

Senate File 2100 - Introduced

SENATE FILE 2100

BY MILLER-MEEKS

A BILL FOR

1 An Act relating to the provision of behavioral health services
2 including via telemedicine in a school setting.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 280A.1 Definitions.

2 As used in this section, unless the context otherwise
3 requires:

4 1. "*Accredited nonpublic school*" means any school, other
5 than a public school, that is accredited pursuant to section
6 256.11 for any and all levels for grades one through twelve.

7 2. "*Area education agency*" means an area education agency
8 established pursuant to chapter 273.

9 3. "*Behavioral health screening*" or "*screening*" means a
10 screening and assessment performed using a universal behavioral
11 health screening and assessment tool, approved for use by the
12 department of education in consultation with the department of
13 public health and the department of human services, to identify
14 factors that place children at higher risk for behavioral
15 health conditions, to determine appropriate treatment or
16 intervention, and to identify the need for referral for
17 appropriate services.

18 4. "*Behavioral health services*" means services provided
19 by a health care professional operating within the scope of
20 the health care professional's practice which address mental,
21 emotional, medical, or behavioral conditions, illnesses,
22 diseases, or problems.

23 5. "*Health care professional*" means a physician or other
24 health care practitioner licensed, accredited, registered, or
25 certified to perform specified health care services consistent
26 with state law.

27 6. "*In-person encounter*" means that the mental health
28 professional and the student are in the physical presence of
29 each other and are in the same physical location during the
30 provision of behavioral health services.

31 7. "*Mental health professional*" means the same as defined
32 in section 228.1.

33 8. "*Patient*" means a student receiving a behavioral health
34 screening or other behavioral health services in accordance
35 with this chapter.

1 9. *"Primary care provider"* means the personal provider
2 trained to provide the first contact and continuous and
3 comprehensive care to a patient and includes but is not limited
4 to any of the following licensed or certified health care
5 professionals who provide primary care:

6 a. A physician who is a family or general practitioner or a
7 pediatrician.

8 b. An advanced registered nurse practitioner.

9 c. A physician assistant.

10 d. A chiropractor.

11 10. *"Provider-patient relationship"* means the relationship
12 between the patient and the mental health professional that
13 meets the requirements for commencement and establishment of
14 a valid provider-patient relationship as specified in this
15 chapter.

16 11. *"Public school"* means any school directly supported in
17 whole or in part by taxation.

18 12. *"School district"* means a school district described in
19 chapter 274.

20 13. *"Student"* means a person enrolled in and attending an
21 accredited nonpublic school or a public school in grades one
22 through twelve.

23 14. *"Telemedicine"* means the practice of medicine using
24 electronic audio-visual communications and information
25 technologies or other means, including interactive audio with
26 asynchronous store-and-forward transmission, between a licensee
27 in one location and a patient in another location with or
28 without an intervening health care provider. *"Telemedicine"*
29 includes asynchronous store-and-forward technologies, remote
30 monitoring, and real-time interactive services, including
31 teleradiology and telepathology. *"Telemedicine"* does not
32 include the provision of medical services only through an
33 audio-only telephone, email messages, facsimile transmissions,
34 or U.S. mail or other parcel service, or any combination of
35 these means.

1 **Sec. 2. NEW SECTION. 280A.2 Behavioral health screenings**
2 **and assessments in school settings.**

3 1. *a.* A school district, an accredited nonpublic school,
4 or an area education agency may contract with a mental health
5 professional or a nationally accredited behavioral health
6 care organization to provide behavioral health screenings to
7 students in person or via telemedicine.

8 *b.* (1) A behavioral health screening may be conducted
9 following provision of written consent by the student's parent
10 or guardian for the student to participate in such screening
11 and to allow for the release of the results of the screening to
12 the student's primary care provider.

13 (2) The consent shall also allow for the disclosure of the
14 results of such screenings to the school district, accredited
15 nonpublic school, or area education agency, if the mental
16 health professional believes there is a credible threat to the
17 health and safety of the student or others.

