

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1625 Session of 2015

INTRODUCED BY BAKER, MURT, BISHOP, MILLARD, DAVIS, SONNEY, DUSH, WARD, WATSON, PHILLIPS-HILL, D. COSTA, WHEELAND, DRISCOLL, O'BRIEN, ROZZI, ROEBUCK, McNEILL, THOMAS, YOUNGBLOOD, SAYLOR, A. HARRIS, TALLMAN, FEE, JOZWIAK, KORTZ, ZIMMERMAN, JAMES, SCHWEYER, BENNINGHOFF, OBERLANDER, COHEN, GINGRICH, HAHN, FARRY, LAWRENCE, SCHEMEL, QUIGLEY, EVERETT, TOOHL, MACKENZIE AND DAWKINS, OCTOBER 15, 2015

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 26, 2015

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in school health services, further
6 providing for definitions and providing for education of
7 school employees in diabetes care and management, for
8 diabetes care in schools, for possession and use of diabetes
9 medication and monitoring equipment, for liability, for
10 coordinating, supervising or educating not considered
11 delegation and for diabetes care in nonpublic schools.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 1401 of the act of March 10, 1949
15 (P.L.30, No.14), known as the Public School Code of 1949, is
16 amended by adding clauses to read:

17 Section 1401. Definitions.--As used in this article--

18 * * *

19 (13) "Diabetes medical management plan" means a document

1 describing the medical orders or diabetes regimen developed and
2 signed by the student's health care practitioner and parent or
3 guardian.

4 (14) "Service agreement" means a student's section 504
5 service agreement pursuant to section 504 of the Rehabilitation
6 Act of 1973 (Public Law 93-112, 29 U.S.C. § 794) and 22 Pa. Code
7 Ch. 15 (relating to protected handicapped students).

8 (15) "Health care practitioner" means the term as defined
9 under section 103 of the act of July 19, 1979 (P.L.130, No.48),
10 known as the Health Care Facilities Act.

11 Section 2. The act is amended by adding sections to read:

12 Section 1414.3. Education of School Employes in Diabetes
13 Care and Management.--(a) Within one hundred twenty (120) days
14 of the effective date of this section, the Department of Health,
15 in coordination with the Department of Education, shall make
16 educational modules and guidelines for the instruction of school
17 employes in diabetes care and treatment available on its
18 publicly accessible Internet website. The educational modules
19 shall include instruction in a school entity's obligations under
20 22 Pa. Code § 12.41 (relating to student services) and its
21 responsibilities to comply with section 504 of the
22 Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 794)
23 and 22 Pa. Code Ch. 15 (relating to protected handicapped
24 students). At a minimum, the educational modules shall include
25 instruction in:

26 (1) An overview of all types of diabetes.

27 (2) Means of monitoring blood glucose.

28 (3) The symptoms and treatment for blood glucose levels
29 outside of target ranges as well as hypoglycemia, hyperglycemia
30 and other potential emergencies.

1 (4) Techniques on administering glucagon and insulin.

2 (b) The school nurse, in consultation with the chief school
3 administrator or a designee, may identify at least one school
4 employe who is not the school nurse and who does not need to be
5 a licensed health care practitioner in each school building
6 attended by a student with diabetes. If the school building
7 attended by a student with diabetes does not have a FULL-TIME <--
8 school nurse, the chief school administrator may, but is not
9 required to, consult with a THE school nurse in a different <--
10 ASSIGNED TO THAT school building to identify at least one school <--
11 employe in the school building. An identified employe shall
12 complete the annual educational modules outlined in subsection
13 (a) or annual education offered by a licensed health care
14 practitioner with expertise in the care of diabetes that
15 includes substantially the same information as outlined in
16 subsection (a).

17 (c) A school employe who is not a licensed health care
18 practitioner and who has successfully completed the education
19 modules under subsection (a) or annual education offered by a
20 licensed health care practitioner with expertise in the care of
21 diabetes that includes substantially the same information as
22 outlined in subsection (a) may be designated in a student's
23 service agreement to administer diabetes medications, use
24 monitoring equipment and provide other diabetes care. A school
25 entity may require the designated employe to complete the annual
26 educational modules or annual education from a licensed health
27 care practitioner, or both, in the administration of diabetes
28 medications, use of monitoring equipment and provision of other
29 diabetes care. Education provided to school employes shall be
30 coordinated by the chief school administrator or a designee.

1 School entities may include the education in the ~~continuing~~ <--
2 PROFESSIONAL education plan submitted by the school entity to <--
3 the Department of Education under section 1205.1.

4 (d) Notwithstanding any other statute or regulation
5 restricting the functions that may be performed by persons other
6 than licensed health care practitioners, school employes who
7 have completed the education requirements under this section may
8 perform diabetes care for students. School employes who are not
9 licensed health care practitioners shall only be authorized to
10 administer diabetes medications via injection or infusion
11 following annual education by a licensed health care
12 practitioner with expertise in the care of diabetes, and
13 following the school's receipt of written authorization from
14 both the student's health care practitioner and parent or
15 guardian that an educated school employe, who is not a licensed
16 health care practitioner, may administer specified medications.

17 (e) For purposes of this section, "school entity" means a
18 school district, intermediate unit, area vocational-technical
19 school, charter school or cyber charter school.

20 Section 1414.4. Diabetes Care in Schools.--(a) A parent or
21 guardian of a student with diabetes who desires that the student
22 receive diabetes-related care in a school setting shall provide
23 the school entity with written authorization for the care and
24 instructions from the student's health care practitioner,
25 consistent with the school entity's policies regarding the
26 provision of school health services. The required authorizations
27 may be submitted as part of a diabetes medical management plan.

