

2024 Regular Session

HOUSE BILL NO. 872

BY REPRESENTATIVE MILLER

STUDENTS: Provides relative to behavioral health services for students

1 AN ACT

2 To amend and reenact R.S. 17:173(A) and to enact R.S. 17:173(B)(7) and (8), relative to
3 behavioral health services for public school students; to provide relative to applied
4 behavior analysis services provided to students when requested by parents or legal
5 guardians; to provide for definitions; to provide for related policies adopted by
6 public school governing authorities; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:173(A) is hereby amended and reenacted and R.S. 17:173(B)(7)
9 and (8) are hereby enacted to read as follows:

10 §173. Behavioral health services for students

11 A.(1) A public school governing authority shall not prohibit a behavioral
12 health provider from providing medically necessary behavioral health services
13 authorized by an independent third party payor, including but not limited to
14 Medicaid and commercial insurance, to a student at school during school hours if the
15 student's parent or legal guardian requests such services from the provider.

16 (2) Each public school governing authority shall adopt and make available
17 to the public a policy to implement the provisions of this ~~Section~~ and such Section.
18 The policy shall not create onerous requirements for behavioral health providers
19 resulting in a delay or barrier to the provision of medically necessary services. The
20 policy, at a minimum, shall provide that:

1 (a) A behavioral health provider who provides services pursuant to this
2 Section shall maintain general liability insurance coverage in an amount not less than
3 one million dollars per occurrence and one million dollars per aggregate and provide
4 a certificate of insurance naming the public school as the certificate holder.

5 (b) A behavioral health provider shall complete a criminal background check
6 conducted by the Louisiana State Police and shall pay all related costs. Applied
7 behavior analysis providers who are licensed, certified, or registered by the
8 Louisiana Behavior Analyst Board and who provide documentation of having passed
9 a criminal background check conducted by the Louisiana State Police within the
10 previous twelve months shall not be required by a public school governing authority
11 to complete an additional criminal background check in order to begin providing
12 behavioral health services at a school.

13 (c) Behavioral health services shall be permitted during school hours if the
14 student's parent or legal guardian presents a behavioral health ~~evaluation performed~~
15 ~~by an evaluator~~ evaluation, assessment, and authorized treatment plan performed by
16 a behavioral health provider chosen by the parent or legal guardian and the
17 evaluation indicates that the services are necessary during school hours to assist the
18 student with behavioral health impairments associated with a medical diagnosis that
19 the evaluator determines are interfering with the student's ability to thrive in the
20 educational setting.

21 (d) A public school governing authority shall not in any way prohibit or limit
22 a behavioral health evaluation, assessment, or authorized treatment plan from being
23 performed on school property in order to establish medical necessity, identify
24 behaviors interfering with a student's ability to thrive in the educational setting, or
25 provide medically necessary services.

26 (e) A behavioral health evaluation or assessment presented by the parent or
27 legal guardian of a student shall not be construed as an independent educational
28 evaluation for purposes of determining if a student meets the criteria established for
29 eligibility for special education and related services.

1 ~~(d)~~ (f) Behavioral health services may be provided during any part of the
2 school day, including any and all instructional time in English, reading, mathematics,
3 ~~and science~~ if the public school governing authority and the behavioral health
4 provider agree that it is in the best interest of the student.

5 (g) If the public school governing authority disagrees with the behavioral
6 health provider's evaluation, assessment, or proposed treatment plan for the amount
7 of time, duration of services, or treatment objectives, then the governing authority
8 shall provide a written report within thirty days explaining what reasons it has to
9 oppose the licensed behavioral health provider's plan and suggesting an equal
10 alternative. If the governing authority disagrees with the licensed behavioral health
11 provider's plan and provides an explanation and equal alternative plan, the behavioral
12 health provider may choose to amend his proposed behavioral health plan, at which
13 time the student's parent or legal guardian may decide which plan to approve.

14 (h) Upon a decision made by the parent or guardian, the public school
15 governing authority shall not oppose or hinder the behavioral health plan approved
16 by the parent or guardian. If the parent believes the governing authority is
17 preventing his student from accessing medically necessary services, the parent may
18 file a written complaint with the state Department of Education. Within fourteen
19 days of receiving such complaint, the state department shall notify the superintendent
20 of the school district, or employee in an equivalent position for a public school
21 operating outside of a district, in which the student is enrolled. Within thirty days
22 of receiving notice from the state department, the public school governing authority
23 shall submit written evidence to the state department that the governing authority is
24 or will be providing services equivalent to those included in the student's approved
25 treatment plan. Within fourteen days of receipt by the state department of the public
26 school governing authority's submission, the state department shall issue a decision
27 on whether the evidence submitted is sufficient to show that the governing authority
28 is or will be providing the student with services equivalent to those included in the
29 student's behavioral health plan. If the state department determines the evidence

1 submitted is not sufficient, the governing authority shall implement the behavioral
2 health plan approved by the student's parent within thirty days.

3 ~~(e)~~ (i) A public school governing authority shall not enter into a contract or
4 an exclusive agreement with a behavioral health provider that prohibits the parent
5 or legal guardian from choosing the behavioral health provider for the student.
6 However the provisions of this Subparagraph shall not impair any extant contract on
7 the effective date of this Section, or the renewal thereof.

