

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1332 Session of 2006

INTRODUCED BY CONTI, SEPTEMBER 22, 2006

SENATOR RHOADES, EDUCATION, AS AMENDED, SEPTEMBER 26, 2006

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," further providing for school health
6 services definitions, for health services, for dental
7 examinations and dental hygiene services, for facilities, for
8 examinations and for recommendations of health professionals;
9 deleting provisions relating to examination by family
10 physician or dentist; and further providing for care and
11 treatment of school-age children, for precautions against
12 spread of certain diseases and for medical examination of
13 school personnel.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 1401 of the act of March 10, 1949
17 (P.L.30, No.14), known as the Public School Code of 1949,
18 amended or REPEALED AND added July 15, 1957 (P.L.937, No.404) ←
19 AND AMENDED August 9, 1963 (P.L.641, No.339), and November 30, ←
20 2004 (P.L.1471, No.187), is amended to read:

21 Section 1401. Definitions.--As used in this article--
22 (1) "Children of school age" or "child of school age" means
23 every child attending or who should attend an elementary grade

1 or high school, either public or private, within the  
2 Commonwealth and children who are attending a kindergarten which  
3 is an integral part of a local school district.

4 (2) "Teachers" means professional employes, temporary  
5 professional employes and substitutes and instructors in public  
6 or private schools within the Commonwealth.

7 (3) "Other employes" means janitors, bus drivers, cooks and  
8 other cafeteria help and all others employed at schools.

9 (4) "School physician" means a physician [legally qualified]  
10 licensed to practice medicine and surgery or osteopathy or  
11 osteopathic surgery in the Commonwealth, who has [been appointed  
12 or approved by the Secretary of Health] contracted with a school  
13 district or joint school board to provide school physician  
14 services.

15 (5) "School dentist" means a [doctor of dental surgery or  
16 dental medicine legally qualified] dentist licensed to practice  
17 dentistry in the Commonwealth, who has [been appointed or  
18 approved by the Secretary of Health.] contracted with a school  
19 district or joint school board to provide school dentist  
20 services.

21 (6) ["Family physician" means either a doctor of medicine  
22 legally qualified to practice medicine and surgery in the  
23 Commonwealth, or an osteopath or osteopathic surgeon legally  
24 qualified to practice osteopathy or osteopathic surgery in the  
25 Commonwealth, who has been designated by the parent or guardian  
26 as the personal physician of the child.] "Primary care provider"  
27 means a physician licensed to practice medicine and surgery or  
28 osteopathic medicine and surgery, or other individual licensed  
29 or certified to practice in the Commonwealth who works in  
30 collaboration with and under the direction of a physician, who

1 has been designated by the parent or guardian as the primary  
2 care provider of the child.

3 (7) "[Family] Private dentist" means a [doctor of dental  
4 surgery or dental medicine legally qualified] dentist licensed  
5 to practice dentistry in the Commonwealth, who has been  
6 designated by the parent or guardian as the [personal] primary  
7 dentist of the child.

8 (8) "School nurse" means a [licensed] registered nurse  
9 [properly certificated by the Superintendent of Public  
10 Instruction as a school nurse] licensed to practice professional  
11 nursing in the Commonwealth and certified by the Department of  
12 Education as a school nurse, who is employed by a school  
13 district or joint school board as a school nurse, or is employed  
14 in providing school nurse services to children of school age by  
15 a county health unit or a department or board of health of any  
16 municipality with which a school district or joint school board  
17 has contracted for school health services pursuant to the  
18 provisions of section 1411 of this act. The employment of any  
19 nurse employed by a school district or joint school board as a  
20 school nurse prior to the effective date of this act shall not  
21 be affected by a contract for school health services that may be  
22 entered into by any school district or joint school board under  
23 the provisions of this act.

