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## A BILL FOR AN ACT

RELATING TO HEALTH.

**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 for all Hawaii residents by  
3 requiring coverage of treatment for autism spectrum disorders.

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 amended  
7 by adding a new section to article 10A to be appropriately  
8 designated and to read as follows:

9           "§431:10A- Autism spectrum disorders benefits and  
10 coverage; notice; definitions. (a) Each individual or group  
11 accident and health or sickness insurance policy, contract,  
12 plan, or agreement issued or renewed in this State on or after  
13 July 1, 2014, shall provide to the policyholder and individuals  
14 under twenty-one years of age covered under the policy,  
15 contract, plan, or agreement coverage for the screening,  
16 including well-baby and well-child screening, diagnosis, and  
17 evidence based treatment of autism spectrum disorders.



1 Nothing in this section shall be construed to require such  
2 coverage in a medicaid plan.

3 (b) Every insurer shall provide written notice to its  
4 policyholders regarding the coverage required by this section.  
5 The notice shall be prominently positioned in any literature or  
6 correspondence sent to policyholders and shall be transmitted to  
7 policyholders within calendar year 2014 when annual information  
8 is made available to members or in any other mailing to members,  
9 but in no case later than December 31, 2014.

10 (c) Individual coverage for behavioral health treatment  
11 provided under this section shall be subject to a maximum  
12 benefit of \$50,000 per year and a maximum lifetime benefit of  
13 \$300,000, but shall not be subject to any limits on the number  
14 of visits to an autism service provider. After December 31,  
15 2015, the insurance commissioner, on an annual basis, shall  
16 adjust the maximum benefit for inflation using the medical care  
17 component of the United States Department of Labor Consumer  
18 Price Index for all urban consumers; provided that the  
19 commissioner may post notice of and hold a public meeting  
20 pursuant to chapter 92 before adjusting the maximum benefit.  
21 The commissioner shall publish the adjusted maximum benefit  
22 annually no later than April 1 of each calendar year, which



1 shall apply during the following calendar year to health  
2 insurance policies subject to this section. Payments made by an  
3 insurer on behalf of a covered individual for any care,  
4 treatment, intervention, or service other than behavioral health  
5 treatment shall not be applied toward any maximum benefit  
6 established under this subsection.

7 (d) Coverage under this section may be subject to  
8 copayment, deductible, and coinsurance provisions of an accident  
9 and health or sickness insurance policy, contract, plan, or  
10 agreement that are no less favorable than the copayment,  
11 deductible, and coinsurance provisions for substantially all  
12 other medical services covered by the policy, contract, plan, or  
13 agreement.

14 (e) This section shall not be construed as limiting  
15 benefits that are otherwise available to an individual under an  
16 accident and health or sickness insurance policy, contract,  
17 plan, or agreement.

18 (f) Coverage for treatment under this section shall not be  
19 denied on the basis that the treatment is habilitative or non-  
20 restorative in nature.

21 (g) Except for inpatient services, if an individual is  
22 receiving treatment for autism spectrum disorders, an insurer



1 may request a review of that treatment not more than once every  
2 twelve months unless the insurer and the individual's licensed  
3 physician, psychiatrist, psychologist, clinical social worker,  
4 or nurse practitioner agree that a more frequent review is  
5 necessary. Any such agreement regarding the right to review a  
6 treatment plan more frequently shall apply only to a particular  
7 insured being treated for autism spectrum disorder by a licensed  
8 physician, psychiatrist, psychologist, clinical social worker,  
9 or nurse practitioner. The cost of obtaining any review shall  
10 be borne by the insurer.

11 (h) This section shall not be construed as reducing any  
12 obligation to provide services to an individual under an  
13 individualized family service plan, an individualized education  
14 program, or an individualized service plan.

