

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 737 Session of 2009

INTRODUCED BY ORIE, RAFFERTY, BAKER, BOSCOLA, BROWNE, COSTA, FERLO, FONTANA, KITCHEN, LEACH, MELLOW, O'PAKE, STACK, STOUT, WASHINGTON, WAUGH, M. WHITE AND WILLIAMS, APRIL 3, 2009

REFERRED TO EDUCATION, APRIL 3, 2009

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, adding  
 6 definitions; and providing for training of school employees  
 7 in diabetes care and treatment, for diabetes medical  
 8 management plan, for independent monitoring and treatment,  
 9 for required care and for immunity from civil liability.

10 The General Assembly finds and declares as follows:

11 (1) Diabetes is a serious, chronic disease that impairs  
 12 the body's ability to use food. Diabetes must be managed 24  
 13 hours a day in order to avoid the potentially life-  
 14 threatening, short-term consequences of blood sugar levels  
 15 that are either too high or too low, and to avoid or delay  
 16 the serious long-term complications of high blood sugar  
 17 levels which include blindness, amputation, heart disease and  
 18 kidney failure. In order to manage their disease, students  
 19 with diabetes must have access to the means to balance food,  
 20 medications and physical activity level while at school and  
 21 at school-related activities.

1           (2) The school nurse is the most appropriate person in  
2 the school setting to provide care for a student with  
3 diabetes. Many schools in Pennsylvania, however, do not have  
4 a full-time nurse. Moreover, even when a nurse is assigned to  
5 a school full time, he or she will not always be available  
6 during the school day, during extracurricular activities or  
7 on field trips. Because diabetes management is needed at all  
8 times, additional school personnel need to be prepared to  
9 provide diabetes care at school and all school-related  
10 activities in order for students with diabetes to be  
11 medically safe and to have the same access to educational  
12 opportunities as do all students in Pennsylvania.

13           (3) There is a significant number of students with  
14 diabetes, the effects of which may impact a student's ability  
15 to learn and cause serious long-term and short-term medical  
16 complications.

17           The General Assembly of the Commonwealth of Pennsylvania  
18 hereby enacts as follows:

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

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

23           \* \* \*

24           (13) "School" for purposes of sections 1414.2, 1414.3,  
25 1414.4, 1414.5 and 1414.6 means any elementary or secondary  
26 public, charter or nonpublic school, intermediate unit or area  
27 vocational-technical school.

28           (14) "School entity" for purposes of sections 1414.2,  
29 1414.3, 1414.4, 1414.5 and 1414.6 means any school district,  
30 intermediate unit, area vocational-technical school, charter

1 school or nonpublic school located in this Commonwealth.

2 (15) "Trained diabetes personnel" means a school employe,  
3 other than a school nurse or school physician, or a nonhealth  
4 care professional trained in accordance with section 1414.2.  
5 Functions performed by these professionals shall not constitute  
6 the practice of nursing and shall be exempted from all  
7 applicable statutory and/or regulatory provisions that restrict  
8 what functions can be performed by a person who is not a  
9 licensed health care professional or that can be delegated by a  
10 licensed health care professional.

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

12 Section 1414.2. Training of School Employes in Diabetes Care  
13 and Treatment.--(a) Within ninety days (90) of the effective  
14 date of this section, the Department of Education, in  
15 cooperation from at least the Department of Health, the American  
16 Diabetes Association and the American Association of Diabetes  
17 Educators, shall develop and make available to schools  
18 guidelines for the training of school employes in diabetes care  
19 and treatment. At the minimum, the training guidelines shall  
20 include instruction in:

21 (1) recognition and treatment of hypoglycemia and  
22 hyperglycemia;

23 (2) understanding the appropriate actions to take when blood  
24 glucose levels are outside of target ranges;

25 (3) understanding physician instructions concerning diabetes  
26 medication drug dosage, frequency and the manner of  
27 administration;

28 (4) performance of finger-stick blood glucose checking,  
29 ketone checking and recording the results;

30 (5) the administration of glucagon and insulin and the

1 recording of results;

2 (6) recommended schedules and food intake for meals and  
3 snacks, the effect of physical activity upon blood glucose  
4 levels and actions to be implemented in the case of schedule  
5 disruption;

6 (7) understanding how to perform basic insulin pump  
7 functions; and

8 (8) recognizing complications that require emergency  
9 assistance.

