

# STATE OF NEW YORK

8976--B

Cal. No. 1285

## IN SENATE

April 4, 2024

Introduced by Sens. MAYER, JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the education law, in relation to allowing for the delivery of telehealth services in schools by licensed providers

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

1 Section 1. Paragraph (j) of subdivision 1 of section 414 of the educa-  
2 tion law, as added by chapter 513 of the laws of 2005, subparagraph (i)  
3 as amended by chapter 672 of the laws of 2019, is amended to read as  
4 follows:

5 (j) For licensed school-based health, dental or mental health clinics  
6 and telehealth providers. (i) For the purposes of this subdivision, the  
7 term "licensed school-based health, dental or mental health clinic and  
8 telehealth provider" means a clinic or telehealth provider, as defined  
9 in subdivision two of section twenty-nine hundred ninety-nine-cc of the  
10 public health law, that is located in, or provide services to, a school  
11 facility of a school district ~~[-]~~, board of cooperative educational  
12 services, or charter school, is operated by an entity other than the  
13 school district ~~[-]~~, board of cooperative educational services, or  
14 charter school and will provide health, dental or mental health services  
15 during school hours and/or non-school hours to school-age and preschool  
16 children, and that is: (1) a health clinic approved under the provisions  
17 of chapter one hundred ninety-eight of the laws of nineteen hundred  
18 seventy-eight; or (2) another school-based health or dental clinic  
19 licensed by the department of health pursuant to article twenty-eight of  
20 the public health law; or (3) a school-based mental health clinic  
21 licensed or approved by the office of mental health pursuant to article  
22 thirty-one of the mental hygiene law; or (4) a school-based mental  
23 health clinic licensed by the office for people with developmental disa-  
24 bilities pursuant to article sixteen of the mental hygiene law; or (5) a

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

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1 telehealth provider delivering health care services by means of tele-  
2 health in accordance with article twenty-nine-G of the public health  
3 law. The commissioner shall develop regulations for services provided  
4 by a telehealth provider delivering health care services by means of  
5 telehealth pursuant to this paragraph, in consultation with the commis-  
6 sioners of health, mental health, and the office for people with devel-  
7 opmental disabilities. Such regulations shall, at a minimum, include  
8 the requirements for licensure of telehealth providers, billing and  
9 payment responsibilities for telehealth providers, requirements for  
10 necessary space and appropriate technology to ensure patient privacy,  
11 staffing requirements, appropriate scope of services, and shall be in  
12 compliance with all applicable state and federal law. Such regulations  
13 shall ensure that telehealth services supplement not supplant school  
14 nurses, school psychologists, school social workers, and school counse-  
15 lors.

16 (ii) Health professionals who provide services [~~in licensed school-~~  
17 ~~based health, dental or mental health clinics~~] pursuant to this para-  
18 graph shall be duly licensed pursuant to the provisions of title eight  
19 of this chapter unless otherwise exempted by law and shall be authorized  
20 to provide such services to the extent permitted by their respective  
21 practice acts.

22 (iii) Except where otherwise authorized by law, the cost of providing  
23 health, dental or mental health services, including telehealth services,  
24 shall not be a charge upon the school district [~~or~~], board of cooper-  
25 ative educational services, or charter school, and shall be paid from  
26 federal, state or other local funds available for such purpose. Building  
27 space used for [~~such a clinic~~] the provision of health, dental or mental  
28 health services, including telehealth services, shall be excluded from  
29 the rated capacity of the school building for the purpose of computing  
30 building aid pursuant to subdivision six of section thirty-six hundred  
31 two of this chapter or aid pursuant to subdivision five of section nine-  
32 teen hundred fifty of this chapter. School districts, boards of cooper-  
33 ative educational services, or charter schools providing telehealth  
34 services shall be responsible for ensuring technology and space, and  
35 required personnel are available for telehealth services pursuant to the  
36 regulations, unless provided by a licensed school-based health, dental,  
37 or mental health clinic.

38 (iv) Nothing in this paragraph shall be construed to justify a cause  
39 of action for damages against a school district [~~or a~~], board of cooper-  
40 ative educational services, or charter school, by reason of acts of  
41 negligence or misconduct by a school-based health, dental or mental  
42 health clinic or such clinic's officers or employees or by a telehealth  
43 provider or such telehealth provider's officers or employees.

44 (v) Telehealth services may only be provided to students pursuant to  
45 this paragraph if the student has written consent from a parent or  
46 person in parental relation.

47 § 2. This act shall take effect on the one hundred eightieth day after  
48 it shall have become a law. Effective immediately, the addition, amend-  
49 ment and/or repeal of any rule or regulation necessary for the implemen-  
50 tation of this act on its effective date are authorized to be made and  
51 completed on or before such effective date.