NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 09-244

BY SENATOR(S) Shaffer B., Carroll M., Foster, Hudak, Morse, Tochtrop, Bacon, Keller, Schwartz;
also REPRESENTATIVE(S) Primavera, Benefield, Casso, Court, Ferrandino, Fischer, Green, Hullinghorst, Kagan, Kefalas, Labuda, McFadyen, Middleton, Miklosi, Pace, Peniston, Pommer, Priola, Ryden, Scanlan, Schafer S., Solano, Soper, Todd, Carroll T.

CONCERNING HEALTH INSURANCE BENEFITS FOR THE TREATMENT OF AUTISM SPECTRUM DISORDERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. The general assembly acknowledges that when mandated coverages are added to private insurance plans that the services covered by the children's basic health plan are often adjusted and revised to include such mandated coverages. However, the general assembly hereby declares that due to the budgetary issues facing the state of Colorado during fiscal years 2008-09 and 2009-10, the general assembly cannot at this time fund an expansion of the children's basic health plan to include comparable provisions. It is the hope that such program may be able to include comparable services for autism spectrum disorders in the future.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. 10-16-104 (1.3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10-16-104. Mandatory coverage provisions - definitions. (1.3) **Early intervention services.** (g) EARLY INTERVENTION SERVICES SHALL BE PROVIDED AS SPECIFIED IN THE ELIGIBLE CHILD'S IFSP, AND SUCH SERVICES SHALL NOT DUPLICATE OR REPLACE TREATMENT FOR AUTISM SPECTRUM DISORDERS PROVIDED IN ACCORDANCE WITH SUBSECTION (1.4) OF THIS SECTION. SERVICES FOR THE TREATMENT OF AUTISM SPECTRUM DISORDERS PROVIDED IN ACCORDANCE WITH SUBSECTION (1.4) OF THIS SECTION SHALL BE CONSIDERED THE PRIMARY SERVICE TO AN ELIGIBLE CHILD, AND EARLY INTERVENTION SERVICES PROVIDED UNDER THIS SUBSECTION (1.3) SHALL SUPPLEMENT, BUT NOT REPLACE, SERVICES PROVIDED UNDER SUBSECTION (1.4) OF THIS SECTION.

SECTION 3. 10-16-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

10-16-104. Mandatory coverage provisions - definitions. (1.4) **Autism spectrum disorders.** (a) AS USED IN THIS SUBSECTION (1.4), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "APPLIED BEHAVIOR ANALYSIS" MEANS THE USE OF BEHAVIOR ANALYTIC METHODS AND RESEARCH FINDINGS TO CHANGE SOCIALLY IMPORTANT BEHAVIORS IN MEANINGFUL WAYS.

(II) "AUTISM SERVICES PROVIDER" MEANS ANY PERSON WHO PROVIDES DIRECT SERVICES TO A PERSON WITH AUTISM SPECTRUM DISORDER, IS LICENSED, CERTIFIED, OR REGISTERED BY THE APPLICABLE STATE LICENSING BOARD OR BY A NATIONALLY RECOGNIZED ORGANIZATION, AND WHO MEETS ONE OF THE FOLLOWING:

(A) HAS A DOCTORAL DEGREE WITH A SPECIALTY IN PSYCHIATRY, MEDICINE, OR CLINICAL PSYCHOLOGY, IS ACTIVELY LICENSED BY THE STATE BOARD OF MEDICAL EXAMINERS, AND HAS ONE YEAR OF DIRECT EXPERIENCE IN BEHAVIORAL THERAPIES THAT ARE CONSISTENT WITH BEST PRACTICE AND RESEARCH ON EFFECTIVENESS FOR PEOPLE WITH AUTISM SPECTRUM DISORDERS;

(B) HAS A DOCTORAL DEGREE IN ONE OF THE BEHAVIORAL OR

HEALTH SCIENCES AND HAS COMPLETED ONE YEAR OF EXPERIENCE IN BEHAVIORAL THERAPIES THAT ARE CONSISTENT WITH BEST PRACTICE AND RESEARCH ON EFFECTIVENESS FOR PEOPLE WITH AUTISM SPECTRUM DISORDERS;

