**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 10, TITLE 59 SO AS TO PROVIDE DEFINITIONS CONCERNING BEHAVIORAL HEALTH SERVICES FOR PUBLIC SCHOOL STUDENTS, TO PROVIDE SCHOOL BOARDS MAY NOT PROHIBIT BEHAVIORAL HEALTH PROVIDERS FROM PROVIDING THESE SERVICES TO STUDENTS AT PUBLIC SCHOOLS DURING SCHOOL HOURS UPON PARENTAL REQUEST, TO PROVIDE SCHOOL BOARDS SHALL ADOPT CERTAIN RELATED POLICIES, AND TO PROVIDE FOR THE CONSTRUCTION OF THE ARTICLE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 10, Title 59 of the 1976 Code is amended by adding:

“Article 5

Behavioral Health Services for Students

Section 59‑10‑510. For purposes of this article:

(1) ‘Behavioral health evaluation’ includes, but is not limited to, the following criteria:

(a) diagnosis;

(b) type of intervention;

(c) length of intervention;

(d) identification of the goals of a student; and

(e) identification of impact of student behavior on the educational program of a student.

(2) ‘Behavioral health provider’ means a provider who is licensed in good standing by this State to provide behavioral health services including, but not limited to, a:

(a) psychiatrist;

(b) psychologist;

(c) licensed psycho‑educational specialist certified by the South Carolina Department of Education in School Psychology;

(d) licensed marriage and family therapist;

(e) licensed professional counselor; and

(f) licensed clinical social worker.

(3) ‘Behavioral health services’ includes, but is not limited to:

(a) individual psychotherapy;

(b) family psychotherapy;

(c) psychotropic medication management;

(d) community psychiatric support and treatment; and

(e) crisis intervention.

(4) ‘Evaluator’ means a behavioral health provider who is licensed to perform a behavioral health evaluation and who is not an employee of a public school district or the State Department of Education.

Section 59‑10‑520. (A) A school board may not prohibit a behavioral health provider from providing behavioral health services to a student at a public school during school hours if the parent or legal guardian of the student requests such services from the provider.

(B) A public school board shall adopt a policy to implement the provisions of this article before July 1, 2021. This policy must provide, at a minimum, that:

(1) a behavioral health provider who provides services pursuant to this article shall maintain general liability insurance coverage in an amount not less than one million dollars for each occurrence and one million dollars in the aggregate, and provide a certificate of insurance naming the public school district as the certificate holder;

(2) a behavioral health provider shall complete a criminal background check conducted by SLED and shall pay all related costs unless such a background check is already required for licensure as a practitioner enumerated in Section 59‑10‑510(2);

(3) a behavioral health service must be permitted during school hours if the parent or legal guardian of the student presents a behavioral health evaluation performed by an evaluator chosen by the parent or legal guardian and the evaluation indicates that the service is necessary during school hours to assist the student with a behavioral health impairment that the evaluator determines is interfering with the ability of the student to thrive in the educational setting, and a behavioral health evaluation presented by the parent or legal guardian of a student may not be construed as an independent educational evaluation for purposes of determining if a student meets the criteria established for eligibility for special education and related services;

(4) a behavioral health service may be provided during instructional time in English/language arts, mathematics, or science if the school district and the behavioral health provider agree that doing so is in the best interest of the student;

(5) a public school governing authority may not enter into a contract or an exclusive agreement with a behavioral health provider that prohibits the parent or legal guardian from choosing the behavioral health provider for the student; provided, however, the provisions of this item may not be construed to impair any extant contract on the effective date of this article or the renewal of the contract;

(6) the cost of a behavioral health service provided to a student is the sole responsibility of the parent or legal guardian, individually or through an applicable health insurance policy, Medicaid, or other third‑party payor, other than the public school district, that has made funds available for the payment for the services provided;

(7) while on a school campus, a behavioral service provider shall comply with, and abide by, the terms of any Individualized Education Plan, Individualized Accommodation Plan, Section 504 Plan, Behavior Management Plan, or Individualized Health Plan applicable to a student who is a patient of the provider and the services furnished by a provider must be incorporated into a written treatment plan applicable to a student;

(8) the parent or legal guardian of a student receiving a service from a behavioral service provider shall execute a ‘consent to release information form’ between the provider and the school district;

(9) a public school governing authority shall establish reporting requirements for a behavioral health provider related to the progress of the student and student and school safety concerns as related to the educational program of the student;

(10) a school district may establish sanctions, including termination of the authorization of a provider to provide services on any school campus, against a behavioral health provider for failure to comply with the policy of the district; and

(11) the failure of a school district to adopt a policy is not cause to prohibit the provision of behavioral health services to a student as provided in this article.

Section 59‑10‑530. Nothing in this article may be construed to supersede the authority of a student’s Individualized Education Program team or Section 504 committee to determine appropriate services for a student pursuant to applicable federal and state law.”

SECTION 2. This act takes effect July 1, 2021.

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