

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NOS. 1311 & 1341

AN ACT

To amend chapters 337 and 376, RSMo, by adding thereto eleven new sections relating to autism spectrum disorders, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Chapters 337 and 376, RSMo, are amended by
2 adding thereto eleven new sections, to be known as sections
3 337.300, 337.305, 337.310, 337.315, 337.320, 337.325, 337.330,
4 337.335, 337.340, 337.345, and 376.1224, to read as follows:

5 337.300. As used in sections 337.300 to 337.345, the
6 following terms shall mean:

7 (1) "Applied behavior analysis", the design,
8 implementation, and evaluation of environmental modifications,
9 using behavioral stimuli and consequences, to produce socially
10 significant improvement in human behavior, including the use of
11 direct observation, measurement, and functional analysis of the
12 relationships between environment and behavior;

13 (2) "Board", the behavior analyst advisory board within the
14 state committee of psychologists;

1 (3) "Certifying entity", the nationally accredited Behavior
2 Analyst Certification Board, or other equivalent nationally
3 accredited nongovernmental agency approved by the committee which
4 certifies individuals who have completed academic, examination,
5 training, and supervision requirements in applied behavior
6 analysis;

7 (4) "Committee", the state committee of psychologists;

8 (5) "Division", the division of professional registration
9 within the department of insurance, financial institutions and
10 professional registration;

11 (6) "Licensed assistant behavior analyst" or "LaBA", an
12 individual who is certified by the certifying entity as a
13 certified assistant behavior analyst and meets the criteria in
14 section 337.315 and as established by committee rule;

15 (7) "Licensed behavior analyst" or "LBA", an individual who
16 is certified by the certifying entity as a certified behavior
17 analyst and meets the criteria in section 337.315 and as
18 established by committee rule;

19 (8) "Practice of applied behavior analysis", the
20 application of the principles, methods, and procedures of the
21 experimental analysis of behavior and applied behavior analysis
22 (including principles of operant and respondent learning) to
23 assess and improve socially important human behaviors. It
24 includes, but is not limited to, applications of those
25 principles, methods, and procedures to:

26 (a) The design, implementation, evaluation, and
27 modification of treatment programs to change behavior of
28 individuals;

1 (b) The design, implementation, evaluation, and
2 modification of treatment programs to change behavior of groups;
3 and

4 (c) Consultation to individuals and organizations.

5
6 Applied behavior analysis does not include cognitive therapies or
7 psychological testing, personality assessment, intellectual
8 assessment, neuropsychological assessment, psychotherapy,
9 cognitive therapy, sex therapy, psychoanalysis, hypnotherapy,
10 family therapy, and long-term counseling as treatment modalities.

11 337.305. 1. There is hereby created under the state
12 committee of psychologists within the division of professional
13 registration the "Behavior Analyst Advisory Board". The behavior
14 analyst advisory board shall consist of the following seven
15 members: three licensed behavior analysts, one licensed behavior
16 analyst holding a doctoral degree, one licensed assistant
17 behavior analyst, one professional member of the committee, and
18 one public member.

19 2. Appointments to the board shall be made by the governor
20 upon the recommendations of the director of the division, upon
21 the advice and consent of the senate. The division, prior to
22 submitting nominations, shall solicit nominees from professional
23 associations and licensed behavior analysts or licensed assistant
24 behavior analysts in the state.

25 3. The term of office for board members shall be five
26 years. In making initial appointments to the board, the governor
27 shall stagger the terms of the appointees so that one member
28 serves an initial term of two years, three members shall serve an

1 initial term of three years, and three members serve initial
2 terms of four years. Each member of the board shall hold office
3 until his or her successor has been qualified. A vacancy in the
4 membership of the board shall be filled for the unexpired term in
5 the manner provided for the original appointment. A member
6 appointed for less than a full term may serve two full terms in
7 addition to such part of a full term.

8 4. Each board member shall be a resident of this state for
9 a period of one year and a registered voter, shall be a United
10 States citizen, and shall, other than the public member, have
11 been a licensed behavior analyst or licensed assistant behavior
12 analyst in this state for at least three years prior to
13 appointment except for the original members of the board who
14 shall have experience in the practice of applied behavior
15 analysis.

16 5. The public member shall be a person who is not and never
17 was a member of any profession licensed or regulated under
18 sections 337.300 to 337.345 or the spouse of such person; and a
19 person who does not have and never has had a material financial
20 interest in either the providing of the professional services
21 regulated by sections 337.300 to 337.345, or an activity or
22 organization directly related to any profession licensed or
23 regulated under sections 337.300 to 337.345.