18 2. If a mental health professional conducts an initial
19 behavioral health screening on the premises of a public school,
20 an accredited nonpublic school, or an area education agency and
21 determines that a student should be referred for additional
22 behavioral health services, all of the following shall apply:

23 *a.* The mental health professional shall notify the parent or
24 guardian of the student of the results of the screening.

25 *b.* The mental health professional shall notify the student's
26 primary care provider. If the student does not have a primary
27 care provider, the mental health professional shall provide
28 a listing of local primary care providers to the parent or
29 guardian.

30 **Sec. 3. NEW SECTION. 280A.3 Establishment of**
31 **provider-patient relationship for services provided via**
32 **telemedicine in a school setting.**

33 1. A mental health professional who provides services
34 via telemedicine in a public school, an accredited nonpublic
35 school, or an area education agency shall establish a valid

1 provider-patient relationship with the student who receives
2 telemedicine services.

3 2. The provider-patient relationship commences when all of
4 the following conditions are met:

5 a. The student with the health-related matter seeks
6 assistance from a mental health professional.

7 b. The mental health professional agrees to undertake
8 diagnosis and treatment of the student.

9 c. The student agrees to be treated by the mental health
10 professional whether or not there has been an in-person
11 encounter between the mental health professional and the
12 student.

13 3. A valid provider-patient relationship may be established
14 through any of the following means:

15 a. Through an in-person encounter which includes an
16 in-person medical interview and physical examination conducted
17 under the standard of care required for an in-person encounter.

18 b. Through consultation with a primary care provider who has
19 an established relationship with the patient and who agrees to
20 participate in or supervise the patient's care.

21 4. The parent or guardian of a student shall be given
22 the opportunity to consent prior to the student receiving
23 behavioral health services via telemedicine under this chapter
24 after a provider-patient relationship is established pursuant
25 to this section. The school district shall maintain any such
26 consent form completed by a parent or guardian.

27 **Sec. 4. NEW SECTION. 280A.4 Behavioral health services**
28 **provided via telemedicine in a school setting.**

29 1. A public school, accredited nonpublic school, or an
30 area education agency may provide access to behavioral health
31 services via telemedicine on the premises of the public school,
32 accredited nonpublic school, or area education agency. If
33 a public school, an accredited nonpublic school, or an area
34 education agency provides such access, the school or area
35 education agency shall do all of the following:

1 *a.* Provide a secure, confidential, and private room for such
2 services and the technology necessary to conduct telemedicine
3 services.

4 *b.* Maintain parent or guardian consent forms for the
5 provision of such services. Consent forms shall be required
6 for each academic year in which the student receives such
7 services.

8 *c.* Maintain scheduling requests for student appointments
9 for such services and provide the student access to the room by
10 a school nurse or other appropriately trained school or area
11 education agency employee.

12 *d.* Ensure that no school or area education agency employee
13 is present in the same room as the student during the provision
14 of such services.

15 *e.* Provide information to the student participating
16 in telemedicine services about how and to whom to report
17 inappropriate behavior by a mental health professional.

18 *f.* Provide access to the student's parent or guardian to
19 participate in any of the student's telemedicine sessions.

20 2. The public school, accredited nonpublic school, or area
21 education agency shall not have access to or handle any of the
22 student's medical records or be responsible for billing for the
23 telemedicine services provided.

24 3. A mental health professional with prescribing authority
25 who provides telemedicine services in accordance with this
26 section shall not prescribe any new medication to a student
27 during a telemedicine session. However, a mental health
28 professional with prescribing authority may initiate new
29 prescriptions, alter the dosage of an existing medication, or
30 discontinue an existing medication for the treatment of the
31 student's behavioral health condition after consultation with
32 the student's parent or guardian.

33 4. *a.* Prior to the initiation of behavioral health services
34 via telemedicine in accordance with this section, the student's
35 primary care provider and the mental health professional

1 providing the telemedicine services shall consult to develop
2 a plan for the purpose of coordinating the student's medical
3 care.

