

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 89 Autism

SPONSOR(S): Precourt and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 242

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Services Policy Committee	6 Y, 0 N, As CS	Schoolfield	Schoolfield
2)	Insurance, Business & Financial Affairs Policy Committee			
3)	Health & Family Services Policy Council			
4)	Government Operations Appropriations Committee			
5)	Full Appropriations Council on General Government & Health Care			

SUMMARY ANALYSIS

The bill provides that parents or legal guardians who believe their minor child exhibits symptoms of Autism Spectrum Disorder (ASD) may report their observation to a licensed physician. Based on the reported observation of the parent or guardian, the physician must immediately refer the minor to an appropriate specialist for screening if the referral is clinically indicated after examination and initial screening. An exception is made for physicians providing care under s. 395.1041, F.S.

The bill also provides a list and qualifications of medical and other professionals who may be appropriate specialists for screening.

The bill adds evaluation and diagnosis of autism spectrum disorder as a required coverage for health insurance plans under s. 627.6686, F.S. The bill also requires health maintenance organizations under chapter 641, Florida Statutes to provide direct patient access to specialists for screening, evaluation and diagnosis of autism spectrum disorder.

The bill is anticipated to have an indeterminate fiscal impact.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background on Autism Spectrum Disorder

Autism Spectrum Disorder¹ (ASD) is the name commonly used for pervasive developmental disorders, Section 627.6686(2)(b), F.S.; defines "Autism spectrum disorder" to mean any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders by the American Psychiatric Association: 1) Autistic disorder, 2) Asperger's syndrome, 3) Pervasive Developmental Disorder not otherwise specified. The autism spectrum disorders, range from a severe form, called autistic disorder, to a milder form, Asperger syndrome. If a child has symptoms of either of these disorders, but does not meet the specific criteria for either, the diagnosis is called pervasive developmental disorder not otherwise specified (PDD-NOS).² ASD can be reliably detected by the age of 3 years and are estimated by the federal Centers for Disease Control to be prevalent in 1 out of every 150 children.³ Common characteristics shared by children with ASD include varying degrees of deficits in social interaction, verbal and nonverbal communication, and repetitive behaviors or interest. In addition, many children with ASD have some degree of mental impairment.

During the 2008 Legislative session, the House established a Select Committee on Autism and Developmental Disorders. Several parents of children with autism testified at the committee that they were not able to receive a diagnosis from their physician when the child was young and exhibiting signs that something may be wrong.

Screening and Referrals

The earlier a child is diagnosed with ASD, the more likely early intervention and treatment can assist the child with developmental gains and improved outcomes. In evaluating a child, clinicians rely on behavioral characteristics to make a diagnosis. Some of the characteristic behaviors of ASD may be apparent in the first few months of a child's life, or they may appear at any time during the early years. The diagnosis usually requires a two-stage process. The first phase is a screening which is used to

¹ Autism Spectrum Disorders, Pervasive Developmental Disorders, National Institute of Mental Health, 2008. Located at <http://www.nimh.nih.gov/health/publications/autism/nimhautismspectrum.pdf>.

² Autism Spectrum Disorders, Pervasive Developmental Disorders, National Institute of Mental Health, 2008.

³ <http://www.cdc.gov/ncbddd/autism/documents/AutismCommunityReport.pdf>

determine if further evaluation is needed.⁴ The second phase is a diagnostic evaluation which may be done by a multidisciplinary team that may include a psychologist, neurologist, psychiatrist, speech therapist, or other professionals who diagnose children with ASD.⁵

The American Academy of Pediatrics has issued guidelines for the identification and evaluation of children with ASD. These guidelines also include resource materials and screening algorithms for pediatricians to use. In summary, the Academy encourages pediatricians to:

