

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1625 Session of 2015

INTRODUCED BY BAKER, MURT, BISHOP, MILLARD, DAVIS, 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, TOOHIL, MACKENZIE, DAWKINS, BRIGGS, PETRI, HARHART AND CRUZ, OCTOBER 15, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, DECEMBER 16, 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. <--
7 Code Ch. CHS. 14 (RELATING TO SPECIAL EDUCATION SERVICES AND <--
8 PROGRAMS) AND 15 (relating to protected handicapped students)
9 AND THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (PUBLIC LAW <--
10 91-230, 20 U.S.C. § 1400 ET SEQ.).

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

14 (16) "IEP" MEANS A WRITTEN STATEMENT FOR EACH CHILD WITH A <--
15 DISABILITY THAT IS DEVELOPED, REVIEWED OR REVISED IN A MEETING
16 IN ACCORDANCE WITH THE INDIVIDUALS WITH DISABILITIES EDUCATION
17 ACT.

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

19 Section 1414.3. Education of School Employes in Diabetes
20 Care and Management.--(a) Within one hundred twenty (120) days
21 of the effective date of this section, the Department of Health,
22 in coordination with the Department of Education, shall ~~make~~ <--
23 ESTABLISH educational modules and guidelines for the instruction <--
24 of school employes in diabetes care and treatment AND MAKE THE <--
25 MODULES AND GUIDELINES available on its publicly accessible
26 Internet website. The educational modules shall include
27 instruction in a school entity's obligations under 22 Pa. Code §
28 12.41 (relating to student services) and its responsibilities to
29 comply with section 504 of the Rehabilitation Act of 1973
30 (Public Law 93-112, 29 U.S.C. § 794) and, 22 Pa. Code Ch. CHS. <--

1 14 (RELATING TO SPECIAL EDUCATION SERVICES AND PROGRAMS) AND 15
2 (relating to protected handicapped students)- AND THE <--
3 INDIVIDUALS WITH DISABILITIES EDUCATION ACT (PUBLIC LAW 91-230,
4 20 U.S.C. § 1400 ET SEQ.). At a minimum, the educational modules
5 shall include REVIEW OF THE RESPONSIBILITIES AND instruction in: <--
6 (1) An overview of all types of diabetes.
7 (2) Means of monitoring blood glucose.
8 (3) The symptoms and treatment for blood glucose levels
9 outside of target ranges as well as SYMPTOMS AND TREATMENT FOR <--
10 hypoglycemia, hyperglycemia and other potential emergencies.
11 (4) Techniques on administering glucagon and insulin.
12 (b) The school nurse, in consultation with the chief school
13 administrator or a designee, may identify at least one school
14 employe who is not the school nurse and who does not need to be
15 a licensed health care practitioner in each school building
16 attended by a student with diabetes. If the school building
17 attended by a student with diabetes does not have a full-time
18 school nurse, the chief school administrator may, but is not
19 required to, consult with the school nurse assigned to that
20 school building to identify at least one school employe in the
21 school building. An identified employe shall complete the annual
22 educational modules outlined in subsection (a) or annual
23 education offered by a licensed health care practitioner with
24 expertise in the care AND TREATMENT of diabetes that includes <--
25 substantially the same information as outlined in subsection
26 (a). AN EMPLOYE RESPONSIBLE FOR A CHILD WITH DIABETES IN THE <--
27 ABSENCE OF THE SCHOOL NURSE SHALL HAVE THE RIGHT TO DECLINE THE
28 RESPONSIBILITY AND RELATED DIRECTIVES.
29 (c) A school employe who is not a licensed health care
30 practitioner and who has successfully completed the education

1 modules under subsection (a) or annual education offered by a
2 licensed health care practitioner with expertise in the care AND <--
3 TREATMENT of diabetes that includes substantially the same
4 information as outlined in subsection (a) may be designated in a
5 student's service agreement OR IEP to administer diabetes <--
6 medications, use monitoring equipment and provide other diabetes
7 care. A school entity may require the designated employe WHO HAS <--
8 NOT DECLINED THE ASSIGNMENT, to complete the annual educational
9 modules or annual education from a licensed health care
10 practitioner, or both, in the administration of diabetes
11 medications, use of monitoring equipment and provision of other
12 diabetes care. Education provided to school employes shall be
13 coordinated by the chief school administrator or a designee.
14 School entities may include the education in the professional
15 education plan submitted by the school entity to the Department
16 of Education under section 1205.1.

17 (d) Notwithstanding any other statute or regulation
18 restricting the functions that may be performed by persons other
19 than licensed health care practitioners, school employes who
20 have completed the education requirements under this section may
21 perform diabetes care AND TREATMENT for students. School <--
22 employes who are not licensed health care practitioners shall
23 only be authorized to administer diabetes medications via
24 injection or infusion following annual education by a licensed
25 health care practitioner with expertise in the care AND <--
26 TREATMENT of diabetes, and following the ~~school's~~ SCHOOL <--
27 ENTITY'S receipt of written authorization from both the
28 student's health care practitioner and parent or guardian that
29 an educated school employe, who is not a licensed health care
30 practitioner, may administer specified medications.

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

4 Section 1414.4. Diabetes Care in Schools.--(a) A parent or
5 guardian of a student with diabetes who desires that the student
6 receive diabetes-related care AND TREATMENT in a school setting <--
7 shall provide the school entity with written authorization for
8 the care and instructions from the student's health care
9 practitioner, consistent with the school entity's policies
10 regarding the provision of school health services. The required
11 authorizations may be submitted as part of a diabetes medical
12 management plan.

