

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL 882

Short Title: Behavioral Health Services for Students. (Public)

Sponsors: Representative Hawkins.

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Health, if favorable, Education - K-12, if favorable, Rules, Calendar, and Operations of the House

May 5, 2021

A BILL TO BE ENTITLED

AN ACT TO PERMIT STUDENTS TO RECEIVE BEHAVIORAL HEALTH SERVICES IN PUBLIC SCHOOL UNITS.

The General Assembly of North Carolina enacts:

**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.**

(a) Definitions. – For purposes of this section, the following definitions shall apply:

(1) Behavioral health provider. – A health care provider who is authorized to 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:

a. Act within the scope of his or her practice.

b. Not be an employee of a public school unit or the Department of Public Instruction.

(2) Behavioral health services. – Any of the following services provided by a behavioral health provider:

a. Adaptive behavior treatment, as defined in G.S. 58-3-192.

b. Research-based behavioral health treatment under the North Carolina Medicaid State Plan.

(3) Behavioral health treatment plan. – A plan developed by a behavioral health 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:

a. The functional skills deficits, behaviors, and other conditions of the student to be addressed by the behavioral health provider.



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

1 authority of the behavioral health services provider to provide behavioral  
2 health services on school property.  
3 (c) Exclusive Contracts Prohibited. – A public school unit shall not enter into an  
4 exclusive contract with a behavioral health provider for services under this section or otherwise  
5 prohibit a parent or guardian from choosing his or her preferred behavioral health provider for  
6 the student."

7 **SECTION 1.(b)** G.S. 115C-47 is amended by adding a new subdivision to read:

8 "(65) Behavioral Health Services. – Local boards of education shall comply with  
9 the requirements for behavioral health services provided in  
10 G.S. 115C-375.10."

11 **SECTION 1.(c)** G.S. 115C-12 is amended by adding a new subdivision to read:

12 "(47) Behavioral Health Services. – The State Board of Education shall ensure that  
13 each public school unit operated under the control of the State Board of  
14 Education complies with the requirements for behavioral health services  
15 provided in G.S. 115C-375.10."

16 **SECTION 1.(d)** G.S. 115C-218.75 is amended by adding a new subsection to read:

17 "(i) Behavioral Health Services. – Each charter school shall comply with the requirements  
18 for behavioral health services provided in G.S. 115C-375.10."

19 **SECTION 1.(e)** G.S. 115C-238.66 is amended by adding a new subdivision to read:

20 "(17) Behavioral health services. – Each regional school shall comply with the  
21 requirements for behavioral health services provided in G.S. 115C-375.10."

22 **SECTION 1.(f)** G.S. 116-239.8(b) is amended by adding a new subdivision to read:

23 "(19) A laboratory school shall comply with the requirements for behavioral health  
24 services provided in G.S. 115C-375.10."

25 **SECTION 1.(g)** Section 6(d)(2) of S.L. 2018-32 is amended by adding a new  
26 sub-subdivision to read:

27 "p. (65) [Behavioral Health Services]."

28 **SECTION 1.(h)** This section applies beginning with the 2021-2022 school year.  
29

## 30 **PART II. AUTISM COVERAGE AT SCHOOL**

31 **SECTION 2.(a)** G.S. 58-3-192 reads as rewritten:

32 "**§ 58-3-192. Coverage for autism spectrum disorder.**

33 ...

34 (d) Coverage under this section may not be denied on the basis that the treatments are  
35 habilitative or educational in nature. Coverage under this section may not be denied on the basis  
36 that the treatment is provided in a school or other educational setting.

37 ...."

38 **SECTION 2.(b)** This section becomes effective October 1, 2021, and applies to  
39 health benefit plan contracts issued, renewed, or amended on or after that date.  
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## 41 **PART III. EFFECTIVE DATE**

42 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes  
43 law.