

2023 Regular Session

HOUSE BILL NO. 652 (Substitute for House Bill No. 599 by Representative Dustin Miller)

BY REPRESENTATIVE DUSTIN MILLER

NURSES: Authorizes certain healthcare professionals to certify the existence of an illness

1 AN ACT

2 To amend and reenact R.S. 17:500(B)(1), 500.2(A)(2)(introductory paragraph) and (c),
3 (D)(1)(b), and E(1)(a) and (2)(a) through (c) and (e), 1201(A)(2), 1202(A)(1)(b) and
4 (2)(introductory paragraph) and (d), (D)(1)(b), and (E)(1)(a) and (c), (2)(a) through
5 (c), and (3), 1206(A)(1), and 1206.2(D)(1)(b) and (E)(1)(a) and (c), (2)(a) through
6 (c), and (3) and to enact R.S. 17:1200(D), relative to signature authority for certain
7 healthcare professionals; to provide for sick leave procedures for teachers, school bus
8 operators, and teaching staff; to provide for definitions; and to provide for related
9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 17:500(B)(1), 500.2(A)(2)(introductory paragraph) and (c),
12 (D)(1)(b), and E(1)(a) and (2)(a) through (c) and (e), 1201(A)(2), 1202(A)(1)(b) and
13 (2)(introductory paragraph) and (d), (D)(1)(b), and (E)(1)(a) and (c), (2)(a) through (c), and
14 (3), 1206(A)(1), and 1206.2(D)(1)(b) and (E)(1)(a) and (c), (2)(a) through (c), and (3) are
15 hereby amended and reenacted and R.S. 17:1200(D) is hereby enacted to read as follows:

16 §500. Sick leave for school bus operators; minimum pay for substitute

17 * * *

18 B.(1) All school bus operators employed by the parish and the city school
19 boards of this state shall be entitled to and shall be allowed a minimum of ten days
20 absence per school year because of personal illness or because of other emergencies

1 or special circumstances, without loss of pay. Such sick leave when not used in any
 2 year shall be accumulated to the credit of the school bus operator without limitation.
 3 When a school bus operator is absent for six or more consecutive days because of
 4 personal illness, he shall be required to present a certificate from a clinician
 5 certifying such illness. As used in this Subpart "clinician" means a physician,
 6 physician assistant providing ~~health care~~ healthcare services in accordance with R.S.
 7 37:1360.28, or ~~nurse practitioner~~ an advanced practice registered nurse providing
 8 ~~health care~~ healthcare services in accordance with R.S. 37:913 ~~certifying such~~
 9 ~~illness.~~ The parish and city school boards are authorized to adopt such rules and
 10 regulations as are necessary relative to the use of such sick leave, either current or
 11 accumulated, for emergencies or special circumstances. The parish and city school
 12 boards may grant additional sick leave, without loss of pay, or with such reduction
 13 of pay as they may establish and fix.

14 * * *

15 §500.2. School bus operators; extended sick leave

16 A.

17 * * *

18 (2) As used in this Section, the following terms ~~shall~~ have the following
 19 meanings:

20 * * *

21 (c) "Medical necessity" means the result of catastrophic illness or injury, a
 22 ~~life threatening~~ life-threatening condition, a chronic condition, or an incapacitating
 23 condition, as certified by a ~~physician~~ clinician, of a school bus operator or an
 24 immediate family member.

25 * * *

26 D.(1) No school bus operator may undertake additional gainful employment
 27 while on extended sick leave, unless all of the following conditions are met:

28 * * *

1 (b) The ~~physician~~ clinician who certifies the medical necessity of the leave
2 indicates that such part-time work does not impair the purpose for which the
3 extended leave is required.

4 * * *

5 E.(1)(a) On every occasion that a school bus operator uses extended sick
6 leave, a statement from a ~~licensed physician~~ clinician certifying that it is a medical
7 necessity for the school bus operator to be absent for at least ten consecutive work
8 days shall be presented prior to the extension of such leave.

