

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1338 Session of 2011

INTRODUCED BY BAKER, M. SMITH, OBERLANDER, TALLMAN, BEAR, BISHOP, BRIGGS, CALTAGIRONE, D. COSTA, DALEY, DEASY, FABRIZIO, GEIST, GINGRICH, HARHART, HARKINS, HESS, KAUFFMAN, KAVULICH, KILLION, KIRKLAND, KORTZ, MICOZZIE, MILLARD, MILLER, MOUL, MURT, MUSTIO, D. O'BRIEN, PAYTON, PICKETT, QUINN, ROEBUCK, SANTONI, SONNEY, SWANGER, WATSON AND WILLIAMS, APRIL 13, 2011

REFERRED TO COMMITTEE ON HUMAN SERVICES, APRIL 13, 2011

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 training of
 7 school employees in diabetes care and management and for
 8 possession and use of diabetes medication and monitoring
 9 equipment.

10 The General Assembly of the Commonwealth of Pennsylvania
 11 hereby enacts as follows:

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

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

16 * * *

17 (13) "Diabetes medical management plan" means a document
 18 describing the medical orders or diabetes regimen developed and
 19 signed by the student's health care provider and parent or

1 guardian.

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

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

7 Section 1414.2. Training of School Employes in Diabetes Care
8 and Management.--(a) Within one hundred twenty (120) days of
9 the effective date of this section, the Department of Health, in
10 coordination with the Department of Education, the American
11 Diabetes Association, educators and health professionals, shall
12 make training modules and guidelines for the instruction of
13 school employes in diabetes care and treatment available on its
14 publicly accessible Internet website. The training modules shall
15 include instruction in a school entity's obligations under 22
16 Pa. Code § 12.41 (relating to student services) and its
17 responsibilities to comply with section 504 of the
18 Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 794)
19 and 22 Pa. Code Ch. 15 (relating to protected handicapped
20 students). At a minimum, the training modules shall include
21 instruction in:

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

23 (2) Means of monitoring blood glucose.

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

27 (4) Techniques on administering glucagon and insulin.

28 (b) Within one hundred twenty (120) days of the effective
29 date of this section the chief school administrator or a
30 designee shall identify at least one school employe, who is not

1 the school nurse and who does not need to be a licensed health
2 care provider, in each school building attended by a student
3 with diabetes. An identified employe shall complete the training
4 outlined in subsection (a) or training offered by a licensed
5 health care provider that includes substantially the same
6 information as outlined in subsection (a).

7 (c) A school employe who is not a licensed health care
8 provider may be designated in a student's service agreement to
9 administer diabetes medication, use monitoring equipment and
10 provide other diabetes care. A school entity may require the
11 designated employe to complete the training required under
12 subsection (b) or training from a licensed health care provider,
13 or both, in the administration of diabetes medications or use of
14 monitoring equipment. Training provided to school employes shall
15 be coordinated by the chief school administrator or a designee.
16 School entities may include the training in the continuing
17 education plan submitted by the school entity to the Department
18 of Education under section 1205.1.

19 (d) Notwithstanding any other statute or regulation
20 restricting the functions that may be performed by persons other
21 than licensed health care providers, school employes are
22 authorized to perform diabetes care for students for which they
23 have been designated and trained under this section. School
24 employes shall only be authorized to administer diabetes
25 medications via injection or infusion following training by a
26 school nurse or other qualified health care professional. The
27 provision of training by a licensed health care professional in
28 accordance with this section shall not be construed to violate a
29 licensing-related statute or regulation.

30 (e) For purposes of this section, "school entity" means a

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

3 Section 1414.3. Diabetes Care in Schools.--(a) A parent or
4 guardian of a student with diabetes who desires that the student
5 receive diabetes-related care in a school setting shall provide
6 the school entity with written authorization for the care and
7 instructions from the student's health care provider, consistent
8 with the school entity's policies regarding the provision of
9 school health services. The required authorizations may be
10 submitted as part of a diabetes medical management plan.

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

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

19 (1) Identifies the student with diabetes.

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

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

25 (d) For purposes of this section:

26 "School bus" means a school bus as defined in 75 Pa.C.S. §
27 102 (relating to definitions).

28 "School entity" means a school district, intermediate unit,
29 area vocational-technical school, charter school or cyber
30 charter school.

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

3 Section 1414.4. Possession and Use of Diabetes Medication and
4 Monitoring Equipment.--(a) A school entity shall require the
5 parent or guardian of a student with diabetes who desires that
6 the student possess and self-administer diabetes medication and
7 monitoring equipment in a school setting to provide the
8 following:

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

23 (2) A written request from the parent or guardian that the
24 school entity comply with the direction of the student's health
25 care provider. The parent's request shall include a statement
26 relieving the school entity or any school employe of any
27 responsibility for the prescribed medication or monitoring
28 equipment and acknowledging that the school entity bears no
29 responsibility for ensuring that the medication is taken or the
30 monitoring equipment used.

1 (3) A demonstration of competency by the student satisfying
2 the school nurse that the student is capable of self-
3 administration of the medication or monitoring equipment.

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

12 (b) A school entity may revoke or restrict a student's
13 privileges to possess or self-administer diabetes medication or
14 monitoring equipment due to noncompliance with school rules or
15 provisions of a student's service agreement or due to
16 demonstrated unwillingness or inability of the student to
17 safeguard the medication or monitoring equipment from access by
18 other students.

19 (c) A school entity that restricts a student from possessing
20 or self-administering diabetes medication or monitoring
21 equipment pursuant to subsection (b) shall ensure that the
22 diabetes medication or monitoring equipment are appropriately
23 stored in a readily accessible place in the school building
24 attended by the student. The school entity shall notify
25 appropriate school employees regarding the location of the
26 diabetes medication or monitoring equipment and means to access
27 them.

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

1 Section 1414.5. Liability.--Nothing in sections 1414.2,
2 1414.3 or 1414.4 shall be construed to create, establish or
3 expand any civil liability on the part of any school entity or
4 school employe.

5 Section 1414.6. Diabetes Care in Nonpublic Schools.--(a) A
6 nonpublic school shall comply with the training of school
7 employes and provision of diabetes-related care to a student
8 with diabetes required under sections 1414.2, 1414.3 and 1414.4.
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) No nonpublic school employe or nonpublic school shall be
15 liable for civil damages as a result of the activities
16 authorized by sections 1414.2, 1414.3 and 1414.4, except that an
17 employe may be liable for willful misconduct.

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