

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 146

INTRODUCER: Senators Ring and Sachs

SUBJECT: Autism

DATE: March 25, 2015

REVISED: \_\_\_\_\_

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	<b>Pre-meeting</b>
2.	_____	_____	BI	_____
3.	_____	_____	AGG	_____
4.	_____	_____	FP	_____

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**I. Summary:**

SB 146 requires licensed physicians, except those providing emergency services and care, to screen a minor for autism spectrum disorder (ASD) if the parent or legal guardian believes the minor exhibits ASD symptoms. The physician is required to make a referral to an appropriate specialist for a diagnostic evaluation if the physician determines it is medically necessary. If the physician determines the referral is not medically necessary, he or she must inform the parent or legal guardian about direct access for screening, evaluation, or diagnosis from the Early Steps program or another specialist for at least three visits per policy year.

Health insurance and health maintenance organization (HMO) policies must include these same coverage for their policyholders to have direct access to an appropriate specialist at least three times per policy year effective with policies issued or renewed on or after January 1, 2016. A definition for direct patient access to an appropriate specialist is also provided.

The bill is effective July 1, 2015.

**II. Present Situation:**

**What is Autism?**

Autism spectrum disorder (ASD) is a development disorder that can cause significant social, communication and behavioral challenges. Individuals with ASD may communicate, interact, behave, and learn in ways that are different from other people. Some individuals with ASD may need a lot of assistance in their daily lives; others may need very little.<sup>1</sup>

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<sup>1</sup> Centers for Disease Control and Prevention, *Facts about ASD*, <http://www.cdc.gov/ncbddd/autism/facts.html> (last visited Mar. 26, 2015).

About one in 68 children have been identified with ASD according to estimates from the Centers for Disease Control's (CDC) Autism Developmental Disabilities Monitoring (ADDM) Network.<sup>2</sup> The estimates are based on surveys of 8-year-old children living in 11 communities in the United States in 2010.<sup>3</sup> Boys are five times more likely than girls to be identified with ASD and white children are more likely to be identified than black or Hispanic children. Less than half of those identified with ASD were evaluated for developmental concerns by the time they were 3 years old.<sup>4</sup>

The ASD diagnosis once included Autistic Disorder, Asperger Syndrome, Pervasive Developmental Disorder Not Otherwise Specified, and Disintegrative Disorder. However in June 2013 when the fifth edition of the Diagnostic and Statistical Manual of Mental Disorder (DSM-5) was published, several changes were made impacting ASD including the elimination of all these subdiagnoses. The DSM is the standard classification of mental disorders used by mental health professionals in the United States and the fifth edition is the most current edition.<sup>5</sup>

Under DSM-5, the umbrella term "autism spectrum disorder" is used instead and distinctions are made according to severity levels. The severity levels are based on the amount of support a person needs due to challenges with social communication, repetitive behaviors, and restrictive interests.<sup>6</sup> The previous criteria was geared towards identifying school-aged children with autism-related disorders and was found not to be as useful in identifying younger children with ASD.<sup>7</sup>

Children or adults with ASD might exhibit some of the following behaviors:

- Not point at objects to show interest (for example, not point at an airplane flying over);
- Repeat actions over and over;
- Not look at objects when another person points at them;
- Have trouble relating to others or not have an interest in other people at all;
- Avoid eye contact and want to be alone;
- Have trouble understanding other people's feelings or talking about their own feelings;
- Prefer not to be held or cuddled, or might cuddle only when they want to;
- Appear to be unaware when people talk to them, but respond to other sounds;
- Be very interested in people, but not know how to talk, play, or relate to them;
- Repeat or echo words or phrases said to them, or repeat words or phrases in place of normal language;
- Have trouble expressing their needs using typical words or motions;
- Not play "pretend" games (for example, not pretend to "feed" a doll);

<sup>2</sup> Centers for Disease Control and Prevention, *Data and Statistics*, <http://www.cdc.gov/ncbddd/autism/data.html> (last visited: Mar. 26, 2015).

<sup>3</sup> Centers for Disease Control and Prevention, *10 Things You Need to Know about CDC's Latest Report from The Autism and Developmental Disabilities Monitoring Network*, <http://www.cdc.gov/features/dsautismdata/index.html> (last visited: Mar. 26, 2015).

<sup>4</sup> Id.