4 *b.* The plan shall ensure regular contact between the
5 student's primary care provider and the student's mental
6 health professional, and the sharing of such records as may be
7 necessary to jointly manage the student's medical care.

8 *c.* If the student receiving telemedicine services does not
9 have a primary care provider, the mental health professional
10 shall provide a listing of local primary care providers to the
11 student's parent or guardian.

12 5. The mental health professional shall notify the
13 student's parent or guardian of the time and place for each
14 scheduled telemedicine session and specify the means available
15 for the parent or guardian to participate in the session.

16 6. Protected health information, including but not limited
17 to medical records and medical billing information, created
18 by the mental health professional or primary care provider
19 shall not be shared with or disclosed to a public school,
20 accredited nonpublic school, or area education agency, unless
21 disclosure is necessary to prevent or lessen a serious and
22 imminent threat to the health or safety of the student or to a
23 clearly identifiable person or persons and the mental health
24 professional determines the student has the apparent intent and
25 ability to carry out the threat.

26 7. A school district, an accredited nonpublic school,
27 an area education agency, the board of directors of a school
28 district or an area education agency, authorities in charge of
29 the accredited nonpublic school, and employees of the school
30 district, accredited nonpublic school or area education agency,
31 shall not be liable for any injury arising from the provision
32 of voluntary behavioral health screenings or behavioral health
33 services in accordance with this chapter, provided such person
34 has acted reasonably and in good faith.

35 Sec. 5. NEW SECTION. 514C.35 Behavioral health services

1 provided via telemedicine in a school setting — coverage.

2 1. As used in this section, unless the context otherwise
3 requires:

4 a. *“Accredited nonpublic school”* means any school, other
5 than a public school, that is accredited pursuant to section
6 256.11 for any and all levels for grades one through twelve.

7 b. *“Area education agency”* means an area education agency
8 established pursuant to chapter 273.

9 c. *“Behavioral health services”* means services provided
10 by a health care professional operating within the scope of
11 the health care professional’s practice which address mental,
12 emotional, medical, or behavioral conditions, illnesses,
13 diseases, or problems.

14 d. *“Health care professional”* means a physician or other
15 health care practitioner licensed, accredited, registered, or
16 certified to perform specified health care services consistent
17 with state law.

18 e. *“In-person encounter”* means that the mental health
19 professional and the student are in the physical presence of
20 each other and are in the same physical location during the
21 provision of behavioral health services.

22 f. *“Mental health professional”* means the same as defined
23 in section 228.1.

24 g. *“Patient”* means a student receiving a behavioral health
25 screening or other behavioral health services in accordance
26 with this chapter.

27 h. *“Primary care provider”* means the personal provider
28 trained to provide the first contact and continuous and
29 comprehensive care to a patient and includes but is not limited
30 to any of the following licensed or certified health care
31 professionals who provide primary care:

32 (1) A physician who is a family or general practitioner or a
33 pediatrician.

34 (2) An advanced registered nurse practitioner.

35 (3) A physician assistant.

1 (4) A chiropractor.

2 *i.* "Provider-patient relationship" means the relationship
3 between the patient and the mental health professional that
4 meets the requirements for commencement and establishment of
5 a valid provider-patient relationship as specified in this
6 chapter.

7 *j.* "Public school" means any school directly supported in
8 whole or in part by taxation.

9 *k.* "School" means a public or accredited nonpublic school,
10 or an area education agency that provides premises for teaching
11 any grade from kindergarten through grade twelve.

12 *l.* "School district" means a school district described in
13 chapter 274.

14 *m.* "Student" means a person enrolled in and attending an
15 accredited nonpublic school or a public school in grades one
16 through twelve.

