

california legislature—2019–20 regular session

ASSEMBLY BILL

No. 2668

**Introduced by Assembly Members Quirk-Silva and Weber
(Coauthor: Assembly Member Nazarian)**

February 20, 2020

An act to add Article 3 (commencing with Section 49440) to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, relating to pupil health.

legislative counsel's digest

AB 2668, as introduced, Quirk-Silva. Integrated School-Based Behavioral Health Partnership Program.

Existing law requires the governing board of any school district to give diligent care to the health and physical development of pupils and authorizes the governing board of a school district to employ properly certified persons for the work.

The School-Based Early Mental Health Intervention and Prevention Services for Children Act of 1991 authorizes the Director of Health Care Services, in consultation with the Superintendent of Public Instruction, to award matching grants to local educational agencies to pay the state share of the costs of providing school-based early mental health intervention and prevention services to eligible pupils at schoolsites of eligible pupils, subject to the availability of funding each year.

Existing law establishes the Mental Health Student Services Act as a mental health partnership competitive grant program for the purpose of establishing mental health partnerships between a county's mental health or behavioral health departments and school districts, charter

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schools, and the county office of education within the county, as provided.

This bill would establish the Integrated School-Based Behavioral Health Partnership Program to provide early intervention for, and access to, behavioral health services for pupils. The bill would authorize a county behavioral health agency and the governing board or governing body of a local educational agency to agree to collaborate on and implement an integrated school-based behavioral health partnership program and to develop a memorandum of understanding outlining the requirements for the partnership program. The bill would require a county behavioral health agency to provide one or more behavioral health professionals that meet specified licensing requirements to serve pupils with serious emotional disturbances or substance use disorders, or who are at risk of developing a serious behavioral health condition. The bill would require a local educational agency to provide school-based locations, including space at schools, appropriate for the delivery of behavioral health services, and would additionally authorize these services to be provided at locations that are not at the school-based location, for purposes of accommodating the individual needs of a pupil. The bill would establish processes for delivering services and would specify the types of services that may be provided pursuant to the partnership program. The bill would provide processes and requirements for serving pupils with private insurance, including requirements related to reimbursement for services by private insurers. The bill would require the Department of Managed Health Care to have trained staff available to address any disputes arising from the partnership program and to create a workgroup with specified membership to recommend policies to expedite payments to county behavioral health agencies serving privately insured pupils under the partnership program. The bill would require the partnership program to annually report specified information to the State Department of Education, the State Department of Health Care Services, the Mental Health Services Oversight and Accountability Commission, and the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) In any given year, the percentage of young people with
2 behavioral health disorders is estimated to be between 14 and 20
3 percent.

4 (b) One-half of all mental illness develops by 14 years of age
5 and three quarters by 24 years of age. Early intervention and
6 prevention of behavioral health conditions are critical to the success
7 of an individual's health, educational goals, and social
8 relationships.

9 (c) Pupils with emotional disturbances have the highest increase
10 in absenteeism and dropout rates when compared to any other
11 disability, according to studies.

12 (d) In 2017, a child in the United States was 10.1 times more
13 likely to be seen by an out-of-network provider than a primary
14 care office visit, which is more than twice the disparity seen for
15 adults, according to a Milliman report.

16 (e) Under mental health parity, services treating behavioral
17 health conditions at the onset to prevent these conditions from
18 becoming more serious should be part of every health plan's
19 benefits. Because of the importance of early intervention for
20 children, private health plans do or should cover these services for
21 children.

22 (f) Schools have been identified as a crucial place to provide
23 behavioral health services and improve access to services for
24 pupils, including for pupils in underserved communities, but also
25 for pupils who are privately insured.

26 SEC. 2. Article 3 (commencing with Section 49440) is added
27 to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education
28 Code, to read:

29

30 Article 3. Integrated School-Based Behavioral Health
31 Partnership Program

32

33 49440. For purposes of this article, the following definitions
34 apply:

35 (a) "Local educational agency" means a school district, county
36 office of education, or charter school.

37 (b) "Partnership program" means an integrated school-based
38 behavioral health partnership program established by a county
39 behavioral health agency and the governing board or governing
40 body of a local educational agency pursuant to this article.

Although an agreement or memorandum of understanding will be developed between a local educational agency and county behavioral health agency, the partnership may include other entities such as local community-based organizations contracted with county behavioral health agencies.

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1 49440.1. The Integrated School-Based Behavioral Health
2 Partnership Program is hereby established to provide early
3 intervention for, and access to, behavioral health services for pupils
4 with serious emotional disturbances or substance use disorders, or
5 who are at risk of developing a serious behavioral health condition.