<sup>5</sup> American Psychiatric Association, *DSM*, <http://www.psychiatry.org/practice/dsm> (last visited Mar. 25, 2015).

<sup>6</sup> Autism Research Institute, *DSM-V: What Changes May Mean*, [http://www.autism.com/news\\_dsmV](http://www.autism.com/news_dsmV) (last visited Mar. 26, 2015).

<sup>7</sup> American Psychiatric Association, *DSM-5 Updates - Autism Spectrum Disorder*, <http://www.dsm5.org/Documents/Autism%20Spectrum%20Disorder%20Fact%20Sheet.pdf> (last visited Mar. 26, 2015).

- Have trouble adapting when a routine changes;
- Have unusual reactions to the way things smell, taste, look, feel, or sound; and
- Lose skills they once had (for example, stop saying words they were using).<sup>8</sup>

Florida law has also defined autism in several locations. Section 393.063(3), F.S., defines autism as “a pervasive, neurologically based developmentally based disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood, individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and non-verbal communication and imaginative ability, and markedly restrictive repertoire of activities and interests.” This definition is provided under the developmental disabilities chapter of the Florida Statutes.

A second definition for insurance policies and HMO policies relating to coverage for autism services is provided under ss. 641.31098(2)(b) and 627.6686(2)(b), F.S. Both sections define “autism spectrum disorder” as any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association:

- Autistic disorder;
- Asperger’s syndrome; and
- Pervasive developmental disorder not otherwise specified.

State law also requires certain insurance coverage for diagnostic screening, intervention, and treatment of ASD for eligible individuals and defines an eligible individual as:

*...an individual under 18 years of age or an individual 18 years of age or older who is in high school who has been diagnosed as having a developmental disability at 8 years of age or younger.*<sup>9</sup>

### **Diagnosis of Autism Spectrum Disorder**

There are no medical tests for ASD. Instead, physicians review a child’s behavior and development to determine whether a child meets the ASD criteria. Under the DSM-5 criteria, the diagnosis is based on symptoms in two areas: social communication/interaction and repetitive behaviors.<sup>10</sup> ASD can sometimes be detected at 18 months or younger; however, many children do not receive a diagnosis until they are much older.<sup>11</sup> Some parents or even providers may believe that their children or patients will catch up with their peers and will delay the diagnosis.<sup>12</sup> To receive the ASD diagnosis, the symptoms must cause functional impairment.<sup>13</sup>

<sup>8</sup> *Supra* note 1.

<sup>9</sup> Sections 627.6686(2)(c) and 641.31098(2)(c), F.S.

<sup>10</sup> Susan L Hyman, M.D., FAAP, *New DSM-5 Includes Changes to Autism Criteria*, AAP.NEWS.ORG, June 4, 2013 <http://aapnews.aapublications.org/content/early/2013/06/04/aapnews.20130604-1> (last visited Mar. 26, 2015).

<sup>11</sup> *Supra* note 1.

<sup>12</sup> National Institute of Mental Health, *Autism Spectrum of Mental Health - What is Autism Spectrum Disorder?*, <http://www.nimh.nih.gov/health/topics/autism-spectrum-disorders-asd/index.shtml> (last visited Mar. 26, 2015).

<sup>13</sup> *Supra* note 7.

Diagnosis is often a two-step process starting with a general developmental screening during a well-child check-up with a pediatrician or an early childhood health care provider. Children that show signs of developmental issues are then referred by the provider for further evaluation by a team of doctors or other professionals.<sup>14</sup>

Specialists who may conduct the evaluation include:

- Developmental Pediatricians (doctors who have special training in child development and children with special needs);
- Child Neurologists (doctors who work on the brain, spine and nerves); and
- Child Psychologists (doctors who know about the human mind).<sup>15</sup>

Some of the screening instruments used by these health care professionals for younger children include:

- Checklist of Autism in Toddlers (CHAT);
- Modified Checklist for Autism in Toddlers (M-CHAT);
- Screening Tool for Autism in 2-Year-Olds (STAT);
- Social Communication Questionnaire (SCQ); and
- Communication and Symbolic Behavior Scales (CSBS).<sup>16</sup>

Other tools are also available to screen for milder forms of ASD in older children and these include:

- Autism Spectrum Screening Questionnaire (ASSQ);
- Australian Scale for Asperger's Syndrome; (ASAS); and
- Childhood Asperger Syndrome Test (CAST).<sup>17</sup>

The CDC also has examples of available screening tools on its website for different age groups and development.<sup>18</sup> Some tools are interview based tools to assist teachers with talking with a parent or are parent completed questionnaires. The CDC does not recommend or endorse specific evaluation tools.

