

HOUSE BILL REPORT

HB 1776

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to requiring coverage for applied behavior analysis.

Brief Description: Requiring coverage for applied behavior analysis.

Sponsors: Representatives Senn, Callan, Macri, Taylor, Gregerson and Pollet.

Brief History:

Committee Activity:

Health Care & Wellness: 2/14/23, 2/17/23 [DPS].

Brief Summary of Substitute Bill

- Directs the Office of the Insurance Commissioner, with assistance from the University of Washington, to review and report to the Legislature, the coverage and authorization of applied behavior analysis therapy by December 31, 2023.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Barnard, Bronoske, Davis, Graham, Harris, Macri, Maycumber, Mosbrucker, Orwall, Simmons, Stonier, Thai and Tharinger.

Staff: Ingrid Lewis (786-7293).

Background:

Applied Behavior Analysis.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Applied behavior analysis is a systemic approach to the assessment and evaluation of behavior, and the application of interventions that alter behavior. The "practice of applied behavior analysis" includes:

- the design, implementation, and evaluation of instructional and environmental modifications based on scientific research, observation, measurement of behavior, and the environment to produce socially significant improvements in human behavior;
- empirical identification of functional relations between behavior and environmental factors; and
- utilization of contextual factors, motivation, stimuli, positive reinforcement, and other consequences to alter behavior.

Office of the Insurance Commissioner.

The Office of the Insurance Commissioner regulates commercial health insurance carriers, including health insurance plans, and has rulemaking and enforcement authority over insurance and insurers.

Summary of Substitute Bill:

The Office of the Insurance Commissioner (OIC), with assistance from the University of Washington School of Medicine Department of Psychiatry and Behavioral Sciences, must review and report to the Legislature, the coverage and authorization of applied behavioral analysis (ABA) therapy by December 31, 2023.

The review must include: (1) the extent to which health carrier medical necessity or clinical review criteria for coverage or authorization of ABA treatment are evidence-based and consistent with generally accepted standards of care; and (2) health carrier compliance with state mental health parity laws.

The OIC is authorized to: (1) obtain claims data related to the services subject to the review from the All Payer Claims Database; and (2) require health carriers to provide information deemed necessary to determine how coverage policies, medical necessity, and clinical review criteria for services that are subject to the review are developed and applied by health carriers.

Consumer-level data is protected from disclosure by the OIC under health privacy laws, as well as information that a health carrier has marked as a trade secret, confidential, or proprietary, except in limited circumstances.

Provisions expire July 1, 2024.

Substitute Bill Compared to Original Bill:

The substitute bill removes all underlying provisions and instead requires the Office of the Insurance Commissioner (OIC), with assistance from the University of Washington, to review health carrier coverage and authorization of applied behavioral analysis therapy. The OIC must report findings to the Legislature by December 31, 2023.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 17, 2023.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill would enable children who have intellectual disabilities and no diagnosis of autism to receive applied behavior analysis (ABA) therapy that is covered by insurance. Applied behavior analysis therapy is a broad science that has been in existence for 50 years and studies how human beings interact with their environment. It can be used to increase adaptive behavior and decrease challenging behavior. It is an evidence-based treatment approach. Individuals with intellectual disabilities, with or without a diagnosis of autism, who have language or social delays, may develop challenging behaviors that are so restrictive that it impacts their functioning, and they end up in restrictive settings. Applied behavior analysis has been used in these instances to increase the child's and family's quality of life. Many families cannot access ABA services through their private insurance because the child does not have an autism diagnosis.

(Opposed) None.

(Other) This bill is not a new mandate because under state and federal mental health parity laws, licensed health carriers in the state must cover ABA therapy for both autism and intellectual disability. This may be an issue of whether or not the treatment is medically necessary for a particular individual. If an enrollee of a fully insured health plan is having issues getting coverage and the reason given is that ABA can only be covered for an autism diagnosis, a complaint should be filed with the Office of the Insurance Commissioner.

Persons Testifying: (In support) Representative Tana Senn, prime sponsor; and Eric Boelter, Seattle Children's Hospital.

(Other) Jane Beyer, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: None.