
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: SB 874 **Hearing Date:** April 21, 2026
Author: Weber Pierson
Version: March 17, 2026
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Medi-Cal: behavioral health treatment workgroup*

HISTORY

Source: Author

Prior Legislation: SB 1093 (Hurtado), Ch. 614, Stats. of 2022
SB 562 (Portantino), vetoed, 2022

Support: California Association of Health Plans; Local Health Plans of California; (if amended) Autism Business Association

Opposition: Doogri Institute

PURPOSE

The purpose of this bill is to require Department of Health Care Services (DHCS) to ensure unlicensed providers of behavioral health treatment (BHT) services are fingerprinted, convene a stakeholder workgroup to review the implementation of BHT services in the Medi-Cal program, release and maintain clinical guidance on the provision of the BHT services, and submit a report to the Legislature on the provision of BHT services by January 1, 2029.

Existing law authorizes a human resource agency or an employer to request from the Department of Justice (DOJ) records of all convictions or any arrest pending adjudication involving the specified offenses of a person who applies for a license, employment, or volunteer position, in which they would have supervisory or disciplinary power over a minor or any person under their care. Requires DOJ to furnish the information to the requesting employer and also send a copy of the information to the applicant. (Pen. Code, § 11105.3, subd. (a).)

Existing law requires a request for records to include the applicant's fingerprints, which may be taken by the requester, and any other data specified by DOJ. Requires DOJ to forward requests received for federal criminal offender record information to the FBI to be searched for any record of arrests or convictions. (Pen. Code, § 11105.3, subd. (b).)

Existing law requires the agency or employer to notify the parents or guardians of any minor who will be supervised or disciplined by the employee or volunteer when a criminal convictions request reveals that a prospective employee or volunteer has been convicted of a violation or attempted violation of any sex offense requiring sex offender registration, except as specified; assault with intent to commit specified crimes, including sex offenses; statutory rape; child abuse

and endangerment; inflicting cruel or inhuman corporal punishment on a child resulting in an injury; or willfully inflicts corporal injury resulting in a traumatic condition upon a victim, and where the agency or employer hires the prospective employee or volunteer. (Pen. Code, § 11105.3, subd. (c).)

Existing law requires DOJ to secure any criminal record of a person to determine whether the person has ever been convicted of nonconsensual touching of another, a sex offense against a minor, or of any felony that requires sex offender registration, or whether the person has been convicted or incarcerated within the last 10 years for child abuse and endangerment, inflicting cruel or inhuman corporal punishment on a child resulting in an injury, elder or dependent adult abuse, or theft, robbery, burglary, or any felony. Requires DOJ to provide a subsequent arrest notification, if both of the following conditions are met:

- An employer of the person requests the determination and submits fingerprints of the person to the DOJ. Provides that “employer” includes, but is not limited to, an in-home supportive services recipient; an aged or disabled adult who is ineligible for benefits, who receives care by, as specified; any recipient of personal care services under the Medi-Cal program; and any public authority or nonprofit consortium, as described.
- The person is unlicensed and provides nonmedical domestic or personal care to an aged or disabled adult in the adult’s own home.
(Welf. & Inst. Code, § 15660, subd. (a).)

Existing law requires DOJ to notify the employer if it is found that the person has ever been convicted of the above specified offenses. Requires DOJ to notify the employer if no criminal record information has been recorded. (Welf. & Inst. Code, § 15660, subd. (b).)

Existing law establishes the Medi-Cal program, administered by the Department of Health Care Services (DHCS), and under which qualified low-income individuals receive health care services. (Welf. & Inst. Code, §§ 14000, et seq.)

Existing law establishes a schedule of benefits under the Medi-Cal program, which includes benefits required under federal law and benefits provided at the state’s option, both of which are funded with federal and state dollars. The scope of benefits includes the application of fluoride, or other appropriate fluoride treatment, as defined by DHCS, for children under age 17. (Welf. & Inst. Code, § 14132.)

Existing law requires, under federal law, coverage for individuals under age 21 of all necessary health care, diagnostic services, treatment, and other measures to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan, known as the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit, and codifies this benefit in state law. (Welf. & Inst. Code, §14059.5; 42 U.S.C. §1396d.)

Existing law specifies that EPSDT services also include all age-specific assessments and services listed under the most current periodicity schedule by the American Academy of Pediatrics and Bright Futures, and any other medically necessary assessments and services that exceed those listed. (Welf. & Inst. Code, § 14149.95.)

