

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 1311 & 1341
95TH GENERAL ASSEMBLY

3679S.07T

2010

AN ACT

To amend chapters 337 and 376, RSMo, by adding thereto eleven new sections relating to autism spectrum disorders, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapters 337 and 376, RSMo, are amended by adding thereto eleven new
2 sections, to be known as sections 337.300, 337.305, 337.310, 337.315, 337.320, 337.325,
3 337.330, 337.335, 337.340, 337.345, and 376.1224, to read as follows:

337.300. As used in sections 337.300 to 337.345, the following terms shall mean:

- 2 **(1) "Applied behavior analysis", the design, implementation, and evaluation of**
3 **environmental modifications, using behavioral stimuli and consequences, to produce**
4 **socially significant improvement in human behavior, including the use of direct**
5 **observation, measurement, and functional analysis of the relationships between**
6 **environment and behavior;**
- 7 **(2) "Board", the behavior analyst advisory board within the state committee of**
8 **psychologists;**
- 9 **(3) "Certifying entity", the nationally accredited Behavior Analyst Certification**
10 **Board, or other equivalent nationally accredited nongovernmental agency approved by the**
11 **committee which certifies individuals who have completed academic, examination, training,**
12 **and supervision requirements in applied behavior analysis;**
- 13 **(4) "Committee", the state committee of psychologists;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (5) "Division", the division of professional registration within the department of
15 insurance, financial institutions and professional registration;

16 (6) "Licensed assistant behavior analyst" or "LaBA", an individual who is certified
17 by the certifying entity as a certified assistant behavior analyst and meets the criteria in
18 section 337.315 and as established by committee rule;

19 (7) "Licensed behavior analyst" or "LBA", an individual who is certified by the
20 certifying entity as a certified behavior analyst and meets the criteria in section 337.315
21 and as established by committee rule;

22 (8) "Practice of applied behavior analysis", the application of the principles,
23 methods, and procedures of the experimental analysis of behavior and applied behavior
24 analysis (including principles of operant and respondent learning) to assess and improve
25 socially important human behaviors. It includes, but is not limited to, applications of those
26 principles, methods, and procedures to:

27 (a) The design, implementation, evaluation, and modification of treatment
28 programs to change behavior of individuals;

29 (b) The design, implementation, evaluation, and modification of treatment
30 programs to change behavior of groups; and

31 (c) Consultation to individuals and organizations.

32

33 Applied behavior analysis does not include cognitive therapies or psychological testing,
34 personality assessment, intellectual assessment, neuropsychological assessment,
35 psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, family
36 therapy, and long-term counseling as treatment modalities.

337.305. 1. There is hereby created under the state committee of psychologists
2 within the division of professional registration the "Behavior Analyst Advisory Board".
3 The behavior analyst advisory board shall consist of the following seven members: three
4 licensed behavior analysts, one licensed behavior analyst holding a doctoral degree, one
5 licensed assistant behavior analyst, one professional member of the committee, and one
6 public member.

7 2. Appointments to the board shall be made by the governor upon the
8 recommendations of the director of the division, upon the advice and consent of the senate.
9 The division, prior to submitting nominations, shall solicit nominees from professional
10 associations and licensed behavior analysts or licensed assistant behavior analysts in the
11 state.

12 3. The term of office for board members shall be five years. In making initial
13 appointments to the board, the governor shall stagger the terms of the appointees so that

14 one member serves an initial term of two years, three members shall serve an initial term
15 of three years, and three members serve initial terms of four years. Each member of the
16 board shall hold office until his or her successor has been qualified. A vacancy in the
17 membership of the board shall be filled for the unexpired term in the manner provided for
18 the original appointment. A member appointed for less than a full term may serve two full
19 terms in addition to such part of a full term.

20 4. Each board member shall be a resident of this state for a period of one year and
21 a registered voter, shall be a United States citizen, and shall, other than the public member,
22 have been a licensed behavior analyst or licensed assistant behavior analyst in this state for
23 at least three years prior to appointment except for the original members of the board who
24 shall have experience in the practice of applied behavior analysis.

25 5. The public member shall be a person who is not and never was a member of any
26 profession licensed or regulated under sections 337.300 to 337.345 or the spouse of such
27 person; and a person who does not have and never has had a material financial interest in
28 either the providing of the professional services regulated by sections 337.300 to 337.345,
29 or an activity or organization directly related to any profession licensed or regulated under
30 sections 337.300 to 337.345.

