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

7 "§431:10A- Autism spectrum disorders benefits and  
8 coverage; notice; definitions. (a) Each individual or group  
9 accident and health or sickness insurance policy, contract,  
10 plan, or agreement issued or renewed in this State after  
11 December 31, 2016, shall provide to the policyholder and  
12 individuals under eighteen years of age and under covered under  
13 the policy, contract, plan, or agreement, coverage for the  
14 screening, including well-baby and well-child screening,  
15 diagnosis, and evidence-based treatment of autism spectrum  
16 disorders, as prescribed or ordered for an individual with an  
17 autism spectrum disorder by a licensed physician, psychiatrist,



1 psychologist, licensed clinical social worker, or nurse  
2 practitioner.

3 (b) Every insurer shall provide 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 2016 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, 2016.

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 2017, 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 Bureau of Labor Consumer Price  
18 Index for urban Honolulu; provided that the commissioner shall  
19 post notice of and hold a public meeting in the same manner as  
20 required by section 91-3(a) before adjusting the maximum  
21 benefit. The commissioner shall publish the adjusted maximum



1 benefit annually no later than April 1 of each calendar year,  
2 which shall apply during the following calendar year to health  
3 insurance policies subject to this section. Payments made by an  
4 insurer on behalf of a covered individual for any care,  
5 treatment, intervention, or service other than behavioral health  
6 treatment shall not be applied toward any maximum benefit  
7 established under this subsection.

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

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

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



1        (g) Except for inpatient services, if an individual is  
2 receiving treatment for autism spectrum disorders, an insurer  
3 may request a review of that treatment. The cost of obtaining  
4 any review shall be borne by the insurer.

5        (h) This section shall not be construed as reducing 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 non-  
10 grandfathered plans in the individual and small group markets  
11 that are required to include essential health benefits under the  
12 Patient Protection and Affordable Care Act, Public Law 111-148,  
13 as amended, or to medicare supplement, accident-only, specified  
14 disease, hospital indemnity, disability income, long-term care,  
15 or other limited benefit hospital insurance policies.

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

19        (k) Insurers shall include board certified behavior  
20 analysts in their provider network.

21        (l) If an individual has been diagnosed as having an



1 autism spectrum disorder, then that individual shall not be  
2 required to undergo repeat evaluation upon publication of a  
3 subsequent edition of the Diagnostic and Statistical Manual of  
4 Mental Disorders to remain eligible for coverage under this  
5 section.

6 (m) Coverage for applied behavior analysis shall include  
7 the services of the personnel who work under the supervision of  
8 the board certified behavior analyst or the licensed  
9 psychologist overseeing the program.

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

12 "Applied behavior analysis" means the design,  
13 implementation, and evaluation of environmental modifications,  
14 using behavioral stimuli and consequences, to produce socially  
15 significant improvement in human behavior, including the use of  
16 direct observation, measurement, and functional analysis of the  
17 relationship between environment and behavior. The practice of  
18 applied behavior analysis expressly excludes psychological  
19 testing, diagnosis of a mental or physical disorder,  
20 neuropsychology, psychotherapy, cognitive therapy, sex therapy,  
21 psychoanalysis, hypnotherapy, and long-term counseling as



1 treatment modalities.

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

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

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

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

14 (2) Prescribed or ordered for an individual with an autism  
15 spectrum disorder by a licensed physician,  
16 psychiatrist, psychologist, licensed clinical social  
17 worker, or nurse practitioner; and

18 (3) 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



1           supervised experience.

2           "Board certified behavior analyst" means a person with a  
3 master's degree or higher, who has at least one thousand five  
4 hundred supervised hours of applied behavior analysis work  
5 experience and who is credentialed by the Behavior Analyst  
6 Certification Board as a board certified behavior analyst.

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

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

14          "Psychiatric care" means direct or consultative services  
15 provided by a licensed psychiatrist.

16          "Psychological care" means direct or consultative services  
17 provided by a licensed psychologist.

18          "Therapeutic care" means services provided by licensed  
19 speech pathologists, registered occupational therapists,  
20 licensed social workers, licensed clinical social workers, or  
21 licensed physical therapists.



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

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

12       SECTION 3. Chapter 432, Hawaii Revised Statutes, is  
 13 amended by adding a new section to article 1 to be appropriately  
 14 designated and to read as follows:

15       "**§432:1- Autism spectrum disorders benefits and**  
 16 **coverage; notice; definitions.** (a) Each individual or group  
 17 hospital or medical service plan, policy, contract, or agreement  
 18 issued or renewed in this State after December 31, 2016, shall  
 19 provide to the member and individuals eighteen years of age and  
 20 under covered under the service plan, policy, contract, or  
 21 agreement, coverage for the screening, including well-baby and





1 well-child screening, diagnosis, and evidence-based treatment of  
2 autism spectrum disorders, as prescribed or ordered for an  
3 individual with an autism spectrum disorder by a licensed  
4 physician, psychiatrist, psychologist, licensed clinical social  
5 worker, or nurse practitioner.