### **Treatment Approaches**

While there are no medications or cures for ASD or its symptoms, there are medications that can help individuals with ASD function better. The only medications prescribed specifically for ASD are the anti-psychotics risperidone (Risperdal) and aripipazole (Abilify).<sup>19</sup> These drugs can address a child with ASD's irritability or aggression, or threat to perform self-harming acts.

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<sup>14</sup> Supra note 12.

<sup>15</sup> Centers for Disease Control and Prevention, *Screening and Diagnosis* <http://www.cdc.gov/ncbddd/autism/screening.html> (last visited Mar. 26, 2015).

<sup>16</sup> Supra note 12.

<sup>17</sup> Id.

<sup>18</sup> See Centers for Disease Control and Prevention, *Screening and Diagnosis for Healthcare Providers*, <http://www.cdc.gov/ncbddd/autism/hcp-screening.html> (last visited Mar. 26, 2015).

<sup>19</sup> National Institute of Mental Health, *supra* note 12.

Early intervention treatment services for children under age 3 can also greatly improve a child's development.<sup>20</sup> Services can help a child talk, walk, and interact with others. Even a child that has not yet been diagnosed with ASD, but that may be at risk for developmental delays, may be eligible for early intervention treatment services through the Individuals with Disabilities Education Act (IDEA).<sup>21</sup> IDEA funds screenings and evaluations for both school-aged children (Part B) and for babies and toddlers (Part C).

In Florida, Part C services are provided by the Department of Health (department) through the Early Steps program. Children who exhibit symptoms of ASD may be referred to or enrolled in the department's Children's Medical Services or Early Steps program and receive services. Screenings are generally first conducted in the child's medical home by the child's primary care physician in accordance with the guidelines of the American Academy of Pediatrics. Early Steps must ensure that appropriate early intervention services are available to all eligible infants and toddlers in the state. There are no charges for Early Steps services, or services will be covered by Medicaid or insurance, if applicable.<sup>22</sup>

The different types of treatment can be broken down into general categories related to:

- Behavior and communication approaches;
- Dietary approaches;
- Medication; and
- Complementary and alternative medicine.

In behavior and communication, the approaches that help children with ASD are those that provide structure, direction, and organization and increase family participation.<sup>23</sup> Applied Behavior Analysis (ABA) is the process of systematically applying interventions based upon the principles of learning theory to improve socially significant behaviors to a meaningful degree, and to demonstrate that interventions employed are responsible for the improvements on behavior.<sup>24</sup> Socially significant behaviors include activities like reading, academics, social skills, communicating, and living skills.

Other behavioral and communication approaches include therapies that assist individuals with living on their own or communicating with other people. Examples of these approaches are:

- Occupational therapy - teaches an individual how to live as independently as possible through life skills such as dressing, eating, bathing, and relating to people.
- Sensory integration therapy - helps an individual who may be sensitive to lights, sounds, and smells or who may not like to be touched.

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<sup>20</sup> Centers for Disease Control and Prevention, *Treatment*, <http://www.cdc.gov/ncbddd/autism/treatment.html> (last visited: Mar. 26, 2015).

<sup>21</sup> *Id.*

<sup>22</sup> *Supra* note 20.

<sup>23</sup> Centers for Disease Control and Prevention, *Treatment*, <http://www.cdc.gov/ncbddd/autism/treatment.html> (last visited Mar. 26, 2015).

<sup>24</sup> The Center for Autism and Related Disorders, *What is ABA?* <http://www.centerforautism.com/aba-therapy.aspx> (last visited Mar. 26, 2015).