(C) HAS A MASTER'S DEGREE OR HIGHER IN BEHAVIORAL SCIENCES AND IS NATIONALLY CERTIFIED AS A "BOARD CERTIFIED BEHAVIOR ANALYST" OR CERTIFIED BY A SIMILAR NATIONALLY RECOGNIZED ORGANIZATION;

(D) HAS A MASTER'S DEGREE OR HIGHER IN ONE OF THE BEHAVIOR OR HEALTH SCIENCES, IS CREDENTIALED AS A RELATED SERVICES PROVIDER, AND HAS COMPLETED ONE YEAR OF DIRECT SUPERVISED EXPERIENCE IN BEHAVIORAL THERAPIES THAT ARE CONSISTENT WITH BEST PRACTICE AND RESEARCH ON EFFECTIVENESS FOR PEOPLE WITH AUTISM SPECTRUM DISORDERS. FOR THE PURPOSES OF THIS SUB-SUBPARAGRAPH (D), "RELATED SERVICES PROVIDER" MEANS A PHYSICAL THERAPIST, OCCUPATIONAL THERAPIST, OR SPEECH THERAPIST.

(E) HAS A BACCALAUREATE DEGREE OR HIGHER IN BEHAVIORAL SCIENCES AND IS NATIONALLY CERTIFIED AS A "BOARD CERTIFIED ASSOCIATE BEHAVIOR ANALYST" OR CERTIFIED BY A SIMILAR NATIONALLY RECOGNIZED ORGANIZATION.

(III) "AUTISM SPECTRUM DISORDERS" OR "ASD" INCLUDES THE FOLLOWING NEUROBIOLOGICAL DISORDERS: AUTISTIC DISORDER, ASPERGER'S DISORDER, AND ATYPICAL AUTISM AS A DIAGNOSIS WITHIN PERVASIVE DEVELOPMENTAL DISORDER NOT OTHERWISE SPECIFIED, AS DEFINED IN THE MOST RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, AT THE TIME OF THE DIAGNOSIS.

(IV) "HEALTH BENEFIT PLAN" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 10-16-102 (21). IN ADDITION, THE TERM "HEALTH BENEFIT PLAN", AS USED IN THIS SUBSECTION (1.4), EXCLUDES SHORT-TERM LIMITED DURATION HEALTH INSURANCE POLICIES AS DEFINED IN SECTION 10-16-102 (21) (b). "HEALTH BENEFIT PLAN", AS USED IN THIS SUBSECTION (1.4), DOES NOT INCLUDE INDIVIDUAL HEALTH BENEFIT PLANS.

(V) "INDIVIDUALIZED EDUCATION PLAN" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 22-20-103, C.R.S.

(VI) "INDIVIDUALIZED FAMILY SERVICE PLAN" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 27-10.5-102, C.R.S.

(VII) "INDIVIDUALIZED PLAN" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 27-10.5-102, C.R.S.

(VIII) "PHARMACY CARE" MEANS MEDICATIONS PRESCRIBED BY A PHYSICIAN LICENSED BY THE STATE BOARD OF MEDICAL EXAMINERS UNDER THE "COLORADO MEDICAL PRACTICE ACT", ARTICLE 36 OF TITLE 12, C.R.S.

(IX) "PSYCHIATRIC CARE" MEANS DIRECT OR CONSULTATIVE SERVICES PROVIDED BY A PSYCHIATRIST LICENSED BY THE STATE BOARD OF MEDICAL EXAMINERS UNDER THE "COLORADO MEDICAL PRACTICE ACT", ARTICLE 36 OF TITLE 12, C.R.S.

(X) "PSYCHOLOGICAL CARE" MEANS DIRECT OR CONSULTATIVE SERVICES PROVIDED BY A PSYCHOLOGIST LICENSED BY THE STATE BOARD OF PSYCHOLOGIST EXAMINERS PURSUANT TO PART 3 OF ARTICLE 43 OF TITLE 12, C.R.S., OR A SOCIAL WORKER LICENSED BY THE STATE BOARD OF SOCIAL WORK EXAMINERS PURSUANT TO PART 4 OF ARTICLE 43 OF TITLE 12, C.R.S.