6 49440.2. A county behavioral health agency and the governing
7 board or governing body of a local educational agency may agree
8 to collaborate on and implement an integrated school-based
9 behavioral health partnership program pursuant to this article, and
10 may develop a memorandum of understanding outlining the
11 requirements for the partnership program, as provided in this
12 article. Multiple local educational agencies within a single county
13 may join to form a partnership program with the county behavioral
14 health agency. The county behavioral health agency and the local
15 educational agency are encouraged, when appropriate, to formalize
16 the memorandum of understanding through an organizational
17 provider arrangement, as defined in Section 1810.231 of Title 9
18 of the California Code of Regulations, or any successor regulation.

19 49440.3. (a) To support services provided under the partnership
20 program, the local educational agency may use funding apportioned
21 pursuant to the local control funding formula.

22 (b) To support services provided under the partnership program,
23 the county behavioral health agency may use funding apportioned
24 pursuant to the Mental Health Services Act, enacted by Proposition
25 63 at the November 2, 2004, statewide general election, as
26 amended, consistent with an existing authorized use of that funding,
27 or other county funds.

28 (c) The county behavioral health agency and local educational
29 agency shall develop a plan of financial participation that outlines
30 the process for leveraging county behavioral health and
31 school-based funding to provide integrated behavioral health
32 services to pupils.

33 49440.4. (a) (1) The county behavioral health agency shall
34 designate and provide, through its own staff or through its
network of contracted community-based organizations, one or more
behavioral health professionals
35 that meet the licensing requirements in subdivision (b) to serve
36 pupils with serious emotional disturbances or substance use
37 disorders, or who are at risk of developing a serious behavioral
38 health condition, pursuant to the partnership program.

1 (2) “At risk of developing a serious behavioral health condition”
2 shall be defined, for purposes of this article, by the county
3 behavioral health agency and the local educational agency.

4 (b) A behavioral health professional who provides services
5 pursuant to a partnership program shall hold an active license with
6 one of the following mental health classifications:

7 (1) A licensed clinical social worker or registered associate
8 social worker as described in Section 4996.18 of the Business and
9 Professions Code.

10 (2) A licensed marriage and family therapist (MFT) or MFT
11 associate, as described in subdivision (b) of Section 4980.03 of
12 the Business and Professions Code.

13 (3) A licensed professional clinical counselor (LPCC) or LPCC
14 associate, as described in subdivision (f) of Section 4999.12 of the
15 Business and Professions Code.

16 (4) A licensed clinical psychologist or psychological intern.

17 (5) A licensed psychiatrist or psychiatric resident.

18 (6) A licensed psychiatric mental health nurse practitioner.

19 (c) A behavioral health professional who meets the licensing
20 requirements of subdivision (b) may supervise other trained county
21 behavioral health professionals, such as peer specialists,
22 participating in the partnership program.

23 49440.5. (a) The local educational agency shall provide
24 school-based locations, including space at schools, appropriate for
25 the delivery of behavioral health services.

26 (b) The county behavioral health agency and participating contracted community-based
27 organizations, as appropriate, shall collaborate with
28 the local educational agency, and community-based organizations, as appropriate, to
29 establish hours of service at

30 mutually agreed upon school-based locations or a process for
31 ensuring timely interventions when needed, or both. Additional
32 service delivery models that address local needs may be developed
33 under the partnership program.

34 (c) The choice of setting for the delivery of behavioral health
35 services shall be made in consultation with the pupil and the pupil’s
36 parent or guardian and shall include consideration of the specified
37 needs expressed by the pupil and the pupil’s parent or guardian.
38 Behavioral health services may be provided at locations that are
39 not at the school-based location for purposes of accommodating
40 the individual needs of a pupil.

(d) If necessary and appropriate, as determined in consultation
with the parent or guardian of the pupil being served and in

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1 compliance with state and federal law protecting the pupil’s right
2 to privacy and parental rights, Medi-Cal covered behavioral health
3 services may continue to be delivered at the school-based location
4 beyond the delivery of brief initial interventions.

5 49440.6. (a) The local educational agency, ~~and~~ county
6 behavioral health agency, and participating contracted
community-based organizations shall jointly develop a referral
process

7 to support educators and school administrators in making
8 appropriate referrals to the designated county behavioral health
9 network professional.

10 (b) To support educators and school administrators in making
11 appropriate referrals, the county behavioral health agency, or
participating contracted ~~a local community-based organization, or~~
~~other individuals with subject matter expertise~~ shall

12 provide mental health first aid and trauma-informed trainings to
13 school personnel employed by the local educational agency. The
14 local educational agency shall determine the appropriate school
15 personnel to receive the training.