15 (i) Nothing in this section shall apply to accident-only,  
16 specified disease, hospital indemnity, qualified health plans as  
17 defined in section 1301 of the Patient Protection and Affordable  
18 Care Act, Medicare supplement, disability income, long-term  
19 care, or other limited benefit hospital insurance policies.

20 (j) Insurers shall include in their network of approved  
21 autism service providers only those providers who have cleared  
22 criminal background checks as determined by the insurer.



1       (k) Insurers shall include at least as many board-  
2 certified behavior analysts in their provider network as there  
3 are qualified licensed psychologists in their network of  
4 approved providers of applied behavior analysis.

5       (l) If an individual has been diagnosed as having a  
6 pervasive developmental disorder or autism spectrum disorder,  
7 then that individual shall not be required to undergo repeat  
8 evaluation upon publication of a subsequent edition of the  
9 Diagnostic and Statistical Manual of Mental Disorders to remain  
10 eligible for coverage under this section.

11       (m) Coverage for applied behavior analysis shall include  
12 the services of the personnel who work under the supervision of  
13 the Board Certified Behavior Analyst or the licensed  
14 psychologist overseeing the program.

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

17       "Applied behavior analysis" means the design,  
18 implementation, and evaluation of environmental modifications,  
19 using behavioral stimuli and consequences, to produce socially  
20 significant improvement in human behavior, including the use of  
21 direct observation, measurement, and functional analysis of the  
22 relationship between environment and behavior. The practice of



1 applied behavior analysis expressly excludes psychological  
2 testing, diagnosis of a mental or physical disorder,  
3 neuropsychology, psychotherapy, cognitive therapy, sex therapy,  
4 psychoanalysis, hypnotherapy, and long-term counseling as  
5 treatment modalities.

6 "Autism service provider" means any person, entity, or  
7 group that provides treatment for autism spectrum disorders.

8 "Autism spectrum disorders" means any of the pervasive  
9 developmental disorders or autism spectrum disorders as defined  
10 by the most recent edition of the Diagnostic and Statistical  
11 Manual of Mental Disorders.

12 "Behavioral health treatment" means evidence based  
13 counseling and treatment programs, including applied behavior  
14 analysis, that are:

15 (1) Necessary to develop, maintain, or restore, to the  
16 maximum extent practicable, the functioning of an  
17 individual; and

18 (2) Provided or supervised by a board-certified behavior  
19 analyst or by a licensed psychologist so long as the  
20 services performed are commensurate with the  
21 psychologist's formal university training and  
22 supervised experience.



1        "Diagnosis of autism spectrum disorders" means medically  
2        necessary assessments, evaluations, or tests conducted to  
3        diagnose whether an individual has an autism spectrum disorder.

4        "Pharmacy care" means medications prescribed by a licensed  
5        physician or nurse practitioner and any health-related services  
6        that are deemed medically necessary to determine the need for or  
7        effectiveness of the medications.

8        "Psychiatric care" means direct or consultative services  
9        provided by a licensed psychiatrist.

10       "Psychological care" means direct or consultative services  
11       provided by a licensed psychologist.

12       "Therapeutic care" means services provided by licensed  
13       speech pathologists, registered occupational therapists,  
14       licensed social workers, licensed clinical social workers, or  
15       licensed physical therapists.

16       "Treatment for autism spectrum disorders" includes the  
17       following care prescribed or ordered for an individual with an  
18       autism spectrum disorder by a licensed physician, psychiatrist,  
19       psychologist, licensed clinical social worker, or nurse  
20       practitioner if the care is determined to be medically  
21       necessary:

22       (1) Behavioral health treatment;



- 1        (2) Pharmacy care;
- 2        (3) Psychiatric care;
- 3        (4) Psychological care; and
- 4        (5) Therapeutic care."