(XI) "THERAPEUTIC CARE" MEANS SERVICES PROVIDED BY A SPEECH THERAPIST, AN OCCUPATIONAL THERAPIST REGISTERED TO PRACTICE OCCUPATIONAL THERAPY PURSUANT TO ARTICLE 40.5 OF TITLE 12, C.R.S., A PHYSICAL THERAPIST LICENSED TO PRACTICE PHYSICAL THERAPY PURSUANT TO ARTICLE 41 OF TITLE 12, C.R.S., OR AN AUTISM SERVICES PROVIDER. "THERAPEUTIC CARE" INCLUDES, BUT IS NOT LIMITED TO, SPEECH, OCCUPATIONAL, AND APPLIED BEHAVIOR ANALYTIC AND PHYSICAL THERAPIES.

(XII) "TREATMENT FOR AUTISM SPECTRUM DISORDERS" SHALL BE FOR TREATMENTS THAT ARE MEDICALLY NECESSARY, APPROPRIATE, EFFECTIVE, OR EFFICIENT. THE TREATMENTS LISTED IN THIS SUBPARAGRAPH (XII) ARE NOT CONSIDERED EXPERIMENTAL OR INVESTIGATIONAL AND ARE CONSIDERED APPROPRIATE, EFFECTIVE, OR EFFICIENT FOR THE TREATMENT OF AUTISM. "TREATMENT FOR AUTISM SPECTRUM DISORDERS" SHALL INCLUDE THE FOLLOWING:

(A) EVALUATION AND ASSESSMENT SERVICES;

(B) BEHAVIOR TRAINING AND BEHAVIOR MANAGEMENT AND APPLIED BEHAVIOR ANALYSIS, INCLUDING BUT NOT LIMITED TO CONSULTATIONS, DIRECT CARE, SUPERVISION, OR TREATMENT, OR ANY COMBINATION THEREOF, FOR AUTISM SPECTRUM DISORDERS PROVIDED BY AUTISM SERVICES PROVIDERS;

(C) HABILITATIVE OR REHABILITATIVE CARE, INCLUDING, BUT NOT LIMITED TO, OCCUPATIONAL THERAPY, PHYSICAL THERAPY, OR SPEECH THERAPY, OR ANY COMBINATION OF THOSE THERAPIES. FOR A PERSON WHO IS ALSO COVERED UNDER SUBSECTION (1.7) OF THIS SECTION, THE LEVEL OF BENEFITS FOR OCCUPATIONAL THERAPY, PHYSICAL THERAPY, OR SPEECH THERAPY SHALL EXCEED THE LIMIT OF TWENTY VISITS FOR EACH THERAPY IF SUCH THERAPY IS MEDICALLY NECESSARY TO TREAT AUTISM SPECTRUM DISORDERS UNDER THIS SUBSECTION (1.4).

(D) PHARMACY CARE AND MEDICATION, IF COVERED BY THE HEALTH BENEFIT PLAN;

(E) PSYCHIATRIC CARE;

(F) PSYCHOLOGICAL CARE, INCLUDING FAMILY COUNSELING; AND

(G) THERAPEUTIC CARE.

(XIII) "TREATMENT PLAN" MEANS A PLAN DEVELOPED FOR AN INDIVIDUAL BY AN AUTISM SERVICES PROVIDER AND PRESCRIBED BY A LICENSED PHYSICIAN OR A LICENSED PSYCHOLOGIST PURSUANT TO A COMPREHENSIVE EVALUATION OR REEVALUATION FOR AN INDIVIDUAL CONSISTING OF THE INDIVIDUAL'S DIAGNOSIS; PROPOSED TREATMENT BY TYPE, FREQUENCY, AND ANTICIPATED TREATMENT; THE ANTICIPATED OUTCOMES STATED AS GOALS; AND THE FREQUENCY BY WHICH THE TREATMENT PLAN WILL BE UPDATED. THE TREATMENT PLAN SHALL BE DEVELOPED IN ACCORDANCE WITH THE PATIENT-CENTERED MEDICAL HOME AS DEFINED IN SECTION 25.5-1-103 (5.5), C.R.S.

