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# SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

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**Bill No:** AB 2315 **Hearing Date:** June 13, 2018  
**Author:** Quirk-Silva  
**Version:** April 16, 2018  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Brandon Darnell

**Subject:** Pupil health: mental and behavioral health services: telehealth technology: guidelines.

Note: This bill has been referred to the Committees on Education and Health. A "do pass" motion should include referral to the Committee on Health.

## SUMMARY

This bill requires the California Department of Education, in consultation with the State Department of Health Care Services and appropriate stakeholders with experience in telehealth, to develop guidelines on or before December 31, 2019, for the use of telehealth technology in public schools, including charter schools, to provide mental health and behavioral health services to pupils on school campuses.

## BACKGROUND

Existing law:

- 1) Expresses the intent of the Legislature that the that the governing board of each school district and each county superintendent of schools maintain fundamental school health services at a level that is adequate to accomplish all of the following: preserve pupils' ability to learn, fulfill existing state requirements and policies regarding pupils' health, and contain health care costs through preventive programs and education. (Education Code § 49427)
- 2) Requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the district to employ properly certified persons for the work. (EC § 49400)
- 3) Expresses the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the provider.
  - a) Specifies that in-person contact between a health care provider and a patient is not required under the Medi-Cal program for services appropriately provided through telehealth, subject to reimbursement policies adopted by the department to compensate a licensed health care provider who provides health care services through telehealth that are otherwise reimbursed by the Medi-Cal program.

- b) For the purposes of payment for covered treatment or services provided through telehealth, prohibits the California Department of Health Care Services from limiting the type of setting where services are provided for the patient or by the healthcare provider.
- 4) Defines “telehealth” as the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers. (Business & Professions Code § 2290.5).
- 5) Defines “originating site” as a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates. (BPC § 2290.5)
- 6) Requires prior to the delivery of telehealth, the health care provider initiating the use of telehealth to inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. Requires the consent to be documented in the patient’s medical record.
- 7) Authorizes psychiatrists to receive fee-for-service Medi-Cal reimbursement for services provided through telehealth in accordance with the Medicaid state plan. (Welfare and Institutions Code § 14132.73)

## ANALYSIS

This bill requires the California Department of Education, in consultation with the State Department of Health Care Services and appropriate stakeholders with experience in telehealth, to develop guidelines on or before December 31, 2019, for the use of telehealth technology in public schools, including charter schools, to provide mental health and behavioral health services to pupils on school campuses. Specifically, this bill:

- 1) Requires the guidelines to include, but not be limited to, guidance on all of the following:
  - a) Qualifications of individuals authorized to provide assistance, within their scope of practice, to pupils in accessing mental health and behavioral health services via telehealth technology at a schoolsite.
  - b) Qualifications of individuals authorized to provide mental health and behavioral health services, within their scope of practice, to pupils via telehealth technology.

- c) Potential sources of funding for the purchase of the necessary equipment and technology infrastructure by schools to allow schools to provide telehealth services.
  - d) The ability of mental and behavioral health services providers to access reimbursement through the Medi-Cal program or other sources for services provided to pupils at schoolsites via telehealth technology.
  - e) The legal requirements for parental consent for the provision of mental health and behavioral health treatment of minors via telehealth technology.
  - f) Measures necessary to protect the security of data transmitted via telehealth technology.
  - g) Measures necessary to protect the privacy of pupil data pursuant to the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) and medical records pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).
  - h) Potential school district, county office of education, and charter school liability associated with the provision of telehealth services.
- 2) Requires the California Department of Education to the guidelines developed on its Internet Web site on or before December 31, 2019.
- 3) Defines “telehealth” to mean the mode of delivering health care services via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a pupil’s health care while the pupil is at a schoolsite and the health care provider is at a distant site.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “While schools are increasingly recognized as places where students should have access to mental health services, only a small number of campuses provide access to onsite mental health professionals.

The teletherapy model of mental healthcare is one of the fastest-growing platforms used today and has emerged as a valuable way to expand the capacity of schools to meet the mental health needs of children, particularly those who are low income, and living in medically underserved areas.

The use of teletherapy ensures that students have consistent access to a mental health counselor and gives schools the flexibility to provide students with crisis counseling when necessary. This model has been used successfully across the United States and, in some cases, drastically reduced behavioral problems on campus in addition to improving student academic outcomes.

Unfortunately, there are currently no guidelines for the use of telehealth technology in public schools to provide mental and behavioral health to students.”

- 2) ***Student Mental Health Policy Workgroup and Project Cal-Well.*** The State Superintendent of Public Instruction (SPI) convened the Student Mental Health Policy Workgroup (SMHPW) in 2012 to assess the mental health needs of California students and gather evidence to support policy recommendations to the SSPI and the California Legislature. The all-volunteer, unpaid work group is composed of teachers, school counselors, school social workers, school psychologists, school nurses, and school administrators, and state and county mental health professionals. This diverse group has used its combined expertise to develop policy recommendations related to mental health training for educators, youth suicide, student safety, and other mental health-related issues. In addition to its work in providing policy recommendations, the SMHPW now serves as the State Management Team for Project Cal-Well, a five-year federal grant program which serves to foster collaboration between the California Department of Education (CDE) and local educational agencies to address critical mental health needs of California's kindergarten through twelfth-grade students. Its policy recommendations include “recommending that the SPI encourage local agencies to work together to develop comprehensive school-based mental health programs. Working together as a team, school staff, school and district boards, county offices of education, and community agencies can be more effective in providing needed assistance to students and their families to support student mental health.” Examples include:
  - a) Comprehensive partnerships and collaborative teams need to be developed at both the school and district level to support student mental health needs and ensure that all students receive the care they need. Multi-tiered systems that include health care plans and health care providers should be part of this system.
  - b) School districts need to establish collaboration between county mental health programs and county mental health plans and providers, enabling schools to evaluate all children demonstrating behaviors that indicate likely mental health issues.
  - c) Schools and districts are encouraged to build collaborative partnerships with families and communities to address the mental health needs of students as a key strategy in the continuous improvement process.
- 3) ***Incidence of mental health and behavioral health issues for children and youth.*** A 2014 UCLA Policy Brief notes that nearly half of all Americans will need mental health treatment sometime during their lifetimes, with initial symptoms frequently occurring in childhood or adolescence. According to a report by the American Institutes for Research (AIR), *Mental Health Needs of Children and Youth*, up to 20 percent of children in the United States experience a mental, emotional, or behavioral health disorder every year. The most prevalent mental health disorder in children and youth is attention deficit hyperactivity disorder (ADHD), followed by depression, behavioral or conduct

