

# SENATE BILL 1028

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CF HB 1091

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By: **Senator Klausmeier**

Introduced and read first time: February 25, 2010

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Coverage of Autism Spectrum Disorders**

3 FOR the purpose of requiring certain insurers, nonprofit health service plans, and  
4 health maintenance organizations to provide coverage for the diagnosis of  
5 autism spectrum disorders and certain treatment of autism spectrum disorders;  
6 requiring certain treatment of autism spectrum disorders to be prescribed and  
7 provided by certain individuals; clarifying that certain provisions of this Act  
8 may not be construed as limiting certain benefits otherwise available to an  
9 individual; prohibiting certain limits on visits to an autism services provider;  
10 requiring a certain notice; authorizing certain insurers, nonprofit health service  
11 plans, and health maintenance organizations to request an updated treatment  
12 plan at certain intervals; requiring certain insurers, nonprofit health service  
13 plans, and health maintenance organizations to pay the cost of the updated  
14 treatment plan; providing that a certain determination constitutes an adverse  
15 decision under certain provisions of law; providing that certain insurers,  
16 nonprofit health service plans, and health maintenance organizations are not  
17 required to provide reimbursement for certain services; exempting certain  
18 insurers, nonprofit health service plans, and health maintenance organizations  
19 from providing coverage for habilitative or rehabilitative care for certain years  
20 under certain circumstances; making the provisions of this Act applicable to  
21 health maintenance organizations; defining certain terms; providing for the  
22 application of this Act; providing for a delayed effective date; and generally  
23 relating to health insurance coverage of autism spectrum disorders.

24 BY adding to

25 Article – Insurance

26 Section 15–845

27 Annotated Code of Maryland

28 (2006 Replacement Volume and 2009 Supplement)

29 BY adding to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Health – General  
2 Section 19–706(cccc)  
3 Annotated Code of Maryland  
4 (2009 Replacement Volume)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Insurance**

8 **15–845.**

9 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
10 MEANINGS INDICATED.

11 (2) (I) “APPLIED BEHAVIOR ANALYSIS” MEANS THE DESIGN,  
12 IMPLEMENTATION, AND EVALUATION OF ENVIRONMENTAL MODIFICATIONS,  
13 USING BEHAVIORAL STIMULI AND CONSEQUENCES, TO:

14 1. PRODUCE SOCIALLY SIGNIFICANT IMPROVEMENT  
15 IN HUMAN BEHAVIOR; OR

16 2. PREVENT THE LOSS OF ATTAINED SKILL OR  
17 FUNCTION.

18 (II) “APPLIED BEHAVIOR ANALYSIS” INCLUDES THE USE OF  
19 DIRECT OBSERVATION, MEASUREMENT, AND FUNCTIONAL ANALYSIS OF THE  
20 RELATIONSHIP BETWEEN ENVIRONMENT AND BEHAVIOR.

21 (3) “AUTISM SPECTRUM DISORDERS” MEANS ANY OF THE  
22 PERVASIVE DEVELOPMENTAL DISORDERS, AS DESCRIBED IN THE CURRENT  
23 VERSION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL  
24 DISORDERS.

25 (4) “DIAGNOSIS OF AUTISM SPECTRUM DISORDERS” MEANS  
26 MEDICALLY NECESSARY ASSESSMENTS, EVALUATIONS, OR TESTS TO DIAGNOSE  
27 WHETHER AN INDIVIDUAL HAS AN AUTISM SPECTRUM DISORDER.

28 (5) “HABILITATIVE OR REHABILITATIVE CARE” MEANS  
29 PROFESSIONAL, COUNSELING, AND GUIDANCE SERVICES AND TREATMENT  
30 PROGRAMS AND DEVICES, INCLUDING APPLIED BEHAVIOR ANALYSIS AND  
31 SPEECH GENERATING DEVICES, THAT ARE NECESSARY TO DEVELOP, MAINTAIN,  
32 OR RESTORE, TO THE MAXIMUM EXTENT PRACTICABLE, THE FUNCTIONING OF  
33 AN INDIVIDUAL.