31 6. The board shall meet at least quarterly. At one of its regular meetings, the board
32 shall select from among its members a chairperson and a vice chairperson. A quorum of
33 the committee shall consist of a majority of its members. In the absence of the chairperson,
34 the vice chairperson shall conduct the office of the chairperson.

35 7. Each member of the board shall receive as compensation an amount set by the
36 division not to exceed fifty dollars for each day devoted to the affairs of the board and shall
37 be entitled to reimbursement for necessary and actual expenses incurred in the
38 performance of the member's official duties.

39 8. Staff for the board shall be provided by the director of the division of
40 professional registration.

41 9. The governor may remove any member of the board for misconduct, inefficiency,
42 incompetency, or neglect of office.

43

44 All vacancies shall be filled by appointment of the governor with the advice and consent
45 of the senate, and the member so appointed shall serve for the unexpired term.

337.310. 1. The behavior analyst advisory board is authorized to:

2 (1) Review all applications for licensure and temporary licensure for behavior
3 analysts and assistant behavior analysts and any supporting documentation submitted with

4 the application to the committee and make recommendations to the committee regarding
5 the resolution of the application;

6 (2) Review all complaints made relating to the practice of behavior analysis and
7 make recommendations to the committee regarding investigation of the complaint, referral
8 for discipline or other resolution of the complaint; and

9 (3) Review any entities responsible for certifying behavior analysts and make
10 recommendations to the committee as to approval or disapproval of the certifying entity
11 based on qualifications established by the committee.

12 2. The board shall recommend to the committee rules to be promulgated pertaining
13 to:

14 (1) The form and content of license applications required and the procedures for
15 filing an application for an initial, provisional temporary or renewal license in this state;

16 (2) The establishment of fees;

17 (3) The educational and training requirements for licensed behavior analysts and
18 licensed assistant behavior analysts;

19 (4) The roles, responsibilities, and duties of licensed behavior analysts and licensed
20 assistant behavior analysts;

21 (5) The characteristics of supervision and supervised clinical practicum experience
22 for the licensed behavior analyst and the licensed assistant behavior analyst;

23 (6) The supervision of licensed assistant behavior analysts;

24 (7) The requirements for continuing education for licensed behavior analysts and
25 licensed assistant behavior analysts;

26 (8) A code of conduct; and

27 (9) Any other policies or procedures necessary to the fulfillment of the
28 requirements of sections 337.300 to 337.345.

29 3. Only after the board's recommendation and approval by majority vote may the
30 committee make any final decisions related to licensing, rules and regulations, complaint
31 resolution, approval of certifying entities or any actions bearing upon the practice of
32 applied behavior analysis unless otherwise authorized by sections 337.300 through 337.345.

33 4. Notwithstanding the provisions of subsection 3 of this section, until such time as
34 the governor appoints the board and the board has a quorum, the committee shall review
35 and resolve all applications for licensure as a licensed behavior analyst or licensed assistant
36 behavior analyst.

37 5. Any rule or portion of a rule, as that term is defined in section 536.010, that is
38 created under the authority delegated in this section shall become effective only if it
39 complies with and is subject to all of the provisions of chapter 536 and, if applicable,

40 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
41 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
42 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
43 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2010,**
44 **shall be invalid and void.**

337.315. 1. An applied behavior analysis intervention shall produce socially
2 **significant improvements in human behavior through skill acquisition, increase or decrease**
3 **in behaviors under specific environmental conditions and the reduction of problematic**
4 **behavior. An applied behavior analysis intervention shall:**

5 **(1) Be based on empirical research and the identification of functional relations**
6 **between behavior and environment, contextual factors, antecedent stimuli and**
7 **reinforcement operations through the direct observation and measurement of behavior,**
8 **arrangement of events and observation of effects on behavior, as well as other information**
9 **gathering methods such as record review and interviews; and**

10 **(2) Utilize changes and arrangements of contextual factors, antecedent stimuli,**
11 **positive reinforcement, and other consequences to produce behavior change.**

12 **2. Each person wishing to practice as a licensed behavior analyst shall:**

13 **(1) Submit a complete application on a form approved by the committee;**

14 **(2) Pay all necessary fees as set by the committee;**

15 **(3) Submit a two-inch or three-inch photograph or passport photograph taken no**
16 **more than six months prior to the application date;**

17 **(4) Provide two classified sets of fingerprints for processing by the Missouri state**
18 **highway patrol under section 43.543. One set of fingerprints shall be used by the highway**
19 **patrol to search the criminal history repository and the second set shall be forwarded to**
20 **the Federal Bureau of Investigation for searching the federal criminal history files;**

