

# House Bill 2023

Sponsored by Representative ELMER (Pre-session filed.)

## 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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act makes some health insurers cover ABA therapy for a few more diagnoses in the same way it covers it for ASD. (Flesch Readability Score: 62.1).

Establishes certain health insurance coverage for applied behavior analysis therapy for certain intellectual and developmental disability diagnoses with the same requirements for coverage as autism spectrum disorder diagnoses.

Sunsets on January 2, 2030.

## A BILL FOR AN ACT

1  
2 Relating to applied behavior analysis; creating new provisions; and amending ORS 243.144 and  
3 243.877 and sections 2, 10 and 22, chapter 771, Oregon Laws 2013.

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

5 **SECTION 1.** Section 2, chapter 771, Oregon Laws 2013, as amended by section 9, chapter 674,  
6 Oregon Laws 2015, section 11, chapter 284, Oregon Laws 2019, and section 6, chapter 500, Oregon  
7 Laws 2023, is amended to read:

8 **Sec. 2.** (1) As used in this section and section 3a, chapter 771, Oregon Laws 2013:

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

13 (i) A licensed health care professional as defined in ORS 676.802;

14 (ii) A behavior analyst or assistant behavior analyst licensed under ORS 676.810; or

15 (iii) A behavior analysis interventionist registered under ORS 676.815 who receives ongoing  
16 training and supervision by a licensed behavior analyst, by a licensed assistant behavior analyst or  
17 by a licensed health care professional.

18 (B) "Applied behavior analysis" does not mean psychological testing, neuropsychology,  
19 psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy and long-term coun-  
20 seling as treatment modalities.

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

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

25 (d) "Health benefit plan" has the meaning given that term in ORS 743B.005.

26 (e) **"Intellectual or developmental disability" means cerebral palsy, epilepsy, trisomy 21**  
27 **or other condition diagnosed by a qualified professional that:**

28 (A) **Originates before an individual is 22 years of age and is expected to continue indefi-**

**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 **nitely;**

2 **(B) Results in a significant impairment in adaptive behavior or intellectual functioning**  
 3 **as measured by a qualified professional; and**

4 **(C) Is not attributed primarily to other conditions including, but not limited to, a mental**  
 5 **or emotional disorder, sensory impairment, substance abuse, personality disorder or atten-**  
 6 **tion deficit hyperactivity disorder.**

7 [(e)] **(f)** “Medically necessary” means in accordance with the definition of medical necessity that  
 8 is specified in the policy or certificate for the health benefit plan and that applies to all covered  
 9 services under the plan.

10 **(g) “Treatment for an intellectual or developmental disability” includes applied behavior**  
 11 **analysis for up to 25 hours per week and any other mental health or medical services iden-**  
 12 **tified in the individualized treatment plan, as described in subsection (6) of this section.**

13 [(f)] **(h)** “Treatment for autism spectrum disorder” includes applied behavior analysis for up to  
 14 25 hours per week and any other mental health or medical services identified in the individualized  
 15 treatment plan, as described in subsection (6) of this section.

16 (2) A health benefit plan shall provide coverage of:

17 (a) The screening for and diagnosis of autism spectrum disorder **or an intellectual or devel-**  
 18 **opmental disability** by a licensed neurologist, pediatric neurologist, developmental pediatrician,  
 19 psychiatrist or psychologist, who has experience or training in the diagnosis of autism spectrum  
 20 disorder **or an intellectual or developmental disability**; and

21 (b) Medically necessary treatment for autism spectrum disorder **or treatment for an intellec-**  
 22 **tual or developmental disability** and the management of care, for an individual who begins treat-  
 23 ment before nine years of age, subject to the requirements of this section.

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

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

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

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

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

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

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

36 (4) An insurer may not terminate coverage or refuse to issue or renew coverage for an individ-  
 37 ual solely because the individual has received a diagnosis of autism spectrum disorder **or an intel-**  
 38 **lectual or developmental disability** or has received treatment for [*autism spectrum disorder*] **these**  
 39 **diagnoses.**

40 (5) Coverage under this section may be subject to utilization controls that are reasonable in the  
 41 context of individual determinations of medical necessity. An insurer may require:

42 (a) [*An autism spectrum disorder*] **A** diagnosis by a professional described in subsection (2)(a) of  
 43 this section if the original diagnosis was not made by a professional described in subsection (2)(a)  
 44 of this section.

45 (b) Prior authorization for coverage of a maximum of 25 hours per week of applied behavior

1 analysis recommended in an individualized treatment plan approved by a professional described in  
2 subsection (2)(a) of this section for an individual with autism spectrum disorder **or an intellectual**  
3 **or developmental disability**, as long as the insurer makes a prior authorization determination no  
4 later than 30 calendar days after receiving the request for prior authorization, notwithstanding ORS  
5 743B.423.

