[, *as defined in ORS 743.730,*] **and a**
4 **public employee plan** must cover for a child enrolled in the plan who is
5 under 18 years of age and who has been diagnosed with a pervasive devel-
6 opmental disorder all medical services, including rehabilitation services, that
7 are medically necessary and are otherwise covered under the plan.

8 “(2) The coverage required under subsection (1) of this section, including
9 rehabilitation services, may be made subject to other provisions of the health
10 benefit plan **or public employee plan** that apply to covered services, in-
11 cluding but not limited to:

12 “(a) Deductibles, copayments or coinsurance;

13 “(b) Prior authorization or utilization review requirements; or

14 “(c) Treatment limitations regarding the number of visits or the duration
15 of treatment.

16 “(3) As used in this section:

17 “(a) **‘Health benefit plan’ has the meaning given that term in ORS**
18 **743.730.**

19 “[(a)] (b) **‘Medically necessary’** means in accordance with the definition
20 of medical necessity that is specified in the policy, certificate or contract for
21 the health benefit plan **or public employee plan** and that applies uniformly
22 to all covered services under the [*health benefit*] plan.

23 “[(b)] (c) **‘Pervasive developmental disorder’** means a neurological condi-
24 tion that includes autism spectrum disorder, developmental delay, develop-
25 mental disability or mental retardation.

26 “(d) **‘Public employee plan’ means a self-insured health benefit plan**
27 **offered:**

28 “(A) **By the Public Employees’ Benefit Board;**

29 “(B) **By the Oregon Educators Benefit Board; or**

30 “(C) **To employees of Oregon Health and Science University.**

1 “[~~(c)~~] (e) ‘Rehabilitation services’ means physical therapy, occupational
2 therapy or speech therapy services to restore or improve function.

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

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

7 **“SECTION 7.** ORS 743A.190, as amended by sections 7 and 20, chapter
8 771, Oregon Laws 2013, and section 6 of this 2014 Act, is amended to read:

9 “743A.190. (1) A health benefit plan and a public employee plan must
10 cover for a child enrolled in the plan who is under 18 years of age and who
11 has been diagnosed with a pervasive developmental disorder all medical ser-
12 vices, including rehabilitation services, that are medically necessary and are
13 otherwise covered under the plan.

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

18 “(a) Deductibles, copayments or coinsurance;

19 “(b) Prior authorization or utilization review requirements; or

20 “(c) Treatment limitations regarding the number of visits or the duration
21 of treatment.

22 “(3) As used in this section:

23 “(a) **‘Health benefit plan’ has the meaning given that term in ORS**
24 **743.730.**

25 “(b) ‘Medically necessary’ means in accordance with the definition of
26 medical necessity that is specified in the policy, certificate or contract for
27 the health benefit plan or public employee plan and that applies uniformly
28 to all covered services under the plan.

29 “(c) ‘Pervasive developmental disorder’ means a neurological condition
30 that includes autism spectrum disorder, developmental delay, developmental

1 disability or mental retardation.

2 “(d) ‘Public employee plan’ means a self-insured health benefit plan of-
3 fered:

4 “(A) By the Public Employees’ Benefit Board;

5 “(B) By the Oregon Educators Benefit Board; or

6 “(C) To employees of Oregon Health and Science University.

7 “(e) ‘Rehabilitation services’ means physical therapy, occupational ther-
8 apy or speech therapy services to restore or improve function.

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

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

13 **“SECTION 8.** ORS 676.800, as amended by section 19, chapter 771, Oregon
14 Laws 2013, and section 4 of this 2014 Act, is amended to read:

15 “676.800. (1) There is created, within the Health Licensing Office, the
16 Behavior Analysis Regulatory Board consisting of seven members appointed
17 by the Governor, including:

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

19 “(b) One member who is a licensed psychiatrist or developmental pedia-
20 trician, with experience or training in treating autism spectrum disorder;

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

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

24 “(e) One member of the general public who does not have a financial in-
25 terest in the provision of applied behavior analysis and does not have a ward
26 or family member who has been diagnosed with autism spectrum disorder.