28 (b) All diabetes-related care provided to students shall be
29 consistent with the school health program established by the
30 governing body of the school entity and any accommodations

1 outlined in a student's service agreement.

2 (c) A student's service agreement may require a school
3 entity to provide the driver of a school bus or school vehicle,
4 who provides transportation to a student with diabetes, with an
5 information sheet that:

6 (1) Identifies the student with diabetes.

7 (2) Identifies potential emergencies that may occur as a
8 result of the student's diabetes and the appropriate responses
9 to such emergencies.

10 (3) Provides the telephone number of a contact person in
11 case of an emergency involving the student with diabetes.

12 (d) For purposes of this section:

13 "School bus" means a school bus as defined in 75 Pa.C.S. §
14 102 (relating to definitions).

15 "School entity" means a school district, intermediate unit,
16 area vocational-technical school, charter school or cyber
17 charter school.

18 "School vehicle" means a school vehicle as defined in 75
19 Pa.C.S. § 102.

20 Section 1414.5. Possession and Use of Diabetes Medication
21 and Monitoring Equipment.--(a) A school entity shall require
22 the parent or guardian of a student with diabetes who desires
23 that the student possess and self-administer diabetes medication
24 and monitoring equipment in a school setting to provide the
25 following:

26 (1) A written statement from the student's health care
27 practitioner that provides the name of the drug, the dose, the
28 times when the medication is to be taken or the monitoring
29 equipment to be used, the specified time period for which the
30 medication or monitoring equipment is authorized to be used and

1 the diagnosis or reason the medicine or monitoring equipment is
2 needed. The student's health care practitioner shall indicate
3 the potential of any serious reaction to the medication that may
4 occur, as well as any necessary emergency response. The
5 student's health care practitioner shall state whether the
6 student is competent to self-administer the medication or
7 monitoring equipment and whether the student is able to practice
8 proper safety precautions for the handling and disposal of the
9 medication and monitoring equipment.

10 (2) A written request from the parent or guardian that the
11 school entity comply with the direction of the student's health
12 care practitioner. The parent's request shall include a
13 statement relieving the school entity or any school employe of
14 any responsibility for the prescribed medication or monitoring
15 equipment and acknowledging that the school entity bears no
16 responsibility for ensuring that the medication is taken by the
17 student and the monitoring equipment is used.

18 (3) A demonstration of competency by the student satisfying
19 the school nurse that the student is capable of self-
20 administration of the medication and use of the monitoring
21 equipment.

22 (4) A written acknowledgment by the student that the student
23 has received instruction from the student's health care
24 practitioner on proper safety precautions for the handling and
25 disposal of the medications and monitoring equipment. The
26 written acknowledgment shall also contain a provision stating
27 that the student will not allow other students to have access to
28 the medication and monitoring equipment and that the student
29 understands appropriate safeguards.

30 (b) A school entity may revoke or restrict a student's

1 privileges to possess or self-administer diabetes medication and
2 monitoring equipment due to noncompliance with school rules and
3 provisions of a student's service agreement or due to
4 demonstrated unwillingness or inability of the student to
5 safeguard the medication and monitoring equipment from access by
6 other students.

7 (c) A school entity that restricts a student from possessing
8 and self-administering diabetes medication and monitoring
9 equipment pursuant to subsection (b) shall ensure that the
10 diabetes medication or monitoring equipment is appropriately
11 stored in a readily accessible place in the school building
12 attended by the student. The school entity shall notify
13 appropriate school employes regarding the location of the
14 diabetes medication and monitoring equipment and means to access
15 them.

16 (d) For purposes of this section, "school entity" means a
17 school district, intermediate unit, area vocational-technical
18 school, charter school or cyber charter school.

19 Section 1414.6. Liability.--Nothing in sections 1414.3,
20 1414.4 or 1414.5 shall be construed to create, establish or
21 expand any civil liability on the part of any school entity or
22 school employe.

23 Section 1414.7. Coordinating, Supervising or Educating Not
24 Considered Delegation.--(a) Notwithstanding any other law to
25 the contrary, coordinating or supervising the provision of
26 diabetes care by school employes authorized in sections 1414.3
27 and 1414.4 and providing education in accordance with section
28 1414.3 shall not be construed as a delegation by a licensed
29 health care practitioner.

30 (b) A licensed health care practitioner who, acting in

1 compliance with sections 1414.3 and 1414.4, coordinates or
2 supervises care for a student or provides education to a school
3 employe shall not be subject to any criminal or civil liability
4 or any professional disciplinary action for the same.

5 Section 1414.8. Diabetes Care in Nonpublic Schools.--(a) A
6 nonpublic school may comply with the education of school
7 employes and provision of diabetes-related care to a student
8 with diabetes required under sections 1414.3, 1414.4 and 1414.5.
9 A written education plan that outlines the aids and related
10 services required to meet the academic needs of the student with
11 diabetes may take the place of a service agreement for a student
12 with diabetes attending a nonpublic school unless a service
13 agreement is otherwise required under law or regulation.

14 (b) Nothing in section 1414.3, 1414.4, 1414.5, 1414.6 or
15 this section shall be construed to do any of the following:

16 (1) Create, establish or expand any obligations on the part
17 of any nonpublic school to comply with section 504 of the
18 Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 794).

19 (2) Create, establish, result in or expand any contractual
20 obligations on the part of any nonpublic school.

21 (c) No nonpublic school employe or nonpublic school shall be
22 liable for civil damages as a result of the activities
23 authorized by sections 1414.3, 1414.4 and 1414.5, except that an
24 employe may be liable for willful misconduct.

25 Section 3. This act shall take effect in 60 days.