

Date of Hearing: July 15, 2025

ASSEMBLY COMMITTEE ON HEALTH

Mia Bonta, Chair

SB 402 (Valladares) – As Introduced February 14, 2025

SENATE VOTE: 39-0

SUBJECT: Health care coverage: autism.

SUMMARY: Repeals the definition of qualified autism service provider (QAS provider), qualified autism service professional (QAS professional), and qualified autism service paraprofessional (QASPP) in the Health and Safety Code (HSC) and Insurance Code (INS) and recasts those same provisions in the Business and Professions Code (BPC). Deletes an obsolete provision and makes conforming changes.

EXISTING LAW:

- 1) Establishes the Department of Managed Health Care (DMHC) to regulate health plans under the Knox-Keene Health Care Services Plan Act of 1975 and the California Department of Insurance (CDI) to regulate health and other insurers. [HSC § 1340, *et seq.*, INS § 106, *et seq.*]
- 2) Establishes DMHC in state government, in the California Health and Human Services Agency, and designates DMHC as having charge of the execution of the laws of this state relating to health care service plans and the health care service plan business including, but not limited to, those laws directing DMHC to ensure that health care service plans provide enrollees with access to quality health care services and protect and promote the interests of enrollees. [HSC § 1341]
- 3) Requires the DMHC director to be responsible for the performance of all duties, the exercise of all powers and jurisdiction, and the assumption and discharge of all responsibilities vested by law in the DMHC, and states the director has and may exercise all powers necessary or convenient for the administration and enforcement of, among other laws, the laws related to health care service plans. [*Ibid.*]
- 4) Requires the CDI Commissioner to perform all duties imposed upon the Commissioner by the provisions of the Insurance Code and other laws regulating the business of insurance in this state, and to enforce the execution of those provisions and laws. [INS § 12921]
- 5) Requires every health plan contract and health insurance policy that provides hospital, medical, or surgical coverage to also provide coverage for behavioral health treatment for pervasive developmental disorder or autism. Requires the coverage to be provided in the same manner and to be subject to the same requirements as provided in California's mental health parity law. [HSC § 1374.73 and INS § 10144.51]
- 6) Requires every health plan and health insurer to maintain an adequate network that includes qualified autism service providers who supervise or employ qualified autism service professionals or paraprofessionals who provide and administer behavioral health treatment. [*Ibid.*]

- 7) Defines “behavioral health treatment” to mean professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism and that meet specified criteria, including that the treatment is prescribed by a physician or is developed by a psychologist, the treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by one of the following:
 - a) A QAS provider;
 - b) A QAS professional supervised by the QAS provider; or,
 - c) A QASPP supervised by a QAS provider or QAS professional. [*Ibid.*]
- 8) Defines a “QAS provider” to mean either of the following:
 - a) A person who is certified by a national entity, such as the Behavior Analyst Certification Board (BACB), with a certification that is accredited by the National Commission for Certifying Agencies (NCCA), and who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the person who is nationally certified.
 - b) A person licensed as a physician, physical therapist, occupational therapist, psychologist, marriage and family therapist, educational psychologist, clinical social worker, professional clinical counselor, speech-language pathologist, or audiologist who designs, supervises, or provides treatment for pervasive developmental disorder or autism, provided the services are within the experience and competence of the licensee. [*Ibid.*]
- 9) Defines a “QAS professional” to mean an individual who meets all of the following criteria:
 - a) Provides behavioral health treatment, which may include clinical case management and case supervision under the direction and supervision of a qualified autism service provider;
 - b) Is supervised by a qualified autism service provider; and,
 - c) Provides treatment pursuant to a treatment plan developed and approved by the qualified autism service provider. [*Ibid.*]
- 10) Requires a “QAS professional” to be either of the following:
 - a) A behavioral service provider who meets the education and experience qualifications described in a specified provision of state regulation for an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program; or,
 - b) A psychological associate, an associate marriage and family therapist, an associate clinical social worker, or an associate professional clinical counselor, as defined and regulated by the Board of Behavioral Sciences or the Board of Psychology. [*Ibid.*]

- 11) Defines a “QASPP” to mean an unlicensed and uncertified individual who meets all of the following criteria:
- a) Is supervised by a QAS provider or QAS professional at a level of clinical supervision that meets professionally recognized standards of practice;
 - b) Provides treatment and implements services pursuant to a treatment plan developed and approved by the QAS provider;
 - c) Meets the education and training qualifications described in a specified section of the California Code of Regulations;
 - d) Has adequate education, training, and experience, as certified by a QAS provider or an entity or group that employs QAS providers; and,
 - e) Is employed by the QAS provider or an entity or group that employs QAS providers responsible for the autism treatment plan. [*Ibid.*]
- 12) Makes any person who engages, has engaged, or proposes to engage in unfair competition liable for a civil penalty not to exceed \$2,500 for each violation, which is required to be assessed and recovered in a civil action brought in the name of the people of the State of California. Defines “unfair competition” to mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising. [BPC §§ 17200, 17206]

FISCAL EFFECT: None.