13 (b) All diabetes-related care provided to students shall be
14 consistent with the school health program established by the
15 governing body of the school entity and any accommodations
16 outlined in a student's service agreement.

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

21 (1) Identifies the student with diabetes.

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

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

27 (d) For purposes of this section:

28 "School bus" means a school bus as defined in 75 Pa.C.S. §
29 102 (relating to definitions).

30 "School entity" means a school district, intermediate unit,

1 area vocational-technical school, charter school or cyber
2 charter school.

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

5 Section 1414.5. Possession and Use of Diabetes Medication
6 and Monitoring Equipment.--(a) A school entity shall require

7 the parent or guardian of a student with diabetes who ~~desires~~ <--

8 REQUESTS that the student possess and self-administer diabetes <--

9 medication and OPERATE monitoring equipment in a school setting <--

10 to provide the following:

11 (1) A written statement from the student's health care
12 practitioner that provides the name of the drug, the dose, the
13 times when the medication is to be taken or the monitoring
14 equipment to be used, the specified time period for which the
15 medication or monitoring equipment is authorized to be used and
16 the diagnosis or reason the medicine or monitoring equipment is
17 needed. The student's health care practitioner shall indicate
18 the potential of any serious reaction to the medication that may
19 occur, as well as any necessary emergency response. The
20 student's health care practitioner shall state whether the
21 student is competent to self-administer the medication or
22 monitoring equipment and whether the student is able to practice
23 proper safety precautions for the handling and disposal of the
24 medication and monitoring equipment.

25 (2) A written request from the parent or guardian that the
26 school entity comply with the ~~direction~~ INSTRUCTIONS of the <--
27 student's health care practitioner. The parent's request shall
28 include a statement relieving the school entity or any school
29 employe of any responsibility for the prescribed medication or
30 monitoring equipment and acknowledging that the school entity

1 bears no responsibility for ensuring that the medication is
2 taken by the student and the monitoring equipment is used.

3 (3) ~~A demonstration of competency by the student satisfying~~ <--
4 WRITTEN ACKNOWLEDGMENT BY the school nurse that the student HAS <--
5 DEMONSTRATED THAT THE STUDENT is capable of self-administration
6 of the medication and use of the monitoring equipment.

7 (4) A written acknowledgment by the student that the student
8 has received instruction from the student's health care
9 practitioner on proper safety precautions for the handling and
10 disposal of the medications and monitoring equipment. The
11 written acknowledgment shall also contain a provision stating
12 that the student will not allow other students to have access to
13 the medication and monitoring equipment and that the student
14 understands appropriate safeguards.

15 (b) A school entity may revoke or restrict a student's
16 privileges to possess ~~or~~ AND self-administer diabetes medication <--
17 and OPERATE monitoring equipment due to noncompliance with <--
18 school rules and provisions of a student's service agreement, <--
19 IEP or due to demonstrated unwillingness or inability of the
20 student to safeguard the medication and monitoring equipment
21 from access by other students.

22 (c) A school entity that ~~restricts~~ PROHIBITS a student from <--
23 possessing and self-administering diabetes medication and
24 OPERATING monitoring equipment pursuant to subsection (b) shall <--
25 ensure that the diabetes medication or monitoring equipment is
26 appropriately stored in a readily accessible place in the school
27 building attended by the student. The school entity shall notify
28 ~~appropriate~~ THE SCHOOL NURSE AND OTHER IDENTIFIED school <--
29 employees regarding the location of the diabetes medication and
30 monitoring equipment and means to access them.

1 (d) For purposes of this section, "school" THE FOLLOWING <--
2 TERMS SHALL HAVE THE FOLLOWING MEANINGS:

3 "SCHOOL entity" means a school district, intermediate unit,
4 area vocational-technical school, charter school or cyber
5 charter school.

6 "DIABETES MEDICATION" MEANS GLUCAGON AND INSULIN. <--

7 Section 1414.6. Liability.--Nothing in sections 1414.3,
8 1414.4 or 1414.5 shall be construed to create, establish or
9 expand any civil liability on the part of any school entity or
10 school employe.

11 Section 1414.7. Coordinating, Supervising or Educating Not
12 Considered Delegation.--(a) Notwithstanding any other law to
13 the contrary, coordinating or supervising the provision of
14 diabetes care by school employes authorized in sections 1414.3
15 and 1414.4 and providing education in accordance with section
16 1414.3 shall not be construed as a delegation by a licensed
17 health care practitioner.

18 (b) A licensed health care practitioner who, acting in
19 compliance with sections 1414.3 and 1414.4, coordinates or
20 supervises care for a student or provides education to a school
21 employe shall not be subject to any criminal or civil liability
22 or any professional disciplinary action for the same.

23 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A SCHOOL <--
24 EMPLOYE WHO IS DESIGNATED TO PROVIDE DIABETES MEDICATIONS TO A
25 STUDENT SHALL NOT BE CONSIDERED TO BE ENGAGING IN HEALTH-RELATED
26 ACTIVITIES WHICH ARE RESERVED EXCLUSIVELY FOR LICENSED
27 PROFESSIONALS.

28 Section 1414.8. Diabetes Care in Nonpublic Schools.--(a) A
29 nonpublic school may comply with the education of school
30 employes and provision of diabetes-related care to a student

1 with diabetes required under sections 1414.3, 1414.4 and 1414.5.
2 A written education plan that outlines the aids and related
3 services required to meet the academic needs of the student with
4 diabetes may take the place of a service agreement for a student
5 with diabetes attending a nonpublic school unless a service
6 agreement is otherwise required under law or regulation.

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

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

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

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

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