9 (2)(a) If the board or superintendent, upon review of the application,
10 questions the validity or accuracy of the certification, the board or superintendent,
11 as the case may be, referred to in this Paragraph as the "challenging party", may
12 require the school bus operator or the immediate family member, as a condition for
13 continued extended leave, to be examined by a ~~licensed physician~~ clinician selected
14 by the challenging party. In such a case, the employer shall pay all costs of the
15 examination and any tests determined to be necessary. If the ~~physician~~ clinician
16 selected by the challenging party finds medical necessity, the leave shall be granted.

17 (b) If the ~~physician~~ clinician selected by the challenging party disagrees with
18 the certification of the ~~physician~~ clinician selected by the school bus operator, then
19 the challenging party may require the school bus operator or the immediate family
20 member, as a condition for continued extension of sick leave, to be examined by a
21 third ~~licensed~~ appropriate ~~physician~~ clinician whose name appears next in the
22 rotation of ~~physicians~~ clinicians on a list established by the local medical society for
23 such purpose and maintained by the challenging party. All costs of an examination
24 and any required tests by a third ~~doctor~~ clinician shall be paid by the employer. The
25 opinion of the third ~~physician~~ clinician shall be determinative of the issue.

26 (c) The opinion of all ~~physicians~~ clinicians consulted as provided in this
27 Paragraph shall be submitted to the challenging party in the form of a sworn
28 statement which shall be subject to the provisions of R.S. 14:125.

29 * * *

1 (e) All information contained in any statement from a ~~physician~~ clinician
2 shall be confidential and shall not be subject to the public records law.

3 * * *

4 §1200. Definitions

5 * * *

6 D. As used in this Subpart, "clinician" means a licensed physician, physician
7 assistant providing healthcare services in accordance with R.S. 37:1360.28, or an
8 advanced practice registered nurse providing healthcare services in accordance with
9 R.S. 37:913.

10 §1201. Amount of sick leave; reimbursement; injury on the job

11 A.

12 * * *

13 (2) When a member of the teaching staff is absent for six or more
14 consecutive days because of personal illness, he shall be required to present a
15 certificate from a clinician ~~physician, physician assistant providing health care~~
16 ~~services in accordance with R.S. 37:1360.28, or nurse practitioner providing health~~
17 ~~care services in accordance with R.S. 37:913 certifying such illness.~~ Each parish and
18 city school board may adopt such rules and regulations as are necessary relative to
19 the use of such sick leave, either current or accumulated, for emergencies or special
20 circumstances. The parish and city school boards may grant additional sick leave,
21 without loss of pay, or with such reduction of pay as they may establish and fix.

22 * * *

23 §1202. Teachers; extended sick leave

24 A.(1) Every city, parish, and other local public school board shall permit:

25 * * *

26 (b) Each teacher granted maternity or adoptive leave in accordance with the
27 provisions of R.S. 17:48 or 1211 and who has no remaining sick leave balance
28 available to take in the manner provided in this Section up to thirty days of additional
29 extended sick leave in each six-year period of employment for personal illness

1 relating to pregnancy, illness of an infant, or for required medical visits certified by
2 a ~~physician~~ clinician as relating to infant or maternal health.

3 (2) As used in this Section, the following terms ~~shall~~ have the following
4 meanings:

5 * * *

6 (d) "Medical necessity" means the result of catastrophic illness or injury, a
7 life threatening condition, a chronic condition, or an incapacitating condition, as
8 certified by a ~~physician~~ clinician, of a teacher or an immediate family member.

9 * * *

10 D.(1) No teacher may undertake additional gainful employment while on
11 extended sick leave, unless all of the following conditions are met:

12 * * *

13 (b) The ~~physician~~ clinician who certifies the medical necessity of the leave
14 indicates that such part-time work does not impair the purpose for which the
15 extended leave is required.