COMMENTS:

- 1) **PURPOSE OF THIS BILL.** According to the author, this bill would place requirements for QAS providers, including behavior analysts, QAS professionals, and QASPP, in the BPC, which is where the requirements for all the other QAS providers are located. The BPC contains the legal authority for the Department of Consumer Affairs to regulate and oversee the conduct of professionals to ensure consumer protection.
- 2) **BACKGROUND.** SB 946 (Steinberg), Chapter 650, Statutes of 2011, enacted the current requirement that health plan contract and health insurance policies that provide hospital, medical, or surgical coverage also provide coverage for behavioral health treatment for pervasive developmental disorder or autism. In addition, SB 946 also required plans and insurers to maintain an adequate network that includes QAS providers who supervise and employ QAS professionals or QAPPs who provide and administer behavioral health treatment.

SB 946 defined the phrases “QAS provider,” “QAS professional,” and “QASPP” (which did not previously exist in health insurance law), and required treatment to be provided under a treatment plan prescribed by a QAS provider that is administered by one of the following: a QAS provider, a QAS professional supervised and employed by the qualified autism service provider, or a QASPP. These QAS-related provisions were placed in the same body of law as the coverage requirement (the HSC and INS Code). Those bodies of law are enforced by the state’s health plan and health insurance regulators, the DMHC and CDI respectively. Health

care providers are traditionally regulated by the Department of Consumer Affairs (DCA) under the BPC, typically through a licensing board.

This bill shifts the definitions of the phrases “QAS provider,” “QAS professional,” and “QASPP” from the HSC and INS Codes to the BPC. As drafted in the BPC, this bill does not re-define or alter the existing law definitions of each QAS provider category. Additionally, this bill also does not bring currently unlicensed individuals under a DCA board licensing structure or DCA enforcement. Under this bill, DMHC and CDI would continue to retain regulatory jurisdiction over health plan and insurer coverage of behavioral health treatment for pervasive developmental disorder or autism.

- 3) **SUPPORT.** This bill is sponsored by the California Association for Behavior Analysts (CalABA) to place the existing requirements for QAS providers, QAS professionals, and QASPPs in the BPC. CalABA describes itself as the professional membership association representing over 31,000 practitioners of behavior analysis in California, and states that many of its members serve individuals with autism as QAS providers, QAS professionals, and QASPPs. CalABA argues that, because the requirements for healing arts providers and licensure fall under the jurisdiction of the BPC, this bill moves behavioral health treatment provider qualifications to the appropriate committee and state departments for review, consideration, and potential future action.

Advanced Behavioral Pathways (ABP) and several individual providers write in support that this bill is needed to ensure consistency in the categorizations and definitions of healing arts practitioners in state law and that any future discussions about the qualifications of QAS providers, QAS professionals, and QASPP are heard by the legislative committee best prepared to develop laws and rules on health care provider qualifications. Supporters state that, over time, it has seen attempts by some to reduce provider qualifications, and the Business and Professions Committee is the appropriate committee to ensure services are provided by adequately trained and certified practitioners. The supporters argue that this bill simply moves the current qualifications for these providers, but does not change the qualifications, and it does not create new or different regulations governing the practice of those providing services.

- 4) **OPPOSITION.** The Autism Business Association and numerous individuals and service providers argue this bill is unnecessary, counterproductive, and does not add meaningful improvements to the existing regulatory system. Opponents state a bill to move parts of the law to another section is unprecedented and solves nothing, and that the movement of the QAS definitions to a different section of code is intended to pave the way for one more attempt at a licensing scheme for practitioners so that future bills to create a licensing scheme will be heard in a more favorable legislative committee. Opponents state that California is already facing a significant shortage of practitioners qualified to provide Applied Behavior Analysis therapy services. Opponents contend the reclassification of QAS providers and QAS professionals under the BPC will create additional regulatory hurdles, potentially destabilizing an already fragile workforce, which opponents argue will lead to further delays in care for individuals diagnosed with autism at a time when early intervention is crucial for long-term success.
- 5) **OPPOSE UNLESS AMENDED.** The Qualified Applied Behavior Analysis (QABA) Credentialing Board writes to express its opposition to the shift of existing law to the BPC

because this continues to codify the BACB as a certifying entity for Applied Behavior Analysts. QABA argues this continues to institutionalize an unnecessary monopoly within the BPC by exclusively referencing the BACB as a certifying entity for Applied Behavior Analysts. By limiting recognition to a single certifying body, QABA argues this bill restricts the pool of potentially qualified providers.