16 49440.7. (a) To ensure timely access to behavioral health
17 interventions at the earliest onset of a behavioral health condition,
18 the designated county behavioral health professional shall provide
19 brief initial interventions when necessary for all referred pupils,
20 including uninsured and privately insured pupils, in addition to
21 Medi-Cal beneficiaries.

22 (b) Brief initial interventions, for purposes of this article, consist
23 of Medi-Cal covered behavioral health services that are essential
24 health benefits, as defined in state and federal law, including
25 Section 1300.67.005 of Title 28 of the California Code of
26 Regulations, or any successor regulation, and the federal Paul
27 Wellstone and Pete Domenici Mental Health Parity and Addiction
28 Equity Act of 2008 (Public Law 110-343), and include, but are
29 not limited to, mental health and substance use disorder services
30 specified in California’s essential health benefits benchmark plan.

31 49440.8. (a) (1) The array of behavioral health services
32 provided pursuant to the partnership program shall be primarily
33 Medi-Cal covered mental health services, and shall include
34 prevention, intervention, and, if necessary, intensive intervention
35 services.

36 (2) “Intervention” and “intensive intervention services,” as used
37 in paragraph (1), includes select Medi-Cal specialty mental health
38 services that would be appropriately provided at the school-based
39 location, such as assessments, plan developments, therapy,

1 rehabilitation, collateral services, medication support services,
2 therapeutic behavioral services, and intensive care coordination.

3 (3) The partnership program shall incorporate any changes to
4 the “medical necessity” criteria adopted by the Healthy California
5 for All Commission and approved by the federal Centers for
6 Medicare and Medicaid Services.

7 (b) At the discretion of the partnership program, services
8 developed using funding from the Mental Health Services Act,
9 enacted by Proposition 63 at the November 2, 2004, statewide
10 general election, as amended, that are appropriate for a
11 school-based setting may be provided under the partnership
12 program.

13 (c) Prevention services provided by the partnership program
14 may include, but are not limited to, youth mental health first aid,
15 suicide prevention and response training, trauma-informed
16 practices, self-care for educators, parent training and support,
17 critical incident stress management, mindfulness training, and
18 screening and triage for crises.

19 (d) Behavioral health interventions provided to pupils through
20 the partnership program shall comply with all applicable state and
21 federal laws protecting a pupil’s right to privacy and parental rights.

22 49440.9. (a) The local educational agency, county
23 behavioral health agency, and participating community-based
organizations shall develop a process to collect

24 information on the health insurance carrier for each pupil, with
25 the permission of the pupil’s parent or guardian, to allow the
26 partnership to seek reimbursement for behavioral health services
27 provided to the pupil, when applicable.

The process shall include informing participating
contracted community-based organizations regarding which pupils referred for services are
privately insured. Some participating community-based organizations may also be contracted
providers for privately insured plans and may be able to serve referred pupils under a contract with
the private insurance company.

28 (b) (1) For privately insured pupils, the partnership program
29 shall contact the private plan upon initiating the brief initial
30 intervention services described in Section 49440.7 to facilitate a
31 referral to the private plan’s network providers, as appropriate and
32 consistent with professionally recognized standards of practice,
33 and in consultation with the pupil and their parent or guardian, in
34 compliance with all applicable state and federal laws protecting a
35 pupil’s right to privacy and parental rights.

36 (2) If the private plan is unable to meet timely access standards
37 for care delivery required by state law, including Section
38 1300.67.2.2 of Title 28 of the California Code of Regulations, or
39 any successor regulation, the designated county behavioral health

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1 professional shall continue and complete the brief initial
2 intervention services.

3 (3) The private plan shall reimburse services provided by the
4 designated county behavioral health ~~or community-based~~
network professional to pupils at the

5 rate required by state and federal law for noncontracted providers.

6 (4) The private plan shall meet requirements for the timely
7 payment of claims for a contracted provider. If the private plan
8 disputes the services provided or the amount, the private plan may
9 submit a dispute to the Department of Managed Health Care, but
10 the private plan shall comply with requirements for timely payment,
11 including for services or amounts in dispute. The Department of
12 Managed Health Care shall have trained staff available to address
13 any disputes arising from the partnership program.

14 (c) If necessary and appropriate, as determined in consultation
15 with the parent or guardian of the pupil being served and in
16 compliance with all applicable state and federal laws protecting a
17 pupil's right to privacy and parental rights, the following shall
18 occur:

19 (1) If the private plan can meet timely access standards for care
20 delivery, the designated behavioral health professional shall make
21 a referral to the private plan provider.