24 (9) "Dental hygienist" means a dental hygienist licensed [by  
25 the State Dental Council and Examining Board,] to practice  
26 dental hygiene in this Commonwealth who is assigned to a school  
27 district or joint school board, or a dental hygienist licensed  
28 [by the State Dental Council and Examining Board and  
29 certificated as a school dental hygienist by the Superintendent  
30 of Public Instruction,] to practice dental hygiene in this

1 Commonwealth and certificated by the Department of Education as  
2 a school dental hygienist who is employed by a school district  
3 or joint school board as a dental hygienist. The employment of  
4 any dental hygienist employed by a school district or joint  
5 school board as a dental hygienist prior to the effective date  
6 of this act shall not be affected by a contract for school  
7 health services that may be entered into by any school district  
8 or joint school board under the provisions of this act.

9 (10) ["Medical technician" means a person skilled in the  
10 operation of X-ray or other diagnostic equipment having such  
11 training and experience as required by the Secretary of Health.]

12 "Health care assistant" means a licensed or unlicensed  
13 individual who assists the school nurse, school physician,  
14 school dentist or other qualified health professional by  
15 performing assigned duties and who has no pupil assignments.

16 (11) ["Sanitarian" means a person having such training and  
17 experience as required by the Secretary of Health and qualified  
18 to conduct sanitary inspections of school buildings and grounds  
19 in connection with water supply, sewage and refuse disposal,  
20 food service, heating, lighting, ventilation and safety.]

21 "Qualified health professional" means an individual who holds a  
22 license or certification issued by the Commonwealth which allows  
23 for the performance of a physical or dental examination or  
24 evaluation.

25 (12) "Asthma inhaler" means a prescribed device used for  
26 self-administration of short-acting, metered doses of prescribed  
27 medication to treat an acute asthma attack.

28 Section 2. Section 1402 of the act, ~~amended or~~ REPEALED AND <—  
29 added July 15, 1957 (P.L.937, No.404), AND AMENDED December 7, <—  
30 1965 (P.L.1041, No.390) and July 11, 2006 (P.L.1092, No.114), is

1 amended to read:

2 Section 1402. Health Services.--(a) [Each] A school  
3 district or joint school board shall provide the following to  
4 each child of school age [shall be given by methods established  
5 by the Advisory Health Board], in accordance with guidelines  
6 issued by the Department of Health:

7 (1) a vision [test by a school nurse, medical technician or  
8 teacher,] screening;

9 (2) a hearing [test by a school nurse or medical technician,]  
10 screening;

11 (3) a [measurement of height and weight by a school nurse or  
12 teacher, who shall use the measurement to compute a child's  
13 weight-for-height ratio,] growth screening, which shall include  
14 computation of a child's weight-for-height ratio;

15 (4) [tests for tuberculosis under medical supervision,] a  
16 scoliosis screening; and

17 (5) such other tests as the [Advisory Health Board]  
18 Department of Health may deem advisable to protect the health of  
19 the child. [Vision tests shall be given at least annually and  
20 other tests at intervals established by the Advisory Health  
21 Board.]

22 A school district or joint school board shall make information  
23 available to the parent or guardian of each child informing the  
24 parent or guardian of the health screenings to be performed  
25 during the school year. School nurses and other qualified school  
26 personnel as determined by the rules and regulations of the  
27 Department of Health shall be authorized to perform screenings  
28 under this section.

29 (a.1) Every child of school age shall be provided with  
30 school nurse services: Provided, however, That the number of

1 pupils under the care of each school nurse shall not exceed one  
2 thousand five hundred (1,500).

3 (b) [For each child of school age, a comprehensive health  
4 record shall be maintained by the school district or joint  
5 school board, which shall include the results of the tests,  
6 measurements and regularly scheduled examinations and special  
7 examinations herein specified.] A school district or joint  
8 school board shall maintain for each child of school age a  
9 health record which shall include the following:

10 (1) a record of immunization as required by Article XIII;

11 (2) results of all screenings and measurements;

12 (3) results of regularly scheduled and special examinations;

13 (4) documentation of special health care needs and plans of  
14 care; and

15 (5) other information as specified by the Department of  
16 Health.

17 (b.1) Health records shall be maintained on forms prescribed  
18 by or approved by the Department of Health.