- 6) **DOUBLE REFERRAL.** This bill is double referred. It passed the Assembly Committee on Business and Professions with a vote on a 17-0 vote on July 1, 2025.

7) **RELATED LEGISLATION.**

- a) AB 375 (Nguyen) would add QASPP to the list of health care providers that may provide services via telehealth. AB 375 is pending in the Assembly Appropriations Committee.
- b) AB 951 (Ta) would prohibit a health plan or insurer from requiring an enrollee or insured with a diagnosis of pervasive developmental disorder or autism, to receive a rediagnosis in order to maintain coverage for BHT. AB 951 is pending in the Senate Appropriations Committee.

8) **PREVIOUS LEGISLATION.**

- a) AB 1205 (Berryhill) of 2011 would have established licensure for behavioral analysts and assistant behavior analysts under the Board of Behavioral Sciences on and after January 1, 2015. AB 1205 was held on the Assembly Appropriations Committee Suspense File.
- b) SB 166 (Steinberg) of 2011 would have required health plans licensed by the DMHC and health insurers licensed by the CDI to provide coverage for behavioral intervention therapy for autism. SB 166 died pending a hearing in the Senate Health Committee.
- c) SB 479 (Gomez) of 2015 would have established the Behavior Analyst Act, which would have provided for the licensure, registration, and regulation of behavior analysts and assistant behavior analysts under the Board of Psychology. SB 479 died in the Senate Appropriations Committee.
- d) SB 1715 (Holden) of 2016 was substantially similar to SB 479. SB 1715 died pending a hearing in the Senate Business, Professions and Economic Development Committee.
- e) AB 1074 (Maienschein), Chapter 385, Statutes of 2017, made changes to existing employment, supervision, education, and experience criteria to qualify as a QAS provider and QASPP for purposes of behavioral health treatment coverage by health care service plans and health insurers.
- f) SB 399 (Portantino) of 2018 would have, in part, expanded the definition of who could qualify as a QAS provider or QASPP by allowing an alternative pathway if specified education, work experience, and training qualifications are met. SB 399 was vetoed.
- g) SB 163 (Portantino) of 2019 was substantially similar to SB 399. SB 163 was vetoed.
- h) SB 562 (Portantino) of 2021 was substantially similar to SB 399 and SB 163. SB 562 was vetoed.

- i) SB 805 (Portantino), Chapter 635, Statutes of 2023, in part, expanded the criteria for a QASP to include a psychological associate, an associate marriage and family therapist, an associate clinical social worker, or an associate professional clinical counselor. Requires the Department of Developmental Services (DDS) to adopt regulations to address the use of Behavioral Health Professionals in behavioral health treatment group practice, and a rate and educational or experiential qualifications and professional supervision requirements necessary for the Behavioral Health Professional to provide evidence-based behavioral intervention services. Requires DDS to adopt regulations to address the use of Behavioral Health Paraprofessionals in behavioral health treatment group practice, and to establish a rate and the educational or experiential qualifications and professional supervision requirements necessary for the Behavioral Health Paraprofessional to provide evidence-based behavioral intervention services.
- j) AB 2449 (Ta) of 2024 would have expanded the definition of a QASP to include a person who is certified by the Qualified Applied Behavior Analysis Credentialing Board and provided that the certification can be accredited by a national accrediting entity approved by the Secretary of California Health and Human Services. AB 2449 was held on the Senate Appropriations Committee Suspense File.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Behavior Analysts (sponsor)
 Advanced Behavioral Pathways
 Association of Professional Behavior Analysts
 Bluesprig Pediatrics
 Community Autism Services, a Division of the Stepping Stones Group
 Council of Autism Service Providers (CASP)
 Educational & Behavioral Services, LLC
 16 individuals and service providers

Oppose

Acceleration Behavioral Therapies
 Autism Society Inland Empire INC
 Behavior Frontiers
 Behavioral Intervention Association
 Behavioral Support Partnership
 California Academy of Child and Adolescent Psychiatry
 Center for Autism and Related Disorders (CARD)
 Cherry Crisp Entertainment and Productions
 Dirfloortime Coalition of California
 Greenhouse Therapy Center
 Kids Connections Developmental Therapy Center
 Positive Development
 46 individuals and service providers

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