24 6. The board shall meet at least quarterly. At one of its
25 regular meetings, the board shall select from among its members a
26 chairperson and a vice chairperson. A quorum of the committee
27 shall consist of a majority of its members. In the absence of
28 the chairperson, the vice chairperson shall conduct the office of

1 the chairperson.

2 7. Each member of the board shall receive as compensation
3 an amount set by the division not to exceed fifty dollars for
4 each day devoted to the affairs of the board and shall be
5 entitled to reimbursement for necessary and actual expenses
6 incurred in the performance of the member's official duties.

7 8. Staff for the board shall be provided by the director of
8 the division of professional registration.

9 9. The governor may remove any member of the board for
10 misconduct, inefficiency, incompetency, or neglect of office.

11
12 All vacancies shall be filled by appointment of the governor with
13 the advice and consent of the senate, and the member so appointed
14 shall serve for the unexpired term.

15 337.310. 1. The behavior analyst advisory board is
16 authorized to:

17 (1) Review all applications for licensure and temporary
18 licensure for behavior analysts and assistant behavior analysts
19 and any supporting documentation submitted with the application
20 to the committee and make recommendations to the committee
21 regarding the resolution of the application;

22 (2) Review all complaints made relating to the practice of
23 behavior analysis and make recommendations to the committee
24 regarding investigation of the complaint, referral for discipline
25 or other resolution of the complaint; and

26 (3) Review any entities responsible for certifying behavior
27 analysts and make recommendations to the committee as to approval
28 or disapproval of the certifying entity based on qualifications

1 established by the committee.

2 2. The board shall recommend to the committee rules to be
3 promulgated pertaining to:

4 (1) The form and content of license applications required
5 and the procedures for filing an application for an initial,
6 provisional temporary or renewal license in this state;

7 (2) The establishment of fees;

8 (3) The educational and training requirements for licensed
9 behavior analysts and licensed assistant behavior analysts;

10 (4) The roles, responsibilities, and duties of licensed
11 behavior analysts and licensed assistant behavior analysts;

12 (5) The characteristics of supervision and supervised
13 clinical practicum experience for the licensed behavior analyst
14 and the licensed assistant behavior analyst;

15 (6) The supervision of licensed assistant behavior
16 analysts;

17 (7) The requirements for continuing education for licensed
18 behavior analysts and licensed assistant behavior analysts;

19 (8) A code of conduct; and

20 (9) Any other policies or procedures necessary to the
21 fulfillment of the requirements of sections 337.300 to 337.345.

22 3. Only after the board's recommendation and approval by
23 majority vote may the committee make any final decisions related
24 to licensing, rules and regulations, complaint resolution,
25 approval of certifying entities or any actions bearing upon the
26 practice of applied behavior analysis unless otherwise authorized
27 by sections 337.300 through 337.345.

28 4. Notwithstanding the provisions of subsection 3 of this

1 section, until such time as the governor appoints the board and
2 the board has a quorum, the committee shall review and resolve
3 all applications for licensure as a licensed behavior analyst or
4 licensed assistant behavior analyst.

5 5. Any rule or portion of a rule, as that term is defined
6 in section 536.010, that is created under the authority delegated
7 in this section shall become effective only if it complies with
8 and is subject to all of the provisions of chapter 536 and, if
9 applicable, section 536.028. This section and chapter 536 are
10 nonseverable and if any of the powers vested with the general
11 assembly pursuant to chapter 536 to review, to delay the
12 effective date, or to disapprove and annul a rule are
13 subsequently held unconstitutional, then the grant of rulemaking
14 authority and any rule proposed or adopted after August 28, 2010,
15 shall be invalid and void.

16 337.315. 1. An applied behavior analysis intervention
17 shall produce socially significant improvements in human behavior
18 through skill acquisition, increase or decrease in behaviors
19 under specific environmental conditions and the reduction of
20 problematic behavior. An applied behavior analysis intervention
21 shall:

22 (1) Be based on empirical research and the identification
23 of functional relations between behavior and environment,
24 contextual factors, antecedent stimuli and reinforcement
25 operations through the direct observation and measurement of
26 behavior, arrangement of events and observation of effects on
27 behavior, as well as other information gathering methods such as
28 record review and interviews; and

1 (2) Utilize changes and arrangements of contextual factors,
2 antecedent stimuli, positive reinforcement, and other
3 consequences to produce behavior change.