19 (c) Medical questionnaires, suitable for diagnostic  
20 purposes, furnished by the Secretary of Health and completed by  
21 the child or by the child's parent or guardian, at such times as  
22 the Secretary of Health may direct, shall become a part of the  
23 child's health record.

24 (d) All teachers and other employes shall report to the  
25 school nurse [or], school physician or school dentist any  
26 unusual behavior, changes in physical appearance, changes in  
27 attendance habits and changes in scholastic achievement, which  
28 may indicate impairment of a child's health. The school nurse or  
29 school physician or school dentist may, upon referral by the  
30 teacher or other employe or on his own initiative, advise a

1 child's parent or guardian of the apparent need for a special  
2 ~~[medical]~~ PHYSICAL or dental examination. If a parent or <—  
3 guardian fails to obtain the examination or fails to report the  
4 results to the [nurse or school physician] school nurse, school  
5 physician or school dentist, the [nurse or school physician]  
6 school nurse, school physician or school dentist shall arrange,  
7 in collaboration with the parent or guardian, a special  
8 ~~[medical]~~ physical or dental examination for the child.

9 (e) [The school physicians of each district or joint board  
10 shall make a medical examination and a comprehensive appraisal  
11 of the health of every child of school age, (1) upon original  
12 entry into school in the Commonwealth, (2) while in sixth grade,  
13 (3) while in eleventh grade, and (4) prior to the issuance of a  
14 farm or domestic service permit unless the child has been given  
15 a scheduled or special medical examination within the preceding  
16 four months. The health record of the child shall be made  
17 available to the school physician at the time of the regularly  
18 scheduled health appraisals.] A FOR THE 2007-2008 SCHOOL YEAR <—  
19 AND EACH YEAR THEREAFTER, A school district or joint school  
20 board shall ensure evidence of a physical examination of every  
21 child of school age:

- 22 (1) within one year prior to original entry into school;  
23 (2) one year before or during the ~~fourth~~ FIFTH grade; <—  
24 (3) one year before or during the ~~eighth grade;~~ NINTH GRADE; <—

25 AND

- 26 ~~(4) one year before or during the eleventh grade; and~~ <—  
27 ~~(5)~~ (4) prior to the issuance of an employment certificate, <—  
28 or farm or domestic service permit. THE EXAMINATION UNDER THIS <—  
29 PARAGRAPH SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS  
30 OF THE ACT OF MAY 13, 1915 (P.L.286, NO.177), KNOWN AS THE

1 "CHILD LABOR LAW."

2 (e.1) A physical examination under subsection (e) shall be  
3 performed by the child's own primary care provider and the  
4 parent or guardian shall provide the results of the physical  
5 examination to the school district or joint school board. If the  
6 parent or guardian does not provide the results of the physical  
7 examination prior to the deadline established by the school  
8 district or joint school board for the conduct of the  
9 examination, the school district or joint school board shall  
10 schedule the child to be examined by a qualified health  
11 professional designated by the school district or joint school  
12 board.

13 (f) The Secretary of Health, upon petition of the school  
14 board or joint school board or on his own initiative with the  
15 concurrence of the school board or joint school board, may  
16 [modify for individual school districts] approve a modification  
17 to the school health services program specified in this  
18 [section] this article. [The program as modified shall conform  
19 to approved medical or dental practices and shall permit valid  
20 statistical appraisals of the various components of the  
21 program.] Modifications must conform to generally accepted  
22 standards of medical, dental and nursing practices.

23 Section 3. Section 1403 of the act, amended August 27, 1963  
24 (P.L.1380, No.535), is amended to read:

25 Section 1403. Dental Examinations and Dental Hygiene  
26 Services.--(a) [All children of school age in the Commonwealth,  
27 (i) upon original entry into the school, (ii) while in the third  
28 grade, and (iii) while in the seventh grade, shall be given a  
29 dental examination by a school dentist: Provided, however, That  
30 this requirement shall not apply to those school districts or

1 joint school boards which have instituted a program of dental  
2 hygiene services as provided in subsection (b) of this section.]

3 A school district or joint school board shall ensure evidence of  
4 a dental examination of every child of school age:

5 (1) within one year prior to original entry into school;

6 (2) one year before or during the third grade; and

7 (3) one year before or during the seventh grade.

