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:

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

(j) For licensed school-based health, dental or mental health clinics **and telehealth providers**. (i) For the purposes of this subdivision, the term "licensed school-based health, dental or mental health clinic **and telehealth provider**" means a clinic **or telehealth provider, as defined in subdivision two of section twenty-nine hundred ninety-nine-cc of the public health law,** that is located in**, or provide services to,** a school facility of a school district [~~or~~]**,** board of cooperative educational services, **or charter school,** is operated by an entity other than the school district [~~or~~]**,** board of cooperative educational services**, or charter school** and will provide health, dental or mental health services during school hours and/or non-school hours to school-age and preschool children, and that is: (1) a health clinic approved under the provisions of chapter one hundred ninety-eight of the laws of nineteen hundred seventy-eight; or (2) another school-based health or dental clinic licensed by the department of health pursuant to article twenty-eight of the public health law; or (3) a school-based mental health clinic licensed or approved by the office of mental health pursuant to article thirty-one of the mental hygiene law; or (4) a school-based mental health clinic licensed by the office for people with developmental disabilities 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.

LBD11365-06-4

telehealth provider delivering health care services by means of telehealth in accordance with article twenty-nine-G of the public health law. The commissioner shall develop regulations for services provided by a telehealth provider delivering health care services by means of telehealth pursuant to this paragraph, in consultation with the commissioners of health, mental health, and the office for people with developmental disabilities. Such regulations shall, at a minimum, include the requirements for licensure of telehealth providers, billing and payment responsibilities for telehealth providers, requirements for necessary space and appropriate technology to ensure patient privacy, staffing requirements, appropriate scope of services, and shall be in compliance with all applicable state and federal law. Such regulations shall ensure that telehealth services supplement not supplant school nurses, school psychologists, school social workers, and school counselors.

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

(iii) Except where otherwise authorized by law, the cost of providing health, dental or mental health services, including telehealth services, shall not be a charge upon the school district [~~or~~], board of cooperative educational services, or charter school, and shall be paid from federal, state or other local funds available for such purpose. Building space used for [~~such a clinic~~] the provision of health, dental or mental health services, including telehealth services, shall be excluded from the rated capacity of the school building for the purpose of computing building aid pursuant to subdivision six of section thirty-six hundred two of this chapter or aid pursuant to subdivision five of section nineteen hundred fifty of this chapter. School districts, boards of cooperative educational services, or charter schools providing telehealth services shall be responsible for ensuring technology and space, and required personnel are available for telehealth services pursuant to the regulations, unless provided by a licensed school-based health, dental, or mental health clinic.

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

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

§ 2. This act shall take effect on the one hundred eightieth day after 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 are authorized to be made and completed on or before such effective date.