

HB22-1260 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly finds and declares that:

5 (a) Colorado has a strong recent history of passing legislation that
6 has significantly improved access to medically necessary behavioral
7 health treatments for children, resulting in great strides in service access
8 across many settings. Unfortunately, access to medically necessary
9 services in the school setting has lagged.

10 (b) Applied behavioral analysis (ABA) is one critical example of
11 a medically necessary service that, when prescribed by a physician or
12 other qualified health-care provider, may need to be delivered within a
13 school setting for children with an autism spectrum disorder (ASD)
14 diagnosis. ASD is a global developmental disorder typically involving
15 difficulty in acquiring and generalizing functional skills across
16 environments. Generally accepted standards of care for this population
17 require that ABA therapy is provided across settings, including schools,
18 in accordance with a child's clinical needs. It is in the interest of the child,
19 the child's family, and the state that a child who is diagnosed with ASD
20 receive proper care and treatment in order to have the opportunity to be
21 a fully functioning individual in society.

22 (c) The Colorado health insurance mandate to cover ASD requires
23 state-regulated health insurance plans to cover all specified medically
24 necessary treatment for ASD, including treatment in school settings;

25 (d) Pursuant to 42 U.S.C. sec. 1396 and sec. 1396d (r)(5),
26 Colorado's medicaid program is required to cover all medically necessary
27 treatment, whether or not included in the current medicaid state plan, to
28 correct or ameliorate defects, illnesses, or conditions in medicaid-eligible
29 children under twenty-one years of age, including treatment in school
30 settings;

31 (e) The lack of access to medically necessary services in schools
32 has detrimental effects on the children who are unable to achieve
33 maximum long-term functioning, as well as significant social costs,
34 including lost productivity and increased costs of care. Over the course
35 of a child's lifetime, inadequate access to treatment during the child's
36 school-aged years may result in millions of dollars of therapies and
37 supports needed later in life, as well as lost economic and employment
38 opportunities over time.

39 (f) While schools provide special education and related services,
40 many children have unmet medical needs in their school setting. These

1 needs can be met by allowing access to services funded by third parties.
2 Funding for medically necessary services for these children is appropriate
3 and available through medicaid's early and periodic screening, diagnostic,
4 and treatment program or through a family's private health insurance plan,
5 thereby placing no greater financial burden on the state's public schools.

6 (g) Currently, access to medically necessary services in the school
7 setting is too often restricted, causing damage to Colorado children and
8 the state, which bears the cost when medically necessary services are not
9 provided. No family should have to choose between a child attending
10 public school or receiving access to medically necessary services.
11 Ensuring that children have access to these services will also improve the
12 efficacy of their treatment and their integration into the community, as
13 well as reduce long-term costs to the state.

14 **SECTION 2.** In Colorado Revised Statutes, **add 22-20-121** as
15 follows:

16 **22-20-121. Medically necessary treatment in school setting -**
17 **- policy - report - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
18 CONTEXT OTHERWISE REQUIRES:

19 (a) "MEDICALLY NECESSARY TREATMENT" MEANS TREATMENT
20 RECOMMENDED OR ORDERED BY A COLORADO LICENSED HEALTH-CARE
21 PROVIDER ACTING WITHIN THE SCOPE OF THE HEALTH-CARE PROVIDER'S
22 LICENSE.

23 (b) "PRIVATE HEALTH-CARE SPECIALIST" MEANS A HEALTH-CARE
24 PROVIDER WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED TO
25 PROVIDE HEALTH-CARE SERVICES IN COLORADO, INCLUDING PEDIATRIC
26 BEHAVIORAL HEALTH TREATMENT PROVIDERS PURSUANT TO THE STATE
27 MEDICAL ASSISTANCE PROGRAM, ARTICLES 4, 5, AND 6 OF TITLE 25.5, AND
28 AUTISM SERVICES PROVIDERS WHO PROVIDE TREATMENT PURSUANT TO
29 SECTION 10-16-104 (1.4).

30 (2)(a) NO LATER THAN JULY 1, 2023, EACH ADMINISTRATIVE UNIT
31 SHALL ADOPT A POLICY THAT ADDRESSES HOW A STUDENT WHO HAS A
32 PRESCRIPTION FROM A QUALIFIED HEALTH-CARE PROVIDER FOR
33 MEDICALLY NECESSARY TREATMENT RECEIVES SUCH TREATMENT IN THE
34 SCHOOL SETTING AS REQUIRED BY APPLICABLE FEDERAL AND STATE LAWS,
35 INCLUDING SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF
36 1973", 29 U.S.C. SEC. 794, AS AMENDED, AND TITLE II OF THE FEDERAL
37 "AMERICANS WITH DISABILITIES ACT OF 1990".