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

29 “(3) The term of office of each member is four years, but a member serves
30 at the pleasure of the Governor. Before the expiration of the term of a

1 member, the Governor shall appoint a successor whose term begins on No-
2 vember 1 next following. A member is eligible for reappointment. If there is
3 a vacancy for any cause, the Governor shall make an appointment to become
4 immediately effective for the unexpired term.

5 “(4) A member of the Behavior Analysis Regulatory Board is entitled to
6 compensation and expenses as provided in ORS 292.495.

7 “(5) The Behavior Analysis Regulatory Board shall select one of its
8 members as chairperson and another as vice chairperson, for such terms and
9 with duties and powers necessary for the performance of the functions of
10 such offices as the board determines.

11 “(6) A majority of the members of the Behavior Analysis Regulatory
12 Board constitutes a quorum for the transaction of business.

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

17 “(8) In accordance with ORS chapter 183, the Behavior Analysis Regula-
18 tory Board shall establish by rule criteria for the:

19 “(a) Licensing of:

20 “(A) Behavior analysts; and

21 “(B) Assistant behavior analysts; and

22 “(b) Registration of:

23 “(A) Licensed health care professionals; and

24 “(B) Behavior analysis interventionists.

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

27 “(a) Be certified by the Behavior Analyst Certification Board, Incorpo-
28 rated, as a Board Certified Behavior Analyst; and

29 “(b) Have successfully completed a criminal records check.

30 “(10) The criteria for the licensing of an assistant behavior analyst must

1 include, but are not limited to, the requirement that the applicant:

2 “(a) Be certified by the Behavior Analyst Certification Board, Incorporated,
3 rated, as a Board Certified Assistant Behavior Analyst;

4 “(b) Be supervised by a behavior analyst who is licensed by the Behavior
5 Analysis Regulatory Board; and

6 “(c) Have successfully completed a criminal records check.

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

10 “(a) Have completed coursework and training prescribed by the Behavior
11 Analysis Regulatory Board by rule;

12 “(b) Receive ongoing oversight by a licensed behavior analyst or a li-
13 censed assistant behavior analyst, or by another licensed health care pro-
14 fessional approved by the board; and

15 “(c) Have successfully completed a criminal records check.

16 “(12) In accordance with applicable provisions of ORS chapter 183, the
17 Behavior Analysis Regulatory Board shall adopt rules:

18 “(a) Establishing standards and procedures for the licensing of behavior
19 analysts and assistant behavior analysts and for the registration of licensed
20 health care professionals and behavior analysis interventionists in accord-
21 ance with this section;

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

24 “(c) Governing the examination of applicants for licenses and registra-
25 tions under this section and the renewal, suspension and revocation of the
26 licenses and registrations; and

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

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

1 “(a) Files an application in the form prescribed by the board;
2 “(b) Pays fees established by the board; and
3 “(c) Demonstrates to the satisfaction of the board that the applicant
4 meets the criteria adopted under this section.

5 “(14) The Behavior Analysis Regulatory Board shall establish the proce-
6 dures for the registration of licensed health care professionals and behavior
7 analysis interventionists.

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

11 “[(16) *An individual who has not been licensed or registered by the Be-*
12 *havior Analysis Regulatory Board in accordance with criteria and standards*
13 *adopted under this section may not claim reimbursement for services described*
14 *in section 2, chapter 771, Oregon Laws 2013, under a health benefit plan or a*
15 *public employee plan as defined in section 2, chapter 771, Oregon Laws 2013.]*

16 “**SECTION 9. This 2014 Act being necessary for the immediate**
17 **preservation of the public peace, health and safety, an emergency is**
18 **declared to exist, and this 2014 Act takes effect on its passage.”.**

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