- Speech therapy - improves a person's communications skills or to learn verbal communication skills. For some, using gestures or picture boards may be more realistic.<sup>25</sup>

Dietary treatments for ASD have been developed, but many do not have the scientific support for widespread recommendation. An Arizona State University (ASU) professor, a researcher in autism and the director of the ASU Autism/Asperger's Researcher, published a paper in 2013 summarizing dietary, nutritional, and medical treatments for autism based on over 150 published research studies.<sup>26</sup>

A final treatment category includes complementary or alternative treatment options such as special diets, chelation (a treatment to remove heavy metals from the body), biologicals (e.g. secretin)<sup>27</sup>, or body-based systems (like deep pressure). The CDC estimates that up to one-third of parents of ASD children may have tried a complementary or alternative treatment and up to 10 percent may have tried a potentially dangerous treatment.<sup>28</sup>

### **Health Insurance Coverage for Autism Spectrum Disorders in Florida**

In 2008, the Legislature passed CS/CS/SB 2654, which included the *Steven A. Geller Autism Coverage Act*.<sup>29</sup>

All insurers and HMOs are subject to the requirements of the *Steven A. Geller Autism Coverage Act*. The Act requires insurers, including the state group health insurance plan, to provide coverage for well-baby and child screening for diagnosing the presence of autism and to cover the treatment of autism through applied behavioral analysis and assistant services, physical therapy, speech therapy, and occupational therapy.<sup>30</sup> The insurance coverage is limited to \$36,000 annually with \$200,000 total lifetime benefit. Beginning January 1, 2011, the coverage maximum increase annually with inflation.

### **State Group Health Insurance Program**

The Division of State Group Health Insurance of the Department of Management Services (DMS) offers health insurance benefits for state and political subdivision employees.<sup>31</sup> The DMS implemented the *Steven A. Geller Autism Coverage Act* on January 1, 2010, which required the comprehensive coverage for the screening, diagnosis, and treatment for ASD.

<sup>25</sup> Centers for Disease Control and Prevention, *Treatment*, <http://www.cdc.gov/ncbddd/autism/treatment.html> (last visited Mar. 26, 2015).

<sup>26</sup> James B. Adams, Ph.D., *Summary of Dietary, Nutritional, and Medical Treatments for Autism*, Arizona State University, Autism/Asperger's Research Program <http://ariconference.com/enews/treatment.pdf> (last visited Mar. 26, 2015).

<sup>27</sup> A secretin test measures the ability of the pancreas to hold the hormone secretin. The small intestines produce secretin in the presence of partially digested food. See Cleveland Clinic, *Diseases & Conditions*, [http://my.clevelandclinic.org/health/diseases\\_conditions/hic\\_Pancreas\\_Function\\_Tests](http://my.clevelandclinic.org/health/diseases_conditions/hic_Pancreas_Function_Tests) (last visited Mar. 26, 2015).

<sup>28</sup> Centers for Disease Control and Prevention, *Treatment*, <http://www.cdc.gov/ncbddd/autism/treatment.html> (last visited Mar. 26, 2015).

<sup>29</sup> see Ch. 2008-30, Laws of Fla.

<sup>30</sup> Section 627.6686 and 641.31098, F.S.

<sup>31</sup> See s. 110.123(3)(b), F.S.

The Preferred Provider Plan (PPO) and the HMO plans include coverage for the diagnosis and limited medical treatment, including prescription drugs, for ASD. Currently, members under the PPO plan have direct access to in-and out-of-network providers without a referral from a primary care physician.<sup>32</sup> Four out of the six HMOs have direct access to in-network physician providers while the remaining two HMOs require a referral to most specialist network physician providers.<sup>33</sup>

### **Patient Protection and Affordable Care Act**

In March 2010, the Congress passed and the President signed the Patient Protection and Affordable Care Act (PPACA).<sup>34</sup> The PPACA required the Secretary of Health and Human Services to, among other things, establish a minimum package of essential health benefits (EHB) for individual and small group health insurance.<sup>35</sup> The EHB package must cover benefits across ten general categories from preventive services, maternity care, and hospital services to prescription drugs.<sup>36</sup> Florida selected as its EHB package its largest small group product which does not specifically include coverage for ASD.<sup>37</sup>

Section 1311(d)(3)(B) of the PPACA, allows a state to require qualified health plans to cover additional benefits above those required under the EHB; however, the law also directs the state or the issuer to offset the costs of those supplemental benefits to the enrollee.<sup>38</sup>

In addition to these provisions, under the PPACA, certain plans received “grandfather status.” A grandfathered health plan is a plan that existed on March 23, 2010, the date that the PPACA was enacted, and that at least one person had been continuously covered for 1 year.<sup>39</sup> Some consumer protection elements do not apply to grandfathered plans that were part of the PPACA but others are applicable, regardless of the type of plan. Providing the essential health benefits are also not required of grandfathered health plans.<sup>40</sup> A grandfathered plan can lose its status if significant changes to benefits or cost sharing changes are made to the plan since attaining its grandfathered status.<sup>41</sup> Grandfathered plans are required to disclose their status to their enrollees every time

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<sup>32</sup> Department of Management Services, *Senate Bill 146 Analysis* (Dec. 8, 2014) pg. 2, (on file with the Senate Committee on Health Policy).