10 (b) The governing board of each school entity shall direct  
11 the school nurse or school physician to select at least three

12 (3) school employes from each school in which a diabetic student  
13 is enrolled to receive the training as described in subsection

14 (a) and determine by whom the training is to be provided. School  
15 employes may not be subject to any penalty or disciplinary  
16 action for refusing to serve as trained diabetes personnel.

17 Training required under this section may be provided by a school  
18 nurse, school physician or another health care professional with  
19 expertise in diabetes.

20 (c) Training shall take place prior to the commencement of  
21 each school year or as needed when a diabetic student is newly  
22 enrolled or a student is newly diagnosed with diabetes. Training  
23 shall be coordinated by a school nurse.

24 Section 1414.3. Diabetes Medical Management Plan.--(a) At  
25 the beginning of each school year, upon enrollment or diagnosis,  
26 a diabetic student who seeks diabetes care in school shall  
27 submit to the school nurse or school physician a diabetes  
28 medical management plan, which outlines the health services  
29 needed by the student while at school. All care plans shall be  
30 consistent with the diabetes medical management plan. The

1 diabetes medical management plan shall be developed by the  
2 student's parent or guardian along with the student's physician,  
3 certified registered nurse practitioner or physician assistant  
4 and may include written authorization allowing:

5 (1) trained diabetes personnel to perform diabetes care and  
6 treatment upon the child if the parent or guardian requests,  
7 including, but not limited to, responding to blood glucose  
8 levels that are outside of the student's target range;  
9 administering glucagon; administering insulin or assisting a  
10 student in administering insulin through the insulin delivery  
11 system the student uses; providing oral diabetes medications,  
12 checking and recording blood glucose levels and ketone levels or  
13 assisting a student with such checking and recording; and  
14 following instructions regarding meals, snacks and physical  
15 activity; and

16 (2) the child to conduct independent monitoring and  
17 treatment in school, if the parent or guardian so requests. If  
18 this request is made, the physician, certified registered nurse  
19 practitioner or physician assistant shall provide a written  
20 statement in the plan indicating the student has successfully  
21 demonstrated capability of independent monitoring and  
22 responsible behavior in self-administering treatment or  
23 prescribed medication.

24 (b) Notwithstanding any authorization granted pursuant to  
25 subsection (a)(1), a school nurse shall be the primary provider  
26 of diabetes care and treatment and responsible for any  
27 delegation of care.

28 (c) Any diabetic student unable to or prevented from  
29 submitting a diabetes medical management plan to the school  
30 nurse or school physician shall not be precluded from receiving

1 school nurse services, including the care and treatment of  
2 diabetes.

3 Section 1414.4. Independent Monitoring and Treatment.--The  
4 governing board of each school entity shall develop a written  
5 policy allowing diabetic students to possess on their person at  
6 all times all necessary supplies, equipment and prescribed  
7 medication to perform self-monitoring and treatment. The student  
8 with diabetes shall be permitted to perform blood glucose  
9 checks, treat hypoglycemia and hyperglycemia and otherwise  
10 attend to the care and management of the student's diabetes in  
11 the classroom, in any area of the school or school grounds and  
12 at any school-related activity if requested by the parent or  
13 guardian. The policy may revoke or restrict a student's  
14 independent monitoring and treatment privileges if school  
15 policies are abused or ignored.

16 Section 1414.5. Required Care.--(a) At least one trained  
17 diabetes personnel shall be on site and available to provide  
18 treatment and care to diabetic students during regular school  
19 hours and at all school-sponsored activities, including, but not  
20 limited to, extracurricular activities and field trips, where a  
21 student with diabetes is a direct participant. No student shall  
22 be required to attend another school solely because the student  
23 has diabetes.

24 (b) The governing board of each school entity shall develop  
25 a written policy that requires the distribution of information  
26 to school bus drivers that identifies diabetic students, the  
27 potential emergencies that may occur as a result of the  
28 student's diabetes and the appropriate responses to such  
29 emergencies and emergency contact information for students with  
30 diabetes.

1     Section 1414.6. Immunity from Civil Liability.--No  
2     physician, nurse, school employe, trained diabetes personnel or  
3     school entity shall be liable for civil damages as a result of  
4     the activities authorized by section 1414.2, 1414.3, 1414.4 or  
5     1414.5 when such acts are performed as an ordinary reasonably  
6     prudent person would have acted under the same or similar  
7     circumstances.

8     Section 3. This act shall take effect as follows:

9             (1) The addition of section 1414.5 of the act shall take  
10     effect in 150 days.

11            (2) The remainder of this act shall take effect  
12     immediately.