

2024 Regular Session

HOUSE BILL NO. 872

BY REPRESENTATIVES MILLER, BRASS, BRYANT, BUTLER, CARPENTER, WILFORD CARTER, CARVER, CHASSION, DOMANGUE, EDMONSTON, FISHER, GREEN, HUGHES, KNOX, JACOB LANDRY, LARVADAIN, LYONS, MARCELLE, MELERINE, MENA, MOORE, NEWELL, OWEN, SELDERS, STAGNI, TAYLOR, WALTERS, AND YOUNG

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

1 resulting in a delay or barrier to the provision of medically necessary services. The
2 policy, at a minimum, shall provide that:

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

7 (b) ~~A No person who has been convicted of or pled nolo contendere to a~~
8 crime listed in R.S. 15:587.1(C) shall be permitted to provide behavioral health
9 services to a student at school during school hours. Prior to providing services as
10 provided in this Section, a behavioral health provider shall complete a criminal
11 background check conducted by the Louisiana State Police and shall pay all related
12 costs. However, applied behavior analysis providers who are licensed, certified, or
13 registered by the Louisiana Behavior Analyst Board, who provide documentation of
14 having passed a criminal background check conducted by the Louisiana State Police,
15 and who are in good standing with the board shall not be required by a public school
16 governing authority to complete an additional criminal background check in order
17 to begin providing behavioral health services at a school.

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

26 (d) 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)~~ (e) A public school governing authority shall not prohibit a behavioral
2 health evaluation, assessment, or authorized treatment plan from being performed
3 on school property in order to establish medical necessity or deliver medically
4 necessary services. Behavioral health services may be provided during any part of
5 the school day, including any and all instructional time in English, reading,
6 mathematics, and science. ~~if the public school governing authority and the behavioral~~
7 ~~health provider agree that it is in the best interest of the student.~~ The school
8 administrator and service provider shall work collaboratively to create a consistent
9 schedule that meets the medical needs of the student and complies with the provider's
10 ethical code of conduct. In developing the student's plan, consideration shall include
11 impacts on a school's operations and a student's testing schedule. If the parties
12 cannot agree, then the parties shall engage in a dispute resolution process set forth
13 by the state Department of Education in accordance with Subsection D of this
14 Section.

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

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

25 ~~(g)~~ (h) While on a school campus, a behavioral service provider shall comply
26 with, and abide by, the terms of any Individualized Education Plan, Individualized
27 Accommodation Plan, Section 504 Plan, Behavior Management Plan, or
28 Individualized Health Plan applicable to a student who is a patient of the provider.

1 The services furnished by a provider shall be incorporated into a written treatment
2 plan applicable to a student.

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

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

9 ~~(j)~~ (k) A public school governing authority may establish sanctions,
10 including termination of a provider's authorization to provide services on any school
11 campus, against a behavioral health provider for failure to comply with the
12 governing authority's policy.

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

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

20 (5) Any applied behavior analysis services provided by a governing authority
21 as provided in this Section shall be delivered either by behavioral health providers
22 licensed, certified, or registered by the Louisiana Behavior Analyst Board in
23 accordance with R.S. 37:3701 et seq. or behavioral health providers providing
24 services in accordance with R.S. 37:3715.

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

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 Reengrossed

2024 Regular Session

Miller

Abstract: Provides relative to behavioral health services for public school students.

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 further provides such services may be provided during any part of the school day, including any and all instructional time. Proposed law removes condition that the public school governing authority and the behavioral health provider are required to agree that is in the best interest of the student and instead requires the school administrator and service provider to collaborate on a schedule for the student. Proposed law requires, if a schedule cannot be decided on for the student between the school administrator and service provider, that they engage in a dispute resolution process set forth by the state Dept. of Education.

Present law requires a provider to complete a criminal background check.

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

Proposed law prohibits any person who has been convicted of or pled nolo contendere to a crime listed in present law (R.S. 15:587.1(C)) from providing behavioral health services to a student at school during school hours.

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 in order to establish medical necessity or deliver medically necessary services.

Proposed law requires services provided to be delivered by providers licensed, certified, or registered by the La. Behavior Analyst Bd. and certain other persons not subject to licensing by the board.

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. Requires the rulemaking process relative to certain proposed law commence by Sept. 1, 2024.

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

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Prohibit any person who has been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C) from providing behavioral health services to a student at school during school hours.
2. Expand subsequent criminal background check exemption to cover all 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, instead of only those who have passed a background check within the previous year.
3. Limit the prohibition on a public school governing authority's ability to prohibit a behavioral health evaluation, assessment, or authorized treatment plan to only when establishing medical necessity or when delivering medically necessary services.
4. Remove condition that a public school governing authority and a behavioral health provider are required to agree that is in the best interest of the student for behavioral health services to be provided to a student during instructional time and instead require the school administrator and service provider to collaborate on a schedule for the student.
5. Require the school administrator and service provider to enter into a dispute resolution process set forth by the state Dept. of Education if they cannot come to an agreement on a schedule for the student.
6. Require BESE to begin the rulemaking process for promulgating rules for the implementation of certain proposed law by Sept. 1, 2024.
7. Remove proposed law regarding disputes between the school governing authority and the behavioral health provider regarding an assessment or treatment plan.