21 **(5) Have passed an examination and been certified as a board certified behavior**
22 **analyst by a certifying entity, as defined in section 337.300;**

23 **(6) Provide evidence of active status as a board certified behavior analyst; and**

24 **(7) If the applicant holds a license as a behavior analyst in another state, a**
25 **statement from all issuing states verifying licensure and identifying any disciplinary action**
26 **taken against the license holder by that state.**

27 **3. Each person wishing to practice as a licensed assistant behavior analyst shall:**

28 **(1) Submit a complete application on a form approved by the committee;**

29 **(2) Pay all necessary fees as set by the committee;**

30 **(3) Submit a two-inch or three-inch photograph or passport photograph taken no**
31 **more than six months prior to the application date;**

32 **(4) Provide two classified sets of fingerprints for processing by the Missouri state**
33 **highway patrol under section 43.543. One set of fingerprints shall be used by the highway**
34 **patrol to search the criminal history repository and the second set shall be forwarded to**
35 **the Federal Bureau of Investigation for searching the federal criminal history files;**

36 **(5) Have passed an examination and been certified as a board certified assistant**
37 **behavior analyst by a certifying entity, as defined in section 337.300;**

38 **(6) Provide evidence of active status as a board certified assistant behavior analyst;**

39 **(7) If the applicant holds a license as an assistant behavior analyst in another state,**
40 **a statement from all issuing states verifying licensure and identifying any disciplinary**
41 **action taken against the license holder by that state; and**

42 **(8) Submit documentation satisfactory to the committee that the applicant will be**
43 **directly supervised by a licensed behavior analyst in a manner consistent with the**
44 **certifying entity.**

45 **4. The committee shall be authorized to issue a temporary license to an applicant**
46 **for a behavior analyst license or assistant behavior analyst license upon receipt of a**
47 **complete application for behavior analyst or assistant behavior analyst or a showing of**
48 **valid licensure as a behavior analyst in another state, only if the applicant has submitted**
49 **fingerprints and no disqualifying criminal history appears on the family care safety**
50 **registry. The temporary license shall expire upon issuance of a license or denial of the**
51 **application but no later than ninety days from issuance of the temporary license. Upon**
52 **written request to the committee, the holder of a temporary license shall be entitled to one**
53 **extension of ninety days of the temporary license.**

54 **5. No person shall hold himself or herself out to be licensed behavior analysts or**
55 **LBA, licensed assistant behavior analysts or LaBA in the state of Missouri unless they meet**
56 **the applicable requirements.**

57 **6. No persons shall practice applied behavior analysis unless they are:**

58 **(1) Licensed behavior analysts;**

59 **(2) Licensed assistant behavior analysts working under the supervision of a licensed**
60 **behavior analyst;**

61 **(3) An individual who has a bachelor's or graduate degree and completed course**
62 **work for licensure as a behavior analyst and is obtaining supervised field experience under**
63 **a licensed behavior analyst pursuant to required supervised work experience for licensure**
64 **at the behavior analyst or assistant behavior analyst level; or**

65 **(4) Licensed psychologists practicing within the rules and standards of practice for**
66 **psychologists in the state of Missouri and whose practice is commensurate with their level**
67 **of training and experience.**

68 **7. Notwithstanding the provisions in subsection 6 of this section, any licensed or**
69 **certified professional may practice components of applied behavior analysis, as defined**
70 **in section 337.300 if he or she is acting within his or her applicable scope of practice and**
71 **ethical guidelines.**

72 **8. All licensed behavior analysts and licensed assistant behavior analysts shall be**
73 **bound by the code of conduct adopted by the committee by rule.**

74 **9. Licensed assistant behavior analysts shall work under the direct supervision of**
75 **a licensed behavior analyst as established by committee rule.**

76 **10. Persons who provide services under the Individuals with Disabilities Education**
77 **Act (IDEA), 20 U.S.C. Section 1400 et seq., or Section 504 of the federal Rehabilitation Act**
78 **of 1973, 20 U.S.C. Section 794, or are enrolled in a course of study at a recognized**
79 **educational institution through which the person provides applied behavior analysis as**
80 **part of supervised clinical experience shall be exempt from the requirements of this section.**

81 **11. A violation of this section shall be punishable by probation, suspension, or loss**
82 **of any license held by the violator.**

337.320. 1. The division shall mail a renewal notice to the last known address of
2 **each licensee or registrant prior to the renewal date.**

3 **2. Each person wishing to renew the behavior analyst license or the assistant**
4 **behavior analyst license shall:**

