

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 676 Session of 2005

INTRODUCED BY CONTI, TOMLINSON, RAFFERTY, LOGAN, KITCHEN, COSTA,
O'PAKE AND STACK, MAY 10, 2005

REFERRED TO EDUCATION, MAY 10, 2005

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, for medical examination of school
13 personnel and for advisory health councils.

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 added July 15, 1957 (P.L.937, No.404), August 9, 1963
19 (P.L.641, No.339), and November 30, 2004 (P.L.1471, No.187), is
20 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, who is assigned to
26 a school district or joint school board, or a dental hygienist
27 licensed by the State Dental Council and Examining Board and
28 certificated as a school dental hygienist by the Superintendent
29 of Public Instruction,] to practice dental hygiene who is
30 employed by a school district or joint school board as a dental

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

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

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

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

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

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

26 Section 2. Section 1402 of the act, added or amended July
27 15, 1957 (P.L.937, No.404), August 9, 1963 (P.L.642, No.340) and
28 December 7, 1965 (P.L.1041, No.390), is amended to read:

29 Section 1402. Health Services.--(a) [Each] A school
30 district or joint school board shall provide the following to

1 each child of school age [shall be given by methods established
2 by the Advisory Health Board], in accordance with guidelines
3 issued by the Department of Health:

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

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

8 (3) a [measurement of height and weight by a school nurse or
9 teacher,] growth screening;

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

12 (5) such other tests as the [Advisory Health Board]
13 Department of Health may deem advisable to protect the health of
14 the child. [Vision tests shall be given at least annually and
15 other tests at intervals established by the Advisory Health
16 Board.]

17 A school district or joint school board shall make information
18 available to the parent or guardian of each child informing the
19 parent or guardian of the health screenings to be performed
20 during the school year. School nurses and other qualified health
21 professionals as deemed appropriate by the Department of Health
22 shall be authorized to perform screenings under this section.

23 (a.1) Every child of school age shall be provided with
24 school nurse services: Provided, however, That the number of
25 pupils under the care of each school nurse shall not exceed [one
26 thousand five hundred (1,500)] seven hundred fifty (750).

27 (b) [For each child of school age, a comprehensive health
28 record shall be maintained by the school district or joint
29 school board, which shall include the results of the tests,
30 measurements and regularly scheduled examinations and special

examinations herein specified.] A school district or joint school board shall maintain for each child of school age a health record which shall include the following:

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

(2) a health history;

(3) results of all screenings and measurements;

(4) results of regularly scheduled and special examinations;

(5) documentation of special health care needs and plans of care; and

(6) other information as specified by the Department of Health.

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

(c) [Medical questionnaires, suitable for diagnostic purposes, furnished by the Secretary of Health and completed by the child or by the child's parent or guardian, at such times as the Secretary of Health may direct, shall become a part of the child's health record.] The health record shall include a family health history, completed by the child's parent or guardian. The health history shall be required upon entry into school and prior to or concurrent with all other required physical examinations. The health history shall be completed on forms provided by the Department of Health and shall become part of the student's school health record.

(d) All teachers and other employes shall report to the school nurse [or], school physician or school dentist any unusual behavior, changes in physical appearance, changes in attendance habits and changes in scholastic achievement, which may indicate impairment of a child's health. The school nurse or school physician or school dentist may, upon referral by the

1 teacher or other employe or on his own initiative, advise a
2 child's parent or guardian of the apparent need for a special
3 medical or dental examination. If a parent or guardian fails to
4 obtain the examination or fails to report the results to the
5 [nurse or school physician] school nurse, school physician or
6 school dentist, the [nurse or school physician] school nurse,
7 school physician or school dentist shall arrange, in
8 collaboration with the parent or guardian, a special [medical]
9 physical or dental examination for the child.