16 * * *

17 E.(1)(a) On every occasion that a teacher uses extended sick leave, a
18 statement from a ~~licensed physician~~ clinician certifying that it is for personal illness
19 relating to pregnancy, illness of an infant, or for required medical visits related to
20 infant or maternal health or that it is a medical necessity shall be presented prior to
21 the extension of such leave.

22 (c) The ~~physician~~ clinician statement required by this Paragraph may be
23 presented and the extended sick leave may be requested subsequent to the teacher's
24 return to service. In such a case, the extended leave shall be granted for all days for
25 which such leave is requested and the required documentation is presented provided
26 the leave is requested and the required documentation is presented within three days
27 after the teacher returns to service.

28 (2)(a) If the board or superintendent, upon review of the application,
29 questions the validity or accuracy of the certification, the board or superintendent,

1 as the case may be, referred to in this Paragraph as the "challenging party", may
 2 require the teacher or the immediate family member, as a condition for continued
 3 extended leave, to be examined by a ~~licensed physician~~ clinician selected by the
 4 challenging party. In such a case, the employer shall pay all costs of the examination
 5 and any tests determined to be necessary. If the ~~physician~~ clinician selected by the
 6 challenging party finds medical necessity, the leave shall be granted.

7 (b) If the ~~physician~~ clinician selected by the challenging party disagrees
 8 with the certification of the ~~physician~~ clinician selected by the teacher or the
 9 immediate family member, then the challenging party may require the teacher or the
 10 immediate family member, as a condition for continued extension of sick leave, to
 11 be examined by a third ~~licensed~~ appropriate ~~physician~~ clinician whose name appears
 12 next in the rotation of ~~physicians~~ clinicians on a list established by the local medical
 13 society for such purpose and maintained by the challenging party. All costs of an
 14 examination and any required tests by a third ~~doctor~~ clinician shall be paid by the
 15 employer. The opinion of the third ~~physician~~ clinician shall be determinative of the
 16 issue.

17 (c) The opinion of all ~~physicians~~ clinicians consulted as provided in this
 18 Paragraph shall be submitted to the challenging party in the form of a sworn
 19 statement which shall be subject to the provisions of R.S. 14:125.

20 * * *

21 (3) All information contained in any statement from a ~~physician~~ clinician
 22 shall be confidential and shall not be subject to the public records law.

23 * * *

24 §1206. Ten days sick leave for employees; cumulation of unused sick leave

25 A.(1) All such employees, as defined in R.S. 17:1205, shall be entitled to and
 26 shall be allowed a minimum of ten days leave of absence as sick leave or in case of
 27 other emergencies or special circumstances, per school year, without loss of pay.
 28 Any portion of such sick leave not used in any year shall be accumulated to the credit
 29 of the employee without limitation. When such employee is absent for six or more

1 consecutive days because of personal illness, he shall be required to present a
 2 certificate from a clinician. ~~physician, physician assistant providing health care~~
 3 ~~services in accordance with R.S. 37:1360.28, or nurse practitioner providing health~~
 4 ~~care services in accordance with R.S. 37:913 certifying such illness.~~ Each parish and
 5 city school board may adopt such rules and regulations as are necessary relative to
 6 the use of such sick leave, either current or accumulated, for emergencies or special
 7 circumstances. The parish and city school boards may grant additional sick leave,
 8 without loss of pay, or with such reduction of pay as they may establish and fix.

9 * * *

10 §1206.2. Employees; extended sick leave

11 * * *

12 D.(1) No employee may undertake additional gainful employment while on
 13 extended sick leave, unless all of the following conditions are met:

14 * * *

15 (b) The ~~physician~~ clinician who certifies the medical necessity of the leave
 16 indicates that such part-time work does not impair the purpose for which the
 17 extended leave is required.