8 (a.1) A dental examination under subsection (a) shall be  
9 performed by the child's own private dentist and the parent or  
10 guardian shall provide the results of the dental examination to  
11 the school district or joint school board. If the parent or  
12 guardian does not provide the results of the dental examination  
13 prior to the deadline established by the school district or  
14 joint school board for the conduct of the examination, the  
15 school district or joint school board shall schedule the child  
16 to be examined by a school dentist.

17 (b) Any school district or joint school board may institute  
18 a program of dental hygiene services for children of school age,  
19 which program shall be approved by the [Secretary] Department of  
20 Health, and for that purpose may employ dental hygienists.

21 Section 4. Sections 1404 and 1405 of the act, REPEALED AND <—  
22 added July 15, 1957 (P.L.937, No.404), are amended to read:

23 Section 1404. [Place of Examination; Use of Hospital  
24 Facilities.--The school physician and school dentist shall  
25 conduct medical, dental and other examinations in rooms set  
26 aside for this special purpose and equipped with adequate  
27 facilities and with such other accessories as may be required by  
28 the Secretary of Health for the thorough examination of  
29 children. The school physicians shall require the removal of  
30 sufficient clothing to insure complete examination. If

1 facilities in schools are inadequate for conducting medical,  
2 dental and other examinations, the school districts or joint  
3 school boards and private schools may, subject to the approval  
4 of the Secretary of Health, make arrangements for the use of  
5 laboratories and facilities of hospitals or clinics for  
6 examinations herein provided for.] Facilities for Delivery of  
7 Health Services.--Health services delivered to children of  
8 school age by school health program staff shall be provided in  
9 rooms or facilities set aside for this purpose and equipped to  
10 meet minimum standards as required by the Department of Health.  
11 A school district or joint school board may, subject to the  
12 approval of the Department of Health, make arrangements for the  
13 use of alternate facilities for the provision of health  
14 services.

15 Section 1405. [Assistance; Presence of Parents.--Every  
16 school physician shall be assisted by a school nurse and every  
17 school dentist by a dental hygienist, if available, or trained  
18 assistant, who shall be present during each examination. Parents  
19 or guardians of children of school age shall be advised in  
20 advance of the date of examination and urged to be present.  
21 Medical examinations shall be made in the presence of the parent  
22 or guardian of the child when so requested by the parent or  
23 guardian.] Physical Examinations and Dental Examinations or  
24 Dental Screenings by Qualified Health Professionals.--(a) A  
25 qualified health professional designated by a school district or  
26 joint school board shall perform an examination only when the  
27 parent or guardian of a child of school age fails to obtain a  
28 private examination within the time frames specified by the  
29 school district or joint school board. A school nurse, dental  
30 hygienist or health care assistant shall assist the qualified

1 health professional during the examination. A school with a  
2 dental hygiene services program may use a dental hygienist to  
3 perform a dental screening and permit a school nurse or health  
4 care assistant to assist during a dental screening.

5 (b) A school district or joint school board shall advise the  
6 parent or guardian of a child in advance of the date, time and  
7 place of a physical or dental examination or dental screening  
8 and invite the parent or guardian to be present. A physical or  
9 dental examination or dental screening shall be made in the  
10 presence of the parent or guardian of a child when the parent or  
11 guardian requests to be present. A school district or joint  
12 school board shall obtain the prior written consent of the  
13 parent or guardian before a qualified health professional  
14 conducts a physical or dental examination or dental screening.

15 (c) A qualified health professional performing a physical or  
16 dental examination or dental screening shall have access to a  
17 child's health record maintained by the school. The results of  
18 the physical or dental examination or dental screening shall be  
19 recorded on forms prescribed or approved by the Department of  
20 Health and included in a child's health record.