5 **(1) Submit a complete application on a form approved by the committee;**

6 **(2) Pay all necessary fees as set by the committee; and**

7 **(3) Submit proof of active certification and fulfillment of all requirements for**
8 **renewal and recertification with the certifying entity.**

9 **3. Failure to provide the division with documentation required by subsection 2 of**
10 **this section or other information required for renewal shall effect a revocation of the**
11 **license after a period of sixty days from the renewal date.**

12 **4. Each person wishing to restore the license, within two years of the renewal date,**
13 **shall:**

14 **(1) Submit a complete application on a form approved by the committee;**

15 **(2) Pay the renewal fee and a delinquency fee as set by the committee; and**

16 **(3) Submit proof of current certification from a certifying body approved by the**
17 **committee.**

18 **5. A new license to replace any certificate lost, destroyed, or mutilated may be**
19 **issued subject to the rules of the committee, upon payment of a fee established by the**
20 **committee.**

21 **6. The committee shall set the amount of the fees authorized by sections 337.300 to**
22 **337.345 and required by rules promulgated under section 536.021. The fees shall be set at**
23 **a level to produce revenue which shall not substantially exceed the cost and expense of**
24 **administering sections 337.300 to 337.345.**

25 **7. The committee is authorized to issue an inactive license to any licensee who**
26 **makes written application for such license on a form provided by the committee and remits**
27 **the fee for an inactive license established by the committee. An inactive license may be**
28 **issued only to a person who has previously been issued a license to practice as a licensed**
29 **behavior analyst or a licensed assistant behavior analyst who is no longer regularly**
30 **engaged in such practice and who does not hold himself or herself out to the public as being**
31 **professionally engaged in such practice in this state. Each inactive license shall be subject**
32 **to all provisions of this chapter, except as otherwise specifically provided. Each inactive**
33 **license may be renewed by the committee subject to all provisions of this section and all**
34 **other provisions of this chapter. The inactive licensee shall not be required to submit**
35 **evidence of completion of continuing education as required by this chapter.**

36 **8. An inactive licensee may apply for a license to regularly engage in the practice**
37 **of behavioral analysis by:**

38 **(1) Submitting a complete application on a form approved by the committee;**

39 **(2) Paying the reactivation fee as set by the committee; and**

40 **(3) Submitting proof of current certification from a certifying body approved by**
41 **the committee.**

337.325. A licensed behavior analyst and licensed assistant behavior analyst shall
2 **limit his or her practice to demonstrated areas of competence as documented by relevant**
3 **professional education, training, or experience. A licensed behavior analyst and licensed**
4 **assistant behavior analyst trained in one area shall not practice in another area without**
5 **obtaining additional relevant professional education, training, and experience.**

337.330. 1. The committee may refuse to issue any license required under this
2 **chapter for one or any combination of causes stated in subsection 2 of this section. The**
3 **committee shall notify the applicant in writing of the reasons for the refusal and shall**
4 **advise the applicant of the applicant's right to file a complaint with the administrative**
5 **hearing commission as provided by chapter 621.**

6 **2. The committee may cause a complaint to be filed with the administrative hearing**
7 **commission, as provided by chapter 621, against any holder of any license required by this**
8 **chapter or any person who has failed to renew or has surrendered the person's license for**
9 **any one or any combination of the following causes:**

10 (1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage
11 to an extent that such use impairs a person's ability to perform the work of any profession
12 licensed or regulated by this chapter;

13 (2) The person has been finally adjudicated and found guilty, or entered a plea of
14 guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the
15 United States, for any offense reasonably related to the qualifications, functions, or duties
16 of any profession licensed or regulated under this chapter, for any offense an essential
17 element of which is fraud, dishonesty or an act of violence, or for any offense involving
18 moral turpitude, whether or not sentence is imposed;

19 (3) Use of fraud, deception, misrepresentation or bribery in securing any permit
20 or license issued under this chapter or in obtaining permission to take any examination
21 given or required under sections 337.300 to 337.345;

22 (4) Obtaining or attempting to obtain any fee, charge, tuition, or other
23 compensation by fraud, deception or misrepresentation;

24 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or
25 dishonesty in the performance of the functions or duties of any profession licensed by
26 sections 337.300 to 337.345;

27 (6) Violation of, or assisting or enabling any person to violate, any provision of
28 sections 337.300 to 337.345, or of any lawful rule adopted thereunder;

29 (7) Impersonation of any person holding a certificate of registration or authority,
30 permit or license or allowing any person to use his or her certificate of registration or
31 authority, permit, license, or diploma from any school;

