

SENATE THIRD READING
SB 402 (Valladares)
As Introduced February 14, 2025
Majority vote

SUMMARY

Repeals the definition of qualified autism service provider (QAS), qualified autism service professional (QASP), and qualified autism service paraprofessional (QASPP) in the Health and Safety Code (HSC) and Insurance Code (IC) and recasts them in the Business and Professions Code (BPC).

Major Provisions

- 1) Repeals the definitions of "QAS," "QASP," and "QASPP" in the HSC and INC and recasts them in a new chapter within the BPC.
- 2) Makes non-substantive and conforming changes.
- 3) Repeals an erroneous definition of "pervasive developmental disorder or autism" in the HSC and IC.

COMMENTS

According to the Centers for Disease Control and Prevention, nearly one in 36 children are diagnosed with autism spectrum disorder (ASD), which affects the way they behave, communicate, interact, and learn. While there is no cure for ASD, there are several types of treatment to support daily functioning and quality of life. These include behavioral, developmental, educational, social-relational, pharmacological, and psychological approaches as well as complementary and alternative treatments. Multiple professionals provide treatment, which may be delivered at school, in healthcare settings, within the community, at home, or in a combination of these settings.

In 2011, SB 946 (Steinberg), Chapter 650, Statutes of 2011, required health plans and health insurance policies to cover BHT provided by a QAS, a QASP supervised by a QAS, or a QASPP supervised by a QAS or QASP. At that time, the definitions of QAS, QASP, and QASPP were codified in the HSC and IC with the corresponding health coverage mandates. This bill would repeal those definitions and recast identical definitions in the BPC. Although this bill transfers provisions relating to QASs, QASPs, and QASPPs from the HSC and IC to the BPC, it does not make any substantive changes.

According to the Author

"[This bill] would place requirements for qualified autism service providers – including behavior analysts, qualified autism service professionals, and qualified autism service paraprofessionals -- in the Business & Professions Code (BPC), which is where the requirements for all the other qualified autism service providers are located. The BPCs contain the legal authority for the Department of Consumer Affairs to regulate and oversee the conduct of professionals to ensure consumer protection."

Arguments in Support

As the sponsor of this bill, the *California Association for Behavior Analysis* writes:

[This bill] will place the existing requirements for qualified autism service providers, qualified autism service professionals, and qualified autism service paraprofessionals in the Business and Professions Code (BPC). These provider requirements were originally placed in Health and Safety and Insurance Codes when California law (SB 946, Steinberg of 2011) mandated health plan and insurance coverage of behavioral health treatment (BHT) for pervasive developmental disorder and autism. [This bill] will move these provider requirements, placing them alongside all other providers in the BPC...While some professionals defined as qualified autism service providers are licensed under the Business and Professions Code, behavior analysts are not currently licensed by the state of California but are certified by the Behavior Analyst Certification Board, which is accredited by the National Commission for Certifying Agencies. When passed in 2011, SB 946 also established the Autism Advisory Task Force in the Department of Managed Health Care to develop recommendations regarding BHT which released their report in February 2013. The report made several recommendations, one of which is the establishment of a new license category for unlicensed BHT providers to ensure "sufficient state oversight of consumers' safety" (pages 19-21). Because the requirements for healing arts providers and licensure fall under the jurisdiction of the BPC, this bill moves BHT provider qualifications to the appropriate committee and state departments for review, consideration, and potential future action.

Arguments in Opposition

The Autism Business Association and numerous individuals and service providers write in opposition:

While the intention to improve the regulation of Qualified Autism Service Providers (QASPs) is appreciated, this bill, as proposed, is unnecessary, counterproductive, and does not add meaningful improvements to the existing regulatory system.

California is already facing a significant shortage of practitioners qualified to provide Applied Behavior Analysis (ABA) therapy services. The reclassification of QASPs and QAS Professionals under the Business and Professions Code will create additional regulatory hurdles, potentially destabilizing an already fragile workforce. This will lead to further delays in care for individuals diagnosed with autism at a time when early intervention is crucial for long-term success.

The bill does not clearly demonstrate how this transition will enhance the safety, quality of care, or professional accountability of providers. The existing code already offers a functional regulatory framework for QAS Providers and QAS Professionals without the detrimental impacts tied to reclassification. These include unnecessary workforce disruptions and the additional burden placed on families to access vital treatment options.

FISCAL COMMENTS

This bill has been keyed non-fiscal by the Legislative Counsel.

VOTES

SENATE FLOOR: 39-0-1

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones,

Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Reyes

ASM BUSINESS AND PROFESSIONS: 17-0-1

YES: Berman, Flora, Alanis, Bains, Bauer-Kahan, Caloza, Chen, Elhawary, Hadwick, Haney, Irwin, Jackson, Krell, Lowenthal, Macedo, Nguyen, Pellerin

ABS, ABST OR NV: Ahrens

ASM HEALTH: 15-0-1

YES: Bonta, Chen, Addis, Aguiar-Curry, Caloza, Carrillo, Flora, Mark González, Krell, Patel, Patterson, Celeste Rodriguez, Sanchez, Sharp-Collins, Stefani

ABS, ABST OR NV: Schiavo

UPDATED

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