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# A BILL FOR AN ACT

RELATING TO AUTISM SPECTRUM DISORDERS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The purpose of this Act is to ensure the  
2 provision of quality health care by requiring insurance coverage  
3 for the diagnosis and treatment of autism.

4 SECTION 2. This Act shall be known and may be cited as  
5 "Luke's Law".

6 SECTION 3. Chapter 431, Hawaii Revised Statutes, is  
7 amended by adding a new section to article 10A to be  
8 appropriately designated and to read as follows:

9 **"§431:10A- Autism benefits and coverage; notice;**  
10 **definitions.** (a) Each individual or group accident and health  
11 or sickness insurance policy issued or renewed in this State  
12 after January 1, 2016, shall provide to the policyholder and  
13 individuals under fourteen years of age covered under the policy  
14 coverage for the diagnosis and treatment of autism.

15 (b) This section shall not apply to disability, accident-  
16 only, medicare, medicare supplement, student accident and health  
17 or sickness insurance, dental-only, and vision-only policies or  
18 policies or renewals of six months or less.



1       (c) Every insurer shall provide written notice to its  
2 policyholders regarding the coverage required by this section.  
3 The notice shall be in writing and prominently positioned in any  
4 literature or correspondence sent to policyholders and shall be  
5 transmitted to policyholders within calendar year 2016 when  
6 annual information is made available to policyholders or in any  
7 other mailing to policyholders, but in no case later than  
8 December 31, 2016.

9       (d) Coverage for applied behavioral analysis provided  
10 under this section shall be subject to a maximum benefit of  
11 \$25,000 per year for services for children ages thirteen and  
12 under. This section shall not be construed as limiting benefits  
13 that are otherwise available to an individual under an accident  
14 and health or sickness insurance policy. Payments made by an  
15 insurer on behalf of a covered individual for any care,  
16 treatment, intervention, or service other than applied  
17 behavioral analysis shall not be applied toward the maximum  
18 benefit established under this subsection.

19       (e) Coverage under this section may be subject to  
20 copayment, deductible, and coinsurance provisions of an accident  
21 and health or sickness insurance policy that are no less



1 favorable than the copayment, deductible, and coinsurance  
2 provisions for substantially all medical services covered by the  
3 policy.

4 (f) Treatment for autism requests shall include a  
5 treatment plan. Except for inpatient services, if an individual  
6 is receiving treatment for autism, an insurer may request a  
7 review of the treatment plan for continued authorization of  
8 coverage for treatment for autism at the insurer's discretion.

9 (g) The medical necessity of treatment covered by this  
10 section shall be determined pursuant to the policy and shall be  
11 defined in the policy in a manner that is consistent with other  
12 services covered under the policy. Except for inpatient  
13 services, if an individual is receiving treatment for autism, an  
14 insurer may request a review of the medical necessity of that  
15 treatment at the insurer's discretion.

16 (h) This section shall not be construed as reducing any  
17 obligation to provide services to an individual under any  
18 publicly funded program, an individualized family service plan,  
19 an individualized education program, or an individualized  
20 service plan.



1        (i) Coverage under this section shall exclude coverage  
2 for:

- 3        (1) Care that is custodial in nature;
- 4        (2) Services and supplies that are not clinically  
5            appropriate;
- 6        (3) Services provided by family or household members;
- 7        (4) Treatments considered experimental; and
- 8        (5) Services provided outside of the State.

9        (j) Insurers shall include in their network of approved  
10 autism service providers only those providers who have cleared  
11 state and federal criminal background checks as determined by  
12 the insurer.

13        (k) If an individual has been diagnosed as having autism  
14 meeting the diagnostic criteria described in the Diagnostic and  
15 Statistical Manual of Mental Disorders available at the time of  
16 diagnosis, upon publication of a more recent edition of the  
17 Diagnostic and Statistical Manual of Mental Disorders, that  
18 individual may be required to undergo repeat evaluation to  
19 remain eligible for coverage under this section.

20        (l) Treatment for autism shall not be covered pursuant to  
21 this section unless provided by an autism service provider that



1 is licensed by a state licensure board. If a state licensure  
2 board that licenses providers to provide autism services is  
3 unavailable, the autism service provider shall:

4 (1) Be certified by the Behavior Analyst Certification  
5 Board, Inc.; provided that certification by the  
6 Behavior Analyst Certification Board, Inc., shall be  
7 valid for purposes of this subsection for no more than  
8 one year; or

9 (2) Meet any existing credentialing requirements  
10 determined by the insurer.

11 (m) As used in this section, unless the context clearly  
12 requires otherwise:

13 "Applied behavior analysis" means the design,  
14 implementation, and evaluation of environmental modifications,  
15 using behavioral stimuli and consequences, to produce socially  
16 significant improvement in human behavior, including the use of  
17 direct observation, measurement, and functional analysis of the  
18 relations between environment and behavior.