32 (8) Disciplinary action against the holder of a license or other right to practice any
33 profession regulated by sections 337.300 to 337.345 granted by another state, territory,
34 federal agency, or country upon grounds for which revocation or suspension is authorized
35 in this state;

36 (9) A person is finally adjudged insane or incapacitated by a court of competent
37 jurisdiction;

38 (10) Assisting or enabling any person to practice or offer to practice any profession
39 licensed or regulated by sections 337.300 to 337.345 who is not registered and currently
40 eligible to practice as provided in sections 337.300 to 337.345;

41 (11) Issuance of a certificate of registration or authority, permit, or license based
42 upon a material mistake of fact;

43 (12) Failure to display a valid certificate or license if so required by sections 337.300
44 to 337.345 or any rule promulgated thereunder;

45 (13) Violation of any professional trust or confidence;

46 **(14) Use of any advertisement or solicitation which is false, misleading, or deceptive**
47 **to the general public or persons to whom the advertisement or solicitation is primarily**
48 **directed;**

49 **(15) Being guilty of unethical conduct as defined in the code of conduct as adopted**
50 **by the committee and filed with the secretary of state.**

51 **3. After the filing of such complaint, the proceedings shall be conducted in**
52 **accordance with the provisions of chapter 621. Upon a finding by the administrative**
53 **hearing commission that the grounds, provided in subsection 2 of this section, for**
54 **disciplinary action are met, the committee may, singly or in combination, censure or place**
55 **the person named in the complaint on probation on such terms and conditions as the**
56 **department deems appropriate for a period not to exceed five years, or may suspend, for**
57 **a period not to exceed three years, or revoke the license, certificate, or permit.**

337.335. 1. Any person found guilty of violating any provision of sections 337.300
2 **to 337.345 is guilty of a class A misdemeanor and upon conviction thereof shall be punished**
3 **as provided by law.**

4 **2. All fees or other compensation received for services rendered in violation of**
5 **sections 337.300 to 337.345 shall be refunded.**

6 **3. The committee shall inquire as to any violation of any provision of sections**
7 **337.300 to 337.345 and may institute actions for penalties herein prescribed, and shall**
8 **enforce generally the provisions of sections 337.300 to 337.345.**

9 **4. Any person, organization, association or corporation who reports or provides**
10 **information to the committee or the division under sections 337.300 to 337.345 and who**
11 **does so in good faith shall not be subject to an action for civil damages as a result thereof.**

12 **5. Upon application by the committee the attorney general may on behalf of the**
13 **committee request that a court of competent jurisdiction grant an injunction, restraining**
14 **order, or other order as may be appropriate to enjoin a person from:**

15 **(1) Offering to engage or engaging in the performance of any acts or practices for**
16 **which a certificate of registration or authority, permit, or license is required upon a**
17 **showing that such acts or practices were performed or offered to be performed without a**
18 **certificate of registration or authority, permit or license; or**

19 **(2) Engaging in any practice or business authorized by a certificate of registration**
20 **or authority, permit, or license issued under sections 337.300 to 337.345 upon a showing**
21 **that the holder presents a substantial probability of serious harm to the health, safety, or**
22 **welfare of any resident of this state or client or patient of the licensee.**

23 **6. Any action brought under the provisions of this section shall be commenced**
24 **either in the county in which such conduct occurred or in the county in which the**
25 **defendant resides.**

26 **7. Any action brought under this section may be in addition to or in lieu of any**
27 **penalty provided by sections 337.300 to 337.345 and may be brought concurrently with**
28 **other actions to enforce sections 337.300 to 337.345.**

337.340. All fees authorized under sections 337.300 to 337.345 shall be collected by
2 **the director of the division of professional registration and shall be transmitted to the**
3 **department of revenue for deposit in the state treasury to the credit of the state committee**
4 **of psychologists fund.**

337.345. 1. Prior to August 28, 2012, each person desiring to obtain a provisional
2 **license shall make application to the committee upon such forms and in such manner as**
3 **may be prescribed by the committee and shall pay the required application fee. The**
4 **application fee shall not be refundable. Each application shall contain a statement that it**
5 **is made under oath or affirmation and that its representations are true and correct to the**
6 **best knowledge and belief of the person signing the application, subject to the penalties of**
7 **making a false affidavit or declaration.**

8 **2. For a provisional behavior analyst license, the applicant shall:**

9 **(1) Submit a two-inch or three-inch photograph or passport photograph taken no**
10 **more than six months prior to the application date, and only if the applicant has submitted**
11 **fingerprints and no disqualifying criminal history appears on the family care safety**
12 **registry;**