17 *n.* "Telemedicine" means the practice of medicine using
18 electronic audio-visual communications and information
19 technologies or other means, including interactive audio with
20 asynchronous store-and-forward transmission, between a licensee
21 in one location and a patient in another location with or
22 without an intervening health care provider. "Telemedicine"
23 includes asynchronous store-and-forward technologies, remote
24 monitoring, and real-time interactive services, including
25 teleradiology and telepathology. "Telemedicine" does not
26 include the provision of medical services only through an
27 audio-only telephone, email messages, facsimile transmissions,
28 or U.S. mail or other parcel service, or any combination of
29 these means.

30 2. *a.* Notwithstanding the uniformity of treatment
31 requirements of section 514C.6, a policy, contract, or plan
32 providing for third-party payment or prepayment of health or
33 medical expenses shall provide coverage and treat as equivalent
34 services, behavioral health services provided by a mental
35 health professional to a student through an in-person encounter

1 or via telemedicine pursuant to chapter 280A.

2 *b.* Coverage shall be provided if all of the following
3 conditions are met:

4 (1) If behavioral health services are provided by a mental
5 health professional via telemedicine to a student on the
6 premises of a public school, an accredited nonpublic school, or
7 an area education agency, the behavioral health services are
8 provided in accordance with chapter 280A.

9 (2) The mental health services provided are provided in
10 accordance with evidence-based standards of practice and relate
11 only to behavioral health.

12 (3) The mental health professional has an existing
13 provider-patient relationship with the student as specified in
14 chapter 280A.

15 (4) The student's parent or guardian has consented to the
16 treatment and to release of the student's medical records
17 associated with the telemedicine services to the student's
18 primary care provider.

19 (5) The mental health services provided are required in
20 accordance with the student's individual education plan.

21 3. This section applies to the following classes of
22 third-party payment provider policies, contracts, or plans
23 delivered, issued for delivery, continued, or renewed in this
24 state on or after January 1, 2021:

25 *a.* Individual or group accident and sickness insurance
26 providing coverage on an expense-incurred basis.

27 *b.* An individual or group hospital or medical service
28 contract issued pursuant to chapter 509, 514, or 514A.

29 *c.* An individual or group health maintenance organization
30 contract regulated under chapter 514B.

31 *d.* A plan established pursuant to chapter 509A for public
32 employees.

33 4. This section shall not apply to accident-only,
34 specified disease, short-term hospital or medical, hospital
35 confinement indemnity, credit, dental, vision, Medicare

1 supplement, long-term care, basic hospital and medical-surgical
2 expense coverage as defined by the commissioner, disability
3 income insurance coverage, coverage issued as a supplement
4 to liability insurance, workers' compensation or similar
5 insurance, or automobile medical payment insurance.

6 5. The commissioner of insurance, in collaboration with the
7 state board of education, may adopt rules pursuant to chapter
8 17A as necessary to administer this section.

9 Sec. 6. MEDICAID — TELEMEDICINE SERVICES PROVIDED IN
10 SCHOOL SETTINGS — REIMBURSEMENT.

11 1. For the purposes of this section:

12 a. "Accredited nonpublic school" means any school, other
13 than a public school, that is accredited pursuant to section
14 256.11 for any and all levels for grades one through twelve.

15 b. "Area education agency" means an area education agency
16 established pursuant to chapter 273.

17 c. "Behavioral health services" means services provided
18 by a health care professional operating within the scope of
19 the health care professional's practice which address mental,
20 emotional, medical, or behavioral conditions, illnesses,
21 diseases, or problems.

22 d. "Health care professional" means a physician or other
23 health care practitioner licensed, accredited, registered, or
24 certified to perform specified health care services consistent
25 with state law.

26 e. "In-person encounter" means that the mental health
27 professional and the student are in the physical presence of
28 each other and are in the same physical location during the
29 provision of behavioral health services.

30 f. "Mental health professional" means the same as defined
31 in section 228.1.

32 g. "Patient" means a student receiving a behavioral health
33 screening or other behavioral health services in accordance
34 with this chapter.

35 h. "Primary care provider" means the personal provider

1 trained to provide the first contact and continuous and
2 comprehensive care to a patient and includes but is not limited
3 to any of the following licensed or certified health care
4 professionals who provide primary care:

5 (1) A physician who is a family or general practitioner or a
6 pediatrician.

