

The Senate Health and Human Services Committee offered the following substitute to HB 885:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated,
2 relating to the use of cannabis for treatment of cancer and glaucoma, so as to provide for
3 continuing research into the benefits of medical cannabis to treat certain conditions; to
4 provide for a short title; to provide for legislative findings and intent; to provide for the
5 continuation of the Controlled Substances Therapeutic Research Program; to provide for
6 definitions; to provide for selection of academic medical centers to conduct the research; to
7 provide for expansion of the review board and its duties; to establish the responsibilities of
8 academic medical centers; to provide for the selection of approved pediatric neurologists; to
9 provide for storage and distribution of research medical cannabis by the Georgia Drugs and
10 Narcotics Agency; to provide for immunity; to provide for employer and employee rights and
11 obligations; to amend Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia
12 Annotated, relating to general provisions regarding insurance generally, so as to provide for
13 certain insurance coverage of autism spectrum disorders; to provide for definitions; to
14 provide for limitations; to provide for premium cap and other conditions; to provide for
15 applicability; to provide for related matters; to repeal conflicting laws; and for other
16 purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

18 WHEREAS, the General Assembly finds and declares that clinical research has shown
19 certain benefits arising from the utilization of medical research cannabis and, most recently,
20 significant benefits of a particular strain delivered orally for the treatment of seizure
21 disorders among children.
22

23 WHEREAS, nothing in this legislation should be construed as encouraging or sanctioning
24 the use of marijuana or controlled substances in a manner which violates the Georgia
25 Controlled Substances Act, nor is this legislation to be construed as any intent of the General

26 Assembly to be moving in the direction of the legalization of the recreational use of
27 marijuana or other controlled substances.

28 **SECTION 2.**

29 Article 5 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to the
30 use of cannabis for treatment of cancer and glaucoma, is amended by revising the article as
31 follows:

32 "ARTICLE 5

33 43-34-120.

34 This article shall be known and may be cited as the '~~Controlled Substances Therapeutic~~
35 ~~Research~~ Haleigh's Hope Act.'

36 43-34-121.

37 (a) The General Assembly finds and declares that ~~the potential medicinal value of~~
38 ~~marijuana has received insufficient study due to a lack of financial incentives for the~~
39 ~~undertaking of appropriate research by private drug manufacturing concerns. Individual~~
40 ~~physicians cannot feasibly utilize marijuana in clinical trials because of federal~~
41 ~~governmental controls which involve expensive, time-consuming approval and monitoring~~
42 ~~procedures~~ this legislation's purpose is the compassionate potentially life-saving use of
43 medical cannabis and is not intended to sanction, encourage, or otherwise be construed as
44 a movement in the direction of the legalization of the recreational use of marijuana or other
45 controlled substances. Clinical research performed over the past decades continues to show
46 benefits arising from certain forms of medical cannabis. Presently there are in excess of
47 one million United States medical cannabis patients and an increasing number of
48 physicians are recommending the therapeutic use of cannabis to their patients in
49 accordance with their respective state law. New extracts and compounds have been
50 developed demonstrating that cannabidiol, one of the most prevalent nonpsychoactive
51 cannabinoids, has significant health and wellness benefits as shown by recent publication
52 of the positive treatment of certain seizure disorders afflicting children.

53 (b) The General Assembly further finds and declares that ~~limited~~ continuing studies
54 throughout the nation indicate that ~~marijuana~~ cannabis and certain of its derivatives possess
55 valuable and, in some cases, unique therapeutic properties, including the ability to relieve
56 nausea and vomiting which routinely accompany chemotherapy and irradiation used to
57 treat cancer patients. ~~Marijuana~~ Cannabis also may be effective in reducing intraocular
58 pressure in glaucoma patients ~~who do not respond well~~ in adjunct to conventional

59 medications. Cannabis derivatives have also been shown to be effective in the treatment
 60 of seizure disorders.

61 (c) The General Assembly further finds and declares that, in enabling ~~individual~~
 62 ~~physicians and their~~ patients to participate in a state-sponsored program for the
 63 investigational use of ~~marijuana~~ cannabis and its derivatives, ~~qualified physicians and~~
 64 ~~surgeons throughout the state~~ academic medical centers will be able to study the benefits
 65 of the drug in a controlled clinical setting, and additional knowledge will be gained with
 66 respect to dosage and effects.