19 "Autism" means autism spectrum disorder as defined by the  
20 most recent edition of the Diagnostic and Statistical Manual of  
21 Mental Disorders.



1       "Autism service provider" means any person, entity, or  
2 group that provides treatment for autism and meets the minimum  
3 requirements pursuant to subsection (1).

4       "Behavioral health treatment" means evidence based  
5 counseling and treatment programs, including applied behavior  
6 analysis, that are:

7       (1) Necessary to develop, maintain, or restore, to the  
8 maximum extent practicable, the functioning of an  
9 individual; and

10       (2) Provided or supervised by an autism service provider.

11       "Diagnosis of autism" means medically necessary  
12 assessments, evaluations, or tests conducted to diagnose whether  
13 an individual has autism.

14       "Pharmacy care" means medications prescribed by a licensed  
15 physician or registered nurse practitioner and any health-  
16 related services that are deemed medically necessary to  
17 determine the need or effectiveness of the medications.

18       "Psychiatric care" means direct or consultative services  
19 provided by a licensed psychiatrist.

20       "Psychological care" means direct or consultative services  
21 provided by a licensed psychologist.



1       "Therapeutic care" means services provided by licensed  
2 speech pathologists, registered occupational therapists,  
3 licensed social workers, licensed clinical social workers, or  
4 licensed physical therapists.

5       "Treatment for autism" includes the following care  
6 prescribed or ordered for an individual diagnosed with autism by  
7 a licensed physician, psychiatrist, psychologist, licensed  
8 clinical social worker, or registered nurse practitioner if the  
9 care is determined to be medically necessary:

- 10       (1) Behavioral health treatment;
- 11       (2) Pharmacy care;
- 12       (3) Psychiatric care;
- 13       (4) Psychological care; and
- 14       (5) Therapeutic care."

15       SECTION 4. Chapter 432, Hawaii Revised Statutes, is  
16 amended by adding a new section to article 1 to be appropriately  
17 designated and to read as follows:

18       "**§432:1- Autism benefits and coverage; notice;**  
19 **definitions.** (a) Each hospital and medical service plan  
20 contract issued or renewed in this State after January 1, 2016,  
21 shall provide to the member and individuals under fourteen years



1 of age covered under the plan contract coverage for the  
2 diagnosis and treatment of autism.

3 (b) This section shall not apply to disability, accident-  
4 only, medicare, medicare supplement, student accident and health  
5 or sickness insurance, dental-only, and vision-only policies or  
6 policies or renewals of six months or less.

7 (c) Every mutual benefit society shall provide written  
8 notice to its members regarding the coverage required by this  
9 section. The notice shall be in writing and prominently  
10 positioned in any literature or correspondence sent to members  
11 and shall be transmitted to members within calendar year 2016  
12 when annual information is made available to members or in any  
13 other mailing to members, but in no case later than December 31,  
14 2016.

15 (d) Coverage for applied behavioral analysis provided  
16 under this section shall be subject to a maximum benefit of  
17 \$25,000 per year for services for children ages thirteen and  
18 under. This section shall not be construed as limiting benefits  
19 that are otherwise available to a member under a hospital and  
20 medical service plan contract. Payments made on behalf of a  
21 member for any care, treatment, intervention, or service other



1 than applied behavioral analysis shall not be applied toward the  
2 maximum benefit established under this subsection.

3 (e) Coverage under this section may be subject to  
4 copayment, deductible, and coinsurance provisions of a policy  
5 that are no less favorable than the copayment, deductible, and  
6 coinsurance provisions for substantially all medical services  
7 covered by the plan contract.

8 (f) Treatment for autism requests shall include a  
9 treatment plan. Except for inpatient services, if an individual  
10 is receiving treatment for autism, a mutual benefit society may  
11 request a review of the treatment plan for continued  
12 authorization of coverage for treatment for autism at the mutual  
13 benefit society's discretion.

14 (g) The medical necessity of treatment covered by this  
15 section shall be determined pursuant to the plan contract and  
16 shall be defined in the plan contract in a manner that is  
17 consistent with other services covered under the plan contract.  
18 Except for inpatient services, if an individual is receiving  
19 treatment for autism, a mutual benefit society may request a  
20 review of the medical necessity of that treatment at the  
21 society's discretion.



1        (h) This section shall not be construed as reducing any  
2 obligation to provide services to an individual under any  
3 publicly funded program, an individualized family service plan,  
4 an individualized education program, or an individualized  
5 service plan.

