

Senate File 2261 - Reprinted

SENATE FILE 2261
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SF 2100)

(As Amended and Passed by the Senate February 26, 2020)

A BILL FOR

- 1 An Act relating to the provision of behavioral health services
- 2 including via telehealth 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 10. "*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 11. "*Public school*" means any school directly supported in
16 whole or in part by taxation.

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

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

22 14. "*Telehealth*" means the same as defined in section
23 514C.34.

24 Sec. 2. NEW SECTION. 280A.2 Behavioral health screenings
25 and assessments in school settings.

26 1. a. A school district, an accredited nonpublic school,
27 or an area education agency may contract with a mental health
28 professional or a nationally accredited behavioral health
29 care organization to provide behavioral health screenings to
30 students in person.

31 b. (1) A behavioral health screening may be conducted
32 following provision of written consent by the student's parent
33 or guardian for the student to participate in such screening
34 and to allow for the release of the results of the screening to
35 the student's primary care provider.

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

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

11 a. The mental health professional shall notify the parent or
12 guardian of the student of the results of the screening.

13 b. The mental health professional shall notify the student's
14 primary care provider. If the student does not have a primary
15 care provider, the mental health professional shall provide
16 a listing of local primary care providers to the parent or
17 guardian.

18 Sec. 3. NEW SECTION. 280A.3 Establishment of
19 provider-patient relationship for services provided via
20 telehealth in a school setting.

21 1. A mental health professional who provides services
22 via telehealth in a public school, an accredited nonpublic
23 school, or an area education agency shall establish a valid
24 provider-patient relationship with the student who receives
25 telehealth services.

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

28 a. The student with the health-related matter with the
29 consent of the student's parent or guardian seeks assistance
30 from a mental health professional.

31 b. The mental health professional agrees to undertake
32 diagnosis and treatment of the student.

33 c. The student's parent or guardian agrees to have the
34 student treated by the mental health professional.

35 3. A valid provider-patient relationship may be established

1 through any of the following means:

2 *a.* Through an in-person encounter which includes an
3 in-person medical interview and physical examination conducted
4 under the standard of care required for an in-person encounter.

5 *b.* Through consultation with a primary care provider who has
6 an established relationship with the patient and who agrees to
7 participate in or supervise the patient's care.

8 *c.* Through telehealth, if the standard of care does
9 not require an in-person encounter, in accordance with
10 evidence-based standards of practice and telehealth practice
11 guidelines that address the clinical and technological aspects
12 of telehealth, and the student's parent or guardian is present.

13 4. The parent or guardian of a student shall consent
14 prior to the student receiving behavioral health services
15 via telehealth under this chapter after a provider-patient
16 relationship is established pursuant to this section. The
17 school district shall maintain any such consent form completed
18 by a parent or guardian.

19 Sec. 4. NEW SECTION. **280A.4 Behavioral health services**
20 **provided via telehealth in a school setting.**

21 1. A public school, accredited nonpublic school, or an
22 area education agency may provide access to behavioral health
23 services via telehealth on the premises of the public school,
24 accredited nonpublic school, or area education agency. If
25 a public school, an accredited nonpublic school, or an area
26 education agency provides such access, the school or area
27 education agency shall do all of the following:

28 *a.* Provide a secure, confidential, and private room for such
29 services and the technology necessary to conduct telehealth
30 services.

31 *b.* Maintain parent or guardian consent forms for the
32 provision of such services. Consent forms shall be required
33 for each academic year in which the student receives such
34 services.

35 *c.* Maintain scheduling requests for student appointments

1 for such services and provide the student access to the room by
2 a school nurse or other appropriately trained school or area
3 education agency employee.

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

7 *e.* Provide information to the student participating
8 in telehealth services about how and to whom to report
9 inappropriate behavior by a mental health professional.

10 *f.* Provide access to the student's parent or guardian to
11 participate in any of the student's telehealth sessions.

12 2. The public school, accredited nonpublic school, or area
13 education agency shall not have access to or handle any of the
14 student's medical records or be responsible for billing for the
15 telehealth services provided.