67 (d) It is the intent of the General Assembly in enacting this article to permit research into
 68 the therapeutic and treatment applications of ~~marijuana~~ cannabis and its derivatives in
 69 cancer, ~~and glaucoma, and seizure disorder~~ patients. This would allow qualified physicians
 70 and academic medical centers approved by the Patient Qualification Review Board created
 71 by Code Section 43-34-124 to ~~provide~~ authorize use of the drug on a compassionate basis
 72 to seriously ill persons suffering from the severe side effects of chemotherapy or radiation
 73 treatment, ~~and to persons suffering from glaucoma who are not responding to conventional~~
 74 ~~treatment, and to persons suffering from seizure disorders,~~ which persons would otherwise
 75 have no lawful access to it. It is the further intent of the General Assembly to facilitate
 76 clinical trials of ~~marijuana~~ cannabis and its derivatives, particularly with respect to persons
 77 suffering from cancer, ~~and glaucoma, and seizure disorders~~ who would ~~be benefited by~~
 78 medically benefit from use of the drug.

79 (e) This article is limited to clinical trials and research into therapeutic applications of
 80 ~~marijuana~~ cannabis only for use in treating glaucoma, ~~and in treating the side effects of~~
 81 ~~chemotherapeutic agents and radiation, and utilizing medical cannabis for the treatment of~~
 82 seizure disorders and should not be construed as either authorizing, encouraging, or
 83 sanctioning the ~~social~~ use of marijuana or other controlled substances in violation of the
 84 Controlled Substances Act. ~~Nothing in this article shall be construed to encourage the use~~
 85 ~~of marijuana in lieu of or in conjunction with other accepted medical treatment, but only~~
 86 ~~as an adjunct to such accepted medical treatment.~~

87 43-34-122.

88 As used in this article, the term:

89 (1) 'Academic medical center' means a research hospital that operates a medical
 90 residency program for physicians and conducts research that involves human subjects,
 91 including medical schools within the state that conduct translational research or clinical
 92 research programs.

93 ~~(1)~~(2) 'Board' means the Georgia Composite Medical Board.

94 (3) 'Cannabis' means any extract derived from any plant of the genus cannabis and which
 95 contain cannabinoids and cannabidiols which has a purity of at least 5 percent or higher
 96 cannabidiol in combination with 2 percent or less of tetrahydrocannabinols as defined by
 97 paragraph (3) of Code Section 16-13-21, that is delivered to the patient in the form of a
 98 liquid, pill, or injection or other delivery method approved by the board but which does
 99 not include smoking.

100 (4) 'Designated caregiver' means a person who has been approved by the board to assist
 101 with a qualifying patient's medical use of cannabis, provided that any person approved
 102 as a designated caregiver shall be not less than 21 years of age and shall not have been
 103 convicted of a felony under the laws of this state, any other state, or the United States
 104 including its territories, possessions, and dominions. No person approved as a designated
 105 caregiver may assist more than five qualifying patients with the medical use of cannabis.

106 ~~(2)~~(5) 'Marijuana' means marijuana or tetrahydrocannabinol, as defined or listed in
 107 Article 2 of Chapter 13 of Title 16.

108 (6) 'Patient' means a person who has been certified by the board and admitted to the
 109 program pursuant to Code Section 43-34-123.

110 ~~(3)~~(7) 'Physician' means a person licensed to practice medicine pursuant to Article 2 of
 111 this chapter and approved under this article to administer cannabis, including but not
 112 limited to a pediatric neurologist.

113 ~~(4)~~(8) 'Program' means the Controlled Substances Therapeutic Research Program
 114 established pursuant to Code Section 43-34-123.

115 ~~(5)~~(9) 'Review board' means the Patient Qualification Review Board established pursuant
 116 to Code Section 43-34-124.

117 (10) 'Smoking' means inhaling, exhaling, burning, or carrying any lighted marijuana or
 118 cannabis product including cigarettes, cigars, or other product prepared in such manner
 119 as to be suitable for smoking in a cigarette, cigar, pipe, or similar device.

120 43-34-123.