13 **(2) Have passed an examination and been certified as a board certified behavior**
14 **analyst by the Behavior Analyst Certification Board or a certifying entity listed in**
15 **subdivision (3) of section 337.300; and**

16 **(3) Provide evidence of active status as a board certified behavior analyst.**

17 **3. For a provisional assistant behavior analyst license, the applicant shall:**

18 **(1) Submit a two-inch or three-inch photograph or passport photograph taken no**
19 **more than six months prior to the application date, and only if the applicant has submitted**
20 **fingerprints and no disqualifying criminal history appears on the family care safety**
21 **registry;**

22 **(2) Have passed an examination and been certified as a board certified assistant**
23 **behavior analyst by a certifying entity listed in subdivision (3) of section 337.300;**

24 **(3) Provide evidence of active status as a board certified assistant behavior analyst;**
25 **and**

26 **(4) Submit documentation satisfactory to the board that the applicant will be**
27 **directly supervised by a licensed behavior analyst in a manner consistent with the**
28 **certifying entity.**

29 **4. Each applicant for provisional licensure shall meet the applicable requirements**
30 **of section 337.315 within three months of the date of issuance of the provisional license.**

31 **5. The provisional license shall be effective only until the later to occur of:**

32 **(1) Grant or rejection of a license pursuant to section 337.315; or**

33 **(2) August 28, 2012.**

34
35 **The holder of a provisional license which has not expired, been suspended, or revoked,**
36 **shall be deemed to be the holder of a license issued under section 337.315 until such**
37 **provisional license expires, is suspended, or revoked.**

376.1224. 1. For purposes of this section, the following terms shall mean:

2 **(1) "Applied behavior analysis", the design, implementation, and evaluation of**
3 **environmental modifications, using behavioral stimuli and consequences, to produce**
4 **socially significant improvement in human behavior, including the use of direct**
5 **observation, measurement, and functional analysis of the relationships between**
6 **environment and behavior;**

7 **(2) "Autism service provider":**

8 **(a) Any person, entity, or group that provides diagnostic or treatment services for**
9 **autism spectrum disorders who is licensed or certified by the state of Missouri; or**

10 **(b) Any person who is licensed under chapter 337 as a board certified behavior**
11 **analyst by the behavior analyst certification board or licensed under chapter 337 as an**
12 **assistant board certified behavior analyst;**

13 **(3) "Autism spectrum disorders", a neurobiological disorder, an illness of the**
14 **nervous system, which includes Autistic Disorder, Asperger's Disorder, Pervasive**
15 **Developmental Disorder Not Otherwise Specified, Rett's Disorder, and Childhood**
16 **Disintegrative Disorder, as defined in the most recent edition of the Diagnostic and**
17 **Statistical Manual of Mental Disorders of the American Psychiatric Association;**

18 **(4) "Diagnosis of autism spectrum disorders", medically necessary assessments,**
19 **evaluations, or tests in order to diagnose whether an individual has an autism spectrum**
20 **disorder;**

21 **(5) "Habilitative or rehabilitative care", professional, counseling, and guidance**
22 **services and treatment programs, including applied behavior analysis, that are necessary**
23 **to develop the functioning of an individual;**

24 (6) "Health benefit plan", shall have the same meaning ascribed to it as in section
25 376.1350;

26 (7) "Health carrier", shall have the same meaning ascribed to it as in section
27 376.1350;

28 (8) "Line therapist", an individual who provides supervision of an individual
29 diagnosed with an autism diagnosis and other neurodevelopmental disorders pursuant to
30 the prescribed treatment plan, and implements specific behavioral interventions as
31 outlined in the behavior plan under the direct supervision of a licensed behavior analyst;

32 (9) "Pharmacy care", medications used to address symptoms of an autism spectrum
33 disorder prescribed by a licensed physician, and any health-related services deemed
34 medically necessary to determine the need or effectiveness of the medications only to the
35 extent that such medications are included in the insured's health benefit plan;

36 (10) "Psychiatric care", direct or consultative services provided by a psychiatrist
37 licensed in the state in which the psychiatrist practices;

38 (11) "Psychological care", direct or consultative services provided by a
39 psychologist licensed in the state in which the psychologist practices;

40 (12) "Therapeutic care", services provided by licensed speech therapists,
41 occupational therapists, or physical therapists;

42 (13) "Treatment for autism spectrum disorders", care prescribed or ordered for
43 an individual diagnosed with an autism spectrum disorder by a licensed physician or
44 licensed psychologist, including, equipment medically necessary for such care, pursuant
45 to the powers granted under such licensed physician's or licensed psychologist's license,
46 including, but not limited to:

47 (a) Psychiatric care;

48 (b) Psychological care;

49 (c) Habilitative or rehabilitative care, including applied behavior analysis therapy;

50 (d) Therapeutic care;

51 (e) Pharmacy care.

