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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 legislature finds that "Luke's Law," Act  
2 235, Session Laws of Hawaii 2015, provided improved access to  
3 treatment for autism through mandated insurance coverage.  
4 However, that Act had the unintended consequence of limiting the  
5 professionals who may administer the treatment. This has  
6 resulted in growing wait lists for services due to the shortage  
7 of qualified autism service providers.

8           The legislature notes that multiple professionals are  
9 qualified to treat autism. In 2015, the legislature established  
10 the licensure of behavior analysts. In 2018, through Act 205,  
11 Session Laws of Hawaii 2018, the legislature recognized that  
12 licensed psychologists may include the provision of applied  
13 behavior analysis within their licensed scope of practice. The  
14 legislature further recognizes that other professions such as  
15 psychiatrists and advanced practice registered nurses with a  
16 specialization in psychiatry are also qualified to diagnose  
17 autism spectrum disorders and to prescribe medically necessary



1 interventions. In addition, these other licensed professionals  
2 may be more qualified than licensed behavior analysts to provide  
3 diagnosis and treatment for other behavioral health issues  
4 individuals with autism frequently experience, such as anxiety  
5 and depression.

6 The legislature further finds that the need for evidence-  
7 based treatments for autism spectrum disorders cannot be filled  
8 by licensed behavior analysts alone. While there are currently  
9 no programs in Hawaii that confer degrees in applied behavior  
10 analysis, other professionals who are licensed in the State can  
11 pursue specialized training to fill this need. For example,  
12 there are doctoral-level licensed psychologists in the State who  
13 are well-trained in applied behavior analysis as well as in  
14 other important approaches to treating individuals with autism.

15 The purpose of this Act is to help ensure adequate access  
16 to necessary behavioral health services for the treatment of  
17 autism spectrum disorders by licensed professionals with  
18 adequate training and competence.

19 SECTION 2. Section 431:10A-133, Hawaii Revised Statutes,  
20 is amended as follows:

21 1. By amending subsection (j) to read:



1           "(j) Insurers shall strive to ensure that a sufficient  
2 number of autism service providers are included in their  
3 networks to meet the needs of members with autism. Insurers  
4 shall include in their network of approved autism service  
5 providers only those providers who have cleared state and  
6 federal criminal background checks as determined by the  
7 insurer."

8           2. By amending subsections (l) and (m) to read:

9           "(1) Treatment for autism shall not be covered pursuant to  
10 this section unless provided by an autism service provider [~~that~~  
11 ~~is licensed by a state licensure board. If a state licensure~~  
12 ~~board that licenses providers to provide autism services is~~  
13 ~~unavailable, the autism service provider shall:~~

14           ~~(1) Be certified by the Behavior Analyst Certification~~  
15           ~~Board, Inc.; provided that certification by the~~  
16           ~~Behavior Analyst Certification Board, Inc., shall be~~  
17           ~~valid for purposes of this subsection for no more than~~  
18           ~~one year; or~~

19           ~~(2) Meet any existing credentialing requirements~~  
20           ~~determined by the insurer].~~



1 (m) 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 relations between environment and behavior.

9 "Autism" means autism spectrum disorder as defined by the  
10 most recent edition of the Diagnostic and Statistical Manual of  
11 Mental Disorders.

12 "Autism service provider" means any person, entity, or  
13 group that provides treatment for autism and ~~[meets the minimum~~  
14 ~~requirements pursuant to subsection (1)].~~

15 (1) Is licensed by a state licensure board in a profession  
16 that practices in behavioral health; and

17 (2) Has specialized training or experience in the area of  
18 autism and evidence-based interventions for autism,  
19 including applied behavior analysis.

20 "Autism service provider" may include licensed behavior  
21 analysts, licensed psychologists, licensed psychiatrists,



1 licensed advanced practice registered nurses with a  
2 specialization in psychiatry, licensed clinical social workers,  
3 licensed marriage and family therapists, and licensed mental  
4 health counselors.

5 "Behavioral health treatment" means [~~evidence-based~~]  
6 evidence-based counseling and treatment programs, including  
7 applied behavior analysis, that are:

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

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

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

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

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



1 "Psychological care" means direct or consultative services  
2 provided by a licensed psychologist.

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

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

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

17 SECTION 3. Section 432:1-614, Hawaii Revised Statutes, is  
18 amended as follows:

19 1. By amending subsection (j) to read:

20 "(j) Insurers shall strive to ensure that a sufficient  
21 number of autism service providers are included in their



1 networks to meet the needs of members with autism. Mutual  
 2 benefit societies shall include in their network of approved  
 3 autism service providers only those providers who have cleared  
 4 state and federal criminal background checks as determined by  
 5 the society."

6 2. By amending subsections (l) and (m) to read:

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

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

17 ~~(2) Meet any existing credentialing requirements~~  
 18 ~~determined by the mutual benefit society].~~

19 (m) As used in this section, unless the context clearly  
 20 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 relations between environment and behavior.

7 "Autism" means autism spectrum disorder as defined by the  
8 most recent edition of the Diagnostic and Statistical Manual of  
9 Mental Disorders.

10 "Autism service provider" means any person, entity, or  
11 group that provides treatment for autism and ~~[meets the minimum~~  
12 ~~requirements pursuant to subsection (1)].~~

13 (1) Is licensed by a state licensure board in a profession  
14 that practices in behavioral health; and

15 (2) Has specialized training or experience in the area of  
16 autism and evidence-based interventions for autism,  
17 including applied behavior analysis.

18 "Autism service provider" may include licensed behavior  
19 analysts, licensed psychologists, licensed psychiatrists,  
20 licensed advanced practice registered nurses with a  
21 specialization in psychiatry, licensed clinical social workers,





1 licensed marriage and family therapists, and licensed mental  
2 health counselors.

3 "Behavioral health treatment" means [~~evidence-based~~]  
4 evidence-based counseling and treatment programs, including  
5 applied behavior analysis, that are:

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

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

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

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



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. Statutory material to be repealed is bracketed  
 16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

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JAN 23 2019



# H.B. NO. 1269

**Report Title:**

Autism Spectrum Disorder; Service Providers

**Description:**

Clarifies the professionals who may administer autism treatment under mandated insurance coverage establish by Luke's Law.

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