Existing law requires BHT to be a Medi-Cal covered service for individuals under 21 years of age only to the extent required by the federal government. (Welf. & Inst. Code, § 14132.56.)

Existing law defines BHT as professional services and treatment programs, including applied behavior analysis (ABA) and evidence-based intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism, and are administered by DHCS as described in the approved state plan. (Welf. & Inst. Code, § 14132.56.)

Existing law requires DHCS to develop and define eligibility criteria, provider participation criteria, utilization controls, and delivery system structure for services under this section, subject to limitations allowable under federal law, in consultation with stakeholders. (Welf. & Inst. Code, § 14132.56.)

This bill provides that “behavioral health treatment” or “BHT” has the same meaning as it does in existing law.

This bill requires DHCS to ensure that any individual providing BHT services paid for by Medi-Cal, who does not hold a current and valid license issued by a California state licensing board requiring a fingerprint-based background check, to undergo a background check conducted by the Department of Justice by July 1, 2027.

This bill requires DHCS to convene a stakeholder workgroup, in the first quarter of 2027, made up of: BHT providers; providers of other services to children with autism, including speech and hearing specialists, occupational therapists, psychiatrists, and vision specialists; managed care plans; consumers with autism; and, consumer advocates for organizations led by individuals with autism.

This bill requires the stakeholder workgroup to review the implementation of BHT services in Medi-Cal, including ABA and other evidence-based interventions. Requires the workgroup to advise DHCS on:

- Clinical guidelines for the provision of BHT services, including independent clinician assessment for treatment and reauthorization requirements;
- Treatment plan requirements, including the number of hours in a treatment plan, documentation of an individual’s needs, and how treatment outcomes specific to the individual and the effectiveness of treatment are reviewed;
- Supervision of unlicensed professionals, including the number of hours of supervision required, location of the supervisor, and number of unlicensed professionals a licensed or board certified professional may supervise;
- Standardization of Medi-Cal managed care plan requirements including credentialing; and,
- Best practices in prioritizing quality care in contracting with BHT services providers.

This bill requires the stakeholder workgroup to meet quarterly in 2027 and 2028 and for meetings to be open to the public and to allow for public participation via comment or in writing.

This bill requires DHCS to release and maintain clear clinical guidance for the provision of the BHT benefit consistent with federal recommendations on BHT services and EPSDT services for individuals under age 21 and including any modifications based on input from the stakeholder workgroup on or before April 1, 2028.

This bill requires DHCS to report to the Legislature, and post on its website, an analysis of the utilization of BHT services since 2014, a synopsis of changes made as a result of the stakeholder workgroup, and recommendations for statutory, regulatory, or administrative actions necessary to ensure Medi-Cal reimbursement practices align with federal Medicaid program integrity requirements by January 1, 2029. Requires DHCS to consider the following in creating this report:

- Whether BHT services reimbursed under the Medi-Cal program meet federal Medicaid requirements governing rehabilitative services and EPSDT services;
- Whether DHCS and the Medi-Cal plans utilize uniform, publicly accessible, evidence-based clinical standards for determining medical necessity and treatment intensity;
- Whether reimbursed services include documented functional impairments, measurable treatment goals, and periodic assessment of clinical progress sufficient to demonstrate that services constitute therapeutic interventions covered under the Medicaid program; and,
- Whether the supervision standards for BHT services are equivalent to, or greater than, the supervision, observation, documentation, and clinical oversight requirements imposed on comparable health services in other allied health professions regulated under the Business and Professions Code.

This bill authorizes DHCS to implement this bill via guidance rather than regulation.

COMMENTS

1. Need For This Bill

According to the author:

SB 874 strengthens oversight and standardization of Behavioral Health Therapy (BHT) services, including Applied Behavioral Analysis (ABA) in the Medi-Cal program. In recent years, utilization of these services has grown significantly, both in California and around the country, bringing greater federal scrutiny to the provision of these services through the Medicaid program. Some of this growth is by design, as California enacted several bills to reduce barriers to these services. SB 874 is a measured attempt to evaluate whether we have landed in the right place to ensure that families can access the services they need while at the same time protecting the program from potential waste or abuse. SB 874 requires background checks for certain providers, establishes a stakeholder workgroup to review service delivery, and directs DHCS to issue clinical guidance and report to the Legislature on utilization and program integrity.