52 2. All group health benefit plans that are delivered, issued for delivery, continued,
53 or renewed on or after January 1, 2011, if written inside the state of Missouri, or written
54 outside the state of Missouri but insuring Missouri residents, shall provide coverage for the
55 diagnosis and treatment of autism spectrum disorders to the extent that such diagnosis and
56 treatment is not already covered by the health benefit plan.

57 3. With regards to a health benefit plan, a health carrier shall not deny or refuse
58 to issue coverage on, refuse to contract with, or refuse to renew or refuse to reissue or

59 otherwise terminate or restrict coverage on an individual or their dependent because the
60 individual is diagnosed with autism spectrum disorder.

61 4. (1) Coverage provided under this section is limited to medically necessary
62 treatment that is ordered by the insured's treating licensed physician or licensed
63 psychologist, pursuant to the powers granted under such licensed physician's or licensed
64 psychologist's license, in accordance with a treatment plan;

65 (2) The treatment plan, upon request by the health benefit plan or health carrier,
66 shall include all elements necessary for the health benefit plan or health carrier to pay
67 claims. Such elements include, but are not limited to, a diagnosis, proposed treatment by
68 type, frequency and duration of treatment, and goals;

69 (3) Except for inpatient services, if an individual is receiving treatment for an
70 autism spectrum disorder, a health carrier shall have the right to review the treatment plan
71 not more than once every six months unless the health carrier and the individual's treating
72 physician or psychologist agree that a more frequent review is necessary. Any such
73 agreement regarding the right to review a treatment plan more frequently shall only apply
74 to a particular individual being treated for an autism spectrum disorder and shall not
75 apply to all individuals being treated for autism spectrum disorders by a physician or
76 psychologist. The cost of obtaining any review or treatment plan shall be borne by the
77 health benefit plan or health carrier, as applicable.

78 5. Coverage provided under this section for applied behavior analysis shall be
79 subject to a maximum benefit of forty thousand dollars per calendar year for individuals
80 through eighteen years of age. Such maximum benefit limit may be exceeded, upon prior
81 approval by the health benefit plan, if the provision of applied behavior analysis services
82 beyond the maximum limit is medically necessary for such individual. Payments made by
83 a health carrier on behalf of a covered individual for any care, treatment, intervention,
84 service or item, the provision of which was for the treatment of a health condition
85 unrelated to the covered individual's autism spectrum disorder, shall not be applied
86 toward any maximum benefit established under this subsection. Any coverage required
87 under this section, other than the coverage for applied behavior analysis, shall not be
88 subject to the age and dollar limitations described in this subsection.

89 6. The maximum benefit limitation for applied behavior analysis described in
90 subsection 5 of this section shall be adjusted by the health carrier at least triennially for
91 inflation to reflect the aggregate increase in the general price level as measured by the
92 Consumer Price Index for All Urban Consumers for the United States, or its successor
93 index, as defined and officially published by the United States Department of Labor, or its
94 successor agency. Beginning January 1, 2012, and annually thereafter, the current value

95 of the maximum benefit limitation for applied behavior analysis coverage adjusted for
96 inflation in accordance with this subsection shall be calculated by the director of the
97 department of insurance, financial institutions and professional registration. The director
98 shall furnish the calculated value to the secretary of state, who shall publish such value in
99 the Missouri Register as soon after each January first as practicable, but it shall otherwise
100 be exempt from the provisions of section 536.021.

101 **7. Subject to the provisions set forth in subdivision (3) of subsection 4 of this**
102 **section, coverage provided under this section shall not be subject to any limits on the**
103 **number of visits an individual may make to an autism service provider, except that the**
104 **maximum total benefit for applied behavior analysis set forth in subsection 5 of this section**
105 **shall apply to this subsection.**

106 **8. This section shall not be construed as limiting benefits which are otherwise**
107 **available to an individual under a health benefit plan. The health care coverage required**
108 **by this section shall not be subject to any greater deductible, coinsurance, or co-payment**
109 **than other physical health care services provided by a health benefit plan. Coverage of**
110 **services may be subject to other general exclusions and limitations of the contract or**
111 **benefit plan, not in conflict with the provisions of this section, such as coordination of**
112 **benefits, exclusions for services provided by family or household members, and utilization**
113 **review of health care services, including review of medical necessity and care management;**
114 **however, coverage for treatment under this section shall not be denied on the basis that it**
115 **is educational or habilitative in nature.**