121 (a) There is established under the Georgia Composite Medical Board the Controlled
 122 Substances Therapeutic Research Program, which shall be administered by the board.
 123 Under the program, the board shall act as a sponsor of state-wide investigational studies,
 124 utilizing ~~as drug investigators individual~~ physicians or academic medical centers who elect
 125 to participate in accordance with the rules, regulations, guidelines, and protocols developed
 126 adopted by the board. Such guidelines and protocols shall be designed to ensure that
 127 stringent security and record-keeping requirements for ~~research drugs~~ cannabis are met and
 128 that participants in the program meet those research standards necessary to establish
 129 empirical bases for the evaluation of ~~marijuana~~ cannabis as a medically recognized

130 therapeutic substance. The board shall promulgate such rules, ~~and~~ regulations, guidelines,
 131 and protocols as it deems necessary or advisable to administer the program. In
 132 promulgating such guidelines, protocols, rules, and regulations, the board shall take into
 133 consideration those pertinent rules and regulations promulgated by the ~~Federal~~ United
 134 States Drug Enforcement Agency, the Food and Drug Administration, and the National
 135 Institute on Drug Abuse.

136 (b) The program shall be limited to patients who are certified to the board by a physician
 137 or academic medical center as being:

138 (1) Cancer patients involved in a life-threatening situation in which treatment by
 139 chemotherapy or radiology has produced severe side effects; ~~or~~

140 (2) Glaucoma patients who are not responding to conventional controlled substances; or

141 (3) Seizure disorder patients.

142 (c) No patient may be admitted to the program without full disclosure by the physician or
 143 academic medical center of the experimental nature of the program and of the possible
 144 risks and side effects of the proposed treatment.

145 (d) The cost of any blood test required by the federal Food and Drug Administration prior
 146 to entrance into the program shall be paid by the patient ~~seeking entrance into the program~~
 147 or through the program, donated research or study funds, or other funding.

148 (e) Except as provided in subsection (b) of Code Section 43-34-127, only ~~Only~~ the
 149 following persons shall have access to the names and other identifying characteristics of
 150 patients in the program for whom ~~marijuana~~ cannabis has been prescribed under this
 151 article:

152 (1) The board;

153 (2) The review board created by Code Section 43-34-124;

154 (3) The Attorney General or his or her designee;

155 (4) Any person directly connected with the program who has a legitimate need for the
 156 information; ~~and~~

157 (5) Any federal agency having responsibility for the program;

158 (6) Any academic medical center operating a program under this article; and

159 (7) Any patient program participant's attending physician.

160 43-34-124.

161 (a) The board shall appoint the Patient Qualification Review Board. Each member of the
 162 review board shall be approved for such membership by a majority vote of the board and
 163 shall serve at the pleasure of the board. The review board shall be composed of:

164 (1) A board certified physician in ophthalmology;

165 (2) A board certified physician in surgery;

- 166 (3) A board certified physician in internal medicine and medical oncology;
- 167 (4) A board certified physician in psychiatry;
- 168 (5) A board certified physician in radiology; and
- 169 (6) A pharmacist licensed under Chapter 4 of Title 26, relating to pharmacists, pharmacy,
- 170 and drugs;
- 171 (7) A board certified physician in pediatric neurology;
- 172 (8) A board certified physician in pain management; and
- 173 (9) A board certified pediatric epidemiologist.
- 174 (b) The review board shall elect from its members a chairperson and a vice chairperson.
- 175 The review board shall hold regular meetings at least once every 60 days and shall meet
- 176 at such additional times as shall be called by the chairperson of the review board or the
- 177 chairperson of the board. Each member of the review board shall receive for services for
- 178 each day's attendance upon meetings of such board the same amount authorized by law for
- 179 members of the General Assembly for attendance upon meetings of the General Assembly.
- 180 (c) The board shall adopt such rules and regulations as it deems necessary for the
- 181 performance of the duties of the review board.
- 182 (d) ~~The review board; shall review all patient applicants for the program and their~~
- 183 ~~physicians and shall certify those qualified for participation in the program. The review~~
- 184 ~~board shall additionally certify pharmacies which are licensed by the state and which are~~
- 185 ~~otherwise qualified and certify physicians regarding the distribution of marijuana pursuant~~
- 186 ~~to Code Section 43-34-125~~
- 187 (1) Shall review, evaluate, and rate applications for medical cannabis use programs
- 188 submitted by academic medical centers and approved pediatric neurologists based on the
- 189 procedures and guidelines established by the board;
- 190 (2) Shall develop request applications for programs;
- 191 (3) Shall approve or deny applications for programs, approve or deny applications for
- 192 renewal of such programs, and monitor and oversee programs approved for operation
- 193 under this article;
- 194 (4) Shall approve or deny applications for physicians to utilize medical research cannabis
- 195 in the treatment of patients in conjunction with an approved academic medical center;
- 196 (5) May rescind approval of a program if the board finds that the program is not in
- 197 compliance with the conditions of approval established by the board; and
- 198 (6) Shall set application fees and renewal fees that cover its expenses in reviewing and
- 199 approving applications and providing oversight to programs.
- 200 (e) Meetings of the review board to certify patients, physicians, or pharmacies or academic
- 201 medical centers shall not be open to the public, as otherwise required by Chapter 14 of Title