2. Background

BHT aims to modify the behavior of individuals with autism spectrum disorder and improve their cognitive, language, and social functioning by assessing environmental stimuli and reinforcing appropriate responses. According to the Senate Health Committee analysis of this bill:

According to the California Health Benefits Review Program (CHBRP), BHT aims to modify the behavior of individuals with autism spectrum disorder and improve their cognitive, language and social functioning by assessing environmental stimuli and reinforcing appropriate responses. Some treatment modalities are based primarily on behavioral theory (e.g. ABA), while others are based primarily on developmental theory or on a hybrid of behavioral and developmental theory. In its analysis for SB 562, CHBRP found evidence for the medical effectiveness of all of these modalities, though there were significant variations in how effective each modality was for particular outcomes. For example, some forms of BHT seemed better suited to improving language than others, while other forms seemed to improve adaptive behavior. It should be noted that BHT, in particular ABA, is not universally welcome in the autistic community. The Autistic Self Advocacy Network, for example, critiques ABA for the use of rewards and punishments to train autistic people to act non-autistic and stresses that any therapy should help the individuals get what they want and need, not what others think they need. (Sen. Com. on Health, Analysis of Sen. Bill No. 874 (2025-2026 Reg. Sess.) as amended Mar. 17, 2026, p. 3.)

Also, from the Senate Health Committee analysis:

According to the Centers for Medicare and Medicaid Services (CMS), the EPSDT benefit is more robust than the Medicaid benefit for adults, and the goal is to ensure that individual children get the health care they need when they need it—the right care to the right child at the right time in the right setting. All Medi-Cal plans must provide EPSDT preventive services, including screenings, designed to identify health and developmental issues as early as possible.

According to the Medi-Cal provider manual, Medi-Cal covers all medically necessary BHT services for Medi-Cal members with an autism spectrum disorder diagnosis or for members for whom a physician or psychologist determines BHT services are medically necessary regardless of diagnosis. BHT services are medically necessary if they will correct or ameliorate defects and physical and mental illnesses and conditions discovered through screening, as is required by the federal EPSDT standard. The manual also clarifies that BHT services that will maintain or improve a member's current health condition, prevent a condition from worsening, or prevent the development of additional health problems are medically necessary services. ... Compared to many other Medi-Cal services described in the provider manual, the scope of services covered under BHT is broad and the authorization requirements are minimal. However, once treatment begins, there are specific documentation requirements required for billing. Most BHT services are now provided through Medi-Cal managed care plans, as BHT services are a plan benefit and most children are now enrolled in plans.

According to California's state Medicaid plan, BHT services may be provided by three different levels of providers, ranging from licensed practitioners and board-certified behavior analysts to paraprofessionals with high school diplomas and competency training or certification. While at least master's level professionals do all assessments, and only licensed or board-certified professionals do treatment plans, paraprofessionals provide many of the services themselves, under the supervision of the other professionals.

help the individuals get what they want and need, not what others think they need. (Sen. Com. on Health, Analysis of Sen. Bill No. 874 (2025-2026 Reg. Sess.) as amended Mar. 17, 2026, p. 4.)

3. Recent Federal Scrutiny of ABA/BHT Services

Starting in 2022, the Office of the Inspector General began a series of audits on Medicaid claims for ABA services following reports by federal and state agencies of questionable billing patterns by some ABA providers. (U.S. Dept. of Health and Human Services, Office of the Inspector General, *Series: Audits of Medicaid Applied Behavior Analysis for Children Diagnosed With Autism* (Jan. 24, 2022) <<https://oig.hhs.gov/reports/work-plan/browse-work-plan-projects/srs-a-25-029/>>.) To date, audits have been completed in Indiana, Wisconsin, Maine, and Colorado. (*Ibid.*) In each case, millions of dollars in improper fee-for-service Medicaid payments were made for ABA provided to children diagnosed with autism. (*Ibid.*) These audits focused largely on compliance issues such as documentation requirements, session notes, and billing for nontherapy time.