18 * * *

19 E.(1)(a) On every occasion when an employee uses extended sick leave, a
 20 statement from a ~~licensed physician~~ clinician certifying that it is a medical necessity
 21 for the employee to be absent for at least ten consecutive work days shall be
 22 presented prior to the extension of such leave.

23 * * *

24 (c) The ~~physician~~ clinician statement required by this Paragraph may be
 25 presented and the extended sick leave may be requested subsequent to the employee's
 26 return to service. In such a case, the extended leave shall be granted for all days for
 27 which such leave is requested and the required documentation is presented provided
 28 the leave is requested and the required documentation is presented within three days
 29 after the employee returns to service.

1 (2)(a) If the board or superintendent, upon review of the application,
 2 questions the validity or accuracy of the certification, the board or superintendent,
 3 as the case may be, referred to in this Paragraph as the "challenging party", may
 4 require the employee or the immediate family member, as a condition for continued
 5 extended leave, to be examined by a licensed ~~physician~~ clinician selected by the
 6 challenging party. In such a case, the employer shall pay all costs of the examination
 7 and any tests determined to be necessary. If the ~~physician~~ clinician selected by the
 8 challenging party finds medical necessity, the leave shall be granted.

9 (b) If the ~~physician~~ clinician selected by the challenging party disagrees with
 10 the certification of the ~~physician~~ clinician selected by the employee or the immediate
 11 family member, then the challenging party may require the employee or the
 12 immediate family member, as a condition for continued extension of sick leave, to
 13 be examined by a third ~~licensed~~ appropriate ~~physician~~ clinician whose name appears
 14 next in the rotation of ~~physicians~~ clinicians on a list established by the local medical
 15 society for such purpose and maintained by the challenging party. All costs of an
 16 examination and any required tests by a third ~~doctor~~ clinician shall be paid by the
 17 employer. The opinion of the third ~~physician~~ clinician shall be determinative of the
 18 issue.

19 (c) The opinion of all ~~physicians~~ clinicians consulted as provided in this
 20 Paragraph shall be submitted to the challenging party in the form of a sworn
 21 statement which shall be subject to the provisions of R.S. 14:125.

* * *

23 (3) All information contained in any statement from a ~~physician~~ clinician
 24 shall be confidential and shall not be subject to the public records law.

* * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 652 Reengrossed

2023 Regular Session

Dustin Miller

Abstract: Grants advanced practice registered nurses (APRN) and physician assistants (PA) the authority to certify the existence of an illness of teachers, teaching staff, and bus drivers for the purposes of leave and extended leave.

Present law requires a physician to certify the existence of an illness of a teacher, school bus driver, and teaching staff to use sick leave or extended sick leave.

Proposed law retains present law and adds APRNs and PAs to those authorized to certify the existence of an illness of a teacher, school bus driver, or teaching staff for the purpose of using sick leave or extended sick leave.

Present law provides a teacher, a teaching staff employee, or a school bus driver must provide obtain a certification of an illness in order to use ceratin sick leave. The school board or the superintendent may challenge a certification of illness and require the teacher, teaching staff employee, or school bus driver to be examined by a different physician. If the teacher, teaching staff employee, or school bus driver disagrees with the determination of the school board's or superintendent's chosen physician, the teacher, teaching staff employee, or school bus driver may compel an examination by a third physician.

Proposed law retains present law and authorizes that a certification or examination completed by a physician may also be completed by APRN or PA.

Proposed law defines "clinician" as a physician, APRN, or PA.

(Amends R.S. 17:500(B)(1), 500.2(A)(2)(intro. para.) and (c), (D)(1)(b), and E(1)(a) and (2)(a)-(c) and (e), 1201(A)(2), 1202(A)(1)(b) and (2)(intro. para.) and (d), (D)(1)(b), and (E)(1)(a) and (c), (2)(a)-(c), and (3), 1206(A)(1), and 1206.2(D)(1)(b) and (E)(1)(a) and (c), (2)(a)-(c), and (3); Adds R.S. 17:1200(D))