STATE OF NEW YORK

5191

2023-2024 Regular Sessions

IN ASSEMBLY

March 3, 2023

Introduced by M. of A. GONZALEZ-ROJAS, JACKSON, ZINERMAN, SEAWRIGHT, HEVESI, EPSTEIN, GALLAGHER, CRUZ, MAMDANI, KELLES, SANTABARBARA, JEAN-PIERRE, FORREST, BURGOS, RAMOS, BURKE, DARLING, MITAYNES, BURDICK, MEEKS, JONES, STERN, ANDERSON, THIELE, CARROLL, DINOWITZ, GIBBS, JACOBSON, LUNSFORD, SILLITTI, DE LOS SANTOS, DAVILA, L. ROSENTHAL -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the employment of mental health professionals by school districts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 901 of the education law, as amended by chapter 477 of the laws of 2004, subdivision 1 as amended by section 57 of part A1 of chapter 58 of the laws of 2006, is amended to read as follows:

§ 901. School health **and mental health** services to be provided. 1. **a.** School health services, as defined in subdivision two of this section, shall be provided by each school district for all students attending the public schools in this state, except in the city school district of the city of New York, as provided in this article. School health services shall include the services of a registered professional nurse, if one is employed, and shall also include such services as may be rendered as provided in this article in examining students for the existence of disease or disability and in testing the eyes and ears of such students.

b. School mental health services, as defined in subdivision two of this section, shall be provided by each school district for all students attending the public schools in this state, as provided in this article. School mental health services shall include the services of a school psychologist and school social worker, each of which shall be employed by the district.

2. **a.** School health services for the purposes of this article shall mean the several procedures, including, but not limited to, medical examinations, dental inspection and/or screening, scoliosis screening,

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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vision screening and audiometer tests, designed to determine the health status of the child; to inform parents or other persons in parental relation to the child, pupils and teachers of the individual child's health condition subject to federal and state confidentiality laws; to guide parents, children and teachers in procedures for preventing and correcting defects and diseases; to instruct the school personnel in procedures to take in case of accident or illness; to survey and make necessary recommendations concerning the health and safety aspects of school facilities and the provision of health information.

b. (i) School mental health services provided by a certified school psychologist for purposes of this article shall mean the several procedures, including, but not limited to, evaluations, screenings and assessments, designed to determine the mental health and well-being status of the child; to inform parents or other persons in parental relation to the child, pupils and teachers of the individual child's mental health condition subject to federal and state confidentiality laws; to address identified mental health needs of the child; to instruct the school personnel in interventions, techniques, and behavioral approaches to respond to the mental health needs of the child; to provide such interventions, approaches and services as necessary to address the mental health needs of the child; and to make necessary recommendations concerning the mental health aspects of the school environment and the provision of mental health information.

(ii) School mental health services provided by licensed or certified school social workers for the purposes of this article shall mean the several procedures and services including, but not limited to, assessments, evaluations and psychosocial intervention plans that are designed to prevent and intervene to address mental, social, emotional, behavioral, developmental, and addictive disorders, conditions, and disabilities of the psychosocial aspect of illness and injuries experienced by the child. Services provided by a licensed clinical social worker, or under supervision, in accordance with the commissioner's regulations governing the practice of social work services, those services shall include: diagnosis of mental, emotional, behavioral and developmental disorders and disabilities, and the psychosocial aspects of illness, injury, disability and impairment undertaken within a psychosocial framework; administration and interpretation of tests and measures of psychosocial functioning; development and implementation of appropriate assessment based treatment plans; and the provision of crisis and lethality assessments, and short term and long term psychotherapy and psychotherapeutic treatment to students, families and groups, undertaken for the purpose of preventing, assessing, treating, ameliorating and resolving psychosocial dysfunction with the goal of maintaining and enhancing the mental, emotional, behavioral, and social functioning and well-being of the child in the context of the family, school, and community; to work as a liaison between parent, child, school, and community and function within applicable confidentiality laws; to instruct school personnel regarding interventions, techniques, and behavioral approaches; to respond to the mental health needs of the child; and to make necessary recommendations concerning the mental health aspects of the school environment and the provision of mental health information.

3. The mental health professionals required herein shall be in addition to such personnel as necessary to implement the provisions of the federal Individuals with Disabilities Education Act (IDEA), as amended.

§ 2. Section 902 of the education law, as amended by chapter 477 of the laws of 2004, paragraph a of subdivision 2 as amended by chapter 376

of the laws of 2015, paragraph b of subdivision 2 as amended by chapter 501 of the laws of 2005, is amended to read as follows:

§ 902. Employment of health **and mental health** professionals. 1. **a.** As used in this article "health professionals" means persons duly licensed or otherwise authorized to practice a health profession pursuant to applicable law, including, but not limited to, physicians, registered professional nurses, nurse practitioners, physicians assistants, optometrists, dentists, dental hygienists, dietitians and nutritionists, and audiologists.

b. As used in this article, "mental health professionals" shall mean certified school psychologists and certified or licensed school social workers duly authorized to provide mental health services pursuant to applicable law.

2. a. The board of education, and the trustee or board of trustees of each school district, shall employ, at a compensation to be agreed upon by the parties, a qualified physician, or a nurse practitioner to the extent authorized by the nurse practice act and consistent with subdivision three of section six thousand nine hundred two of this chapter, to perform the duties of the director of school health services, including any duties conferred on the school physician or school medical inspector under any provision of law, to perform and coordinate the provision of health services in the public schools and to provide health appraisals of students attending the public schools in the city or district. The physicians or nurse practitioners so employed shall be duly licensed pursuant to applicable law.

b. Any such board or trustees may employ one or more school nurses, who shall be registered professional nurses, as well as other health professionals, as may be required. Such registered professional nurses and other health professionals shall aid the director of school health services of the district and shall perform such duties, including health instruction for the benefit of the public schools as may be prescribed by such board or trustees, in compliance with each such health professional's practice act.

c. Any such board or trustees shall employ one or more school psychologist and school social worker, as may be required. Such professional shall perform such duties as may be prescribed by such board or trustees, in compliance with such professional's authorization.

3. Health **and mental health** professionals may be employed by the trustees or boards of education of two or more school districts, and the compensation of such health **and mental health** professionals, and the expenses incurred in providing school health **and mental health** services for students as provided in this article, shall be borne jointly by such districts, and be apportioned among them in any manner agreed to by such districts in a sharing agreement entered pursuant to section one hundred nineteen-o of the general municipal law. The trustees or boards of education of two or more school districts in a supervisory district may enter into an agreement, or agreements as may be required, with a board of cooperative educational services for the provision of the services of one or more **mental health professional or** registered professional nurses, and other health professionals to perform health **and mental health** services, including health **and mental health** instruction in such districts.

4. The mental health professionals required herein shall be in addition to such personnel as necessary to implement the provisions of the federal Individuals with Disabilities Education Act (IDEA), as amended.

§ 3. This act shall take effect on the first of September next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made and completed on or before such effective date.