(b) (I) ON OR AFTER JULY 1, 2010, ALL HEALTH BENEFIT PLANS ISSUED OR RENEWED IN THIS STATE SHALL PROVIDE COVERAGE FOR THE ASSESSMENT, DIAGNOSIS, AND TREATMENT OF AUTISM SPECTRUM DISORDERS FOR A CHILD PURSUANT TO THIS SUBSECTION (1.4). FOR A CHILD FROM BIRTH THROUGH EIGHT YEARS OF AGE UP TO, BUT NOT INCLUDING, NINE YEARS OF

AGE, THE ANNUAL MAXIMUM BENEFIT FOR APPLIED BEHAVIOR ANALYSIS FOR AUTISM SPECTRUM DISORDERS REQUIRED BY THIS SUBSECTION (1.4) SHALL BE IN AN AMOUNT NOT TO EXCEED THIRTY-FOUR THOUSAND DOLLARS AND FOR A CHILD NINE YEARS OF AGE OR OLDER AND UNDER NINETEEN YEARS OF AGE, THE ANNUAL MAXIMUM BENEFIT FOR APPLIED BEHAVIOR ANALYSIS FOR AUTISM SPECTRUM DISORDERS REQUIRED BY THIS SUBSECTION (1.4) SHALL BE IN AN AMOUNT NOT TO EXCEED TWELVE THOUSAND DOLLARS.

(II) NOTHING IN THIS SUBSECTION (1.4) SHALL BE CONSTRUED TO:

(A) REQUIRE OR PERMIT A CARRIER TO REDUCE BENEFITS PROVIDED FOR AUTISM SPECTRUM DISORDERS IF A HEALTH BENEFIT PLAN ALREADY PROVIDES COVERAGE THAT EXCEEDS THE REQUIREMENTS OF THIS SUBSECTION (1.4);

(B) PREVENT A CARRIER FROM INCREASING BENEFITS PROVIDED FOR AUTISM SPECTRUM DISORDERS; OR

(C) LIMIT COVERAGE FOR PHYSICAL OR MENTAL HEALTH BENEFITS COVERED UNDER A HEALTH BENEFIT PLAN.

(c) TREATMENT FOR AUTISM SPECTRUM DISORDERS SHALL BE PRESCRIBED OR ORDERED BY A LICENSED PHYSICIAN OR LICENSED PSYCHOLOGIST.

(d) A HEALTH BENEFIT PLAN OFFERED TO RESIDENTS OF THIS STATE PROVIDING BASIC HEALTH CARE SERVICES THAT IS DELIVERED, ISSUED FOR DELIVERY, OR RENEWED IN THIS STATE SHALL NOT EXCLUDE AUTISM SPECTRUM DISORDERS OR IMPOSE ADDITIONAL REQUIREMENTS FOR AUTHORIZATION OF SERVICES THAT OPERATE TO EXCLUDE COVERAGE FOR THE ASSESSMENT, DIAGNOSIS, AND TREATMENT OF AUTISM SPECTRUM DISORDERS.

(e) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1.4), THE COVERAGE REQUIRED UNDER THIS SUBSECTION (1.4) SHALL NOT BE SUBJECT TO DOLLAR LIMITS, DEDUCTIBLES, OR COINSURANCE PROVISIONS THAT ARE LESS FAVORABLE TO AN INSURED THAN THE DOLLAR LIMITS, DEDUCTIBLES, OR COINSURANCE PROVISIONS THAT APPLY TO PHYSICAL ILLNESS GENERALLY UNDER THE HEALTH BENEFIT PLAN. THE BENEFITS OF THIS SUBSECTION (1.4) SHALL BE IN ADDITION TO ANY BENEFITS

PROVIDED FOR IN SUBSECTIONS (1.3) AND (1.7) OF THIS SECTION.

(f) BENEFITS PROVIDED BY A CARRIER ON BEHALF OF A COVERED INDIVIDUAL FOR ANY CARE, TREATMENT, INTERVENTION, SERVICE, OR ITEM, THE PROVISION OF WHICH WAS FOR THE TREATMENT OF A HEALTH CONDITION NOT DIAGNOSED AS AN AUTISM SPECTRUM DISORDER, SHALL NOT BE APPLIED TOWARD ANY MAXIMUM BENEFIT AMOUNT ESTABLISHED UNDER THIS SUBSECTION (1.4).