1           **(6) “SPEECH GENERATING DEVICES” MEANS SPEECH AIDS THAT**  
2 **TREAT SEVERE SPEECH OR LANGUAGE IMPAIRMENTS BY PROVIDING**  
3 **INDIVIDUALS WITH THE ABILITY TO MEET DAILY COMMUNICATION NEEDS.**

4           **(7) “TREATMENT OF AUTISM SPECTRUM DISORDERS” MEANS**  
5 **HABILITATIVE OR REHABILITATIVE CARE PRESCRIBED TO AN INDIVIDUAL**  
6 **DIAGNOSED WITH AN AUTISM SPECTRUM DISORDER AS PART OF A TREATMENT**  
7 **PLAN THAT INCLUDES THERAPEUTIC GOALS AND OUTCOME MEASURES.**

8           **(B) THIS SECTION APPLIES TO:**

9           **(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT**  
10 **PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR**  
11 **GROUPS ON AN EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE**  
12 **POLICIES THAT ARE ISSUED OR DELIVERED IN THE STATE; AND**

13           **(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE**  
14 **HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS**  
15 **UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.**

16           **(C) EXCEPT AS PROVIDED IN SUBSECTION (L) OF THIS SECTION, AN**  
17 **ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR THE**  
18 **DIAGNOSIS OF AUTISM SPECTRUM DISORDERS AND THE**  
19 **EVIDENCE-BASED, MEDICALLY NECESSARY TREATMENT OF AUTISM SPECTRUM**  
20 **DISORDERS.**

21           **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
22 **SUBSECTION, TREATMENT OF AUTISM SPECTRUM DISORDERS COVERED UNDER**  
23 **THIS SECTION SHALL BE PRESCRIBED BY A LICENSED PHYSICIAN OR A**  
24 **LICENSED PSYCHOLOGIST.**

25           **(2) SPEECH GENERATING DEVICES COVERED UNDER THIS**  
26 **SECTION SHALL BE PRESCRIBED BY A LICENSED PHYSICIAN OR A LICENSED**  
27 **SPEECH-LANGUAGE PATHOLOGIST.**

28           **(E) APPLIED BEHAVIOR ANALYSIS COVERED UNDER THIS SECTION**  
29 **SHALL BE PROVIDED BY AN INDIVIDUAL WHO IS:**

30           **(1) LICENSED UNDER TITLE 14 OR TITLE 18 OF THE HEALTH**  
31 **OCCUPATIONS ARTICLE OR UNDER THE SUPERVISION OF AN INDIVIDUAL**  
32 **LICENSED UNDER TITLE 14 OR TITLE 18 OF THE HEALTH OCCUPATIONS**  
33 **ARTICLE; OR**

1           **(2) A BOARD CERTIFIED BEHAVIOR ANALYST OR A BOARD**  
2 **CERTIFIED ASSOCIATE BEHAVIOR ANALYST CREDENTIALLED BY THE BEHAVIOR**  
3 **ANALYST CERTIFICATION BOARD.**

4           **(F) THIS SECTION MAY NOT BE CONSTRUED AS LIMITING BENEFITS**  
5 **THAT OTHERWISE ARE AVAILABLE TO AN INDIVIDUAL UNDER:**

6                   **(1) § 15-802 OR § 15-835 OF THIS SUBTITLE;**

7                   **(2) § 19-703.1 OR § 19-706(NN) OF THE HEALTH - GENERAL**  
8 **ARTICLE; OR**

9                   **(3) ANY OTHER COVERAGE PROVIDED UNDER A HEALTH**  
10 **INSURANCE POLICY OR A HEALTH MAINTENANCE ORGANIZATION CONTRACT.**

11           **(G) (1) COVERAGE UNDER THIS SECTION IS NOT SUBJECT TO PRESET**  
12 **LIMITS ON THE NUMBER OF VISITS AN INDIVIDUAL MAY MAKE TO AN AUTISM**  
13 **SERVICES PROVIDER.**

14                   **(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE**  
15 **CONSTRUED TO PROHIBIT AN ENTITY SUBJECT TO THIS SECTION FROM**  
16 **CONDUCTING UTILIZATION REVIEW FOR THE PURPOSE OF DETERMINING THE**  
17 **DURATION AND INTENSITY OF TREATMENT COVERED UNDER THIS SECTION.**

18           **(H) AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE NOTICE**  
19 **ANNUALLY TO ITS INSURED AND ENROLLEES ABOUT THE COVERAGE**  
20 **REQUIRED UNDER THIS SECTION.**

21           **(I) (1) AN ENTITY SUBJECT TO THIS SECTION PERIODICALLY MAY**  
22 **REQUEST AN UPDATED TREATMENT PLAN, BUT NOT MORE OFTEN THAN ONCE**  
23 **EVERY 6 MONTHS, UNLESS THE LICENSED PHYSICIAN, LICENSED**  
24 **PSYCHOLOGIST, OR LICENSED SPEECH-LANGUAGE PATHOLOGIST WHO**  
25 **PRESCRIBES CARE FOR AN INDIVIDUAL AGREES THAT MORE FREQUENT REVIEW**  
26 **OF THE INDIVIDUAL'S TREATMENT PLAN IS NECESSARY.**

