## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2021

H.B. 882 May 4, 2021 HOUSE PRINCIPAL CLERK

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H **HOUSE BILL DRH10415-MT-129** 

Short Title: Behavioral Health Services for Students. (Public) Representative Hawkins. Sponsors: Referred to: A BILL TO BE ENTITLED

AN ACT TO PERMIT STUDENTS TO RECEIVE BEHAVIORAL HEALTH SERVICES IN

3 PUBLIC SCHOOL UNITS. 4

The General Assembly of North Carolina enacts:

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## PART I. STUDENTS MAY RECEIVE BEHAVIORAL HEALTH SERVICES IN PUBLIC **SCHOOL UNITS**

SECTION 1.(a) Article 25A of Chapter 115C of the General Statutes is amended by adding a new section to read:

## "§ 115C-375.10. Behavioral health services for students.

- Definitions. For purposes of this section, the following definitions shall apply: (a)
  - Behavioral health provider. A health care provider who is authorized to (1) provide adaptive behavior treatment, as provided in G.S. 58-3-192, including applied behavior analysis or research-based behavioral health treatment under the North Carolina Medicaid State Plan. For purposes of this section, the term "health care provider" shall also include the supervisees of the health care provider. A health care provider shall meet all of the following criteria:
    - Act within the scope of his or her practice. a.
    - b. Not be an employee of a public school unit or the Department of Public Instruction.
  - Behavioral health services. Any of the following services provided by a (2) behavioral health provider:
    - Adaptive behavior treatment, as defined in G.S. 58-3-192. a.
    - Research-based behavioral health treatment under the North Carolina b. Medicaid State Plan.
  - Behavioral health treatment plan. A plan developed by a behavioral health <u>(3)</u> provider to provide behavioral health services to a student on school property during the instructional day. A behavioral health treatment plan shall have no bearing on whether a student is considered a child with a disability under G.S. 115C-106.3(1). At a minimum, the behavioral health treatment plan shall include the following information:
    - The functional skills deficits, behaviors, and other conditions of the student to be addressed by the behavioral health provider.
    - Goals for the student to do any of the following, to the maximum <u>b.</u> extent practicable:
      - Decrease maladaptive behaviors. 1.



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1		2. <u>Increase adaptive behaviors.</u>
2		<u>Develop, maintain, or restore the functioning of the student.</u>
3		c. The estimated period of time needed to complete the requested
4		treatment.
5		<u>d.</u> The services to be provided for the student, including observation,
6		assessment, treatment planning, treatment modification, training, and
7		direct treatment of the student.
8		e. A process for coordinating services with the public school unit.
9	(b) Provis	sion of Behavioral Health Services. – Public school units shall permit behavioral
10		to provide behavioral health services to students on school property during the
11	instructional day.	, upon the request of the parent or guardian of the student, if the following
12	criteria are met:	
13	<u>(1)</u>	A behavioral health provider who provides services pursuant to this section
14	<del></del>	meets the following requirements:
15		a. Is covered by liability insurance in an amount not less than one million
16		dollars (\$1,000,000) per occurrence and one million dollars
17		(\$1,000,000) aggregate per occurrence and provides to the public
18		school unit a certificate of insurance naming the public school unit as
19		a certificate holder on the policy.
20		b. Supplies to the public school unit a criminal history check using the
21		process provided in G.S. 115C-332.
22	<u>(2)</u>	A parent or guardian who requests behavioral health services for his or her
23	<del></del>	child provides the public school unit with a behavioral health treatment plan
24		indicating the behavioral health services to be provided.
25	(3)	Behavioral health services shall be provided in a manner that does not prevent
26	<u> </u>	classroom instruction.
27	<u>(4)</u>	The public school unit is not responsible for any costs related to the provision
28	<del></del>	of behavioral health services to the student pursuant to this section. Nothing
29		in this section shall be construed to otherwise limit or expand a public school
30		unit's obligations to a student under State or federal law.
31	<u>(5)</u>	While on school property, the behavioral health services provider shall
32		comply with any (i) Individualized Education Plan (IEP), (ii) plan adopted
33		under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 764), or (iii)
34		other medical or related services for the student. The behavioral health
35		services provided to the student pursuant to this section shall be incorporated
36		in any written treatment plan applicable to the student, but shall not supersede
37		the other components of such a plan. The public school unit shall make
38		reasonable accommodations as part of the other applicable treatment plans of
39		the student to provide the behavioral health services requested pursuant to this
40		section.
41	<u>(6)</u>	The behavioral health services provider shall provide an annual update to the
42		public school unit on the student's behavioral health treatment plan, including
43		information on the student's progress in meeting the goals of the behavioral
44		health treatment plan. To the extent possible, the report shall be provided in
45		concert with any annual meeting of the student's IEP team.
46	<u>(7)</u>	A public school unit may establish sanctions for a behavioral health services
47		provider that fails to comply with this section, including termination of the
48		authority of the behavioral health services provider to provide behavioral
49		health services on school property.
50	(c) Exclus	sive Contracts Prohibited A public school unit shall not enter into an
51	exclusive contrac	et with a behavioral health provider for services under this section or otherwise

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law.

1	prohibit a parent or guardian from choosing his or her preferred behavioral health provider for
2	the student."
3	<b>SECTION 1.(b)</b> G.S. 115C-47 is amended by adding a new subdivision to read:
4	"(65) Behavioral Health Services. – Local boards of education shall comply with
5	the requirements for behavioral health services provided in
6	G.S. 115C-375.10."
7	<b>SECTION 1.(c)</b> G.S. 115C-12 is amended by adding a new subdivision to read:
8	"(47) Behavioral Health Services. – The State Board of Education shall ensure that
9	each public school unit operated under the control of the State Board of
10	Education complies with the requirements for behavioral health services
11	provided in G.S. 115C-375.10."
12	<b>SECTION 1.(d)</b> G.S. 115C-218.75 is amended by adding a new subsection to read:
13	"(i) Behavioral Health Services. – Each charter school shall comply with the requirements
14	for behavioral health services provided in G.S. 115C-375.10."
15	<b>SECTION 1.(e)</b> G.S. 115C-238.66 is amended by adding a new subdivision to read:
16	"(17) Behavioral health services. – Each regional school shall comply with the
17	requirements for behavioral health services provided in G.S. 115C-375.10."
18	<b>SECTION 1.(f)</b> G.S. 116-239.8(b) is amended by adding a new subdivision to read:
19	"(19) A laboratory school shall comply with the requirements for behavioral health
20	services provided in G.S. 115C-375.10."
21	SECTION 1.(g) Section 6(d)(2) of S.L. 2018-32 is amended by adding a new
22	sub-subdivision to read:
23	"p. (65) [Behavioral Health Services]."
24	<b>SECTION 1.(h)</b> This section applies beginning with the 2021-2022 school year.
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26	PART II. AUTISM COVERAGE AT SCHOOL
27	SECTION 2.(a) G.S. 58-3-192 reads as rewritten:
28	"§ 58-3-192. Coverage for autism spectrum disorder.
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30	(d) Coverage under this section may not be denied on the basis that the treatments are
31	habilitative or educational in nature. Coverage under this section may not be denied on the basis
32	that the treatment is provided in a school or other educational setting.
33	"
34	<b>SECTION 2.(b)</b> This section becomes effective October 1, 2021, and applies to
35	health benefit plan contracts issued, renewed, or amended on or after that date.
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37	PART III. EFFECTIVE DATE
38	<b>SECTION 3.</b> Except as otherwise provided, this act is effective when it becomes

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