At the same time, the Trump administration has begun intensely focusing on fraud in the Medicaid program. In a January 27, 2026 letter from CMS to Governor Newsom, CMS identified “early intensive developmental and behavioral intervention” services, among 13 other services, as a “high-risk” service that has been the focus of fraud investigations in Minnesota and questioned what activities California has undertaken related to these services. DHCS responded in a February 17, 2026 letter highlighting fraud investigations it had conducted tied to some of the other services highlighted and pointing to their national leadership in identifying fraud networks and copious efforts in program integrity, concluding that California’s primary focus areas for fraud are not necessarily the same as those found in other states.¹

This bill requires DHCS to convene a stakeholder workgroup to review the implementation of BHT services in the Medi-Cal program, release and maintain clinical guidance on the provision of the BHT services, and submit a report to the Legislature on the provision of BHT services by January 1, 2029.

4. Background Checks

Existing law authorizes a human resource agency or an employer to request from DOJ records of all convictions or any arrest pending adjudication involving the specified offenses of a person who applies for a license, employment, or volunteer position, in which they would have supervisory or disciplinary power over a minor or any person under their care. (Pen. Code, § 11105.3, subd. (a).) A request for records must include the applicant’s fingerprints, which may be taken by the requester, and any other data specified by DOJ. (Pen. Code, § 11105.3, subd. (b).) The agency or employer must notify the parents or guardians of any minor who will be supervised or disciplined by the employee or volunteer when a criminal convictions request reveals that a prospective employee or volunteer has been convicted of a violation or attempted violation of any sex offense requiring sex offender registration, except as specified; assault with intent to commit specified crimes, including sex offenses; statutory rape; child abuse and endangerment; inflicting cruel or inhuman corporal punishment on a child resulting in an injury; or willfully inflicts corporal injury resulting in a traumatic condition upon a victim, and where

¹ <https://www.dhcs.ca.gov/Program-Integrity/documents/California%27s-Response-to-CMS%27-Program-Integrity-Request.pdf>

the agency or employer hires the prospective employee or volunteer. (Pen. Code, § 11105.3, subd. (c).)

Under Welfare and Institutions Code section 15660, DOJ must secure any criminal record of a person to determine whether the person has ever been convicted of nonconsensual touching of another, a sex offense against a minor, or of any felony that requires sex offender registration, or whether the person has been convicted or incarcerated within the last 10 years for child abuse and endangerment, inflicting cruel or inhuman corporal punishment on a child resulting in an injury, elder or dependent adult abuse, or theft, robbery, burglary, or any felony. DOJ is also required to provide a subsequent arrest notification if both of the following conditions are met:

- An employer of the person requests the determination and submits fingerprints of the person to the DOJ. Provides that “employer” includes, but is not limited to, an in-home supportive services recipient; an aged or disabled adult who is ineligible for benefits, who receives care by , as specified; any recipient of personal care services under the Medi-Cal program; and any public authority or nonprofit consortium, as described.
- The person is unlicensed and provides nonmedical domestic or personal care to an aged or disabled adult in the adult’s own home.
(Welf. & Inst. Code, § 15660, subd. (a).)

DOJ must notify the employer if it is found that the person has ever been convicted of the above specified offenses. (Welf. & Inst. Code, § 15660, subd. (b).)

Under current law, some but not all of the providers authorized to provide BHT services are subject to a criminal background check. For example, paraprofessionals are not required to be licensed and often do not undergo a background check despite working with children, including unsupervised at times. This bill requires DHCS to ensure, by July 1, 2027, that any individual providing BHT services paid for by the Medi-Cal program who does not hold a current and valid license issued by a state licensing board requiring a fingerprint-based background check to undergo a background check pursuant to Penal Code section 11105.3.

5. Amendments

The author has agreed to take a number of amendments within the Health Committee’s jurisdiction. However, given the timing of the two hearings on this bill, the amendments will be taken in this Committee. The amendments address minor, technical issues raised by providers and plans and are summarized as follows:

- Clarifying language specifying DHCS as the holder of information regarding fingerprint-based background checks;
- Language authorizing the inclusion of trade associations and licensing or certifying bodies and including organizations serving families of autistic children in the stakeholder workgroup;
- Conforming language regarding the supervision of unlicensed and uncertified professionals as a workgroup topic;
- Language authorizing more frequent meetings of the stakeholder workgroup; and,
- Language requiring the initial clinical guidance to be due no later than January 1, 2028.

6. Argument in Support

The California Association of Health Plans writes:

SB 874 will promote clinical appropriateness, accountability, and program integrity.