202 50, nor shall the records of such meetings be subject to the provisions of Article 4 of
203 Chapter 18 of Title 50.

204 43-34-125.

205 (a) ~~The board shall~~ An academic medical center operating a program approved under this
206 article or a pharmacy may apply to contract with the National Institute on Drug Abuse for
207 receipt of ~~marijuana~~ cannabis pursuant to this article and pursuant to regulations
208 promulgated by the National Institute on Drug Abuse, the Food and Drug Administration,
209 and the ~~Federal~~ United States Drug Enforcement Agency. Administration or obtain such
210 cannabis from any available legal source approved by the board.

211 (b) ~~The board shall cause marijuana approved for use in the program to be transferred to~~
212 ~~a certified pharmacy, licensed by the state, for distribution to the certified patient by a~~
213 ~~licensed pharmacist upon a written order for research medication of the certified physician,~~
214 ~~pursuant to this article. Any reasonable costs incurred by the board in obtaining or testing~~
215 ~~marijuana shall be charged to participating physicians who may seek reimbursement from~~
216 ~~their research subjects utilizing the marijuana~~ adopt rules or regulations requiring any
217 academic medical center or pharmacy to submit any cannabis received from a legal source
218 other than National Institute on Drug Abuse, the Food and Drug Administration, and the
219 United States Drug Enforcement Administration, to submit such cannabis to a testing
220 facility designated by the board to insure that such cannabis complies with the provisions
221 of this article. Any cannabis that is not submitted for testing or which after testing is found
222 not to comply with the provisions of this article shall not be distributed or used and shall
223 be submitted to the Georgia Drugs and Narcotics Agency for destruction.

224 (c) The Georgia Drugs and Narcotics Agency shall establish rules and regulations for the
225 manufacture, storage, transportation, and distribution of cannabis which shall be in addition
226 to the requirements of Code Section 16-13-39. Cannabis may be distributed or dispensed
227 to a patient or designated caregiver by a pharmacy or academic medical center only upon
228 a prescription complying with the provisions of Code Section 16-13-41 or a written order
229 in a form prescribed by the board.

230 (d) Any cannabis which is distributed or dispensed by a physician, pharmacy, or academic
231 medical center shall be kept by the patient or designated caregiver in the original container
232 in which they were dispensed by the physician, pharmacist, or academic medical center and
233 are labeled according to Code Section 26-3-8.

234 (e) Any physician, pharmacy, or academic medical center authorized to prescribe, dispense,
235 or distribute cannabis pursuant to this article shall be subject to inspection by the director
236 of the Georgia Drugs and Narcotics Agency and such law enforcement personnel as may
237 be designated by the director as provided by Code Section 16-13-46.

238 (f) Any physician, pharmacy, academic medical center, patient, or designated caregiver
 239 who violates the provisions of this article or the rules or regulations of the board or the
 240 Georgia Drugs and Narcotics Agency adopted pursuant to this article shall be terminated
 241 from the program and shall be subject to such other penalties as may be authorized by law.

242 43-34-126.