<sup>33</sup> Id.

<sup>34</sup> Pub. Law No. 111-148, H.R. 3590, 111th Cong. (Mar. 23, 2010).

<sup>35</sup> Ibid.

<sup>36</sup> Center for Consumer Information and Insurance Oversight, *Essential Health Benefits Coverage Bulletin*, (1), (Dec. 16, 2011) [https://www.cms.gov/CCIIO/Resources/Files/Downloads/essential\\_health\\_benefits\\_bulletin.pdf](https://www.cms.gov/CCIIO/Resources/Files/Downloads/essential_health_benefits_bulletin.pdf) (last visited Mar. 26, 2015).

<sup>37</sup> Centers for Medicare and Medicaid Services, *Florida’s EHB Benchmark Plan*, <https://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/florida-ehb-benchmark-plan.pdf> (last visited Mar. 26, 2015).

<sup>38</sup> 78 Fed. Reg. 12838, 12865 (Feb. 25, 2013), available at: <http://www.gpo.gov/fdsys/pkg/FR-2013-02-25/pdf/2013-04084.pdf> (last visited Mar. 26, 2015).

<sup>39</sup> Healthcare.gov, *Grandfathered Health Plans*, <https://www.healthcare.gov/glossary/grandfathered-health-plan/> (last visited Mar. 26, 2015).

<sup>40</sup> Sarah Barr, *FAQ: Grandfathered Health Plans* (Dec. 2012), <http://www.kaiserhealthnews.org/stories/2012/december/17/grandfathered-plans-faq.aspx> (last visited Mar. 26, 2015).

<sup>41</sup> Department of Health and Human Services, *Health Insurance Reforms Under the Affordable Care Act*, [https://www.cms.gov/CCIIO/Resources/Files/Downloads/are\\_you\\_in\\_a\\_grandfathered\\_health\\_plan\\_04072011.pdf](https://www.cms.gov/CCIIO/Resources/Files/Downloads/are_you_in_a_grandfathered_health_plan_04072011.pdf) (last visited Mar. 27, 2015).

plan materials are distributed and to identify the consumer protections that are not available as a grandfathered plan. Even though exempt from the EHB, a grandfathered plan could still be required to meet a new requirement under state law if otherwise required under state requirements.<sup>42</sup>

The federal law further prohibited the imposition of annual and lifetime benefit limits, except for certain grandfathered plans, effective January 1, 2014. These protections went into effect for children earlier, September 23, 2010, and apply to grandfathered group health insurance plans.

### **Florida Mandates**

A “mandate” is usually defined as required health coverage for specific types of treatments, benefits, providers or categories of dependents.<sup>43</sup> In Florida, health insurance coverage mandates are found throughout the insurance statutes depending on the coverage type and insurance product. In addition, some types of health insurance coverage are exempt from state mandates, such as self-funded or ERISA plans.<sup>44,45</sup> As a result, specific mandates may not be applicable to all insured persons as not all benefits are applicable to all insurance coverage types.<sup>46</sup> Florida has at least 52 different “mandates” across the small group, individual or large group health insurance market, including health maintenance organizations (HMOs).<sup>47</sup>

### **Required Study by Advocates**

Section 624.215, F.S., requires every person or organization seeking consideration of a legislative proposal that would mandate specific health coverage to submit to the Agency for Health Care Administration and the appropriate legislative committee a report reviewing the social and financial impacts of the proposed coverage. The statute lists twelve components for assessment, if available:

- To what extent is the treatment or service generally used by a significant portion of the population?
- To what extent is the insurance coverage generally available?
- If the insurance coverage is not generally available, to what extent does the lack of coverage result in persons avoiding necessary health care treatment?
- If the coverage is not generally available, to what extent does the lack of coverage result in unreasonable financial hardship?
- The level of public demand for the treatment or service.
- The level of public demand for insurance coverage of the treatment or service.