6 (6) If an individual is receiving applied behavior analysis, an insurer may require submission of  
7 an individualized treatment plan, which shall include all elements necessary for the insurer to ap-  
8 propriately determine coverage under the health benefit plan. The individualized treatment plan  
9 must be based on evidence-based screening criteria. An insurer may require an updated individual-  
10 ized treatment plan, not more than once every six months, that includes observed progress as of the  
11 date the updated plan was prepared, for the purpose of performing utilization review and medical  
12 management. The insurer may require the individualized treatment plan to be approved by a pro-  
13 fessional described in subsection (2)(a) of this section, and to include the:

14 (a) Diagnosis;

15 (b) Proposed treatment by type;

16 (c) Frequency and anticipated duration of treatment;

17 (d) Anticipated outcomes stated as goals, including specific cognitive, social, communicative,  
18 self-care and behavioral goals that are clearly stated, directly observed and continually measured  
19 and that address the characteristics of the [*autism spectrum disorder*] **diagnosis**; and

20 (e) Signature of the treating provider.

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

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

25 (B) Applied behavior analysis is medically necessary.

26 (b) An insurer may require periodic review of an individualized treatment plan, as described in  
27 subsection (6) of this section, and modification of the individualized treatment plan if the review  
28 shows that the individual receiving the treatment is not making substantial clinical progress toward  
29 the goals of the individualized treatment plan.

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

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

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

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

39 (a) Treatment for autism spectrum disorder **or treatment for an intellectual or develop-**  
40 **mental disability** other than applied behavior analysis or the services described in subsection (3)  
41 of this section;

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

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

45 (10) Coverage under this section includes treatment for autism spectrum disorder **or treatment**

1 **for an intellectual or developmental disability** provided in the individual’s home or a licensed  
 2 health care facility or, for treatment provided by a licensed health care professional as defined in  
 3 ORS 676.802 or a behavior analyst or assistant behavior analyst licensed under ORS 676.810 or a  
 4 behavior analysis interventionist registered under ORS 676.815, in a setting approved by the health  
 5 care professional, behavior analyst or assistant behavior analyst.

6 (11) An insurer that provides coverage of applied behavior analysis in accordance with a deci-  
 7 sion of an independent review organization that was made prior to January 1, 2016, shall continue  
 8 to provide coverage, subject to modifications made in accordance with subsection (7) of this section.

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

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

11 **Sec. 10.** (1) Section 2 *[of this 2013 Act]*, **chapter 771, Oregon Laws 2013**, does not limit, replace  
 12 or affect any obligation of a school district to provide services under an individualized education  
 13 program to a child with a disability in accordance with the Individuals with Disabilities Education  
 14 Act, 20 U.S.C. 1400 et seq., or other publicly funded programs to assist individuals with autism  
 15 spectrum disorder **or an intellectual or developmental disability diagnosis**.

16 (2) Any governmental or educational entity providing services as required under the Individuals  
 17 with Disabilities Education Act, 20 U.S.C. 1400 et seq., as amended, or other state or federal law  
 18 requiring the provision of services to individuals with disabilities, is prohibited from reducing,  
 19 eliminating or shifting required services to coverage provided under section 2 *[of this 2013 Act.]*,  
 20 **chapter 771, Oregon Laws 2013**.

21 **SECTION 3.** ORS 243.144, as amended by section 9, chapter 17, Oregon Laws 2024, is amended  
 22 to read:

23 243.144. Benefit plans offered by the Public Employees’ Benefit Board that reimburse the cost  
 24 of medical and other health services and supplies must comply with the requirements for health  
 25 benefit plan coverage described in:

- 26 (1) ORS 743A.058;
- 27 (2) ORS 743A.140;
- 28 (3) ORS 743A.141;
- 29 (4) ORS 743B.256;
- 30 (5) ORS 743B.287 (4);
- 31 (6) ORS 743B.420;
- 32 (7) ORS 743B.423;
- 33 (8) ORS 743B.601;
- 34 (9) ORS 743B.810;
- 35 (10) ORS 743A.325; *[and]*
- 36 (11) ORS 743A.051 (2)(c)[.]; **and**

37 **(12) Section 2, chapter 771, Oregon Laws 2013.**

38 **SECTION 4.** ORS 243.144, as amended by sections 9 and 10, chapter 17, Oregon Laws 2024, is  
 39 amended to read:

40 243.144. Benefit plans offered by the Public Employees’ Benefit Board that reimburse the cost  
 41 of medical and other health services and supplies must comply with the requirements for health  
 42 benefit plan coverage described in:

- 43 (1) ORS 743A.058;
- 44 (2) ORS 743A.140;
- 45 (3) ORS 743A.141;

- 1 (4) ORS 743B.256;
- 2 (5) ORS 743B.287 (4);
- 3 (6) ORS 743B.420;
- 4 (7) ORS 743B.423;
- 5 (8) ORS 743B.601;
- 6 (9) ORS 743B.810; [*and*]
- 7 (10) ORS 743A.325[.]; **and**