(g) A CARRIER MAY NOT DENY OR REFUSE TO PROVIDE OTHERWISE COVERED SERVICES, REFUSE TO ISSUE, RENEW, OR REISSUE, OR OTHERWISE RESTRICT OR TERMINATE COVERAGE UNDER A HEALTH BENEFIT PLAN BECAUSE THE INDIVIDUAL OR HIS OR HER COVERED DEPENDENT IS DIAGNOSED WITH AN AUTISM SPECTRUM DISORDER OR DUE TO THE INDIVIDUAL'S OR DEPENDENT'S UTILIZATION OF SERVICES FOR WHICH BENEFITS ARE MANDATED BY THIS SUBSECTION (1.4).

(h) ANY REVIEW OF A TREATMENT PLAN OR ANY APPEAL OF A DECISION REGARDING TREATMENT SHALL BE SUBJECT TO THE RULES OF THE COMMISSIONER ON PROMPT INVESTIGATION OF HEALTH PLAN CLAIMS INVOLVING UTILIZATION REVIEW AND DENIAL OF BENEFITS.

(i) NOTHING IN THIS SUBSECTION (1.4) SHALL BE CONSTRUED AS AFFECTING ANY OBLIGATION TO PROVIDE SERVICES TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE PLAN, AN INDIVIDUALIZED EDUCATION PROGRAM, OR AN INDIVIDUALIZED PLAN. THE SERVICES REQUIRED TO BE COVERED BY THIS SUBSECTION (1.4) SHALL BE IN ADDITION TO ANY SERVICES PROVIDED TO AN INDIVIDUAL UNDER AN INDIVIDUALIZED FAMILY SERVICE PLAN, AN INDIVIDUALIZED EDUCATION PROGRAM, OR AN INDIVIDUALIZED PLAN.

(j) COVERAGE UNDER THIS SUBSECTION (1.4) IS SUBJECT TO ALL TERMS, CONDITIONS, DEFINITIONS, RESTRICTIONS, EXCLUSIONS, LIMITATIONS, AND UTILIZATION REVIEW OF HEALTH CARE SERVICES THAT APPLY TO ANY OTHER COVERAGE UNDER THE HEALTH BENEFIT PLAN, INCLUDING THE TREATMENT UNDER THE HEALTH BENEFIT PLAN OF SERVICES PERFORMED BY PARTICIPATING AND NONPARTICIPATING PROVIDERS.

SECTION 4. 10-16-104.5, Colorado Revised Statutes, is amended to read:

10-16-104.5. Autism - treatment - not mental illness. (1) Any sickness and accident insurance policy providing indemnity for disability due to sickness issued by an entity subject to the provisions of part 2 of this article and any individual ~~or group service or indemnity contracts~~ POLICIES issued by an entity subject to the provisions of part 3 or 4 of this article which provide coverage for autism shall provide such coverage in the same manner as for any other accident or sickness, other than mental illness, otherwise covered under such policy.

(2) Nothing in this section shall mandate or be construed or interpreted to mandate that any INDIVIDUAL policy ~~hospital service or indemnity contract, or evidence of coverage~~ must provide coverage for autism.

(3) NOTHING IN THIS SECTION SHALL PROHIBIT OR PREVENT A PERSON WITH AN AUTISM SPECTRUM DISORDER FROM RECEIVING MENTAL HEALTH BENEFITS IN HIS OR HER HEALTH BENEFIT PLAN.

SECTION 5. 25.5-8-107 (1) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

25.5-8-107. Duties of the department - schedule of services - premiums - copayments - subsidies. (1) In addition to any other duties pursuant to this article, the department shall have the following duties:

(a) (IV) THE SCHEDULE OF HEALTH CARE SERVICES INCLUDED IN THE PLAN SHALL NOT INCLUDE COVERAGE PURSUANT TO THE MANDATORY COVERAGE PROVISIONS OF SECTION 10-16-104 (1.4), C.R.S.

SECTION 6. Act subject to petition - effective date - applicability. (1) This act shall take effect July 1, 2010.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever

is later.

(3) The provisions of this act shall apply to health insurance policies, health care service or indemnity contracts, or managed care plans issued or renewed on or after the applicable effective date of this act.

Brandon C. Shaffer PRESIDENT OF THE SENATE	Terrance D. Carroll SPEAKER OF THE HOUSE OF REPRESENTATIVES
Karen Goldman SECRETARY OF THE SENATE	Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES

APPROVED_____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO