

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Morrissey, Michael (SEN)**

*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 bill:

An Act relative to benefits for autism.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Morrissey, Michael (SEN)	Norfolk and Plymouth

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S00618 OF 2007-2008.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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AN ACT RELATIVE TO BENEFITS FOR AUTISM.

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

1           SECTION 1. Chapter 32A of the General Laws is hereby amended by adding the  
2 following section:-

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

11 (b) In addition to the coverage established pursuant to this section, any such health plan shall  
12 also provide coverage on a non-discriminatory basis for children and adolescents under the age  
13 of 19 for the diagnosis and treatment of following pervasive developmental disorders, as  
14 described in the most recent edition of the Diagnostic and Statistical Manual of the American  
15 Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic disorder, (2)  
16 asperger's disorder, (3) pervasive developmental disorder - not otherwise specified, (4) rett's  
17 disorder, and (5) childhood disintegrative disorder which substantially interfere with or  
18 substantially limit the functioning and social interactions of such a child or adolescent; provided,  
19 that said interference or limitation is documented by and the referral for said diagnosis and  
20 treatment is made by the primary care physician, primary pediatrician, or a licensed health  
21 professional of such a child or adolescent or is evidenced by conduct. Any such health plan shall  
22 continue to provide such coverage to any adolescent who is engaged in an ongoing course of  
23 treatment beyond the adolescent's nineteenth birthday until said course of treatment, as specified  
24 in said adolescent's treatment plan, is completed and while the benefit contract under which such  
25 benefits first became available remains in effect, or subject to a subsequent benefits contract  
26 which is in effect.

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

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

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

48 SECTION 2. Chapter 175 of the General Laws is hereby amended by inserting the following  
49 new section after section 47B:-

50 Section 47C. (a) Any individual policy of accident and sickness insurance issued pursuant to  
51 section 108, which provides hospital expense and surgical expense insurance, and any group  
52 blanket or general policy of accident and sickness insurance issued pursuant to section 110,  
53 which provides hospital expense and surgical expense insurance, which is issued or renewed

54 within or without the commonwealth, shall provide benefits on a nondiscriminatory basis to  
55 residents of the commonwealth and to all policyholders having a principal place of employment  
56 in the commonwealth for the diagnosis and treatment of the following pervasive developmental  
57 disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the  
58 American Psychiatric Association, referred to in this section as "the DSM IV": (1) autistic  
59 disorder, (2) asperger's disorder, (3) pervasive developmental disorder - not otherwise specified,  
60 (4) rett's disorder, and (5) childhood disintegrative disorder, and (6) any pervasive developmental  
61 disorders appearing in the DSM that are scientifically recognized and approved by the  
62 commissioner of the division of insurance.

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

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

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

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

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

94 SECTION 3. Chapter 176A of the General Laws is hereby amended by inserting after section  
95 8B, the following section:-

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

108 (b) In addition to the pervasive developmental disorder benefits established pursuant to this  
109 section, any such contract shall also provide benefits on a non-discriminatory basis for children  
110 and adolescents under the age of 19 for the diagnosis and treatment of pervasive developmental  
111 disorder, behavioral or emotional disorders, as described in the most recent edition of the DSM  
112 IV, which substantially interfere with or substantially limit the functioning and social  
113 interactions of such a child or adolescent; provided, that said interference or limitation is  
114 documented by and the referral for said diagnosis and treatment is made by the primary care  
115 physician, primary pediatrician or a licensed health professional of such a child or adolescent or  
116 is evidenced by conduct, including, but not limited to: (1) an inability to attend school as a result  
117 of such a disorder, (2) the need to hospitalize the child or adolescent as a result of such a  
118 disorder, or (3) a pattern of conduct or behavior caused by such a disorder which poses a serious

119 danger to self or others. The nonprofit hospital service corporation shall continue to provide such  
120 benefits to any adolescent who is engaged in an ongoing course of treatment beyond the  
121 adolescent's nineteenth birthday until said course of treatment, as specified in said adolescent's  
122 treatment plan, is completed and while the benefit contract under which such benefits first  
123 became available remains in effect, or subject to a subsequent benefits contract which is in  
124 effect.

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

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

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

138 (f) Nothing in this section shall be construed to require a non-profit hospital service corporation  
139 to pay for pervasive developmental disorder benefits or services: which are provided to a person



140 who has third party insurance and who is presently incarcerated, confined or committed to a jail,  
141 house of correction or prison, or custodial facility in the department of youth services within the  
142 commonwealth or one of its political subdivisions; which constitute educational services  
143 required to be provided by a school committee pursuant to section 5 of chapter 71B; or which  
144 constitute services provided by the department of mental health or department of mental  
145 retardation.

146 SECTION 4. Chapter 176B of the General Laws is hereby amended by inserting after section  
147 4C, the following section:-

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

160 (b) In addition to the pervasive developmental disorder benefits established pursuant to this  
161 section, any such subscription certificate shall also provide benefits on a non-discriminatory

162 basis for children and adolescents under the age of 19 for the diagnosis and treatment of  
163 pervasive developmental disorders, as described in the most recent edition of the DSM IV, which  
164 substantially interfere with or substantially limit the functioning and social interactions of such a  
165 child or adolescent; provided, that said interference or limitation is documented by and the  
166 referral for said diagnosis and treatment is made by the primary care physician, primary  
167 pediatrician or a licensed mental health professional of such a child or adolescent or is evidenced  
168 by conduct, including, but not limited to: (1) an inability to attend school as a result of such a  
169 disorder, (2) the need to hospitalize the child or adolescent as a result of such a disorder, (3) a  
170 pattern of conduct or behavior caused by such a disorder which poses a serious danger to self or  
171 others. The nonprofit medical service corporation shall continue to provide such benefits to any  
172 adolescent who is engaged in an ongoing course of treatment beyond the adolescent's nineteenth  
173 birthday until said course of treatment, as specified in said adolescent's treatment plan, is  
174 completed and while the benefit contract under which such benefits first became available  
175 remains in effect, or subject to a subsequent benefits contract which is in effect.

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

181 (e) Any such subscription certificate shall also provide medically necessary benefits for the  
182 diagnosis and treatment of all other pervasive developmental disorders not otherwise provided  
183 for in this section and which are described in the most recent edition of the DSM IV during each

184 12 month period for a minimum of 60 days of inpatient treatment and for a minimum of 24  
185 outpatient visits.

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

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

198 SECTION 5. Said chapter 176G is hereby amended by inserting after section 4N, as so  
199 appearing, the following section:-

200 Section 4O. (a) A health maintenance contract issued or renewed within or without the  
201 commonwealth shall provide pervasive developmental disorder benefits on a nondiscriminatory  
202 basis to residents of the commonwealth and to all members or enrollees having a principal place  
203 of employment in the commonwealth for the diagnosis and treatment of the following pervasive  
204 developmental disorders, as described in the most recent edition of the Diagnostic and Statistical

205 Manual of the American Psychiatric Association, referred to in this section as "the DSM IV": (1)  
206 autistic disorder, (2) asperger's disorder, (3) pervasive developmental disorder - not otherwise  
207 specified, (4) rett's disorder, and (5) childhood disintegrative disorder, and (6) any pervasive  
208 developmental disorders appearing in the DSM that are scientifically recognized and approved  
209 by the commissioner of the division of insurance.

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

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

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

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

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

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