27                   **(2) AN ENTITY SUBJECT TO THIS SECTION THAT REQUESTS AN**  
28 **UPDATED TREATMENT PLAN SHALL BEAR THE COST OF OBTAINING THE PLAN.**

29           **(J) A DETERMINATION BY AN ENTITY SUBJECT TO THIS SECTION TO**  
30 **DENY COVERAGE FOR THE BENEFITS PROVIDED UNDER THIS SECTION**  
31 **CONSTITUTES AN ADVERSE DECISION UNDER SUBTITLE 10A OF THIS TITLE.**

1           **(K) AN ENTITY SUBJECT TO THIS SECTION IS NOT REQUIRED TO**  
2 **PROVIDE REIMBURSEMENT FOR SERVICES DELIVERED THROUGH EARLY**  
3 **INTERVENTION OR OTHER SCHOOL SERVICES.**

4           **(L) (1) AN ENTITY SUBJECT TO THIS SECTION IS EXEMPT FROM**  
5 **PROVIDING COVERAGE UNDER A POLICY OR CONTRACT FOR HABILITATIVE OR**  
6 **REHABILITATIVE CARE REQUIRED UNDER THIS SECTION AND NOT COVERED**  
7 **UNDER THE POLICY OR CONTRACT IN EFFECT ON DECEMBER 31, 2010, IF:**

8                   **(I) AN ACTUARY, AFFILIATED WITH THE ENTITY, WHO IS A**  
9 **MEMBER OF THE AMERICAN ACADEMY OF ACTUARIES AND MEETS THE**  
10 **AMERICAN ACADEMY OF ACTUARIES' PROFESSIONAL QUALIFICATION**  
11 **STANDARDS FOR RENDERING AN ACTUARIAL OPINION RELATED TO HEALTH**  
12 **INSURANCE RATE MAKING, CERTIFIES IN WRITING TO THE COMMISSIONER**  
13 **THAT:**

14                           **1. FOR THE MOST RECENT EXPERIENCE PERIOD OF**  
15 **AT LEAST 1 YEAR'S DURATION, THE COSTS ASSOCIATED WITH COVERAGE FOR**  
16 **HABILITATIVE OR REHABILITATIVE CARE REQUIRED UNDER THIS SECTION, AND**  
17 **NOT COVERED BY THE POLICY OR CONTRACT IN EFFECT ON DECEMBER 31,**  
18 **2010, EXCEEDED 2% OF THE PREMIUMS CHARGED; AND**

19                           **2. THOSE COSTS WOULD LEAD TO AN INCREASE IN**  
20 **PREMIUMS OF MORE THAN 2% FOR THE YEAR FOLLOWING THE MOST RECENT**  
21 **EXPERIENCE PERIOD, BASED ON THE PREMIUM RATING METHODOLOGY AND**  
22 **PRACTICES EMPLOYED BY THE ENTITY; AND**

23                           **(II) THE COMMISSIONER APPROVES THE CERTIFICATION OF**  
24 **THE ACTUARY.**

25                   **(2) AN EXEMPTION ALLOWED UNDER PARAGRAPH (1) OF THIS**  
26 **SUBSECTION SHALL APPLY FOR 1 YEAR OF A POLICY OR CONTRACT, AFTER**  
27 **WHICH AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR**  
28 **HABILITATIVE OR REHABILITATIVE CARE REQUIRED UNDER THIS SECTION.**

29                   **(3) AN ENTITY SUBJECT TO THIS SECTION MAY CLAIM AN**  
30 **EXEMPTION FOR A SUBSEQUENT YEAR, BUT ONLY IF THE CONDITIONS**  
31 **SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION ARE MET.**

32                   **(4) NOTWITHSTANDING THE EXEMPTION UNDER PARAGRAPH (1)**  
33 **OF THIS SUBSECTION, AN ENTITY SUBJECT TO THIS SECTION MAY ELECT TO**  
34 **CONTINUE TO PROVIDE COVERAGE FOR HABILITATIVE OR REHABILITATIVE**  
35 **CARE REQUIRED UNDER THIS SECTION.**

1 **Article – Health – General**

2 19–706.

3 **(CCCC) THE PROVISIONS OF § 15–845 OF THE INSURANCE ARTICLE**  
4 **APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.**5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
6 policies and contracts issued, delivered, or renewed in the State on or after January 1,  
7 2011.8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 January 1, 2011.