SENATE DOCKET, NO. 729 FILED ON: 1/17/2013

SENATE . . . . . No. 458

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas M. McGee

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to insurance coverage for pervasive developmental disorders..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Thomas M. McGee	*Third Essex*

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SENATE . . . . . No. 458

By Mr. McGee, a petition (accompanied by bill, Senate, No. 458) of Thomas M. McGee for legislation relative to insurance coverage for pervasive developmental disorders. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *436* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act relative to insurance coverage for pervasive developmental disorders..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 32A of the General Laws is hereby amended by adding the following section:- Section 23. (a) The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage on a nondiscriminatory basis for the diagnosis and treatment of the following pervasive developmental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic disorder, (2) asperger's disorder, (3) pervasive developmental disorder - not otherwise specified, (4) rett's disorder, and (5) childhood disintegrative disorder appearing in the DSM that are scientifically recognized and approved by the commissioner of the division of insurance.

(b) In addition to the coverage established pursuant to this section, any such health plan shall also provide coverage on a non-discriminatory basis for children and adolescents under the age of 19 for the diagnosis and treatment of following pervasive developmental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic disorder, (2) asperger's disorder, (3) pervasive developmental disorder - not otherwise specified, (4) rett's disorder, and (5) childhood disintegrative disorder which substantially interfere with or substantially limit the functioning and social interactions of such a child or adolescent; provided, that said interference or limitation is documented by and the referral for said diagnosis and

19 treatment is made by the primary care physician, primary pediatrician, or a licensed health
20 professional of such a child or adolescent or is evidenced by conduct. Any such health plan shall
21 continue to provide such coverage to any adolescent who is engaged in an ongoing course of
22 treatment beyond the adolescent's nineteenth birthday until said course of treatment, as specified
23 in said adolescent's treatment plan, is completed and while the benefit contract under which such
24 benefits first became available remains in effect, or subject to a subsequent benefits contract
25 which is in effect.

26 (d) Any such health plan shall be deemed to be providing such coverage on a non-
27 discriminatory basis if said plan does not contain any annual or lifetime dollar or unit of service
28 limitation on coverage for the diagnosis and treatment of said pervasive developmental disorders
29 which is less than any annual or lifetime dollar or unit of service limitation imposed on coverage
30 for the diagnosis and treatment of physical conditions.

31 (e) The commission shall also provide medically necessary coverage for the diagnosis
32 and treatment of all other pervasive developmental disorders not otherwise provided for in this
33 section and which are described in the most recent edition of the DSM IV during each 12 month
34 period for a minimum of 60 visits.

35 (f) The coverage authorized pursuant to this section shall consist of a range of services
36 that shall permit medically necessary and active and noncustodial treatment for said pervasive
37 developmental disorders to take place in the least restrictive clinically appropriate setting. The
38 commission may, as a condition of providing coverage pursuant to this section, require consent
39 to the disclosure of information regarding services for pervasive developmental disorders only to
40 the same or similar extent in which it requires consent for the disclosure of information for other
41 medical conditions. Only licensed health professionals shall be allowed to deny services
42 mandated by this section. The provisions of this subsection shall not be construed as applying to
43 denials of service resulting from an insured's lack of insurance coverage or the use of a facility or
44 professional which, if applicable, has not entered into a negotiated agreement with a health plan.
45 The benefits provided in any insurance plan pursuant to this section shall meet all other terms
46 and conditions of the plan not inconsistent with this section.

47 SECTION 2. Chapter 175 of the General Laws is hereby amended by inserting the
48 following new section after section 47B:- Section 47C. (a) Any individual policy of accident and
49 sickness insurance issued pursuant to section 108, which provides hospital expense and surgical
50 expense insurance, and any group blanket or general policy of accident and sickness insurance
51 issued pursuant to section 110, which provides hospital expense and surgical expense insurance,
52 which is issued or renewed within or without the commonwealth, shall provide benefits on a
53 nondiscriminatory basis to residents of the commonwealth and to all policyholders having a
54 principal place of employment in the commonwealth for the diagnosis and treatment of the
55 following pervasive developmental disorders, as described in the most recent edition of the
56 Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this

57 section as "the DSM IV": (1) autistic disorder, (2) asperger's disorder, (3) pervasive
58 developmental disorder - not otherwise specified, (4) rett's disorder, and (5) childhood
59 disintegrative disorder, and (6) any pervasive developmental disorders appearing in the DSM
60 that are scientifically recognized and approved by the commissioner of the division of insurance.