- Conduct surveillance at every well-child visit. Be a good listener and recognize the early subtle red flags that indicate the possibility of an ASD. Be especially vigilant for younger siblings of a child who has already been diagnosed with an ASD.
- Screen at 18, and 24 months and any other time when parents raise a concern about a possible ASD. Although no screening tool is perfect, choose and become comfortable with at least 1 tool for each age group and use it consistently. Before 18 months of age, screening tools that target social and communication skills may be helpful in systematically looking for early signs of ASDs.
- If an ASD-specific screening result is negative but either the parents or the pediatrician remain somewhat concerned, then the pediatrician should schedule the child for an early, targeted clinic visit to address these persistent concerns.
- Act on a positive screening result or when a child demonstrates 2 or more risk factors. Do not take a “wait-and-see” approach. Depending on the age of the child, simultaneously refer for all 3: comprehensive ASD evaluation; early intervention/early childhood education services; and an audiologic evaluation. Do not wait for a definitive diagnosis of an ASD to refer for developmental services; early intervention can be beneficial even if it targets the child’s unique deficits. The intervention strategy can be modified if needed when the child is determined to have an ASD.⁶

The American Medical Association (AMA) does not have specific policies for physician referrals related to autism.⁷ The AMA does provide guidance to physicians on decision making in healthcare decisions. The policy provides that physicians are ultimately responsible to make the decision regarding what diagnostic tests are appropriate, and when and to whom a physician referral and or consultation is indicated.⁸ The Florida Board of Medicine does not have rules that specify how or when patients with certain conditions (e.g. ASD) must be referred to a specialist. The Board states that the decision to refer is made by the physician on an individual basis based upon the presentation history of the patient and the nature of the injury or disease.⁹

Screening Specialists

The American Academy of Pediatrics recommends that initial screening be done by the pediatrician in the child’s medical home. The Florida State Center for Autism and Related Disabilities agrees that pediatricians should do initial screening but offers that other qualified professionals such as therapists, nurses and childhood educators may also perform screenings. In fact, some screenings are checklists¹⁰ that may be completed by the parents. As previously stated, the diagnosis of ASD is generally a two step process which includes initial screening followed by a diagnostic evaluation. The National Institute of Mental Health suggests the diagnostic evaluation may be done by a

⁴ There are several screening instruments for ASD which may be used including but not limited to the Checklist of Autism in Toddlers (CHAT), the modified Checklist for Autism in Toddlers (M-CHAT), the Screening Tool for Autism in Two-Year-Olds (STAT), and the Social Communication Questionnaire (SCQ) for children 4 years of age and older.

⁵ Autism Spectrum Disorders, Pervasive Developmental Disorders, NIH Publication No. 08-5511 Printed 2004 Reprinted 2008.

⁶ Johnson CP, Myers SM; American Academy of Pediatrics, Council on Children With Disabilities. Identification and evaluation of children with autism spectrum disorders. *Pediatrics*. 2007;120(5):1183–1215.

⁷ email from Michelle Jacquis, FMA, dated 1-5-09, “AMA Policies re: Treatment/Referrals”

⁸ “Health and Ethics Policies of the AMA House of Delegates” American Medical Association, 1-08 edition.

⁹ Email from Larry McPherson, Florida Board of Medicine, dated 1-7-09, “Physician Referral Question”

¹⁰ Modified checklist for Autism in Toddlers (M-CHAT)

multidisciplinary team that includes a psychologist, a neurologist, a psychiatrist, a speech therapist, or other professionals who diagnose children with ASD.¹¹

Effects of the Bill:

The bill requires physicians to immediately refer the minor to an appropriate specialist for screening for ASD, if the parent or legal guardian believes the minor exhibits symptoms of ASD, and they report their observations to the physician. The referral must be clinically indicated after examination and initial screening.

The bill requires referrals be made to a list of appropriate specialist which include but are not limited to board certified behavior analysts, psychologists, psychiatrists, neurologists, and developmental or behavioral pediatrician who specializes in child neurology, speech language pathologist and a licensed professional deemed appropriate by the Division of Children's Medical Services of the Department of Health for purposes of early intervention services. The appropriate specialists must have training in validated diagnostic tools and experience in evaluation of ASD. The Agency for Persons with Disabilities (APD) provides oversight to the behavior analyst certification program and APD recommends deleting board certified behavior analysts from the list stating that diagnosis of specific disorders is outside the scope of their certification.