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<sup>42</sup> 75 Fed. Reg. 34, 538, 34,540 (June 17, 2010).

<sup>43</sup> National Conference of State Legislatures, *Mandated Health Insurance Benefits and State Laws*, (January 2014) <http://www.ncsl.org/issues-research/health/mandated-health-insurance-benefits-and-state-laws.aspx>

<sup>44</sup> Florida Department of Financial Services, *Insurance Library*, available at [http://www.myfloridacfo.com/consumers/insuranceLibrary/Insurance/L\\_and\\_H/Health\\_Care/Self-Funded\\_Medical\\_Plans/Self-Funded\\_-\\_Regulation.htm](http://www.myfloridacfo.com/consumers/insuranceLibrary/Insurance/L_and_H/Health_Care/Self-Funded_Medical_Plans/Self-Funded_-_Regulation.htm) (last visited Mar. 28, 2015).

<sup>45</sup> Federal Employee Retirement Income Act of 1974 (ERISA) governs self-insured health plans.

<sup>46</sup> Florida Department of Financial Services, *Insurance Library*, available at [http://www.myfloridacfo.com/consumers/insuranceLibrary/Insurance/L\\_and\\_H/Health\\_General/MandatedHealthInsAndHMOBenefits.pdf](http://www.myfloridacfo.com/consumers/insuranceLibrary/Insurance/L_and_H/Health_General/MandatedHealthInsAndHMOBenefits.pdf) (last visited Mar. 28, 2015).

<sup>47</sup> *Ibid.*

- The level of interest of collective bargaining agents in negotiating for the inclusion of this coverage in group contracts.
- To what extent will the coverage increase or decrease the cost of the treatment or service?
- To what extent will the coverage increase the appropriate uses of the treatment or service?
- To what extent will the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders?
- The impact of this coverage on the total cost of health care.

The Senate Committee on Health Policy has not received the study pursuant to this statute.

### III. Effect of Proposed Changes:

**Section 1** creates s. 381.988, F.S., requiring a physician licensed under chs. 458 or 459, F.S., to screen a minor for the autism spectrum disorder if the minor's parent or legal guardian believes the minor exhibits symptoms of the disorder. The screening shall be in accordance with the guidelines of the American Academy of Pediatrics. The physician is required to refer the minor to an appropriate specialist if the physician determines from the screening that a referral is medically necessary.

If the physician determines that a referral to a specialist is not medically necessary, the physician is required to inform the parent or guardian about the Early Steps program at the department and the availability of direct patient access under certain health insurance coverage. The minor may receive screening, evaluation, or diagnosis from the Early Steps program. In addition, as required in this bill, health insurance policies and HMO contracts must cover up to three visits per policy year without a referral.

The physician screening requirement for the autism spectrum disorder does not apply to physicians providing emergency services and care under s. 395.1041, F.S.

Under this section, an "appropriate specialist": is defined as a licensed, qualified professional in the evaluation of autism spectrum disorder and who has training in validated diagnostic tools.

The term includes, but is not limited to:

- A psychologist;
- A psychiatrist;
- A neurologist; or
- A developmental or behavioral pediatrician.

The requirement for a screening by a non-emergency services physicians with a required referral, where appropriate, may lead to a new disciplinary cause of action against physicians.

Sections 456.072(1), 458331(g) and 459(g), F.S., provide that failure of a physician or licensee of the department to perform a statutory or legal obligation is grounds for disciplinary action.

**Sections 2** and **Section 3** amends ss. 627.6686 and 641.31098, F.S., to require health insurance policies and HMO contracts provide coverage for direct patient access to an appropriate specialist, as defined by the bill in s. 381.988, F.S., for a minimum of three visits per policy year for screening, evaluation, or diagnosis of ASD.

The changes would be effective for health insurance and HMO policies issued or renewed on or after January 1, 2016.

The bill defines “direct patient access” as the ability of an insured to obtain services from a contracted provider without a referral or other authorization before receiving services.

**Section 4** provides an effective date for the bill of July 1, 2015.

#### **IV. Constitutional Issues:**

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

##### A. Tax/Fee Issues:

None.