4 2. Each person wishing to practice as a licensed behavior
5 analyst shall:

6 (1) Submit a complete application on a form approved by the
7 committee;

8 (2) Pay all necessary fees as set by the committee;

9 (3) Submit a two-inch or three-inch photograph or passport
10 photograph taken no more than six months prior to the application
11 date;

12 (4) Provide two classified sets of fingerprints for
13 processing by the Missouri state highway patrol under section
14 43.543. One set of fingerprints shall be used by the highway
15 patrol to search the criminal history repository and the second
16 set shall be forwarded to the Federal Bureau of Investigation for
17 searching the federal criminal history files;

18 (5) Have passed an examination and been certified as a
19 board certified behavior analyst by a certifying entity, as
20 defined in section 337.300;

21 (6) Provide evidence of active status as a board certified
22 behavior analyst; and

23 (7) If the applicant holds a license as a behavior analyst
24 in another state, a statement from all issuing states verifying
25 licensure and identifying any disciplinary action taken against
26 the license holder by that state.

27 3. Each person wishing to practice as a licensed assistant
28 behavior analyst shall:

1 (1) Submit a complete application on a form approved by the
2 committee;

3 (2) Pay all necessary fees as set by the committee;

4 (3) Submit a two-inch or three-inch photograph or passport
5 photograph taken no more than six months prior to the application
6 date;

7 (4) Provide two classified sets of fingerprints for
8 processing by the Missouri state highway patrol under section
9 43.543. One set of fingerprints shall be used by the highway
10 patrol to search the criminal history repository and the second
11 set shall be forwarded to the Federal Bureau of Investigation for
12 searching the federal criminal history files;

13 (5) Have passed an examination and been certified as a
14 board certified assistant behavior analyst by a certifying
15 entity, as defined in section 337.300;

16 (6) Provide evidence of active status as a board certified
17 assistant behavior analyst;

18 (7) If the applicant holds a license as an assistant
19 behavior analyst in another state, a statement from all issuing
20 states verifying licensure and identifying any disciplinary
21 action taken against the license holder by that state; and

22 (8) Submit documentation satisfactory to the committee that
23 the applicant will be directly supervised by a licensed behavior
24 analyst in a manner consistent with the certifying entity.

25 4. The committee shall be authorized to issue a temporary
26 license to an applicant for a behavior analyst license or
27 assistant behavior analyst license upon receipt of a complete
28 application for behavior analyst or assistant behavior analyst or

a showing of valid licensure as a behavior analyst in another state, only if the applicant has submitted fingerprints and no disqualifying criminal history appears on the family care safety registry. The temporary license shall expire upon issuance of a license or denial of the application but no later than ninety days from issuance of the temporary license. Upon written request to the committee, the holder of a temporary license shall be entitled to one extension of ninety days of the temporary license.

5. No person shall hold himself or herself out to be licensed behavior analysts or LBA, licensed assistant behavior analysts or LaBA in the state of Missouri unless they meet the applicable requirements.

6. No persons shall practice applied behavior analysis unless they are:

(1) Licensed behavior analysts;

(2) Licensed assistant behavior analysts working under the supervision of a licensed behavior analyst;

(3) An individual who has a bachelor's or graduate degree and completed course work for licensure as a behavior analyst and is obtaining supervised field experience under a licensed behavior analyst pursuant to required supervised work experience for licensure at the behavior analyst or assistant behavior analyst level; or

(4) Licensed psychologists practicing within the rules and standards of practice for psychologists in the state of Missouri and whose practice is commensurate with their level of training and experience.

1 7. Notwithstanding the provisions in subsection 6 of this
2 section, any licensed or certified professional may practice
3 components of applied behavior analysis, as defined in section
4 337.300 if he or she is acting within his or her applicable scope
5 of practice and ethical guidelines.

6 8. All licensed behavior analysts and licensed assistant
7 behavior analysts shall be bound by the code of conduct adopted
8 by the committee by rule.

9 9. Licensed assistant behavior analysts shall work under
10 the direct supervision of a licensed behavior analyst as
11 established by committee rule.

12 10. Persons who provide services under the Individuals with
13 Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et
14 seq., or Section 504 of the federal Rehabilitation Act of 1973,
15 20 U.S.C. Section 794, or are enrolled in a course of study at a
16 recognized educational institution through which the person
17 provides applied behavior analysis as part of supervised clinical
18 experience shall be exempt from the requirements of this section.

19 11. A violation of this section shall be punishable by
20 probation, suspension, or loss of any license held by the
21 violator.

22 337.320. 1. The division shall mail a renewal notice to
23 the last known address of each licensee or registrant prior to
24 the renewal date.