61 (b) In addition to the benefits established pursuant to this section, any such policy shall
62 also provide benefits on a non-discriminatory basis for children and adolescents under the age of
63 19 for the diagnosis and treatment of pervasive developmental disorders, as described in the most
64 recent edition of the DSM IV, which substantially interfere with or substantially limit the
65 functioning and social interactions of such a child or adolescent; provided, that said interference
66 or limitation is documented by and the referral for said diagnosis and treatment is made by the
67 primary care physician, primary pediatrician or a licensed health professional of such a child or
68 adolescent or is evidenced by conduct, including, but not limited to: (1) an inability to attend
69 school as a result of such a disorder, (2) the need to hospitalize the child or adolescent as a result
70 of such a disorder, or (3) a pattern of conduct or behavior caused by such a disorder which poses
71 a serious danger to self or others. The insurer shall continue to provide such benefits to any
72 adolescent who is engaged in an ongoing course of treatment beyond the adolescent's nineteenth
73 birthday until said course of treatment, as specified in said adolescent's treatment plan, is
74 completed and while the benefit contract under which such benefits first became available
75 remains in effect, or subject to a subsequent benefits contract which is in effect.

76 (d) Any such policy shall be deemed to be providing such benefits on a
77 nondiscriminatory basis if the policy does not contain any annual or lifetime dollar or unit of
78 service limitation on coverage for the diagnosis and treatment of said pervasive developmental
79 disorders which is less than any annual or lifetime dollar or unit of service limitation imposed on
80 coverage for the diagnosis and treatment of physical conditions.

81 (e) Any such policy shall also provide medically necessary benefits for the diagnosis and
82 treatment of all other pervasive developmental disorders not otherwise provided for in this
83 section and which are described in the most recent edition of DSM during each 12 month period
84 for a minimum of 60 days of inpatient treatment and for a minimum of 24 outpatient visits.

85 (f) Nothing in this section shall be construed to exempt an individual policy of accident
86 and sickness insurance issued from paying for pervasive developmental disorder benefits or
87 services: which are provided to a person who has third party insurance and who is presently
88 incarcerated, confined or committed to a jail, house of correction or prison, or custodial facility
89 in the department of youth services within the commonwealth or one of its political subdivisions;
90 including those which constitute educational services and would otherwise be required to be
91 provided by a school committee pursuant to section 5 of chapter 71B; or which constitute
92 services provided by the department of mental health or department of mental retardation.

93 SECTION 3. Chapter 176A of the General Laws is hereby amended by inserting after
94 section 8B, the following section:- Section 8C. (a) Any contract between a subscriber and the
95 corporation under an individual or group hospital service plan which is issued or renewed within
96 or without the commonwealth shall provide pervasive developmental disorder benefits on a
97 nondiscriminatory basis to residents of the commonwealth and to all individual subscribers and
98 members and group members having a principal place of employment in the he commonwealth
99 for the diagnosis and treatment of the following pervasive developmental disorders, as described
100 in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric
101 Association, referred to in this section as "the DSM IV": (1) autistic disorder, (2) asperger's
102 disorder, (3) pervasive developmental disorder - not otherwise specified, (4) rett's disorder, and
103 (5) childhood disintegrative disorder, and (6) any pervasive developmental disorders appearing
104 in the DSM that are scientifically recognized and approved by the commissioner of the
105 department of mental health in consultation with the commissioner of the division of insurance.

106 (b) In addition to the pervasive developmental disorder benefits established pursuant to
107 this section, any such contract shall also provide benefits on a non-discriminatory basis for
108 children and adolescents under the age of 19 for the diagnosis and treatment of pervasive
109 developmental disorder, behavioral or emotional disorders, as described in the most recent
110 edition of the DSM IV, which substantially interfere with or substantially limit the functioning
111 and social interactions of such a child or adolescent; provided, that said interference or limitation
112 is documented by and the referral for said diagnosis and treatment is made by the primary care
113 physician, primary pediatrician or a licensed health professional of such a child or adolescent or
114 is evidenced by conduct, including, but not limited to: (1) an inability to attend school as a result
115 of such a disorder, (2) the need to hospitalize the child or adolescent as a result of such a
116 disorder, or (3) a pattern of conduct or behavior caused by such a disorder which poses a serious
117 danger to self or others. The nonprofit hospital service corporation shall continue to provide such
118 benefits to any adolescent who is engaged in an ongoing course of treatment beyond the
119 adolescent's nineteenth birthday until said course of treatment, as specified in said adolescent's
120 treatment plan, is completed and while the benefit contract under which such benefits first
121 became available remains in effect, or subject to a subsequent benefits contract which is in
122 effect.