116 **9. To the extent any payments or reimbursements are being made for applied**
117 **behavior analysis, such payments or reimbursements shall be made to either:**

118 **(1) The autism service provider, as defined in this section; or**

119 **(2) The entity or group for whom such supervising person, who is certified as a**
120 **board certified behavior analyst by the Behavior Analyst Certification Board, works or is**
121 **associated.**

122

123 **Such payments or reimbursements under this subsection to an autism service provider or**
124 **a board certified behavior analyst shall include payments or reimbursements for services**
125 **provided by a line therapist under the supervision of such provider or behavior analyst if**
126 **such services provided by the line therapist are included in the treatment plan and are**
127 **deemed medically necessary.**

128 **10. Notwithstanding any other provision of law to the contrary, health carriers**
129 **shall not be held liable for the actions of line therapists in the performance of their duties.**

130 **11. The provisions of this section shall apply to any health care plans issued to**
131 **employees and their dependents under the Missouri consolidated health care plan**
132 **established pursuant to chapter 103, that are delivered, issued for delivery, continued, or**
133 **renewed in this state on or after January 1, 2011. The terms "employees" and "health care**
134 **plans" shall have the same meaning ascribed to them in section 103.003.**

135 **12. The provisions of this section shall also apply to the following types of plans that**
136 **are established, extended, modified, or renewed on or after January 1, 2011:**

137 **(1) All self-insured governmental plans, as that term is defined in 29 U.S.C. Section**
138 **1002(32);**

139 **(2) All self-insured group arrangements, to the extent not preempted by federal**
140 **law;**

141 **(3) All plans provided through a multiple employer welfare arrangement, or plans**
142 **provided through another benefit arrangement, to the extent permitted by the Employee**
143 **Retirement Income Security Act of 1974, or any waiver or exception to that act provided**
144 **under federal law or regulation; and**

145 **(4) All self-insured school district health plans.**

146 **13. The provisions of this section shall not automatically apply to an individually**
147 **underwritten health benefit plan, but shall be offered as an option to any such plan.**

148 **14. The provisions of this section shall not apply to a supplemental insurance**
149 **policy, including a life care contract, accident-only policy, specified disease policy, hospital**
150 **policy providing a fixed daily benefit only, Medicare supplement policy, long-term care**
151 **policy, short-term major medical policy of six months or less duration, or any other**
152 **supplemental policy.**

153 **15. Any health carrier or other entity subject to the provisions of this section shall**
154 **not be required to provide reimbursement for the applied behavior analysis delivered to**
155 **a person insured by such health carrier or other entity to the extent such health carrier or**
156 **other entity is billed for such services by any Part C early intervention program or any**
157 **school district for applied behavior analysis rendered to the person covered by such health**
158 **carrier or other entity. This section shall not be construed as affecting any obligation to**
159 **provide services to an individual under an individualized family service plan, an**
160 **individualized education plan, or an individualized service plan. This section shall not be**
161 **construed as affecting any obligation to provide reimbursement pursuant to section**
162 **376.1218.**

163 **16. The provisions of sections 376.383, 376.384, and 376.1350 to 376.1399 shall**
164 **apply to this section.**

165 **17. The director of the department of insurance, financial institutions and**
166 **professional registration shall grant a small employer with a group health plan, as that**
167 **term is defined in section 379.930, a waiver from the provisions of this section if the small**
168 **employer demonstrates to the director by actual claims experience over any consecutive**
169 **twelve month period that compliance with this section has increased the cost of the health**
170 **insurance policy by an amount of two and a half percent or greater over the period of a**
171 **calendar year in premium costs to the small employer.**

172 **18. The provisions of this section shall not apply to the Mo HealthNet program as**
173 **described in chapter 208.**

174 **19. (1) By February 1, 2012, and every February first thereafter, the department**
175 **of insurance, financial institutions and professional registration shall submit a report to**
176 **the general assembly regarding the implementation of the coverage required under this**
177 **section. The report shall include, but shall not be limited to, the following:**

178 **(a) The total number of insureds diagnosed with autism spectrum disorder;**

179 **(b) The total cost of all claims paid out in the immediately preceding calendar year**
180 **for coverage required by this section;**

181 **(c) The cost of such coverage per insured per month; and**

182 **(d) The average cost per insured for coverage of applied behavior analysis;**

183 **(2) All health carriers and health benefit plans subject to the provisions of this**
184 **section shall provide the department with the data requested by the department for**
185 **inclusion in the annual report.**

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