25 2. Each person wishing to renew the behavior analyst
26 license or the assistant behavior analyst license shall:

27 (1) Submit a complete application on a form approved by the
28 committee;

1 (2) Pay all necessary fees as set by the committee; and

2 (3) Submit proof of active certification and fulfillment of
3 all requirements for renewal and recertification with the
4 certifying entity.

5 3. Failure to provide the division with documentation
6 required by subsection 2 of this section or other information
7 required for renewal shall effect a revocation of the license
8 after a period of sixty days from the renewal date.

9 4. Each person wishing to restore the license, within two
10 years of the renewal date, shall:

11 (1) Submit a complete application on a form approved by the
12 committee;

13 (2) Pay the renewal fee and a delinquency fee as set by the
14 committee; and

15 (3) Submit proof of current certification from a certifying
16 body approved by the committee.

17 5. A new license to replace any certificate lost,
18 destroyed, or mutilated may be issued subject to the rules of the
19 committee, upon payment of a fee established by the committee.

20 6. The committee shall set the amount of the fees
21 authorized by sections 337.300 to 337.345 and required by rules
22 promulgated under section 536.021. The fees shall be set at a
23 level to produce revenue which shall not substantially exceed the
24 cost and expense of administering sections 337.300 to 337.345.

25 7. The committee is authorized to issue an inactive license
26 to any licensee who makes written application for such license on
27 a form provided by the committee and remits the fee for an
28 inactive license established by the committee. An inactive

1 license may be issued only to a person who has previously been
2 issued a license to practice as a licensed behavior analyst or a
3 licensed assistant behavior analyst who is no longer regularly
4 engaged in such practice and who does not hold himself or herself
5 out to the public as being professionally engaged in such
6 practice in this state. Each inactive license shall be subject
7 to all provisions of this chapter, except as otherwise
8 specifically provided. Each inactive license may be renewed by
9 the committee subject to all provisions of this section and all
10 other provisions of this chapter. The inactive licensee shall
11 not be required to submit evidence of completion of continuing
12 education as required by this chapter.

13 8. An inactive licensee may apply for a license to
14 regularly engage in the practice of behavioral analysis by:

15 (1) Submitting a complete application on a form approved by
16 the committee;

17 (2) Paying the reactivation fee as set by the committee;
18 and

19 (3) Submitting proof of current certification from a
20 certifying body approved by the committee.

21 337.325. A licensed behavior analyst and licensed assistant
22 behavior analyst shall limit his or her practice to demonstrated
23 areas of competence as documented by relevant professional
24 education, training, or experience. A licensed behavior analyst
25 and licensed assistant behavior analyst trained in one area shall
26 not practice in another area without obtaining additional
27 relevant professional education, training, and experience.

28 337.330. 1. The committee may refuse to issue any license

1 required under this chapter for one or any combination of causes
2 stated in subsection 2 of this section. The committee shall
3 notify the applicant in writing of the reasons for the refusal
4 and shall advise the applicant of the applicant's right to file a
5 complaint with the administrative hearing commission as provided
6 by chapter 621.

7 2. The committee may cause a complaint to be filed with the
8 administrative hearing commission, as provided by chapter 621,
9 against any holder of any license required by this chapter or any
10 person who has failed to renew or has surrendered the person's
11 license for any one or any combination of the following causes:

12 (1) Use of any controlled substance, as defined in chapter
13 195, or alcoholic beverage to an extent that such use impairs a
14 person's ability to perform the work of any profession licensed
15 or regulated by this chapter;

16 (2) The person has been finally adjudicated and found
17 guilty, or entered a plea of guilty or nolo contendere, in a
18 criminal prosecution under the laws of any state or of the United
19 States, for any offense reasonably related to the qualifications,
20 functions, or duties of any profession licensed or regulated
21 under this chapter, for any offense an essential element of which
22 is fraud, dishonesty or an act of violence, or for any offense
23 involving moral turpitude, whether or not sentence is imposed;

24 (3) Use of fraud, deception, misrepresentation or bribery
25 in securing any permit or license issued under this chapter or in
26 obtaining permission to take any examination given or required
27 under sections 337.300 to 337.345;

28 (4) Obtaining or attempting to obtain any fee, charge,

1 tuition, or other compensation by fraud, deception or
2 misrepresentation;

3 (5) Incompetency, misconduct, gross negligence, fraud,
4 misrepresentation, or dishonesty in the performance of the
5 functions or duties of any profession licensed by sections
6 337.300 to 337.345;

7 (6) Violation of, or assisting or enabling any person to
8 violate, any provision of sections 337.300 to 337.345, or of any
9 lawful rule adopted thereunder;