7 (2) An advanced registered nurse practitioner.

8 (3) A physician assistant.

9 (4) A chiropractor.

10 i. "Provider-patient relationship" means the relationship
11 between the patient and the mental health professional that
12 meets the requirements for commencement and establishment of
13 a valid provider-patient relationship as specified in this
14 chapter.

15 j. "Public school" means any school directly supported in
16 whole or in part by taxation.

17 k. "School" means a public or accredited nonpublic school,
18 or an area education agency that provides premises for teaching
19 any grade from kindergarten through grade twelve.

20 l. "School district" means a school district described in
21 chapter 274.

22 m. "Student" means a person enrolled in and attending an
23 accredited nonpublic school or a public school in grades one
24 through twelve.

25 n. "Telemedicine" means the practice of medicine using
26 electronic audio-visual communications and information
27 technologies or other means, including interactive audio with
28 asynchronous store-and-forward transmission, between a licensee
29 in one location and a patient in another location with or
30 without an intervening health care provider. "Telemedicine"
31 includes asynchronous store-and-forward technologies, remote
32 monitoring, and real-time interactive services, including
33 teleradiology and telepathology. "Telemedicine" does not
34 include the provision of medical services only through an
35 audio-only telephone, email messages, facsimile transmissions,

1 or U.S. mail or other parcel service, or any combination of
2 these means.

3 2. a. The department of human services shall require,
4 contractually and in accordance with rules adopted pursuant
5 to chapter 17A, that under both fee-for-service and managed
6 care administered Medicaid, behavioral health services provided
7 through an in-person encounter or via telemedicine pursuant to
8 chapter 280A shall be treated as equivalent services for the
9 purposes of reimbursement.

10 b. Coverage shall be provided if all of the following
11 conditions are met:

12 (1) If the mental health services are provided by a mental
13 health professional via telemedicine to a student on the
14 premises of a public school, an accredited nonpublic school, or
15 an area education agency, the behavioral health services are
16 provided in accordance with chapter 280A.

17 (2) The mental health services are provided in accordance
18 with evidence-based standards of practice and relate only to
19 behavioral health.

20 (3) The mental health professional has an existing
21 provider-patient relationship with the student as specified in
22 chapter 280A.

23 (4) The student's parent or guardian has consented to the
24 treatment and to release of the student's medical records
25 associated with the telemedicine services to the student's
26 primary care provider.

27 (5) The mental health services provided are required in
28 accordance with the student's individual education plan.

29

EXPLANATION

30 The inclusion of this explanation does not constitute agreement with
31 the explanation's substance by the members of the general assembly.

32 This bill provides for the provision of behavioral health
33 screenings and services through a school setting both in person
34 and via telemedicine.

35 The bill authorizes a school district, an accredited

1 nonpublic school, or an area education agency to contract
2 with a mental health professional or a nationally accredited
3 behavioral health care organization to provide behavioral
4 health screenings to students in person or via telemedicine,
5 upon written consent by the student's parent or guardian and
6 to allow for the release of the results of the screening to the
7 student's primary care provider.

8 The bill specifies the requirements for the establishment
9 of a provider-patient relationship for purposes of mental
10 health professionals providing behavioral health services
11 via telemedicine in a public school, an accredited nonpublic
12 school, or an area education agency setting.

13 The bill authorizes a public school, accredited nonpublic
14 school, and area education agency to provide access to
15 behavioral health services via telemedicine on the premises
16 of the public school, accredited nonpublic school, or area
17 education agency, specifies the parameters for the provision of
18 such services, and provides immunity for entities that provide
19 such services acting reasonably and in good faith.

20 The bill requires that both private health insurance
21 coverage and the Medicaid program are to provide coverage
22 and treat as equivalent services, behavioral health services
23 provided by a mental health professional to a student through
24 an in-person encounter or via telemedicine pursuant to the
25 bill.