8 **(11) Section 2, chapter 771, Oregon Laws 2013.**

9 **SECTION 5.** ORS 243.144, as amended by sections 9 and 10, chapter 17, Oregon Laws 2024, and  
10 section 4 of this 2025 Act, is amended to read:

11 243.144. Benefit plans offered by the Public Employees' Benefit Board that reimburse the cost  
12 of medical and other health services and supplies must comply with the requirements for health  
13 benefit plan coverage described in:

- 14 (1) ORS 743A.058;
- 15 (2) ORS 743A.140;
- 16 (3) ORS 743A.141;
- 17 (4) ORS 743B.256;
- 18 (5) ORS 743B.287 (4);
- 19 (6) ORS 743B.420;
- 20 (7) ORS 743B.423;
- 21 (8) ORS 743B.601;
- 22 (9) ORS 743B.810; **and**
- 23 (10) ORS 743A.325[; *and*].

24 [*(11) Section 2, chapter 771, Oregon Laws 2013.*]

25 **SECTION 6.** ORS 243.877, as amended by section 11, chapter 17, Oregon Laws 2024, is amended  
26 to read:

27 243.877. Benefit plans offered by the Oregon Educators Benefit Board that reimburse the cost  
28 of medical and other health services and supplies must comply with the requirements for health  
29 benefit plan coverage described in:

- 30 (1) ORS 743A.058;
- 31 (2) ORS 743A.140;
- 32 (3) ORS 743A.141;
- 33 (4) ORS 743B.256;
- 34 (5) ORS 743B.287 (4);
- 35 (6) ORS 743B.420;
- 36 (7) ORS 743B.423;
- 37 (8) ORS 743B.601;
- 38 (9) ORS 743B.810;
- 39 (10) ORS 743A.325; [*and*]

40 (11) ORS 743A.051 (2)(c)[.]; **and**

41 **(12) Section 2, chapter 771, Oregon Laws 2013.**

42 **SECTION 7.** ORS 243.877, as amended by sections 11 and 12, chapter 17, Oregon Laws 2024, is  
43 amended to read:

44 243.877. Benefit plans offered by the Oregon Educators Benefit Board that reimburse the cost  
45 of medical and other health services and supplies must comply with the requirements for health

1 benefit plan coverage described in:

- 2 (1) ORS 743A.058;
- 3 (2) ORS 743A.140;
- 4 (3) ORS 743A.141;
- 5 (4) ORS 743B.256;
- 6 (5) ORS 743B.287 (4);
- 7 (6) ORS 743B.420;
- 8 (7) ORS 743B.423;
- 9 (8) ORS 743B.601;
- 10 (9) ORS 743B.810; [*and*]
- 11 (10) ORS 743A.325[.]; **and**
- 12 **(11) Section 2, chapter 771, Oregon Laws 2013.**

13 **SECTION 8.** ORS 243.877, as amended by sections 11 and 12, chapter 17, Oregon Laws 2024,  
14 and section 7 of this 2025 Act, is amended to read:

15 243.877. Benefit plans offered by the Oregon Educators Benefit Board that reimburse the cost  
16 of medical and other health services and supplies must comply with the requirements for health  
17 benefit plan coverage described in:

- 18 (1) ORS 743A.058;
- 19 (2) ORS 743A.140;
- 20 (3) ORS 743A.141;
- 21 (4) ORS 743B.256;
- 22 (5) ORS 743B.287 (4);
- 23 (6) ORS 743B.420;
- 24 (7) ORS 743B.423;
- 25 (8) ORS 743B.601;
- 26 (9) ORS 743B.810; **and**
- 27 (10) ORS 743A.325[; *and*].

28 [*(11) Section 2, chapter 771, Oregon Laws 2013.*]

29 **SECTION 9.** The amendments to ORS 243.144 and 244.877 and sections 2 and 10, chapter  
30 771, Oregon Laws 2013, by sections 1 to 8 of this 2025 Act apply to health benefit plans issued,  
31 renewed or extended on or after January 1, 2026.

32 **SECTION 10.** Section 22, chapter 771, Oregon Laws 2013, as amended by section 1, chapter 650,  
33 Oregon Laws 2021, is amended to read:

34 **Sec. 22.** (1) Section 2, chapter 771, Oregon Laws 2013, as amended by section 9, chapter 674,  
35 Oregon Laws 2015, section 11, chapter 284, Oregon Laws 2019, section 6, chapter 500, Oregon  
36 Laws 2023, and section 1 of this 2025 Act, is repealed January 2, 2030.

37 (2) Section 10, chapter 771, Oregon Laws 2013, as amended by section 2 of this 2025 Act,  
38 is repealed January 2, 2030.

39 **SECTION 11.** The amendments to ORS 243.144 and 243.877 by sections 5 and 8 of this 2025  
40 Act become operative on January 2, 2030.