##### B. Private Sector Impact:

The bill may increase the total number and cost of claims incurred by insurers and HMOs for evaluations because more minors may be referred for screenings or specialist referrals. With direct access up to three visits per policy year, this may also increase medical costs. If so, the bill may cause health insurance costs to increase by an indeterminate amount.

##### C. Government Sector Impact:

###### Agency for Health Care Administration

No fiscal impact to the Agency.<sup>48</sup>

###### Department of Health

The bill could impact local school districts due to additional children being referred for Pre-K evaluations and subsequently found eligible for services. However, the fiscal impact is indeterminate.<sup>49</sup>

<sup>48</sup> Agency for Health Care Administration, *No Impact Statement - SB 146* (Dec. 19, 2014) (On file with the Senate Committee on Health Policy).

<sup>49</sup> Department of Health, *Senate Bill 146 Analysis* (Nov. 25, 2014) (on file with the Senate Committee on Health Policy).

Additionally, this bill could result in additional children requiring screening, evaluation, or diagnosis of autism spectrum diagnosis from the department's Early Steps Program, which would increase program costs. The IDEA, Part C, provides federal funding for state early intervention programs, such as Early Steps, based on census figures of children, birth to two years old, in the general population. The federal funding is a fixed amount; therefore, any increase in cost would need to be covered through a state appropriation.<sup>50</sup>

The department also advises that the IDEA funding is contingent upon compliance with timelines for screening, evaluation, eligibility determination, and service delivery. An increased number of referrals might jeopardize compliance with these timelines based on the information in this bill.

The exact fiscal amount is not known because of the number of factors involved, such as the prevalence of autism, the interest level of parents, age levels of when children may be diagnosed, and the number of children who may receive services with a developmental delay but not have an autism diagnosis.<sup>51</sup>

#### Department of Management Services

The DMS is not able to determine a fiscal impact to the State Employees' Health Insurance Trust Fund. However, the bill might increase or duplicate services, increasing medical claims data.<sup>52</sup>

#### Office of Insurance Regulation

This is a revision to an existing mandate. The United States Department of Health and Human Services may need to be contacted to inquire if additional specialist visits for screenings and evaluations would be considered a "new" mandate that would fall under the financial responsibility of the state. If so, the state would be financially responsible for paying for the cost of this new mandate for those individuals who receive federal subsidies from the Affordable Care Act.<sup>53</sup>

## **VI. Technical Deficiencies:**

Section 1 defines the term "appropriate specialist" in part with the phrase "has training in validated diagnostic tools." However, the term "validated diagnostic tools" is defined neither in the bill nor in existing Florida law, leaving ambiguous the standard by which a diagnostic tool may be considered "validated."

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<sup>50</sup> Id.

<sup>51</sup> Id.

<sup>52</sup> Department of Management Services, *Senate Bill 146 Analysis* (Dec. 8, 2014) (on file with the Senate Committee on Health Policy).

<sup>53</sup> Office of Insurance Regulation, *Senate Bill 146 Analysis* (Dec. 16, 2014) (on file with the Senate Committee on Health Policy).

**VII. Related Issues:**

In June 2013, the American Psychiatric Association published the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5). The DSM is the standard classification of mental disorders used by mental health professional in the United States and the fifth edition is the most current edition.<sup>54</sup> Under DSM-5, the diagnosis no longer includes subdiagnoses, such as Autistic Disorder, Asperger Syndrome, and Pervasive Developmental Disorder Not Otherwise Specified.<sup>55</sup> These subdiagnoses are currently recognized in ss. 627.6686 and 641.31098, F.S. To be consistent with current nomenclature, it may be appropriate to also modify the definition of “autism spectrum disorder” to match the DSM-5 diagnostic criteria.

Section 624.215, F.S., requires every person or organization seeking consideration of a legislative proposal mandating health coverage to submit to the Agency for Health Care Administration and the appropriate legislative committees having jurisdiction a report assessing the social and financial impacts of the proposed coverage. The Senate Committee on Health Policy has not received a report analyzing the proposed mandated coverage for direct patient access to an appropriate specialist for a minimum of three visits per policy year as created by the bill.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 627.6686, 641.31098.

This bill creates section 381.988 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>54</sup> American Psychiatric Association, *DSM*, <http://www.psychiatry.org/practice/dsm> (last visited: Mar. 25, 2015).

<sup>55</sup> *Id.*