123 (c) Any such contract shall be deemed to be providing such coverage on a non-
124 discriminatory basis if the contract does not contain any annual or lifetime dollar or unit of
125 service limitation on benefits for the diagnosis and treatment of said mental disorders which is
126 less than any annual or lifetime dollar or unit of service limitation imposed on benefits for the
127 diagnosis and treatment of physical conditions.

128 (d) Any such contract shall also provide medically necessary benefits for the diagnosis
129 and treatment of all other mental disorders not otherwise provided for in this section and which
130 are described in the most recent edition of the DSM IV during each 12 month period for a
131 minimum of 60 days of inpatient treatment and for a minimum of 24 outpatient visits.

132 (e) Benefits authorized pursuant to this section shall consist of a range of inpatient,
133 intermediate, and outpatient services that shall permit medically necessary and active and
134 noncustodial treatment for said pervasive developmental disorders to take place in the least
135 restrictive clinically appropriate setting.

136 (f) Nothing in this section shall be construed to exempt a non-profit hospital service
137 corporation insurer from paying for pervasive developmental disorder benefits or services: which
138 are provided to a person who has third party insurance and who is presently incarcerated,
139 confined or committed to a jail, house of correction or prison, or custodial facility in the
140 department of youth services within the commonwealth or one of its political subdivisions;
141 including those which constitute educational services and would otherwise be required to be
142 provided by a school committee pursuant to section 5 of chapter 71B; or which constitute
143 services provided by the department of mental health or department of mental retardation.

144 SECTION 4. Chapter 176B of the General Laws is hereby amended by inserting after
145 section 4C, the following section:- Section 4D. (a) Any subscription certificate under an
146 individual or group medical service agreement which is issued or renewed within or without the
147 commonwealth shall provide pervasive developmental disorder benefits on a nondiscriminatory
148 basis to residents of the commonwealth and to all individual subscribers and members within the
149 commonwealth and to all group members having a principal place of employment in the
150 commonwealth for the diagnosis and treatment of the following pervasive developmental
151 disorder, as described in the most recent edition of the Diagnostic and Statistical Manual of the
152 American Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic
153 disorder, (2) asperger's disorder, (3) pervasive developmental disorder - not otherwise specified,
154 (4) rett's disorder, and (5) childhood disintegrative disorder, and (6) any pervasive developmental
155 disorders appearing in the DSM Association that are scientifically recognized and approved by
156 the commissioner of the division of insurance.

157 (b) In addition to the pervasive developmental disorder benefits established pursuant to
158 this section, any such subscription certificate shall also provide benefits on a non-discriminatory
159 basis for children and adolescents under the age of 19 for the diagnosis and treatment of
160 pervasive developmental disorders, as described in the most recent edition of the DSM IV, which
161 substantially interfere with or substantially limit the functioning and social interactions of such a
162 child or adolescent; provided, that said interference or limitation is documented by and the
163 referral for said diagnosis and treatment is made by the primary care physician, primary
164 pediatrician or a licensed mental health professional of such a child or adolescent or is evidenced
165 by conduct, including, but not limited to: (1) an inability to attend school as a result of such a
166 disorder, (2) the need to hospitalize the child or adolescent as a result of such a disorder, (3) a
167 pattern of conduct or behavior caused by such a disorder which poses a serious danger to self or
168 others. The nonprofit medical service corporation shall continue to provide such benefits to any
169 adolescent who is engaged in an ongoing course of treatment beyond the adolescent's nineteenth
170 birthday until said course of treatment, as specified in said adolescent's treatment plan, is

171 completed and while the benefit contract under which such benefits first became available
172 remains in effect, or subject to a subsequent benefits contract which is in effect.

173 (d) Any such subscription certificate shall be deemed to be providing such coverage on a
174 nondiscriminatory basis if the subscription certificate does not contain any annual or lifetime
175 dollar or unit of service limitation on coverage for the diagnosis and treatment of said pervasive
176 developmental disorders which is less than any annual or lifetime dollar or unit of service
177 limitation imposed on coverage for the diagnosis and treatment of physical conditions.

178 (e) Any such subscription certificate shall also provide medically necessary benefits for
179 the diagnosis and treatment of all other pervasive developmental disorders not otherwise
180 provided for in this section and which are described in the most recent edition of the DSM IV
181 during each 12 month period for a minimum of 60 days of inpatient treatment and for a
182 minimum of 24 outpatient visits.

183 (f) Benefits authorized pursuant to this section shall consist of a range of inpatient,
184 intermediate, and outpatient services that shall permit medically necessary and active and
185 noncustodial treatment for said mental disorders to take place in the least restrictive clinically
186 appropriate setting.