243 ~~Patient participants in the program are immune from state prosecution for possession of~~
 244 ~~marijuana as authorized by this article and under the program established in this article.~~
 245 ~~A person authorized under this program shall not possess an amount of marijuana in excess~~
 246 ~~of the amount prescribed under the authority of this article. The amount prescribed shall~~
 247 ~~be maintained in the container in which it was placed at the time the prescription was filled.~~
 248 ~~Physician, pharmacy, and pharmacist participants in the program are immune from state~~
 249 ~~prosecution for possession, distribution, and any other use of marijuana, which use is~~
 250 ~~authorized such persons by this article. Any such possession, distribution, or other use not~~
 251 ~~authorized by this article shall be enforced and punished as provided in Chapter 13 of Title~~
 252 ~~16, relating to controlled substances and dangerous drugs, and Chapter 4 of Title 26,~~
 253 ~~relating to pharmacists and pharmacies.~~

254 (a)(1) Any patient enrolled in a program approved under this article who uses, purchases,
 255 possesses, or has under his or her control an amount of cannabis which such patient has
 256 been authorized to use, purchase, possess, or have under his or her control by the board
 257 shall not be subject to arrest or prosecution for a violation of Code Section 16-13-30.

258 (2) Any designated caregiver of a patient who purchases, possesses, administers, or has
 259 under his or her control an amount of cannabis which such patient has been authorized
 260 to use, purchase, possess, or have under his or her control by the board shall not be
 261 subject to arrest or prosecution for a violation of Code Section 16-13-30. A designated
 262 caregiver may receive payment for costs incurred in performing services necessary to
 263 assist the patient with the administration of the cannabis in accordance with directions of
 264 the prescribing physician or academic medical center.

265 (3) A physician, academic medical center, an employee of an academic medical center,
 266 or any other person associated with the operation of a program approved under this article
 267 shall not be subject to arrest, prosecution, or any civil or administrative penalty, including
 268 a civil penalty or disciplinary action by a professional licensing board, or be denied any
 269 right or privilege for activities conducted in accordance with the program approved under
 270 this article.

271 (b) The Georgia Drugs and Narcotics Agency shall develop and maintain a secure system
 272 which will allow law enforcement to verify that a person claiming to be authorized to
 273 possess cannabis in accordance with this article is in fact so authorized. Any information

274 received by a law enforcement agency or officer confirming that a person's status as a
 275 patient or designated caregiver shall be confidential and shall not be subject to disclosure
 276 pursuant to the provisions of Article 4 of Chapter 18 of Title 50.

277 43-34-127.

278 A state employee is eligible for reimbursement for incurred counsel fees under Code
 279 Section 45-12-26 in the event of a federal criminal investigation or prosecution solely
 280 related to the employee's good faith discharge of public responsibilities under this article.

281 43-34-128.

282 (a) The consumption of cannabis in accordance with this article shall be an acceptable
 283 explanation to a positive test under subsection (d) of Code Section 34-9-415 of the Drug
 284 Free Workplace Act or any other lawful drug test administered by an employer.

285 (b) Nothing in this article shall affect an employer's rights under Code Section 34-9-17.

286 (c) A patient's participation in treatment under this article and the consumption of medical
 287 research cannabis shall not relieve the patient of the obligation to notify his or her employer
 288 if such participation impairs his or her ability to safely perform the duties of his or her job.

289 (d) Nothing in this article shall require an employer to accommodate an employee's use
 290 of medical research cannabis as an approved treatment."

291 **SECTION 3.**

292 Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to
 293 general provisions regarding insurance generally, is amended by revising Code
 294 Section 33-24-59.10, relating to insurance coverage for autism, as follows:

295 "33-24-59.10.

296 (a) As used in this Code section, the term:

297 (1) 'Accident and sickness contract, policy, or benefit plan' shall have the same meaning
 298 as found in Code Section 33-24-59.1. Accident and sickness contract, policy, or benefit
 299 plan shall also include without limitation any health benefit plan established pursuant to
 300 Article 1 of Chapter 18 of Title 45. Accident and sickness contract, policy, or benefit
 301 plan' shall not include limited benefit insurance policies designed, advertised, and
 302 marketed to supplement major medical insurance such as accident only, CHAMPUS
 303 supplement, dental, disability income, fixed indemnity, long-term care, medicare
 304 supplement, specified disease, vision, and any other type of accident and sickness
 305 insurance other than basic hospital expense, basic medical-surgical expense, or major
 306 medical insurance.