10 (7) Impersonation of any person holding a certificate of
11 registration or authority, permit or license or allowing any
12 person to use his or her certificate of registration or
13 authority, permit, license, or diploma from any school;

14 (8) Disciplinary action against the holder of a license or
15 other right to practice any profession regulated by sections
16 337.300 to 337.345 granted by another state, territory, federal
17 agency, or country upon grounds for which revocation or
18 suspension is authorized in this state;

19 (9) A person is finally adjudged insane or incapacitated by
20 a court of competent jurisdiction;

21 (10) Assisting or enabling any person to practice or offer
22 to practice any profession licensed or regulated by sections
23 337.300 to 337.345 who is not registered and currently eligible
24 to practice as provided in sections 337.300 to 337.345;

25 (11) Issuance of a certificate of registration or
26 authority, permit, or license based upon a material mistake of
27 fact;

28 (12) Failure to display a valid certificate or license if

1 so required by sections 337.300 to 337.345 or any rule
2 promulgated thereunder;

3 (13) Violation of any professional trust or confidence;

4 (14) Use of any advertisement or solicitation which is
5 false, misleading, or deceptive to the general public or persons
6 to whom the advertisement or solicitation is primarily directed;

7 (15) Being guilty of unethical conduct as defined in the
8 code of conduct as adopted by the committee and filed with the
9 secretary of state.

10 3. After the filing of such complaint, the proceedings
11 shall be conducted in accordance with the provisions of chapter
12 621. Upon a finding by the administrative hearing commission
13 that the grounds, provided in subsection 2 of this section, for
14 disciplinary action are met, the committee may, singly or in
15 combination, censure or place the person named in the complaint
16 on probation on such terms and conditions as the department deems
17 appropriate for a period not to exceed five years, or may
18 suspend, for a period not to exceed three years, or revoke the
19 license, certificate, or permit.

20 337.335. 1. Any person found guilty of violating any
21 provision of sections 337.300 to 337.345 is guilty of a class A
22 misdemeanor and upon conviction thereof shall be punished as
23 provided by law.

24 2. All fees or other compensation received for services
25 rendered in violation of sections 337.300 to 337.345 shall be
26 refunded.

27 3. The committee shall inquire as to any violation of any
28 provision of sections 337.300 to 337.345 and may institute

1 actions for penalties herein prescribed, and shall enforce
2 generally the provisions of sections 337.300 to 337.345.

3 4. Any person, organization, association or corporation who
4 reports or provides information to the committee or the division
5 under sections 337.300 to 337.345 and who does so in good faith
6 shall not be subject to an action for civil damages as a result
7 thereof.

8 5. Upon application by the committee the attorney general
9 may on behalf of the committee request that a court of competent
10 jurisdiction grant an injunction, restraining order, or other
11 order as may be appropriate to enjoin a person from:

12 (1) Offering to engage or engaging in the performance of
13 any acts or practices for which a certificate of registration or
14 authority, permit, or license is required upon a showing that
15 such acts or practices were performed or offered to be performed
16 without a certificate of registration or authority, permit or
17 license; or

18 (2) Engaging in any practice or business authorized by a
19 certificate of registration or authority, permit, or license
20 issued under sections 337.300 to 337.345 upon a showing that the
21 holder presents a substantial probability of serious harm to the
22 health, safety, or welfare of any resident of this state or
23 client or patient of the licensee.

24 6. Any action brought under the provisions of this section
25 shall be commenced either in the county in which such conduct
26 occurred or in the county in which the defendant resides.

27 7. Any action brought under this section may be in addition
28 to or in lieu of any penalty provided by sections 337.300 to

1 337.345 and may be brought concurrently with other actions to
2 enforce sections 337.300 to 337.345.

3 337.340. All fees authorized under sections 337.300 to
4 337.345 shall be collected by the director of the division of
5 professional registration and shall be transmitted to the
6 department of revenue for deposit in the state treasury to the
7 credit of the state committee of psychologists fund.

8 337.345. 1. Prior to August 28, 2012, each person desiring
9 to obtain a provisional license shall make application to the
10 committee upon such forms and in such manner as may be prescribed
11 by the committee and shall pay the required application fee. The
12 application fee shall not be refundable. Each application shall
13 contain a statement that it is made under oath or affirmation and
14 that its representations are true and correct to the best
15 knowledge and belief of the person signing the application,
16 subject to the penalties of making a false affidavit or
17 declaration.