21 Section 5. Section 1406 of the act, amended December 9, 2002  
22 (P.L.1317, No.153), is amended to read:

23 Section 1406. [Recommendations.--(a) Recommendations as to  
24 medical, surgical or dental care shall be sent to each parent or  
25 guardian and to the family physician or family dentist on forms  
26 prepared or approved by the Secretary of Health with  
27 instructions to the parent or guardian to consult the family  
28 physician or family dentist and to notify the school authorities  
29 of the action taken with respect to the recommendations.

30 (b) School physicians or school nurses shall inform teachers

1 of the health conditions of pupils which may affect behavior,  
2 appearance or scholastic performance.] Referral for Evaluation  
3 and Treatment.--(a) In the event the school district or joint  
4 school board provides the physical or dental examination, the  
5 school district or joint school board shall send the  
6 recommendation of a qualified health professional for further  
7 evaluation or treatment of a child to the child's parent or  
8 guardian with instructions to the parent or guardian to consult  
9 the child's primary care provider, private dentist or other  
10 appropriate health care provider and to notify the school nurse  
11 of the action taken with respect to the recommendation.

12 (c) Notice of the existence of and eligibility for the  
13 program under Article XXIII of the act of May 17, 1921 (P.L.682,  
14 No.284), known as "The Insurance Company Law of 1921," shall be  
15 prepared by, paid for and provided to each school district in  
16 Pennsylvania by the Insurance Department annually, not later  
17 than the fifteenth day of August, in sufficient quantities to  
18 provide the parent or legal guardian of every school student  
19 enrolled in the district with such notice. The school district  
20 shall provide such notice to the parent or guardian of each  
21 student enrolled in the district during the school year. The  
22 Insurance Department shall provide sufficient copies of the  
23 notice to nonpublic schools upon request.

24 Section 6. Section 1407 of the act ~~is repealed~~, ADDED JULY <—  
25 15, 1957 (P.L.937, NO.404), IS AMENDED TO READ:

26 [SECTION 1407. EXAMINATIONS BY EXAMINERS OF OWN CHOICE.--IN  
27 LIEU OF THE MEDICAL OR DENTAL EXAMINATIONS PRESCRIBED BY THIS  
28 ARTICLE, ANY CHILD OF SCHOOL AGE MAY FURNISH THE LOCAL SCHOOL  
29 OFFICIALS WITH A MEDICAL OR DENTAL REPORT OF EXAMINATION MADE AT  
30 HIS OWN EXPENSE BY HIS FAMILY PHYSICIAN OR FAMILY DENTIST ON A

1 FORM APPROVED BY THE SECRETARY OF HEALTH FOR THIS PURPOSE. THE  
2 IN LIEU EXAMINATIONS SHALL BE MADE AND THE REPORT SHALL BE  
3 FURNISHED PRIOR TO THE DATE FIXED FOR THE REGULARLY SCHEDULED  
4 EXAMINATION BUT NO EARLIER THAN FOUR MONTHS PRIOR TO THE OPENING  
5 OF THE SCHOOL TERM DURING WHICH THE REGULAR EXAMINATION IS  
6 SCHEDULED.]

7 Section 7. Sections 1414 and 1416 of the act, added July 15,  
8 1957 (P.L.937, No.404), are amended to read:

9 Section 1414. [Care and Treatment of Pupils] Ancillary  
10 Health Services.--Any school district or joint school board may  
11 provide for the health care and treatment of [defective eyes,  
12 ears and teeth of] all children of school age within the  
13 district if the school district or joint school board has  
14 obtained prior written consent of the child's parent or  
15 guardian.

16 Section 1416. [Precautions Against Spread of Tuberculosis.--  
17 No person having any form of tuberculosis in a transmissible  
18 stage shall be a pupil, teacher, janitor or any other employe in  
19 any school except in a special school carried on under the  
20 regulations made for such schools by the Secretary of Health.  
21 The board of directors of any school district or joint school  
22 board may appropriate the necessary funds to pay for X-ray or  
23 other medical examinations to determine the presence or absence  
24 of tuberculosis in any teacher, janitor or other employe of the  
25 district.] Precautions Against the Spread of Communicable  
26 Disease.--A student or any person having direct contact with  
27 students having or suspected of having a communicable disease,  
28 infection or condition listed in 28 Pa. Code § 27.71 (relating  
29 to exclusion of children, and staff having contact with children  
30 for specified diseases and infectious conditions), 27.72