307 (2) ~~'Autism' means a developmental neurological disorder, usually appearing in the first~~
 308 ~~three years of life, which affects normal brain functions and is manifested by compulsive,~~
 309 ~~ritualistic behavior and severely impaired social interaction and communication skills~~
 310 'Applied behavior analysis' means the design, implementation, and evaluation of
 311 environmental modifications using behavioral stimuli and consequences to produce
 312 socially significant improvement in human behavior, including the use of direct
 313 observation, measurement, and functional analysis of the relationship between
 314 environment and behavior.

315 (3) 'Autism spectrum disorder' means autism spectrum disorder as defined by the most
 316 recent edition of the Diagnostic and Statistical Manual of Mental Disorders.

317 (4) 'Treatment of autism spectrum disorder' includes the following types of care
 318 prescribed, provided, or ordered for an individual diagnosed with an autism spectrum
 319 disorder:

320 (A) Habilitative or rehabilitative services, including applied behavior analysis or other
 321 professional or counseling services necessary to develop, maintain, and restore the
 322 functioning of an individual to the extent possible. To be eligible for coverage, applied
 323 behavior analysis shall be provided by a person professionally certified by a national
 324 board of behavior analysts or performed under the supervision of a person
 325 professionally certified by a national board of behavior analysts, except for those
 326 licensed psychologists specially trained and credentialed in applied behavioral analysis;

327 (B) Counseling services provided by a licensed psychiatrist, licensed psychologist,
 328 professional counselor, or clinical social worker; and

329 (C) Therapy services provided by a licensed or certified speech therapist,
 330 speech-language pathologist, occupational therapist, physical therapist, or marriage and
 331 family therapist.

332 (b) ~~An insurer that provides benefits for neurological disorders, whether under a group or~~
 333 ~~individual accident and sickness contract, policy, or benefit plan, shall not deny providing~~
 334 ~~benefits in accordance with the conditions, schedule of benefits, limitations as to type and~~
 335 ~~scope of treatment authorized for neurological disorders, exclusions, cost-sharing~~
 336 ~~arrangements, or copayment requirements which exist in such contract, policy, or benefit~~
 337 ~~plan for neurological disorders because of a diagnosis of autism. The provisions of this~~
 338 ~~subsection shall not expand the type or scope of treatment beyond that authorized for any~~
 339 ~~other diagnosed neurological disorder. Accident and sickness contracts, policies, or benefit~~
 340 ~~plans shall provide coverage for autism spectrum disorders for an individual covered under~~
 341 ~~a policy or contract who is six years of age or under in accordance with the following:~~

342 (1) The policy or contract shall provide coverage for any assessments, evaluations, or
343 tests by a licensed physician or licensed psychologist to diagnose whether an individual
344 has an autism spectrum disorder;

345 (2) The policy or contract shall provide coverage for the treatment of autism spectrum
346 disorders when it is determined by a licensed physician or licensed psychologist that the
347 treatment is medically necessary health care. A licensed physician or licensed
348 psychologist may be required to demonstrate ongoing medical necessity for coverage
349 provided under this Code section at least annually;

350 (3) The policy or contract shall not include any limits on the number of visits;

351 (4) The policy or contract may limit coverage for applied behavior analysis to
352 \$35,000.00 per year. An insurer shall not apply payments for coverage unrelated to
353 autism spectrum disorders to any maximum benefit established under this paragraph; and

354 (5) This subsection shall not be construed to require coverage for prescription drugs if
355 prescription drug coverage is not provided by the policy or contract. Coverage for
356 prescription drugs for the treatment of autism spectrum disorders shall be determined in
357 the same manner as coverage for prescription drugs for the treatment of any other illness
358 or condition is determined under the policy or contract.

359 (c) Except as otherwise provided in this Code section, any policy or contract that provides
360 coverage for services under this Code section may contain provisions for maximum
361 benefits and coinsurance and reasonable limitations, deductibles, and exclusions to the
362 extent that these provisions are not inconsistent with the requirements of this Code section.