18 2. For a provisional behavior analyst license, the
19 applicant shall:

20 (1) Submit a two-inch or three-inch photograph or passport
21 photograph taken no more than six months prior to the application
22 date, and only if the applicant has submitted fingerprints and no
23 disqualifying criminal history appears on the family care safety
24 registry;

25 (2) Have passed an examination and been certified as a
26 board certified behavior analyst by the Behavior Analyst
27 Certification Board or a certifying entity listed in subdivision

28 (3) of section 337.300; and

1 (3) Provide evidence of active status as a board certified
2 behavior analyst.

3 3. For a provisional assistant behavior analyst license,
4 the applicant shall:

5 (1) Submit a two-inch or three-inch photograph or passport
6 photograph taken no more than six months prior to the application
7 date, and only if the applicant has submitted fingerprints and no
8 disqualifying criminal history appears on the family care safety
9 registry;

10 (2) Have passed an examination and been certified as a
11 board certified assistant behavior analyst by a certifying entity
12 listed in subdivision (3) of section 337.300;

13 (3) Provide evidence of active status as a board certified
14 assistant behavior analyst; and

15 (4) Submit documentation satisfactory to the board that the
16 applicant will be directly supervised by a licensed behavior
17 analyst in a manner consistent with the certifying entity.

18 4. Each applicant for provisional licensure shall meet the
19 applicable requirements of section 337.315 within three months of
20 the date of issuance of the provisional license.

21 5. The provisional license shall be effective only until
22 the later to occur of:

23 (1) Grant or rejection of a license pursuant to section
24 337.315; or

25 (2) August 28, 2012.

26
27 The holder of a provisional license which has not expired, been
28 suspended, or revoked, shall be deemed to be the holder of a

license issued under section 337.315 until such provisional
license expires, is suspended, or revoked.

376.1224. 1. For purposes of this section, the following
terms shall mean:

(1) "Applied behavior analysis", the design,
implementation, and evaluation of environmental modifications,
using behavioral stimuli and consequences, to produce socially
significant improvement in human behavior, including the use of
direct observation, measurement, and functional analysis of the
relationships between environment and behavior;

(2) "Autism service provider":

(a) Any person, entity, or group that provides diagnostic
or treatment services for autism spectrum disorders who is
licensed or certified by the state of Missouri; or

(b) Any person who is licensed under chapter 337 as a board
certified behavior analyst by the behavior analyst certification
board or licensed under chapter 337 as an assistant board
certified behavior analyst;

(3) "Autism spectrum disorders", a neurobiological
disorder, an illness of the nervous system, which includes
Autistic Disorder, Asperger's Disorder, Pervasive Developmental
Disorder Not Otherwise Specified, Rett's Disorder, and Childhood
Disintegrative Disorder, as defined in the most recent edition of
the Diagnostic and Statistical Manual of Mental Disorders of the
American Psychiatric Association;

(4) "Diagnosis of autism spectrum disorders", medically
necessary assessments, evaluations, or tests in order to diagnose
whether an individual has an autism spectrum disorder;

1 (5) "Habilitative or rehabilitative care", professional,
2 counseling, and guidance services and treatment programs,
3 including applied behavior analysis, that are necessary to
4 develop the functioning of an individual;

5 (6) "Health benefit plan", shall have the same meaning
6 ascribed to it as in section 376.1350;

7 (7) "Health carrier", shall have the same meaning ascribed
8 to it as in section 376.1350;

9 (8) "Line therapist", an individual who provides
10 supervision of an individual diagnosed with an autism diagnosis
11 and other neurodevelopmental disorders pursuant to the prescribed
12 treatment plan, and implements specific behavioral interventions
13 as outlined in the behavior plan under the direct supervision of
14 a licensed behavior analyst;

15 (9) "Pharmacy care", medications used to address symptoms
16 of an autism spectrum disorder prescribed by a licensed
17 physician, and any health-related services deemed medically
18 necessary to determine the need or effectiveness of the
19 medications only to the extent that such medications are included
20 in the insured's health benefit plan;

21 (10) "Psychiatric care", direct or consultative services
22 provided by a psychiatrist licensed in the state in which the
23 psychiatrist practices;

24 (11) "Psychological care", direct or consultative services
25 provided by a psychologist licensed in the state in which the
26 psychologist practices;

27 (12) "Therapeutic care", services provided by licensed
28 speech therapists, occupational therapists, or physical

1 therapists;

2 (13) "Treatment for autism spectrum disorders", care
3 prescribed or ordered for an individual diagnosed with an autism
4 spectrum disorder by a licensed physician or licensed
5 psychologist, including, equipment medically necessary for such
6 care, pursuant to the powers granted under such licensed
7 physician's or licensed psychologist's license, including, but
8 not limited to:

9 (a) Psychiatric care;

10 (b) Psychological care;

11 (c) Habilitative or rehabilitative care, including applied
12 behavior analysis therapy;

13 (d) Therapeutic care;

14 (e) Pharmacy care.