1 (relating to exclusions of children, and staff having contact  
2 with children, for showing symptoms) and 27.75 (relating to  
3 exclusion of children, and staff having contact with children,  
4 during a measles outbreak) shall be excluded from school in  
5 accordance with the applicable regulation. Readmission to school  
6 shall be governed by 28 Pa. Code § 27.71, 27.73 (relating to  
7 readmission of excluded children, and staff having contact with  
8 children) or 27.74 (relating to readmission of exposed or  
9 isolated children, and staff having contact with children), as  
10 applicable. A school district or joint school board may  
11 appropriate the necessary funds to pay for examinations and  
12 testing to determine the presence or absence of a communicable  
13 disease.

14 Section 8. Section 1418 of the act, amended July 14, 1971  
15 (P.L.229, No.47), is amended to read:

16 Section 1418. [Medical Examinations of Teachers and Other  
17 Persons.--(a) All teachers, janitors, cooks and other cafeteria  
18 help and all others employed at schools shall be required to  
19 take a pre-employment medical examination, the results of which  
20 shall be recorded on forms prescribed by the Secretary of Health  
21 and shall be made available to the employing authorities.

22 (b) Each teacher, any other school employe and any person  
23 providing services for school children under contract shall be  
24 given tests for tuberculosis in accordance with rules and  
25 regulations adopted by the Advisory Health Board. Each student  
26 teacher and volunteer participating in student activities shall  
27 be given the same tests for tuberculosis, but no person shall be  
28 required to submit to a particular test if he shall furnish a  
29 statement setting forth adequate reasons for being excused from  
30 taking the test. In such case, an alternative method of testing

1 shall be administered.

2 (c) School boards may require a special medical examination  
3 for any school employe at any time.

4 (d) Medical examinations shall be made by the school  
5 physician of the district if provision therefor is made by the  
6 district or joint school board or by a physician of the  
7 employe's own choice legally qualified to practice medicine and  
8 surgery or osteopathy or osteopathic surgery in the  
9 Commonwealth.] Health Evaluations of School Personnel.--(a) A  
10 school district or joint school board shall insure that each  
11 teacher and other employe, prior to beginning work, provides  
12 documentation on a form prescribed or approved by the Department  
13 of Health evidencing a physical examination performed by a  
14 qualified health professional within one (1) year prior to the  
15 person's start date. The results of the physical examination  
16 shall include information showing that the individual was  
17 evaluated for tuberculosis risk factors and for other  
18 communicable diseases listed in 28 Pa. Code § 27.71 (relating to  
19 exclusion of children, and staff having contact with children,  
20 for specified diseases and infectious conditions), § 27.72  
21 (relating to exclusion of children, and staff having contact  
22 with children, for showing symptoms) and § 27.75 (relating to  
23 exclusion of children, and staff having contact with children,  
24 during a measles outbreak) and tested as necessary.

25 (b) A school district or joint school board shall insure  
26 that each individual, including a volunteer, who will have  
27 direct contact with students for ten (10) or more hours weekly,  
28 be evaluated prior to contact with students for tuberculosis  
29 risk factors and other communicable diseases as listed in 28 Pa.  
30 Code §§ 27.71, 27.72 and 27.75 and tested as necessary.

1 Documentation shall be provided on a form prescribed or approved  
2 by the Department of Health.

3 (c) School boards may require a special medical examination  
4 for any school employe at any time.

5 (d) The physical examination and evaluation for tuberculosis  
6 risk factors, other communicable diseases and special medical  
7 examinations shall be made by the school physician, or other  
8 qualified health professional of the district, or by a qualified  
9 health professional of the employe's own choice.

10 ~~Section 9. The Department of Education shall establish a~~ <—  
11 ~~three year implementation schedule for phasing in the physical~~  
12 ~~examination requirements for school age children under section~~  
13 ~~1402(e) of the act.~~

14 Section ~~10~~ 9. This act shall take effect in 180 days. <—