problems, anxiety, substance use disorders, Autism spectrum disorders, and Tourette syndrome. In many cases, these conditions occur together, which can complicate identification and treatment.

- 4) **California lags in providing social-emotional support to pupils.** According to California Department of Education (CDE) data for 2016-17, there were 5,932 school psychologists and 687 social workers employed in California schools. Further, 29 percent of California school districts have no counseling programs at all. The ratio of students per counselor in this state averages 945 to 1, compared to the national average of 477 to 1, ranking California last in the nation. As of 2016-17, there were only 2,630 credential school nurses, but there are more than 10,000 public K-12 schools in California.
- 5) **Barriers to seeking treatment for mental and behavioral health disorders.** As noted by the Assembly Health Committee analysis and the Assembly Education Committee analysis, “studies cite a lack of insurance coverage as one of the barriers to children and youth receiving mental health services. Additional barriers to accessing mental health services include parents with limited English proficiency – 88.6 % of children whose parents had limited English proficiency did not receive any mental health treatment compared to 66.6 % of children with English proficient parents. Other barriers include the complexity of the care system, the inadequate linguistic capacity of existing professional services and resources, as well as the stigmas and cultural barriers to recognizing and seeking treatment for mental health problems.”
- 6) **Telehealth.** According to the Assembly Health Committee analysis, Access to providers and health care services is an ongoing concern among stakeholders and policymakers throughout the state. In an effort to ensure quality services are accessible to patients, health reform policies have focused on innovative methods, such as telehealth, to deliver care. Telehealth uses telecommunication tools and technologies to connect providers to patients who may otherwise have limited access to care. In doing so, it provides a means of delivering care and services, including diagnosis, treatment, and patient education. The California HealthCare Foundation reports that health plans, providers, and information technology vendors are currently using telehealth applications to increase quality of care, reduce costs, and increase access for the underserved, and that studies have demonstrated telehealth services have improved outcomes and continuity of care for patients, particularly in rural settings. The National Association of School Nurses (NASN) suggests that telehealth solutions may greatly benefit a school system by providing the ability to link a student with a distant healthcare official. This could address the special needs of individual students whether they are suffering from a chronic health condition or needing increased access to behavioral health services, particularly for those students living in rural areas. It notes that telehealth services have the capacity to connect a student with a psychiatrist or behavioral specialist to deal with issues relating to a chronic behavioral condition or a recent loss or trauma. Students would receive treatment without taking time away from school. However, it notes that these technologies cannot replace the care coming directly from a school nurse. The NASN position statement on The Use of Telehealth in Schools states that “telehealth technology

may be used to augment school health services but not replace in-person health care provided by the school nurse.”

- 7) ***Related and previous legislation.*** AB 2022 (Chu, 2018) would require a school of a school district or county office of education and a charter school shall notify pupils and parents or guardians of pupils no less than twice during the school year how to initiate access to available pupil mental health services on campus or in the community, or both. AB 2022 has not been heard in its current form and is pending referral in the Senate Rules Committee.

AB 2471 (Thurmond, 2018) would require the transfer of funds from the Youth, Education, Prevention, Early Intervention and Treatment Account established through the passage of the Control, Regulate and Tax Adult Use of Marijuana Act to establish a grant program which would allow schools to provide in-school support services to pupils. AB 2471 was held in the Assembly Appropriations Committee.

AB 2498 (Eggman, 2018) would the California Department of Education (CDE) to develop a competitive grant application and provide a multiyear grant award to one school district in each of the counties of Alameda, Riverside, San Benito, San Joaquin, and Shasta, to fund a social worker at each eligible school within the school district for the 2020-21 fiscal year through to the 2024-25 fiscal year. AB 2498 was held in the Assembly Appropriations Committee.

AB 580 (O'Donnell, 2015-16 Session) would have required the California Department of Education to develop model referral protocols for voluntary use by schools to address the appropriate and timely referral by school staff of students with mental health concerns. This bill was vetoed by the Governor, who stated:

***“This bill requires the California Department of Education to develop model referral protocols to address the appropriate and timely referral by school staff of students with mental health concerns.***

***California does not currently have specific model referral protocols for addressing student mental health as outlined by this bill. However, the California Department of Education recently received a grant from the federal Department of Health and Human Services, Substance Abuse and Mental Health Services Administration to identify and address critical student and family mental health needs.***

***It's premature to impose an additional and overly prescriptive requirement until the current efforts are completed and we can strategically target resources to best address student mental health.”***

AB 415 (Logue, Chapter 547, Statutes of 2011) establishes the Telehealth Advancement Act to revise and update existing law to facilitate the advancement

of telehealth as a service delivery mode in managed care and the Medi-Cal program.

**SUPPORT**

California Academy of Family Physicians  
Children's Specialty Care Coalition

**OPPOSITION**

None received

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