38 (b) THE POLICY DEVELOPED PURSUANT TO SUBSECTION (2)(a) OF
39 THIS SECTION MUST:

40 (I) INCLUDE A NOTICE TO THE PARENT OR LEGAL GUARDIAN OF THE
41 STUDENT THAT SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF
42 1973", 29 U.S.C. SEC. 794, AS AMENDED, AND TITLE II OF THE FEDERAL
43 "AMERICANS WITH DISABILITIES ACT OF 1990" PROVIDE RIGHTS AND

1 PROTECTIONS TO STUDENTS TO ACCESS MEDICALLY NECESSARY
2 TREATMENT REQUIRED BY THE STUDENT TO HAVE MEANINGFUL ACCESS TO
3 THE BENEFITS OF A PUBLIC EDUCATION, OR TO ATTEND SCHOOL WITHOUT
4 RISKS TO THE STUDENT'S HEALTH OR SAFETY DUE TO THE STUDENT'S
5 DISABLING MEDICAL CONDITION;

6 (II) ADDRESS THE PROCESS IN WHICH A PRIVATE HEALTH-CARE
7 SPECIALIST MAY OBSERVE THE STUDENT IN THE SCHOOL SETTING,
8 COLLABORATE WITH INSTRUCTIONAL PERSONNEL IN THE SCHOOL SETTING,
9 AND PROVIDE MEDICALLY NECESSARY TREATMENT IN THE SCHOOL
10 SETTING AS REQUIRED BY SECTION 504 OF THE FEDERAL "REHABILITATION
11 ACT OF 1973", 29 U.S.C. SEC. 794, AS AMENDED, AND TITLE II OF THE
12 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990"; AND

13 (III) PROVIDE NOTICE OF A STUDENT'S RIGHT TO APPEAL THE
14 DECISION OF AN ADMINISTRATIVE UNIT CONCERNING ACCESS TO
15 MEDICALLY NECESSARY TREATMENT IN THE SCHOOL SETTING.

16 (3) EACH ADMINISTRATIVE UNIT SHALL MAKE THE POLICY
17 DEVELOPED PURSUANT TO SUBSECTION (2) OF THIS SECTION PUBLICLY
18 AVAILABLE ON THE ADMINISTRATIVE UNIT'S WEBSITE AND AVAILABLE TO
19 THE PARENT OR LEGAL GUARDIAN OF THE STUDENT, UPON REQUEST.

20 (4) (a) BEGINNING JULY 1, 2024, AND EACH JULY 1 THEREAFTER,
21 EACH ADMINISTRATIVE UNIT SHALL COMPILE AND PROVIDE TO THE
22 DEPARTMENT OF EDUCATION THE TOTAL NUMBER OF REQUESTS FOR
23 ACCESS TO A STUDENT BY A PRIVATE HEALTH-CARE SPECIALIST PURSUANT
24 TO THIS SECTION AND WHETHER THE ACCESS WAS AUTHORIZED OR DENIED.

25 (b) BEGINNING JANUARY 2025, AND EACH JANUARY THEREAFTER,
26 THE DEPARTMENT OF EDUCATION SHALL MAKE THE INFORMATION
27 REPORTED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION AVAILABLE
28 ON THE DEPARTMENT'S WEBSITE AND REPORT THE INFORMATION TO THE
29 HOUSE OF REPRESENTATIVES EDUCATION COMMITTEE AND THE SENATE
30 EDUCATION COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, AS PART OF
31 THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
32 TRANSPARENT (SMART) GOVERNMENT ACT" PRESENTATION REQUIRED
33 BY PART 2 OF ARTICLE 7 OF TITLE 2.

34 **SECTION 3. Act subject to petition - effective date.** This act
35 takes effect at 12:01 a.m. on the day following the expiration of the
36 ninety-day period after final adjournment of the general assembly; except
37 that, if a referendum petition is filed pursuant to section 1 (3) of article V
38 of the state constitution against this act or an item, section, or part of this
39 act within such period, then the act, item, section, or part will not take
40 effect unless approved by the people at the general election to be held in
41 November 2022 and, in such case, will take effect on the date of the
42 official declaration of the vote thereon by the governor."

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