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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 insurance coverage of treatment for autism spectrum  
4 disorders.

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

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

10           "§431:10A- Autism spectrum disorders benefits and  
11 coverage; notice; definitions. (a) Each individual or group  
12 accident and health or sickness insurance policy, contract,  
13 plan, or agreement issued or renewed in this State on or after  
14 July 1, 2014, shall provide to the policyholder and individuals  
15 under           years of age covered under the policy, contract,  
16 plan, or agreement coverage for the screening, including well-  
17 baby and well-child screening, diagnosis, and evidence-based  
18 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 policyholders or in any other mailing to  
9 policyholders, 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 no  
22 later than April 1 of each calendar year, which shall apply



1 during the following calendar year to policies, contracts,  
2 plans, and agreements subject to this section. Payments made by  
3 an 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 twice 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 disorders by a  
8 licensed physician, psychiatrist, psychologist, clinical social  
9 worker, or nurse practitioner. The cost of obtaining any review  
10 shall be borne by the insurer. Individuals receiving treatment  
11 for autism spectrum disorders shall continue to receive  
12 treatment during the review of a treatment plan.

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

17 (i) Nothing in this section shall apply to accident-only,  
18 specified disease, hospital indemnity, non-grandfathered plans  
19 in the individual and small group markets that are required to  
20 include essential health benefits under the Patient Protection  
21 and Affordable Care Act, Medicare supplement, disability income,



1 long-term care, or other limited benefit hospital insurance  
2 policies.

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

6 (k) Insurers shall include at least as many board-  
7 certified behavior analysts as there are qualified licensed  
8 psychologists in their network of approved providers of applied  
9 behavior analysis.

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

16 (m) Coverage for applied behavior analysis shall include  
17 the services of the personnel who work under the supervision of  
18 a board-certified behavior analyst or licensed psychologist  
19 overseeing the program.

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



1       "Applied behavior analysis" means the design,  
2 implementation, and evaluation of environmental modifications,  
3 using behavioral stimuli and consequences, to produce socially  
4 significant improvement in human behavior, including the use of  
5 direct observation, measurement, and functional analysis of the  
6 relationship between environment and behavior. The practice of  
7 applied behavior analysis expressly excludes psychological  
8 testing, diagnosis of a mental or physical disorder,  
9 neuropsychology, psychotherapy, cognitive therapy, sex therapy,  
10 psychoanalysis, hypnotherapy, and long-term counseling as  
11 treatment modalities.

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

14       "Autism spectrum disorders" means any of the pervasive  
15 developmental disorders or autism spectrum disorders as defined  
16 by the most recent edition of the Diagnostic and Statistical  
17 Manual of Mental Disorders.

18       "Behavioral health treatment" means evidence-based  
19 counseling and treatment programs, including applied behavior  
20 analysis, that are:



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

4       (2) Provided or supervised by a board-certified behavior  
5       analyst or by a licensed psychologist so long as the  
6       services performed are commensurate with the  
7       psychologist's formal university training and  
8       supervised experience.

9       "Diagnosis of autism spectrum disorders" means medically  
10      necessary assessments, evaluations, or tests conducted to  
11      diagnose whether an individual has an autism spectrum disorder.

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

16      "Psychiatric care" means direct or consultative services  
17      provided by a licensed psychiatrist.

18      "Psychological care" means direct or consultative services  
19      provided by a licensed psychologist.

20      "Therapeutic care" means services provided by licensed  
21      speech pathologists, registered occupational therapists,



1 licensed social workers, licensed clinical social workers, or  
2 licensed physical therapists.

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

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

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

17 "§432:1 Autism spectrum disorders benefits and coverage;  
18 notice; definitions. (a) Each individual or group hospital or  
19 medical service plan, policy, contract, or agreement issued or  
20 renewed in this State on or after July 1, 2014, shall provide to  
21 the member and individuals under \_\_\_\_\_ years of age covered under  
22 the plan, policy, contract, or agreement coverage for the





1 screening, including well-baby and well-child screening,  
2 diagnosis, and evidence-based treatment of autism spectrum  
3 disorders. Nothing in this section shall be construed to  
4 require such coverage in a medicaid plan.

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

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



1 calendar year to plans, policies, contracts, and agreements  
2 subject to this section; provided that the commissioner may post  
3 notice of and hold a public meeting pursuant to chapter 92  
4 before adjusting the maximum benefit. Payments made by a mutual  
5 benefit society on behalf of a covered individual for any care,  
6 treatment, intervention, or service other than behavioral health  
7 treatment, shall not be applied toward any maximum benefit  
8 established under this subsection.

9       (d) Coverage under this section may be subject to  
10 copayment, deductible, and coinsurance provisions of an  
11 individual or group hospital or medical service plan, policy,  
12 contract, or agreement that are no less favorable than the  
13 copayment, deductible, and coinsurance provisions for  
14 substantially all other medical services covered by the plan,  
15 policy, contract, or agreement.