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

13 (c) Individual coverage for behavioral health treatment  
14 provided under this section shall be subject to a maximum  
15 benefit of \$50,000 per year and a maximum lifetime benefit of  
16 \$300,000, but shall not be subject to any limits on the number  
17 of visits to an autism service provider. After December 31,  
18 2017, the insurance commissioner, on an annual basis, shall  
19 adjust the maximum benefit for inflation, using the medical care  
20 component of the United States Bureau of Labor Consumer Price  
21 Index for urban Honolulu. The commissioner shall publish the



1 adjusted maximum benefit annually no later than April 1 of each  
2 calendar year, which shall apply during the following calendar  
3 year to health insurance policies subject to this section;  
4 provided that the commissioner shall post notice of and hold a  
5 public meeting in the same manner as required by section 91-3(a)  
6 before adjusting the maximum benefit. Payments made by a mutual  
7 benefit society on behalf of a covered individual for any care,  
8 treatment, intervention, or service other than behavioral health  
9 treatment, shall not be applied toward any maximum benefit  
10 established under this subsection.

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

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



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

4        (g) Except for inpatient services, if an individual is  
5 receiving treatment for autism spectrum disorders, an insurer  
6 may request a review of that treatment. The cost of obtaining  
7 any review shall be borne by the insurer.

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

12        (i) Nothing in this section shall apply to non-  
13 grandfathered plans in the individual and small group markets  
14 that are required to include essential health benefits under the  
15 Patient Protection and Affordable Care Act, Public Law 111-148,  
16 as amended, or to medicare supplement, accident-only, specified  
17 disease, hospital indemnity, disability income, long-term care,  
18 or other limited benefit hospital insurance policies.

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



1        (k) Insurers shall include board certified behavior  
2 analysts in their provider network.

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

9        (m) Coverage for applied behavior analysis shall include  
10 the services of the personnel who work under the supervision of  
11 the board certified behavior analyst or the licensed  
12 psychologist overseeing the program.

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

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



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

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

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

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

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

17 (2) Prescribed or ordered for an individual with an autism  
18 spectrum disorder by a licensed physician,  
19 psychiatrist, psychologist, licensed clinical social  
20 worker, or nurse practitioner; and

21 (3) Provided or supervised by a board certified behavior



1           analyst or by a licensed psychologist so long as the  
2           services performed are commensurate with the  
3           psychologist's formal university training and  
4           supervised experience.

5           "Board certified behavior analyst" means a person with a  
6           master's degree or higher, who has at least one thousand five  
7           hundred supervised hours of applied behavior analysis work  
8           experience and who is credentialed by the Behavior Analyst  
9           Certification Board as a board certified behavior analyst.

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

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

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

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

21          "Therapeutic care" means services provided by licensed



1 speech pathologists, registered occupational therapists,  
2 licensed social workers, licensed clinical social workers, or  
3 licensed physical therapists.

4 "Treatment for autism spectrum disorders" includes the  
5 following care prescribed or ordered for an individual with an  
6 autism spectrum disorder by a licensed physician, psychiatrist,  
7 psychologist, licensed clinical social worker, or nurse  
8 practitioner if the care is determined to be medically  
9 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. Section 432D-23, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 **"§432D-23 Required provisions and benefits.**

18 Notwithstanding any provision of law to the contrary, each  
19 policy, contract, plan, or agreement issued in the State after  
20 January 1, 1995, by health maintenance organizations pursuant to  
21 this chapter, shall include benefits provided in sections



1 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-  
 2 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,  
 3 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, [~~431:10A-~~  
 4 ~~122, and 431:10A-116.2,~~] and 431:10A- , and chapter 431M."

5 SECTION 5. Notwithstanding the amendments made to section  
 6 432D-23; Hawaii Revised Statutes, in section 5 of this Act, the  
 7 coverage and benefits for autism spectrum disorders to be  
 8 provided by a health maintenance organization under section 4 of  
 9 this Act shall apply to all policies, contracts, plans, or  
 10 agreements issued or renewed in this State by a health  
 11 maintenance organization after December 31, 2016.

12 SECTION 6. Statutory material to be repealed is bracketed  
 13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect upon its approval.  
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INTRODUCED BY: Allen A. Bellotti

Tou Bom

Cindy Evans

John M. Morgan

Richard Lopez

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Mark J. Hansen

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# H.B. NO. 1108

**Report Title:**

Mandatory Health Insurance Coverage; Autism Spectrum Disorders

**Description:**

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

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