15 2. All group health benefit plans that are delivered,
16 issued for delivery, continued, or renewed on or after January 1,
17 2011, if written inside the state of Missouri, or written outside
18 the state of Missouri but insuring Missouri residents, shall
19 provide coverage for the diagnosis and treatment of autism
20 spectrum disorders to the extent that such diagnosis and
21 treatment is not already covered by the health benefit plan.

22 3. With regards to a health benefit plan, a health carrier
23 shall not deny or refuse to issue coverage on, refuse to contract
24 with, or refuse to renew or refuse to reissue or otherwise
25 terminate or restrict coverage on an individual or their
26 dependent because the individual is diagnosed with autism
27 spectrum disorder.

28 4. (1) Coverage provided under this section is limited to

1 medically necessary treatment that is ordered by the insured's
2 treating licensed physician or licensed psychologist, pursuant to
3 the powers granted under such licensed physician's or licensed
4 psychologist's license, in accordance with a treatment plan;

5 (2) The treatment plan, upon request by the health benefit
6 plan or health carrier, shall include all elements necessary for
7 the health benefit plan or health carrier to pay claims. Such
8 elements include, but are not limited to, a diagnosis, proposed
9 treatment by type, frequency and duration of treatment, and
10 goals;

11 (3) Except for inpatient services, if an individual is
12 receiving treatment for an autism spectrum disorder, a health
13 carrier shall have the right to review the treatment plan not
14 more than once every six months unless the health carrier and the
15 individual's treating physician or psychologist agree that a more
16 frequent review is necessary. Any such agreement regarding the
17 right to review a treatment plan more frequently shall only apply
18 to a particular individual being treated for an autism spectrum
19 disorder and shall not apply to all individuals being treated for
20 autism spectrum disorders by a physician or psychologist. The
21 cost of obtaining any review or treatment plan shall be borne by
22 the health benefit plan or health carrier, as applicable.

23 5. Coverage provided under this section for applied
24 behavior analysis shall be subject to a maximum benefit of forty
25 thousand dollars per calendar year for individuals through
26 eighteen years of age. Such maximum benefit limit may be
27 exceeded, upon prior approval by the health benefit plan, if the
28 provision of applied behavior analysis services beyond the

1 maximum limit is medically necessary for such individual.
2 Payments made by a health carrier on behalf of a covered
3 individual for any care, treatment, intervention, service or
4 item, the provision of which was for the treatment of a health
5 condition unrelated to the covered individual's autism spectrum
6 disorder, shall not be applied toward any maximum benefit
7 established under this subsection. Any coverage required under
8 this section, other than the coverage for applied behavior
9 analysis, shall not be subject to the age and dollar limitations
10 described in this subsection.

11 6. The maximum benefit limitation for applied behavior
12 analysis described in subsection 5 of this section shall be
13 adjusted by the health carrier at least triennially for inflation
14 to reflect the aggregate increase in the general price level as
15 measured by the Consumer Price Index for All Urban Consumers for
16 the United States, or its successor index, as defined and
17 officially published by the United States Department of Labor, or
18 its successor agency. Beginning January 1, 2012, and annually
19 thereafter, the current value of the maximum benefit limitation
20 for applied behavior analysis coverage adjusted for inflation in
21 accordance with this subsection shall be calculated by the
22 director of the department of insurance, financial institutions
23 and professional registration. The director shall furnish the
24 calculated value to the secretary of state, who shall publish
25 such value in the Missouri Register as soon after each January
26 first as practicable, but it shall otherwise be exempt from the
27 provisions of section 536.021.

28 7. Subject to the provisions set forth in subdivision (3)

1 of subsection 4 of this section, coverage provided under this
2 section shall not be subject to any limits on the number of
3 visits an individual may make to an autism service provider,
4 except that the maximum total benefit for applied behavior
5 analysis set forth in subsection 5 of this section shall apply to
6 this subsection.