16       (e) This section shall not be construed as limiting  
17 benefits that are otherwise available to an individual under an  
18 individual or group hospital or medical service plan, policy,  
19 contract, or agreement.

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



1       (g) Except for inpatient services, if an individual is  
2 receiving treatment for autism spectrum disorders, a mutual  
3 benefit society may request a review of that treatment not more  
4 than twice every twelve months unless the mutual benefit society  
5 and the individual's licensed physician, psychiatrist,  
6 psychologist, clinical social worker, or nurse practitioner  
7 agree that a more frequent review is necessary. Any such  
8 agreement regarding the right to review a treatment plan more  
9 frequently shall apply only to a particular covered individual  
10 being treated for autism spectrum disorder by a licensed  
11 physician, psychiatrist, psychologist, clinical social worker,  
12 or nurse practitioner. The cost of obtaining any review shall  
13 be borne by the mutual benefit society. Individuals receiving  
14 treatment for autism spectrum disorders shall continue to  
15 receive treatment during the review of a treatment plan.

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

20       (i) Nothing in this section shall apply to accident-only,  
21 specified disease, hospital indemnity, non-grandfathered plans  
22 in the individual and small group markets that are required to



1 include essential health benefits under the Patient Protection  
2 and Affordable Care Act, Medicare supplement, disability income,  
3 long-term care, or other limited benefit hospital insurance  
4 policies.

5 (j) Mutual benefit societies shall include in their  
6 network of approved autism service providers only those  
7 providers who have cleared criminal background checks as  
8 determined by the mutual benefit society.

9 (k) Mutual benefit societies shall include at least as  
10 many board-certified behavior analysts as there are qualified  
11 licensed psychologists in their network of approved providers  
12 of applied behavior analysis.

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

19 (m) Coverage for applied behavior analysis shall include  
20 the services of the personnel who work under the supervision of  
21 a board-certified behavior analyst or licensed psychologist  
22 overseeing the program.



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

3       "Applied behavior analysis" means the design,  
4 implementation, and evaluation of environmental modifications,  
5 using behavioral stimuli and consequences, to produce socially  
6 significant improvement in human behavior, including the use of  
7 direct observation, measurement, and functional analysis of the  
8 relationship between environment and behavior. The practice of  
9 applied behavior analysis expressly excludes psychological  
10 testing, diagnosis of a mental or physical disorder,  
11 neuropsychology, psychotherapy, cognitive therapy, sex therapy,  
12 psychoanalysis, hypnotherapy, and long-term counseling as  
13 treatment modalities.

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

16       "Autism spectrum disorders" means any of the pervasive  
17 developmental disorders or autism spectrum disorders as defined  
18 by the most recent edition of the Diagnostic and Statistical  
19 Manual of Mental Disorders.

20       "Behavioral health treatment" means evidence-based  
21 counseling and treatment programs, including applied behavior  
22 analysis, that are:



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

4        (2) Provided or supervised by a board-certified behavior  
5        analyst or by a licensed psychologist so long as the  
6        services performed are commensurate with the  
7        psychologist's formal university training and  
8        supervised experience.

9        "Diagnosis of autism spectrum disorders" means medically  
10       necessary assessments, evaluations, or tests conducted to  
11       diagnose whether an individual has an autism spectrum disorder.

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

16       "Psychiatric care" means direct or consultative services  
17       provided by a licensed psychiatrist.

18       "Psychological care" means direct or consultative services  
19       provided by a licensed psychologist.

20       "Therapeutic care" means services provided by licensed  
21       speech pathologists, registered occupational therapists,



1 licensed social workers, licensed clinical social workers, or  
2 licensed physical therapists.

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

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

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

16 "§432D-23 Required provisions and benefits.

17 Notwithstanding any provision of law to the contrary, each  
18 policy, contract, plan, or agreement issued in the State after  
19 January 1, 1995, by health maintenance organizations pursuant to  
20 this chapter, shall include benefits provided in sections  
21 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-  
22 116.5, 431:10A-116.6, 431:10A-119, 431:10A-120, 431:10A-121,



1 431:10A-125, 431:10A-126, 431:10A-122, [~~and~~] 431:10A-116.2, and  
2 431:10A- , and chapter 431M."

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

9 SECTION 7. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 8. If any provision of this Act, or the application  
12 thereof to any person or circumstance, is held invalid, the  
13 invalidity does not affect other provisions or applications of  
14 the Act that can be given effect without the invalid provision or  
15 application, and to this end the provisions of this Act are  
16 severable.

17 SECTION 9. This Act shall take effect on July 1, 2112.





**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, 2112. (HB2174 HD2)

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