8 ~~(f)~~ (j) The cost of all behavioral health services provided to a student shall
9 be the sole responsibility of the parent or legal guardian, individually or through an
10 applicable health insurance policy, Medicaid, or other third-party payor, other than
11 the public school governing authority, that has made funds available for the payment
12 for the services provided.

13 ~~(g)~~ (k) While on a school campus, a behavioral service provider shall comply
14 with, and abide by, the terms of any Individualized Education Plan, Individualized
15 Accommodation Plan, Section 504 Plan, Behavior Management Plan, or
16 Individualized Health Plan applicable to a student who is a patient of the provider.
17 The services furnished by a provider shall be incorporated into a written treatment
18 plan applicable to a student.

19 ~~(h)~~ (l) The parent or legal guardian of a student receiving services from a
20 behavioral service provider shall be required to execute a "consent to release
21 information form" between the provider and the public school governing authority.

22 ~~(i)~~ (m) A public school governing authority shall establish reporting
23 requirements for a behavioral health provider related to the student's progress and
24 student and school safety concerns as related to the student's educational program.

25 ~~(j)~~ (n) A public school governing authority may establish sanctions,
26 including termination of a provider's authorization to provide services on any school
27 campus, against a behavioral health provider for failure to comply with the
28 governing authority's policy.

1 (3) The failure of a public school governing authority to adopt a policy shall
2 not be cause to prohibit the provision of behavioral health services to a student as
3 provided in this Section.

4 (4) Any behavioral health evaluation, assessment, or treatment plan
5 administered by a public school governing authority shall not supercede the
6 behavioral health evaluation, assessment, or treatment plan provided by an
7 independent behavioral health provider of a student's parent's choosing.

8 (5) Any applied behavior analysis services provided by a governing authority
9 as provided in this Section shall be delivered by behavioral health providers licensed,
10 certified, or registered by the Louisiana Behavior Analyst Board.

11 (6) The State Board of Elementary and Secondary Education shall
12 promulgate rules in accordance with the Administrative Procedure Act as necessary
13 for the implementation of this Subsection.

14 B. For purposes of this Section, the following terms shall have the following
15 meanings:

16 * * *

17 (7) "Independent third party payor" means an individual who serves as a case
18 reviewer for Medicaid or commercial insurers.

19 (8) "Medically necessary services" means services that meet the following
20 requirements:

21 (a) Provided for the diagnosis, treatment, cure, or relief of a health condition,
22 illness, injury, or disease.

23 (b) Except for clinical trials that are described within the policy, not for
24 experimental, investigational, or cosmetic purposes.

25 (c) Within the generally accepted standards of medical care in the
26 community.

27 (d) Not solely for the convenience of the insured, the insured's family, or the
28 provider.

29 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 872 Original

2024 Regular Session

Miller

Abstract: Creates an appeals process for parents of public school students with recommended behavioral health treatment plans.

Present law prohibits a public school governing authority from denying student access to behavioral health service providers at school during school hours if requested by the student's parent or legal guardian. Requires such governing authorities to adopt and make available to the public policies that include requirements for providers relative to liability insurance coverage; criminal background checks; compliance with students' specific education, behavior, or health plans; and reporting students' progress. Further requires that such policies include:

- (1) Behavioral health services shall be provided during school hours if the student's behavioral health evaluation indicates that the services are necessary. Proposed law specifies that such services must be medically necessary and authorized by an independent third party payor including but not limited to Medicaid or commercial insurance.
- (2) Such services may be provided during instructional time in English, reading, mathematics, and science if the governing authority and the provider agree that it is in the best interest of the student. Proposed law instead authorizes services to be provided during any part of the school day, including instructional time.

Proposed law exempts providers who are licensed, certified, or registered by the La. Behavior Analyst Bd. who provide documentation of having passed a criminal background check with the La. State Police within the previous year from passing a subsequent check.

Proposed law prohibits a public school governing authority from prohibiting a behavioral health evaluation, assessment, or authorized treatment plan from being performed on school property.

Proposed law creates a procedure for grievances and appeals in instances when a public school governing authority disagrees with a behavioral health provider's evaluation, assessment, or proposed treatment plan as follows:

- (1) Within 30 days of the issuance of a proposed plan, the public school governing authority may provide a written report explaining their opposition. The report may include an equal alternative plan.
- (2) In response, the behavioral health provider may choose to amend his proposed plan. If it is amended, the student's parent may choose which plan to approve.
- (3) After the parent's approval, the public school governing authority is prohibited from hindering implementation of the approved plan. If a governing authority violates this prohibition, the parent may file a written complaint with the state Dept. of Education (DOE).
- (4) Within 14 days of receipt of a complaint, DOE is required to notify the superintendent of the school district (or person in an equivalent position if the student is enrolled at a charter school).

- (5) Within 30 days of receipt of notice from DOE, the public school governing authority shall provide evidence to DOE that they are or will be providing services to the student.
- (6) Within 14 days of the public school governing authority's response, DOE is required to decide if the evidence provided is sufficient. If it is deemed insufficient, the public school governing authority has 30 days to implement the proposed plan for the student, if it is not already providing services to the student.

Proposed law requires services provided to be delivered by providers licensed, certified, or registered by the La. Behavior Analyst Bd.

Proposed law requires the State Bd. of Elementary and Secondary Education to promulgate rules as necessary to implement the provisions of present law and proposed law.

(Amends R.S. 17:173(A); Adds R.S. 17:173(B)(7) and (8))