6        (i) Coverage under this section shall exclude coverage  
7 for:

- 8        (1) Care that is custodial in nature;
- 9        (2) Services and supplies that are not clinically  
10        appropriate;
- 11        (3) Services provided by family or household members;
- 12        (4) Treatments considered experimental; and
- 13        (5) Services provided outside of the State.

14        (j) Mutual benefit societies shall include in their  
15 network of approved autism service providers only those  
16 providers who have cleared state and federal criminal background  
17 checks as determined by the society.

18        (k) If an individual has been diagnosed as having autism  
19 meeting the diagnostic criteria described in the Diagnostic and  
20 Statistical Manual of Mental Disorders available at the time of  
21 diagnosis, upon publication of a more recent edition of the



1 Diagnostic and Statistical Manual of Mental Disorders, that  
2 individual may be required to undergo repeat evaluation to  
3 remain eligible for coverage under this section.

4 (1) Treatment for autism shall not be covered pursuant to  
5 this section unless provided by an autism service provider that  
6 is licensed by a state licensure board. If a state licensure  
7 board that licenses providers to provide autism services is  
8 unavailable, the autism service provider shall:

9 (1) Be certified by the Behavior Analyst Certification  
10 Board, Inc.; provided that certification by the  
11 Behavior Analyst Certification Board, Inc., shall be  
12 valid for purposes of this subsection for no more than  
13 one year; or

14 (2) Meet any existing credentialing requirements  
15 determined by the mutual benefit society.

16 (m) As used in this section, unless the context clearly  
17 requires otherwise:

18 "Applied behavior analysis" means the design,  
19 implementation, and evaluation of environmental modifications,  
20 using behavioral stimuli and consequences, to produce socially  
21 significant improvement in human behavior, including the use of



1 direct observation, measurement, and functional analysis of the  
2 relations between environment and behavior.

3 "Autism" means autism spectrum disorder as defined by the  
4 most recent edition of the Diagnostic and Statistical Manual of  
5 Mental Disorders.

6 "Autism service provider" means any person, entity, or  
7 group that provides treatment for autism and meets the minimum  
8 requirements pursuant to subsection (1).

9 "Behavioral health treatment" means evidence based  
10 counseling and treatment programs, including applied behavior  
11 analysis, that are:

12 (1) Necessary to develop, maintain, or restore, to the  
13 maximum extent practicable, the functioning of an  
14 individual; and

15 (2) Provided or supervised by an autism service provider.

16 "Diagnosis of autism" means medically necessary  
17 assessments, evaluations, or tests conducted to diagnose whether  
18 an individual has autism.

19 "Pharmacy care" means medications prescribed by a licensed  
20 physician or registered nurse practitioner and any health-



1 related services that are deemed medically necessary to  
2 determine the need or effectiveness of the medications.

3 "Psychiatric care" means direct or consultative services  
4 provided by a licensed psychiatrist.

5 "Psychological care" means direct or consultative services  
6 provided by a licensed psychologist.

7 "Therapeutic care" means services provided by licensed  
8 speech pathologists, registered occupational therapists,  
9 licensed social workers, licensed clinical social workers, or  
10 licensed physical therapists.

11 "Treatment for autism" includes the following care  
12 prescribed or ordered for an individual diagnosed with autism by  
13 a licensed physician, psychiatrist, psychologist, licensed  
14 clinical social worker, or registered nurse practitioner if the  
15 care is determined to be medically necessary:

- 16 (1) Behavioral health treatment;
- 17 (2) Pharmacy care;
- 18 (3) Psychiatric care;
- 19 (4) Psychological care; and
- 20 (5) Therapeutic care."



1 SECTION 5. Section 432D-23, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§432D-23 Required provisions and benefits.**

4 Notwithstanding any provision of law to the contrary, each  
5 policy, contract, plan, or agreement issued in the State after  
6 January 1, 1995, by health maintenance organizations pursuant to  
7 this chapter, shall include benefits provided in sections  
8 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-  
9 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,  
10 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, [~~431:10A-~~  
11 ~~122, and 431:10A-116.2,~~] and 431:10A-, and chapter 431M."

12 SECTION 6. Notwithstanding section 432D-23, Hawaii Revised  
13 Statutes, the coverage and benefit for autism to be provided by  
14 a health maintenance organization under section 4 of this Act  
15 shall apply to all policies, contracts, plans, or agreements  
16 issued or renewed in this State by a health maintenance  
17 organization after January 1, 2016.

18 SECTION 7. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun before its effective date.



1 SECTION 8. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 2015.

4



# S.B. NO.

791  
S.D. 1  
H.D. 2  
C.D. 1

**Report Title:**

Autism; Mandatory Health Coverage

**Description:**

Requires health insurers, mutual benefit societies, and health maintenance organizations to provide coverage for autism diagnosis and treatment. (CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