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

8            "§432:1    Autism spectrum disorders benefits and coverage;  
9 notice; definitions. (a) Each individual or group hospital or  
10 medical service plan, policy, contract, or agreement issued or  
11 renewed in this State on or after July 1, 2014, shall provide to  
12 the member and individuals under twenty-one years of age covered  
13 under the service plan, policy, contract, or agreement, coverage  
14 for the screening, including well-baby and well-child screening,  
15 diagnosis, and evidence based treatment of autism spectrum  
16 disorders. Nothing in this section shall be construed to  
17 require such coverage in a medicaid plan.

18            (b) Every mutual benefit society shall provide written  
19 notice to its members regarding the coverage required by this  
20 section. The notice shall be prominently positioned in any  
21 literature or correspondence sent to members and shall be  
22 transmitted to members within calendar year 2014 when annual





1 information is made available to members or in any other mailing  
2 to members, but in no case later than December 31, 2014.

3 (c) Individual coverage for behavioral health treatment  
4 provided under this section shall be subject to a maximum  
5 benefit of \$50,000 per year and a maximum lifetime benefit of  
6 \$300,000, but shall not be subject to any limits on the number  
7 of visits to an autism service provider. After December 31,  
8 2015, the insurance commissioner, on an annual basis, shall  
9 adjust the maximum benefit for inflation, using the medical care  
10 component of the United States Department of Labor Consumer  
11 Price Index for all urban consumers. The commissioner shall  
12 publish the adjusted maximum benefit annually no later than  
13 April 1 of each calendar year, which shall apply during the  
14 following calendar year to health insurance policies subject to  
15 this section; provided that the commissioner may post notice of  
16 and hold a public meeting pursuant to chapter 92 before  
17 adjusting the maximum benefit. Payments made by a mutual  
18 benefit society on behalf of a covered individual for any care,  
19 treatment, intervention, or service other than behavioral health  
20 treatment, shall not be applied toward any maximum benefit  
21 established under this subsection.



1        (d) Coverage under this section may be subject to  
2 copayment, deductible, and coinsurance provisions of an  
3 individual or group hospital or medical service plan, policy,  
4 contract, or agreement that are no less favorable than the  
5 copayment, deductible, and coinsurance provisions for  
6 substantially all other medical services covered by the plan,  
7 policy, contract, or agreement.

8        (e) This section shall not be construed as limiting  
9 benefits that are otherwise available to an individual under an  
10 individual or group hospital or medical service plan, policy,  
11 contract, or agreement.

12        (f) Coverage for treatment under this section shall not be  
13 denied on the basis that the treatment is habilitative or non-  
14 restorative in nature.

15        (g) Except for inpatient services, if an individual is  
16 receiving treatment for autism spectrum disorders, an insurer  
17 may request a review of that treatment not more than once every  
18 twelve months unless the insurer and the individual's licensed  
19 physician, psychiatrist, psychologist, clinical social worker,  
20 or nurse practitioner agree that a more frequent review is  
21 necessary. Any such agreement regarding the right to review a  
22 treatment plan more frequently shall apply only to a particular



1 insured being treated for autism spectrum disorder by a licensed  
2 physician, psychiatrist, psychologist, clinical social worker,  
3 or nurse practitioner. The cost of obtaining any review shall  
4 be borne by the insurer.

5 (h) This section shall not be construed to reduce any  
6 obligation to provide services to an individual under an  
7 individualized family service plan, an individualized education  
8 program, or an individualized service plan.

9 (i) Nothing in this section shall apply to accident-only,  
10 specified disease, hospital indemnity, qualified health plans as  
11 defined in section 1301 of the Patient Protection and Affordable  
12 Care Act, Medicare supplement, disability income, long-term  
13 care, or other limited benefit hospital insurance policies.

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

18 (k) Mutual benefit societies shall include at least as  
19 many board-certified behavior analysts in their provider  
20 network as there are qualified licensed psychologists in their  
21 network of approved providers of applied behavior analysis.



1       (l) If an individual has been diagnosed as having a  
2 pervasive developmental disorder or autism spectrum disorder,  
3 then that individual shall not be required to undergo a repeat  
4 evaluation upon publication of a subsequent edition of the  
5 Diagnostic and Statistical Manual of Mental Disorders to remain  
6 eligible for coverage under this section.

