SENATE FILE 2261
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SF 2100)

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

_____ = New Language by the Senate

A BILL FOR

An Act relating to the provision of behavioral health services including via telehealth in a school setting.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

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

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

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

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

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

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

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

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

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

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

b. An advanced registered nurse practitioner.

c. A physician assistant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. A valid provider-patient relationship may be established

through any of the following means:

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

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

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

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

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

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

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

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

c. Maintain scheduling requests for student appointments

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

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

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

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

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

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

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

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

c. If the student receiving telehealth services does not

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

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

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

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

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

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

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

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

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

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

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

4. For the purposes of this section:

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

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

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

d. *"School"* means all of the following:

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

for grades one through twelve.

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

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

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

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