22 (2) If the private plan cannot meet timely access standards for
23 care delivery, the private plan and the county behavioral health
24 agency shall negotiate a single case agreement to provide
25 behavioral health services beyond the brief initial intervention
26 services to determine reimbursement for additional services. If an
27 agreement cannot be reached, the private plan shall report to the
28 Department of Managed Health Care how it will ensure the pupil
29 receives the necessary services in compliance with state and federal
30 laws, including the federal Paul Wellstone and Pete Domenici
31 Mental Health Parity and Addiction Equity Act of 2008 (Public
32 Law 110-343).

33 (d) Private plans are encouraged to contract with county
34 behavioral health agencies and participating
community based organizations to serve pupils
who are receiving

35 services from the partnership program.

36 (e) The Department of Managed Health Care shall create a
37 workgroup to recommend policies to expedite payments to county
38 behavioral health agencies serving privately insured pupils under
39 the partnership program. The workgroup shall consist of, but not
40 be limited to, representatives from the County Behavioral Health

Commented [AP1]: This is the amendment that we will be discussing with our membership.

1 Directors Association, local educational agencies, the California
2 Association of Health Plans, and consumer groups representing
3 children.

4 49441. A partnership program shall annually report to the
5 department, the State Department of Health Care Services, the
6 Mental Health Services Oversight and Accountability Commission,
7 and the Legislature, in compliance with Section 9795 of the
8 Government Code, all of the following:

9 (a) A brief description of the partnership program, including
10 the service delivery model.

11 (b) The financial contribution made by the county behavioral
12 health agency and local educational agency participating in the
13 partnership program.

14 (c) The definition the partnership program uses to identify pupils
15 “at risk of developing a serious behavioral health condition,”
16 pursuant to paragraph (2) of subdivision (a) of Section 49440.4.

17 (d) The number of school-based locations involved in the
18 partnership program.

19 (e) The number of pupils served in the last year.

20 (f) The number of pupils who receive school-based services
21 beyond the brief initial intervention described in Section 49440.7.

22 (g) (1) The number of pupils who participate in the program
23 who report functional improvement, as measured by the Child and
24 Adolescent Needs and Strengths (CANS) assessment tool, broken
25 down by those pupils who receive only the brief initial intervention
26 described in Section 49440.7 and those that receive additional
27 school-based services.

28 (2) Only the relevant components of the CANS assessment tool,
29 as determined by the treating designated county behavioral health
30 professional, shall be required to be completed for non-Medi-Cal
31 beneficiaries who receive brief initial interventions.

32 (h) The number of pupils who are identified with behavioral
33 health problems who report a decrease in behavioral health
34 symptoms between the start of the partnership program and after
35 completing the brief initial intervention described in Section
36 49440.7.

37 (i) The number of pupils participating in the partnership program
38 who are diagnosed with mental health disorders, including, but
39 not limited to, conduct disorder, oppositional defiant disorder, or
40 disruptive behavior disorder, when they begin the program who

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1 report improvement after completing the brief initial intervention
2 described in Section 49440.7.

3 (j) The number of pupils who are identified with behavioral
4 health problems who report a decrease in behavioral health
5 symptoms between the start of the partnership program and after
6 completing services beyond the brief initial intervention described
7 in Section 49440.7.

8 (k) The percentage of pupils and parents or guardians that report
9 satisfaction with the services provided through the partnership
10 program.

11 49441.1. (a) (1) The requirements of this article are separate
12 from the requirements that apply to pupils with individualized
13 education programs, pursuant to Chapter 4 (commencing with
14 Section 56300) of Part 30, and requirements related to special
15 education local plan areas.

16 (2) The partnership program shall establish a process that
17 distinguishes the local policies, responsibilities, and interventions
18 that are required through individualized education programs and
19 relating to special education local plan areas. This process shall
20 clearly distinguish through guidance and policies which pupils
21 receive services as required by individualized education programs
22 and special education local plan areas, and which pupils have been
23 identified as needing services through the partnership program.

24 (b) (1) This article does not replace current county requirements
25 related to crisis intervention protocols and the partnership program
26 shall not provide crisis interventions. The county behavioral health
27 agency and local educational agency shall establish processes for
28 timely interventions that identify nonurgent, urgent, and
29 crisis-related circumstances. The process shall include guidelines
30 for when county crisis intervention is needed instead of timely
31 interventions related to urgent or nonurgent needs.

32 (2) The partnership program shall not create a siloed delivery
33 system. The partnership program shall establish a process to
34 leverage community-based services and other resources, and a
35 process to identify local resources related to crisis intervention
36 protocols and services.

O