7       (m) Coverage for applied behavior analysis shall include  
8 the services of the personnel who work under the supervision of  
9 the Board Certified Behavior Analyst or the licensed  
10 psychologist overseeing the program.

11       (n) 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 relationship between environment and behavior. The practice of  
19 applied behavior analysis expressly excludes psychological  
20 testing, diagnosis of a mental or physical disorder,  
21 neuropsychology, psychotherapy, cognitive therapy, sex therapy,



1 psychoanalysis, hypnotherapy, and long-term counseling as  
2 treatment modalities.

3 "Autism service provider" means any person, entity, or  
4 group that provides treatment for autism spectrum disorders.

5 "Autism spectrum disorders" means any of the pervasive  
6 developmental disorders or autism spectrum disorders as defined  
7 by the most recent edition of the Diagnostic and Statistical  
8 Manual of Mental Disorders.

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 a board-certified behavior  
16 analyst or by a licensed psychologist so long as the  
17 services performed are commensurate with the  
18 psychologist's formal university training and  
19 supervised experience.

20 "Diagnosis of autism spectrum disorders" means medically  
21 necessary assessments, evaluations, or tests conducted to  
22 diagnose whether an individual has an autism spectrum disorder.



1       "Pharmacy care" means medications prescribed by a licensed  
2 physician or nurse practitioner and any health-related services  
3 that are deemed medically necessary to determine the need for or  
4 effectiveness of the medications.

5       "Psychiatric care" means direct or consultative services  
6 provided by a licensed psychiatrist.

7       "Psychological care" means direct or consultative services  
8 provided by a licensed psychologist.

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

13       "Treatment for autism spectrum disorders" includes the  
14 following care prescribed or ordered for an individual with an  
15 autism spectrum disorder by a licensed physician, psychiatrist,  
16 psychologist, licensed clinical social worker, or nurse  
17 practitioner if the care is determined to be medically  
18 necessary:

19       (1) Behavioral health treatment;

20       (2) Pharmacy care;

21       (3) Psychiatric care;

22       (4) Psychological care; and



1           (5) Therapeutic care."

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

4           "§432D-23 Required provisions and benefits.

5 Notwithstanding any provision of law to the contrary, each  
6 policy, contract, plan, or agreement issued in the State after  
7 January 1, 1995, by health maintenance organizations pursuant to  
8 this chapter, shall include benefits provided in sections  
9 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-  
10 116.5, 431:10A-116.6, 431:10A-119, 431:10A-120, 431:10A-121,  
11 431:10A-125, 431:10A-126, 431:10A-122, [~~and~~] 431:10A-116.2, and  
12 431:10A- and chapter 431M."

13           SECTION 6. Notwithstanding section 432D-23, Hawaii Revised  
14 Statutes, the coverage and benefit for autism spectrum disorders  
15 to be provided by a health maintenance organization under section 5  
16 of this Act shall apply to all policies, contracts, plans, or  
17 agreements issued or renewed in this State by a health maintenance  
18 organization on or after July 1, 2014.

19           SECTION 7. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21           SECTION 8. If any provision of this Act, or the application  
22 thereof to any person or circumstance, is held invalid, the



1 invalidity does not affect other provisions or applications of  
 2 the Act that can be given effect without the invalid provision or  
 3 application, and to this end the provisions of this Act are  
 4 severable.

5 SECTION 9. This Act shall take effect on July 1, 2014.

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INTRODUCED BY: Allen A. Bellotti

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# H.B. NO. 2174

**Report Title:**

Mandatory Health Coverage; Autism Spectrum Disorders

**Description:**

Requires health insurers, mutual benefit societies, and health maintenance organizations to provide coverage for autism spectrum disorder treatments. Effective July 1, 2014.

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