Utilization of ABA therapy has increased dramatically throughout the nation, making it all the more important to ensure that appropriate safeguards are in place. In recent years, we have witnessed an alarming trend of bad actors exploiting the system – resulting in inappropriate utilization and increased health care spending

These concerns are well documented. The Office of Inspector General (OIG) recently started a state-by-state investigation of ABA therapy in the Medicaid program and in four of the audited states, the OIG found that state payments did not comply with federal and state requirements. In fact, nearly all of the sampled months audited included billing errors, prompting the OIG to recommend that each state issue a refund to the federal government. The Wall Street Journal also published a report on the rapid expansion of high-risk ABA providers and found that the number of companies providing ABA therapy nearly doubled between 2019 and 2023. The report found that direct state Medicaid payments grew from \$660 million to \$2.2 billion over the same period – with Managed Care Plans paying hundreds of millions of dollars beyond these amounts. Additionally, in 2022, a California provider had to pay \$650,000 to resolve fraudulent billing allegations in Medi-Cal after they were found billing Medi-Cal for services never rendered.

SB 874 represents a thoughtful and measured response to these national trends by ensuring that Medi-Cal's coverage of ABA therapy is clinically appropriate and aligned with program goals. CAHP supports efforts to strengthen compliance, address operational challenges, and provide DHCS with the tools needed to safeguard the integrity of the Medi-Cal program.

7. Argument in Opposition

The Doogri Institute writes:

... Any framework adopted under SB 874 must be capable of withstanding federal audit, including clear independence from regulated entities and demonstrable program integrity safeguards.

The proposed workgroup under SB 874 is structurally flawed. A body composed in significant part of Behavioral Health Treatment (BHT) industry stakeholders presents a clear risk of self-dealing. When participants' livelihoods depend on the outcome of the workgroup, impartiality cannot be meaningfully ensured. This is a structural conflict that undermines the credibility and defensibility of any resulting findings.

Oversight of BHT practices must be conducted by independent, licensed allied health professionals who are not financially or professionally tied to the industry being evaluated. Only such professionals can objectively assess scope-of-practice boundaries, identify encroachment into regulated healthcare domains, and determine whether providers meet minimum standards of training in health and safety consistent with the Business and Professions Code. This is not the time to formalize oversight through a process that lacks independence or methodological rigor, as federal scrutiny has already identified BHT billing as a high-risk category. California should be strengthening safeguards, not delegating evaluative authority to interested parties.

At a minimum, any review framework must require independent clinical record review of a statistically valid sample by licensed professionals with no financial affiliation to BHT providers or managed care plans, alongside quantitative analysis of Medi-Cal claims data to identify utilization patterns, service intensity, geographic variation, and outlier providers or plans. Without these core program integrity tools, the state cannot substantiate whether services meet federal rehabilitative and EPSDT standards, nor can it detect systemic risks related to overutilization, inconsistent medical necessity determinations, or potential fraud and abuse.

Finally, the proposed composition of the workgroup specifically lists “consumers with autism” and “consumer advocates for organizations led by individuals with autism.” Such characterization of Autistic members is both structurally inadequate and conceptually flawed. As written, it risks reducing Autistic individuals to tokenized roles that rely on unpaid emotional labor rather than recognizing them as qualified professionals capable of contributing to complex program integrity analysis. This work requires expertise in healthcare policy, Medicaid regulation, finance, and clinical standards. *Notably, portions of these materials have already been transmitted to federal oversight authorities, including HHS-OIG and CMS, and are directly relevant to ongoing federal program integrity review.*

Excluding Autistic experts (i.e. the policy analysts and auditors who offered a corrective action plan) from being explicitly recognized in those capacities, while instead categorizing them narrowly as “consumers” or “advocates,” is a devaluation of their professional and civic contributions and reinforces a hierarchy that places decision-making power elsewhere.

- Our original proposal submitted to the Senate Health Committee was intentionally designed to ensure both technical rigor and authentic representation, to include six representatives from California allied health professional associations and three from consumer-led organizations.
 - A nine-member structure is efficient, reduces costs, and avoids procedural deadlock, while preserving the principle of meaningful participation.
- The current draft departs from that intent and instead frames Autistic individuals as subjects of policy rather than participants in its design and evaluation.

For these reasons, we respectfully *urge you to amend SB 874* and gain true stakeholder support.