The bill adds evaluation and diagnosis of ASD as a required coverage for Health insurance plans under s.627.6686, F.S. This includes group health insurance policies or group health benefit plans offered by an insurer which includes the state group insurance program provided under s. [110.123.](#)) This does not include any health insurance plans offered in the individual market, any health insurance plans that are individually underwritten, or any health insurance plan provided to a small employer.

The bill adds direct patient access to specialists for screening, evaluation and diagnosis of autism spectrum disorder for health maintenance organizations defined in s. 641.19, F.S. This section requires health maintenance organizations to provide direct access notwithstanding any other provisions of law. The direct access to specialists is as defined in s. 381.986, F.S., which is the new section created in this bill relating to referrals to appropriate specialists. Direct access is also defined to have the same meaning as s. 641.31(33),F.S., which states in part "direct patient access means the ability of a subscriber to obtain such services without a referral or other authorization before receiving services."

B. SECTION DIRECTORY:

- Section 1 Creates s. 381.986, F.S., related to screening, evaluation and diagnosis of autism spectrum disorder.
- Section 2 Amends s. 627.6686, F.S., related to coverage for individuals with autism spectrum disorder.
- Section 3 Creates s. 641.63, F.S., related to direct patient access.
- Section 4 Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

¹¹ The Department of Health, Children's Medical Services, provides a general screening for developmental delays under the Early Steps Program for children ages 0 to 3 years old. This program can assist parents to obtain an ASD screening if this is what they are seeking. Similarly, for children over age 3 years, the Department of Education provides screening for developmental delays in the Child Find program and professionals in the local school systems can assist with obtaining an ASD diagnosis.

2. Expenditures:
Indeterminate impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None
2. Expenditures:
Indeterminate impact.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate impact

- D. FISCAL COMMENTS:** This legislation could result in additional requests for screenings, evaluation and diagnosis services for ASD which could increase cost for private and public insurance programs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities

2. Other:
None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Agency for Persons with Disabilities (APD) provides oversight to the behavior analyst certification program and APD recommends deleting board certified behavior analysts from the list of appropriate specialists in s. 381.986, F.S., stating that diagnosis of specific disorders is outside the scope of their certification.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

The Health Care Services Policy Committee adopted a strike all amendment in their meeting on March 18, 2009.

The amendment:

- Deleted inconsistent language related to eligibility which was in the original bill.
- Provides that when a parent reports to a physician that their child exhibits symptoms of autism spectrum disorder, the physician must immediately make a referral to an appropriate specialist if the referral is clinically indicated after examination and initial screening. An exception is made for physicians providing emergency care under s. 395.1041, F.S.

- Provides a more detailed definition of the term “appropriate specialist” which is used in the bill. The specialist must be trained in diagnostic tools and experienced in the evaluation of Autism Spectrum Disorder.
- Deletes neuropsychologist from the list of appropriate specialists and adds speech language pathologist and certain licensed professionals deemed appropriate by the Division of Children’s Medical Services at the Department of Health.
- Adds evaluation and diagnosis of autism spectrum disorder as a required coverage for Health insurance plans under s. 627.6686, F.S., (means a group health insurance policy or group health benefit plan offered by an insurer which includes the state group insurance program provided under s. [110.123](#).) This may have an impact on cost to these organizations through increased frequency of evaluation and diagnosis services.
- Adds direct patient access to specialists for screening, evaluation and diagnosis of autism spectrum disorder for health maintenance organizations under chapter 641, Florida Statutes. This may have an impact on cost to these organizations through increased frequency of screening, evaluation and diagnosis services.

The bill was reported favorably and the bill analysis has been updated to reflect the committee substitute.