363 (d) This Code section shall not be construed to affect any obligation to provide services
364 to an individual with an autism spectrum disorder under an individualized family service
365 plan, an individualized education plan as required by the federal Individuals with
366 Disabilities Education Act, or an individualized service plan. This Code section also shall
367 not be construed to limit benefits that are otherwise available to an individual under an
368 accident and sickness contract, policy, or benefit plan.

369 (e)(1) An insurer, corporation, or health maintenance organization, or a governmental
370 entity providing coverage for such treatment pursuant to this Code section, is exempt
371 from providing coverage for behavioral health treatment required under this Code section
372 and not covered by the insurer, corporation, health maintenance organization, or
373 governmental entity providing coverage for such treatment pursuant to this Code section
374 as of December 31, 2015, if:

375 (A) An actuary, affiliated with the insurer, corporation, or health maintenance
376 organization, who is a member of the American Academy of Actuaries and meets the
377 American Academy of Actuaries' professional qualification standards for rendering an

378 actuarial opinion related to health insurance rate making, certifies in writing to the
379 Commissioner that:

380 (i) Based on an analysis to be completed no more frequently than one time per year
381 by each insurer, corporation, or health maintenance organization, or such
382 governmental entity, for the most recent experience period of at least one year's
383 duration, the costs associated with coverage of behavioral health treatment required
384 under this Code section, and not covered as of December 31, 2015, exceeded 1
385 percent of the premiums charged over the experience period by the insurer,
386 corporation, or health maintenance organization; and

387 (ii) Those costs solely would lead to an increase in average premiums charged of
388 more than 1 percent for all insurance policies, subscription contracts, or health care
389 plans commencing on inception or the next renewal date, based on the premium rating
390 methodology and practices the insurer, corporation, or health maintenance
391 organization, or such governmental entity, employs; and

392 (B) The Commissioner approves the certification of the actuary.

393 (2) An exemption allowed under paragraph (1) of this subsection shall apply for a
394 one-year coverage period following inception or next renewal date of all insurance
395 policies, subscription contracts, or health care plans issued or renewed during the
396 one-year period following the date of the exemption, after which the insurer, corporation,
397 or health maintenance organization, or such governmental entity, shall again provide
398 coverage for behavioral health treatment required under this subsection.

399 (3) An insurer, corporation, or health maintenance organization, or such governmental
400 entity, may claim an exemption for a subsequent year, but only if the conditions specified
401 in this subsection again are met.

402 (4) Notwithstanding the exemption allowed under paragraph (1) of this subsection, an
403 insurer, corporation, or health maintenance organization, or such governmental entity,
404 may elect to continue to provide coverage for behavioral health treatment required under
405 this subsection.

406 (f) Beginning January 1, 2015, to the extent that this Code section requires benefits that
407 exceed the essential health benefits required under Section 1302(b) of the federal Patient
408 Protection and Affordable Care Act, P. L. 111-148, the specific benefits that exceed the
409 required essential health benefits shall not be required of a 'qualified health plan' as defined
410 in such act when the qualified health plan is offered in this state through the exchange.
411 Nothing in this subsection shall nullify the application of this Code section to plans offered
412 outside the state's exchange.

413 (g) This Code section shall not apply to any accident and sickness contract, policy, or
414 benefit plan offered by any employer with ten or fewer employees.

415 (h) Nothing in this Code section shall be construed to limit any coverage under any
416 accident and sickness contract policy or benefit plan, including, but not limited to, speech
417 therapy, occupational therapy, or physical therapy otherwise available under such plan.
418 (i) By January 15, 2016, and every January 15 thereafter, the department shall submit a
419 report to the General Assembly regarding the implementation of the coverage required
420 under this Code section. The report shall include, but shall not be limited to, the following:
421 (1) The total number of insureds diagnosed with autism spectrum disorder;
422 (2) The total cost of all claims paid out in the immediately preceding calendar year for
423 coverage required by this Code section;
424 (3) The cost of such coverage per insured per month; and
425 (4) The average cost per insured for coverage of applied behavior analysis.
426 All health carriers and health benefit plans subject to the provisions of this Code section
427 shall provide the department with all data requested by the department for inclusion in the
428 annual report."

429

SECTION 4.

430 All laws and parts of laws in conflict with this Act are repealed.