16 3. A mental health professional with prescribing authority
17 who provides telehealth services in accordance with this
18 section shall not prescribe any new medication to a student
19 during a telehealth session. However, a mental health
20 professional with prescribing authority may initiate new
21 prescriptions, alter the dosage of an existing medication, or
22 discontinue an existing medication for the treatment of the
23 student's behavioral health condition after consultation with
24 the student's parent or guardian.

25 4. *a.* Prior to the initiation of behavioral health services
26 via telehealth in accordance with this section, the student's
27 primary care provider and the mental health professional
28 providing the telehealth services shall consult to develop a
29 plan for the purpose of coordinating the student's medical
30 care.

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

35 *c.* If the student receiving telehealth services does not

1 have a primary care provider, the mental health professional
2 shall provide a listing of local primary care providers to the
3 student's parent or guardian.

4 5. The mental health professional shall notify the
5 student's parent or guardian of the time and place for each
6 scheduled telehealth session and specify the means available
7 for the parent or guardian to participate in the session.

8 6. Protected health information, including but not limited
9 to medical records and medical billing information, created
10 by the mental health professional or primary care provider
11 shall not be shared with or disclosed to a public school,
12 accredited nonpublic school, or area education agency, unless
13 disclosure is necessary to prevent or lessen a serious and
14 imminent threat to the health or safety of the student or to a
15 clearly identifiable person or persons and the mental health
16 professional determines the student has the apparent intent and
17 ability to carry out the threat.

18 7. A school district, an accredited nonpublic school,
19 an area education agency, the board of directors of a school
20 district or an area education agency, authorities in charge of
21 the accredited nonpublic school, and employees of the school
22 district, accredited nonpublic school or area education agency,
23 shall not be liable for any injury arising from the provision
24 of voluntary behavioral health screenings or behavioral health
25 services in accordance with this chapter, provided such person
26 has acted reasonably and in good faith.

27 Sec. 5. NEW SECTION. 514C.35 Behavioral health services
28 provided in a school — coverage.

29 1. Notwithstanding the uniformity of treatment requirements
30 of section 514C.6, a policy, contract, or plan providing for
31 third-party payment or prepayment of health or medical expenses
32 shall not deny coverage or payment for behavioral health
33 services, including behavioral health services provided via
34 telehealth, solely because the services are delivered in a
35 school.

1 2. Nothing in this section shall be interpreted to do any
2 of the following:

3 a. Require an insurer to pay for behavioral health services
4 that are otherwise excluded from coverage under a policy,
5 contract, or plan.

6 b. Require an insurer to pay for behavioral health services
7 that are provided by an individual employed by or under
8 contract with a school district or an educational service
9 agency in a regular full-time or part-time position, or any
10 other party that has not entered into a provider agreement with
11 the insurer.

12 c. Prevent application of any other provision of a policy,
13 contract, or plan.

14 3. This section applies to third-party payment provider
15 policies, contracts, or plans delivered, issued for delivery,
16 continued, or renewed in this state on or after January 1,
17 2021, and to claims for reimbursement under such policies,
18 contracts, or plans incurred on or after January 1, 2021.

19 4. For the purposes of this section:

20 a. *“Behavioral health services”* means services provided
21 by a health care professional operating within the scope of
22 the health care professional’s practice which address mental,
23 emotional, medical, or behavioral conditions, illnesses,
24 diseases, or problems.

25 b. *“Educational service agency”* means a governmental
26 agency or government entity which is established and operated
27 exclusively for the purpose of providing educational services
28 to one or more educational institutions.

29 c. *“Health care professional”* means a physician or other
30 health care practitioner licensed, accredited, registered, or
31 certified to perform specified health care services consistent
32 with state law.

33 d. *“School”* means all of the following:

34 (1) A any school, other than a public school, that is
35 accredited pursuant to section 256.11 for any and all levels

1 for grades one through twelve.

2 (2) Any school directly supported in whole or in part by
3 taxation.

4 (3) An area education agency established pursuant to
5 chapter 273.

6 e. "*School district*" means a school district described in
7 chapter 274.

8 f. "*Telehealth*" means the same as defined in section
9 514C.34.