

SUBJECT: Requiring health insurance plans to cover autism spectrum disorders

COMMITTEE: Insurance — favorable, with amendments

VOTE: 7 ayes — Smithee, T. Smith, Taylor, Eiland, Hancock, Thompson, Vo
0 nays
2 absent — Martinez, Woolley

SENATE VOTE: On final passage, April 19 — 28-2 (Jackson, Williams)

WITNESSES: *(On House companion bill, HB 1224 by J. Davis, et al.:)*
For — Jeff Enzinna, Texana Center; Jeff Miller, Advocacy Incorporated; Elizabeth Roebuck, Austin/Travis County Suicide Prevention Coalition; Cynthia Singleton; *(Registered, but did not testify:* Kelley Chou; Mark Colditz; Cheryl Conner; Dianne Izzo; James J. Jackson, Jr.; Mazie M. Jamison, Children’s Medical Center Dallas; Arthur Krigsman, Thoughtful House Center for Children; Carrie Kroll, Texas Pediatric Society; Mara LaViola, The Texas Chapter of The National Autism Association; Joe Lovelace, Texas Council of Community MHMR Centers; Debbie Davis Mincher, Texas Occupational Therapy Association; Nagla Moussa, Autism Society of Collin County; Vicki Perkins, CHRISTUS Santa Rosa Children’s Hospital; Edward Martin Peterson; Denise Rose, Texas Children’s Hospital; George Santos, Federation of Texas Psychiatry; Jodie Smith, Texans Care for Children; Bryan Sperry, Children’s Hospital Association of Texas; Dr. Andrew Wakefield, Thoughtful House; Elaine Weaver; Kelle Wood; Karen Thomas Yeaman; Dwight Harris, Texas Federation of Teachers)

Against — Will Davis, Texas Association Life and Health Insurers; Lauren DeWitt, The Citizens Commission on Human Rights; Shelton Green, Texas Association of Business; Karen Reagan, Texas Retailers Association; *(Registered, but did not testify:* Lee Manross, Texas Association of Health Underwriters; Stacy Sass, Texas Small Business Alliance in Austin; Lee Spiller, Citizens Commission on Human Rights)

On — Dianne Longley, Texas Department of Insurance; Katherine Loveland; Mary Katherine Stout, Texas Public Policy Foundation; Jared Wolfe, Texas Association of Health Plans

BACKGROUND: Autism or autism spectrum disorders (ASD) is one of five groups of disorders under the umbrella of Pervasive Developmental Disorders (PDD), a category of neurological disorders characterized by severe and pervasive impairment in several areas of development, including social interaction and communications skills. The five disorders under PDD are autistic disorder, Asperger's disorder, childhood disintegrative disorder, Rett's disorder, and PDD-not otherwise specified.

During the 2005 regular session, the 79th Legislature enacted SB 882 by Lucio, which changed the name of the Interagency Council on Autism and Pervasive Development Disorders, which had been established in 1987, to the Texas Council on Autism and Pervasive Development Disorders and updated Human Resources Code, ch. 114, which governs the program.

The council comprises seven public members, the majority of whom have a family member with an ASD, appointed by the governor. It also has one representative from each of the following — the Texas Education Agency, the Texas Health and Human Services Commission, the Texas Department of Aging and Disability Services, the Texas Department of State Health Services, the Texas Department of Assistive and Rehabilitative Services, and the Texas Department of Family and Protective Services.

DIGEST: SB 419, as amended, would add Insurance Code, ch. 1355, subch. F to prohibit a health benefit plan from excluding from coverage or denying benefits for treatment, equipment, or therapy based on the insured person having ASD.

The bill would require a health insurance plan to provide coverage for a person with ASD from the age of two until the age of six. The insurance plan would not be precluded from continuing coverage for treatment and other services for the person after the age of six.

The bill would apply to health insurance plans that provide benefits for medical or surgical expenses incurred as a result of a health condition, an accident, or sickness. The bill would not apply to small employer health benefit plans, Medicare supplemental insurance policies, worker's compensation insurance policies, medical coverage under an auto

insurance policy, or long-term care policies. It also would not apply to a plan that provides coverage:

- only for benefits for a specified disease or other limited benefit;
- only for accidental death or dismemberment;
- for wages or payments in lieu of wages due to absence because of sickness or accident;
- as a supplement to a liability insurance policy;
- only for dental or vision care; or
- only indemnity for hospital confinement.