187 (g) Nothing in this section shall be construed to exempt a non-profit medical service
188 corporation insurer from paying for pervasive developmental disorder benefits or services: which
189 are provided to a person who has third party insurance and who is presently incarcerated,
190 confined or committed to a jail, house of correction or prison, or custodial facility in the
191 department of youth services within the commonwealth or one of its political subdivisions;
192 including those which constitute educational services and would otherwise be required to be
193 provided by a school committee pursuant to section 5 of chapter 71B; or which constitute
194 services provided by the department of mental health or department of mental retardation.

195 SECTION 5. Said chapter 176G is hereby amended by inserting after section 4N, as so
196 appearing, the following section:- Section 4O. (a) A health maintenance contract issued or
197 renewed within or without the commonwealth shall provide pervasive developmental disorder
198 benefits on a nondiscriminatory basis to residents of the commonwealth and to all members or
199 enrollees having a principal place of employment in the commonwealth for the diagnosis and
200 treatment of the following pervasive developmental disorders, as described in the most recent
201 edition of the Diagnostic and Statistical Manual of the American Psychiatric Association,
202 referred to in this section as "the DSM IV": (1) autistic disorder, (2) asperger's disorder, (3)
203 pervasive developmental disorder - not otherwise specified, (4) rett's disorder, and (5) childhood
204 disintegrative disorder, and (6) any pervasive developmental disorders appearing in the DSM
205 that are scientifically recognized and approved by the commissioner of the division of insurance.

206 (b) In addition to said pervasive developmental disorder benefits established pursuant to
207 this section, any such health maintenance contract shall also provide benefits on a non-

208 discriminatory basis to children and adolescents under the age of 19 for the diagnosis and
209 treatment of pervasive developmental disorders, as described in the most recent edition of the
210 DSM IV, which substantially interfere with or substantially limit the functioning and social
211 interactions of such a child or adolescent; provided, that said interference or limitation is
212 documented by and the referral for said diagnosis and treatment is made by the primary care
213 physician, primary pediatrician or a licensed health professional of such a child or adolescent or
214 is evidenced by conduct, including, but not limited to: (1) an inability to attend school as a result
215 of such a disorder, (2) the need to hospitalize the child or adolescent as a result of such a
216 disorder, (3) a pattern of conduct or behavior caused by such a disorder which poses a serious
217 danger to self or others. The health maintenance organization shall continue to provide such
218 benefits to any adolescent who is engaged in an ongoing course of treatment beyond the
219 adolescent's nineteenth birthday until said course of treatment, as specified in said adolescent's
220 treatment plan, is completed and while the benefit contract under which such benefits first
221 became available remains in effect, or subject to a subsequent benefits contract which is in
222 effect.

223 (c) Any such health maintenance contract shall be deemed to be providing such coverage
224 on a non-discriminatory basis if the health maintenance contract does not contain any annual or
225 lifetime dollar or unit of service limitation on coverage for the diagnosis and treatment of said
226 mental disorders which is less than any annual or lifetime dollar or unit of service limitation
227 imposed on coverage for the diagnosis and treatment of physical conditions.

228 (d) Any such health maintenance contract shall also provide benefits for the diagnosis
229 and treatment of all other pervasive developmental disorders not otherwise provided for in this
230 section and which are described in the most recent edition of the DSM IV during each 12 month
231 period for a minimum of 60 days of inpatient treatment and for a minimum of 24 outpatient
232 visits.

233 (e) Benefits authorized pursuant to this section shall consist of a range of inpatient,
234 intermediate, and outpatient services that shall permit medically necessary and active and
235 noncustodial treatment for said pervasive developmental disorders to take place in the least
236 restrictive clinically appropriate setting.

237 (f) Nothing in this section shall be construed to exempt a health maintenance organization
238 insurer from paying for pervasive developmental disorder benefits or services: which are
239 provided to a person who has third party insurance and who is presently incarcerated, confined or
240 committed to a jail, house of correction or prison, or custodial facility in the department of youth
241 services within the commonwealth or one of its political subdivisions; including those which
242 constitute educational services and would otherwise be required to be provided by a school
243 committee pursuant to section 5 of chapter 71B; or which constitute services provided by the
244 department of mental health or department of mental retardation.

245 SECTION 6. All policies, contracts and certificates of health insurance subject to the
246 provisions of section 22 of chapter 32, section 47B of chapter 175, section 8A of chapter 176A,
247 section 4A of chapter 176B, and section 4M of chapter 176G of the General Laws which are
248 delivered, issued, or renewed on or after January 1, 2002 shall conform with the provisions of
249 this act. Form filings implementing this act shall be subject to the approval of the commissioner
250 of insurance.