7 8. This section shall not be construed as limiting benefits
8 which are otherwise available to an individual under a health
9 benefit plan. The health care coverage required by this section
10 shall not be subject to any greater deductible, coinsurance, or
11 co-payment than other physical health care services provided by a
12 health benefit plan. Coverage of services may be subject to
13 other general exclusions and limitations of the contract or
14 benefit plan, not in conflict with the provisions of this
15 section, such as coordination of benefits, exclusions for
16 services provided by family or household members, and utilization
17 review of health care services, including review of medical
18 necessity and care management; however, coverage for treatment
19 under this section shall not be denied on the basis that it is
20 educational or habilitative in nature.

21 9. To the extent any payments or reimbursements are being
22 made for applied behavior analysis, such payments or
23 reimbursements shall be made to either:

24 (1) The autism service provider, as defined in this
25 section; or

26 (2) The entity or group for whom such supervising person,
27 who is certified as a board certified behavior analyst by the
28 Behavior Analyst Certification Board, works or is associated.

1 Such payments or reimbursements under this subsection to an
2 autism service provider or a board certified behavior analyst
3 shall include payments or reimbursements for services provided by
4 a line therapist under the supervision of such provider or
5 behavior analyst if such services provided by the line therapist
6 are included in the treatment plan and are deemed medically
7 necessary.

8 10. Notwithstanding any other provision of law to the
9 contrary, health carriers shall not be held liable for the
10 actions of line therapists in the performance of their duties.

11 11. The provisions of this section shall apply to any
12 health care plans issued to employees and their dependents under
13 the Missouri consolidated health care plan established pursuant
14 to chapter 103, that are delivered, issued for delivery,
15 continued, or renewed in this state on or after January 1, 2011.
16 The terms "employees" and "health care plans" shall have the same
17 meaning ascribed to them in section 103.003.

18 12. The provisions of this section shall also apply to the
19 following types of plans that are established, extended,
20 modified, or renewed on or after January 1, 2011:

21 (1) All self-insured governmental plans, as that term is
22 defined in 29 U.S.C. Section 1002(32);

23 (2) All self-insured group arrangements, to the extent not
24 preempted by federal law;

25 (3) All plans provided through a multiple employer welfare
26 arrangement, or plans provided through another benefit
27 arrangement, to the extent permitted by the Employee Retirement
28 Income Security Act of 1974, or any waiver or exception to that

1 act provided under federal law or regulation; and

2 (4) All self-insured school district health plans.

3 13. The provisions of this section shall not automatically
4 apply to an individually underwritten health benefit plan, but
5 shall be offered as an option to any such plan.

6 14. The provisions of this section shall not apply to a
7 supplemental insurance policy, including a life care contract,
8 accident-only policy, specified disease policy, hospital policy
9 providing a fixed daily benefit only, Medicare supplement policy,
10 long-term care policy, short-term major medical policy of six
11 months or less duration, or any other supplemental policy.

12 15. Any health carrier or other entity subject to the
13 provisions of this section shall not be required to provide
14 reimbursement for the applied behavior analysis delivered to a
15 person insured by such health carrier or other entity to the
16 extent such health carrier or other entity is billed for such
17 services by any Part C early intervention program or any school
18 district for applied behavior analysis rendered to the person
19 covered by such health carrier or other entity. This section
20 shall not be construed as affecting any obligation to provide
21 services to an individual under an individualized family service
22 plan, an individualized education plan, or an individualized
23 service plan. This section shall not be construed as affecting
24 any obligation to provide reimbursement pursuant to section
25 376.1218.

26 16. The provisions of sections 376.383, 376.384, and
27 376.1350 to 376.1399 shall apply to this section.

28 17. The director of the department of insurance, financial

institutions and professional registration shall grant a small employer with a group health plan, as that term is defined in section 379.930, a waiver from the provisions of this section if the small employer demonstrates to the director by actual claims experience over any consecutive twelve month period that compliance with this section has increased the cost of the health insurance policy by an amount of two and a half percent or greater over the period of a calendar year in premium costs to the small employer.

18. The provisions of this section shall not apply to the Mo HealthNet program as described in chapter 208.

19. (1) By February 1, 2012, and every February first thereafter, the department of insurance, financial institutions and professional registration shall submit a report to the general assembly regarding the implementation of the coverage required under this section. The report shall include, but shall not be limited to, the following:

(a) The total number of insureds diagnosed with autism spectrum disorder;

(b) The total cost of all claims paid out in the immediately preceding calendar year for coverage required by this section;

(c) The cost of such coverage per insured per month; and

(d) The average cost per insured for coverage of applied behavior analysis;

(2) All health carriers and health benefit plans subject to the provisions of this section shall provide the department with the data requested by the department for inclusion in the annual

1 report.

2 ✓

3 _____

5

6

7

8 _____

9 Dwight Scharnhorst

Scott Rupp