SB 419, as amended, would require a health benefit plan to provide coverage for “generally recognized services” related to ASD, including:

- speech therapy;
- occupational therapy;
- physical therapy; or
- medications or nutritional supplements used to address symptoms of autism spectrum disorder.

The bill also would require the Insurance Commissioner to adopt rules to implement the proposed Insurance Code, ch. 1355, subch. F.

The bill would take effect on September 1, 2007, and would apply to health benefit plans delivered, issued for delivery, or renewed on or after January 1, 2008.

**SUPPORTERS
SAY:**

SB 419, as amended, would provide fairness in treating those with ASD and their families and ultimately would help to reduce the cost associated with treating ASD. A recent report by the U.S. Centers for Disease Control and Prevention estimates that one in 150 children experience some form of ASD. According to the Autism Society of America, the cost of care for those with ASD is \$90 billion annually, with 90 percent of that spent on adult care, and these costs are projected to increase dramatically. Diagnosis of autism in children is more reliable than in the 1970s and 1980s, and early detection and intervention could reduce the cost of lifelong care by almost two-thirds.

Standard marketplace mechanisms do not apply completely in health care. Treating ASD should not be considered a consumer option akin to laser

eye procedures or elective plastic surgery. No one can place a price tag on fairness and equity, but these factors should be considered in any financial evaluation of the bill. ASD can strike any family, regardless of its income, and it is only right for all insurance ratepayers and taxpayers to contribute a little to address these needs.

The bill would address an inequity in health insurance plans that exclude coverage for ASD or include limited mental illness benefits. Research over the past two decades has shown that the conditions under ASD are neurological disorders and can be treated effectively with early intervention. Speech therapy, occupational therapy, and physical therapy can be particularly effective in developing or improving communication and language skills in children with ASD. However, families with children with ASD cannot afford this kind medically necessary treatment without insurance coverage. The Legislature has enacted laws in the past to provide for treatment of specific diseases such as the requirement that insurance companies cover diabetic supplies.

The bill would help raise awareness of the need to treat ASD in early childhood. Waiting until the child is in school may be too late. Research shows that intensive early intervention is very effective and should not be considered either an experimental or an investigational treatment. The bill would mandate coverage for children between the ages of two and six when diagnosis and intervention would be most effective.

Texas could become a leader in research and treatment of ASD. The state's population is very diverse and growing, and the problem with ASD only will increase. However, the current structure of insurance reimbursement for ASD is a disincentive for professionals to specialize in the field.

About a dozen other states require insurance coverage of ASD treatment, and a handful of Texas families will leave the state to get necessary medical services for a child diagnosed with ASD. Admittedly that would involve a small number, but a majority of those are professionals who have transferable and valuable skills, such as physicians and university professors.

**OPPONENTS
SAY:**

This bill would be another expensive mandate on employers and taxpayers. The Legislative Budget Board (LBB) fiscal note estimates that the bill would increase costs to state programs by \$889,000 in fiscal 2009

and \$948,000 in fiscal 2010, and the cost to employers that offer health coverage would be much higher. While coverage and design mandates for health insurance may be an attractive way for regulators to manage the marketplace to provide certain guarantees, the “unintended” yet predictable consequences of such regulation have an obvious impact on the market. Mandates drive up prices, push out competition, and leave unaffordable policies that reflect legislative desires, rather than consumer interest. Employers and consumers should have maximum flexibility in selecting health benefits. Otherwise, mandates distort consumer behavior and lead to more Texans without insurance. The market should be allowed to work and let employers choose coverage they can afford.

NOTES:

Committee Amendment No. 1 would require a health benefit plan to provide coverage for “generally recognized services” related to ASD, including:

- speech therapy;
- occupational therapy;
- physical therapy; or
- medications or nutritional supplements used to address symptoms of autism spectrum disorder.

Committee Amendment No. 2 strikes language that would have applied the bill to health and accident coverage provided by a risk pool created under the Texas Political Subdivision Employees Uniform Group Benefits Act.

HB 1224 by J. Davis, et. al, the identical companion, was placed on the General State Calendar for May 9, but the House took no further action.