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

1   AN ACT

2   To amend and reenact R.S. 17:173(A) and to enact R.S. 17:173(B)(7) and (8) and (D),

3   relative to behavioral health services for public school students; to provide relative

4   to applied behavior analysis services provided to students when requested by parents

5   or legal guardians; to provide for definitions; to provide for related policies adopted

6   by 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) and (D) 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:

21   (a) A behavioral health provider who provides services pursuant to this

22   Section shall maintain general liability insurance coverage in an amount not less than

1   one million dollars per occurrence and one million dollars per aggregate and provide

2   a certificate of insurance naming the public school as the certificate holder.

3   (b) ~~A~~ No person who has been convicted of or pled nolo contendere to a

4   crime listed in R.S. 15:587.1(C) shall be permitted to provide behavioral health

5   services to a student at school during school hours. Prior to providing services as

6   provided in this Section, a behavioral health provider shall complete a criminal

7   background check conducted by the Louisiana State Police and shall pay all related

8   costs. However, applied behavior analysis providers who are licensed, certified, or

9   registered by the Louisiana Behavior Analyst Board, who provide documentation of

10   having passed a criminal background check conducted by the Louisiana State Police,

11   and who are in good standing with the board shall not be required by a public school

12   governing authority to complete an additional criminal background check in order

13   to begin providing behavioral health services at a school.

14   (c) Behavioral health services shall be permitted during school hours if the

15   student's parent or legal guardian presents a behavioral health evaluation performed

16   by an evaluator as well as an assessment and authorized treatment plan performed

17   by a behavioral health provider chosen by the parent or legal guardian and the

18   evaluation indicates that the services are necessary during school hours to assist the

19   student with behavioral health impairments associated with a medical diagnosis that

20   the evaluator determines are interfering with the student's ability to thrive in the

21   educational setting.

22   (d) A behavioral health evaluation or assessment presented by the parent or

23   legal guardian of a student shall not be construed as an independent educational

24   evaluation for purposes of determining if a student meets the criteria established for

25   eligibility for special education and related services.

26   ~~(d)~~ (e) A public school governing authority shall not prohibit a behavioral

27   health evaluation, assessment, or authorized treatment plan from being performed

28   on school property in order to establish medical necessity or deliver medically

29   necessary services. Behavioral health services may be provided during any part of

30   the school day, including any and all instructional time in English, reading,

1   mathematics, and science. ~~if the public school governing authority and the behavioral~~

2   ~~health provider agree that it is in the best interest of the student.~~ The school

3   administrator and service provider shall work collaboratively to create a consistent

4   schedule that meets the medical needs of the student and complies with the provider's

5   ethical code of conduct. In developing the student's plan, consideration shall include

6   impacts on a school's operations and a student's testing schedule. If the parties

7   cannot agree, then the parties shall engage in a dispute resolution process set forth

8   by the state Department of Education in accordance with Subsection D of this

9   Section.

10   ~~(e)~~ (f) A public school governing authority shall not enter into a contract or

11   an exclusive agreement with a behavioral health provider that prohibits the parent

12   or legal guardian from choosing the behavioral health provider for the student.

13   However the provisions of this Subparagraph shall not impair any extant contract on

14   the effective date of this Section, or the renewal thereof.

15   ~~(f)~~ (g) The cost of all behavioral health services provided to a student shall

16   be the sole responsibility of the parent or legal guardian, individually or through an

17   applicable health insurance policy, Medicaid, or other third-party payor, other than

18   the public school governing authority, that has made funds available for the payment

19   for the services provided.

20   ~~(g)~~ (h) While on a school campus, a behavioral service provider shall comply

21   with, and abide by, the terms of any Individualized Education Plan, Individualized

22   Accommodation Plan, Section 504 Plan, Behavior Management Plan, or

23   Individualized Health Plan applicable to a student who is a patient of the provider.

24   The services furnished by a provider shall be incorporated into a written treatment

25   plan applicable to a student.

26   ~~(h)~~ (i) The parent or legal guardian of a student receiving services from a

27   behavioral service provider shall be required to execute a "consent to release

28   information form" between the provider and the public school governing authority.

1   (i) (j) A public school governing authority shall establish reporting

2   requirements for a behavioral health provider related to the student's progress and

3   student and school safety concerns as related to the student's educational program.

4   (j) (k) A public school governing authority may establish sanctions,

5   including termination of a provider's authorization to provide services on any school

6   campus, against a behavioral health provider for failure to comply with the

7   governing authority's policy.

8   (3) The failure of a public school governing authority to adopt a policy shall

9   not be cause to prohibit the provision of behavioral health services to a student as

10   provided in this Section.

11   (4) Any behavioral health evaluation, assessment, or treatment plan

12   administered by a public school governing authority shall not supercede the

13   behavioral health evaluation, assessment, or treatment plan provided by an

14   independent behavioral health provider of a student's parent's choosing.

15   (5) Any applied behavior analysis services provided by a governing authority

16   as provided in this Section shall be delivered either by behavioral health providers

17   licensed, certified, or registered by the Louisiana Behavior Analyst Board in

18   accordance with R.S. 37:3701 et seq. or behavioral health providers providing

19   services in accordance with R.S. 37:3715.

20   (6) The State Board of Elementary and Secondary Education shall

21   promulgate rules in accordance with the Administrative Procedure Act as necessary

22   for the implementation of this Subsection.

23   B. For purposes of this Section, the following terms shall have the following

24   meanings:

25   *   *   *

26   (7) "Independent third-party payor" means an individual who serves as a

27   case reviewer for Medicaid or commercial insurers.

28   (8) "Medically necessary services" means services that meet the following

29   requirements:

1   (a) Provided for the diagnosis, treatment, cure, or relief of a health condition,

2   illness, injury, or disease.

3   (b) Except for clinical trials that are described within the policy, not for

4   experimental, investigational, or cosmetic purposes.

5   (c) Within the generally accepted standards of medical care in the

6   community.

7   (d) Not solely for the convenience of the insured, the insured's family, or the

8   provider.

9   *   *   *

10   D. The State Board of Elementary and Secondary Education shall adopt rules

11   for the implementation of this Section and provide for a dispute resolution process

12   relative to the services provided pursuant to this Section according to guidelines

13   established by the state Department of Education.

14   Section 2. The State Board of Elementary and Secondary Education shall commence

15 the rulemaking process for the adoption of the rules required by R.S. 17:173(D) as enacted

16 by this Act not later than September 1, 2024.

17   Section 3. This Act shall become effective upon signature by the governor or, if not

18 signed by the governor, upon expiration of the time for bills to become law without signature

19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

20 vetoed by the governor and subsequently approved by the legislature, this Act shall become

21 effective on the day following such approval.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

_____

PRESIDENT OF THE SENATE

_____

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.