10 (e) [The school physicians of each district or joint board
11 shall make a medical examination and a comprehensive appraisal
12 of the health of every child of school age, (1) upon original
13 entry into school in the Commonwealth, (2) while in sixth grade,
14 (3) while in eleventh grade, and (4) prior to the issuance of a
15 farm or domestic service permit unless the child has been given
16 a scheduled or special medical examination within the preceding
17 four months. The health record of the child shall be made
18 available to the school physician at the time of the regularly
19 scheduled health appraisals.] 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 grade;
24 (3) one year before or during the eighth grade;
25 (4) one year before or during the eleventh grade; and
26 (5) prior to the issuance of an employment certificate, or
27 farm or domestic service permit.

28 (e.1) A physical examination under subsection (e) shall be
29 performed by the child's own primary care provider and the
30 parent or guardian shall provide the results of the physical

1 examination to the school district or joint school board. If the
2 parent or guardian does not provide the results of the physical
3 examination prior to the deadline established by the school
4 district or joint school board for the conduct of the
5 examination, the school district or joint school board shall
6 schedule the child to be examined by a qualified health
7 professional designated by the school district or joint school
8 board.

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

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

21 Section 1403. Dental Examinations and Dental Hygiene
22 Services.--(a) [All children of school age in the Commonwealth,
23 (i) upon original entry into the school, (ii) while in the third
24 grade, and (iii) while in the seventh grade, shall be given a
25 dental examination by a school dentist: Provided, however, That
26 this requirement shall not apply to those school districts or
27 joint school boards which have instituted a program of dental
28 hygiene services as provided in subsection (b) of this section.]
29 A school district or joint school board shall ensure evidence of
30 a dental examination of every child of school age:

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

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

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

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

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

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

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

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

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

hygiene services program may permit a school nurse or health care assistant to assist during a dental screening.

(b) A school district or joint school board shall advise the parent or guardian of a child in advance of the date, time and place of an examination or screening and invite the parent or guardian to be present. An examination or screening shall be made in the presence of the parent or guardian of a child when the parent or guardian requests to be present. A school district or joint school board shall obtain the prior written consent of the parent or guardian before a qualified health professional conducts an examination or screening.

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

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

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

(b) School physicians or school nurses shall inform teachers of the health conditions of pupils which may affect behavior, appearance or scholastic performance.] Referral for Evaluation and Treatment.--(a) A school district or joint school board

1 shall send the recommendation of a qualified health professional
2 for further evaluation or treatment of a child to the child's
3 parent or guardian with instructions to the parent or guardian
4 to consult the child's primary care provider, private dentist or
5 other appropriate health care provider and to notify the school
6 nurse of the action taken with respect to the recommendation.

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

19 Section 6. Section 1407 of the act is repealed.

20 Section 7. Sections 1414 and 1416 of the act, added July 15,
21 1957 (P.L.937, No.404), are amended to read:

22 Section 1414. [Care and Treatment of Pupils] Ancillary
23 Health Services.--Any school district or joint school board may
24 provide for the health care and treatment of [defective eyes,
25 ears and teeth of] all children of school age within the
26 district if the school district or joint school board has
27 obtained prior written consent of the child's parent or
28 guardian.

29 Section 1416. [Precautions Against Spread of Tuberculosis.--
30 No person having any form of tuberculosis in a transmissible

1 stage shall be a pupil, teacher, janitor or any other employe in
2 any school except in a special school carried on under the
3 regulations made for such schools by the Secretary of Health.
4 The board of directors of any school district or joint school
5 board may appropriate the necessary funds to pay for X-ray or
6 other medical examinations to determine the presence or absence
7 of tuberculosis in any teacher, janitor or other employe of the
8 district.] Precautions Against the Spread of Communicable
9 Disease.--A student or any person having direct contact with
10 students having or suspected of having a communicable disease,
11 infection or condition listed in 28 Pa. Code § 27.71 (relating
12 to exclusion of children, and staff having contact with children
13 for specified diseases and infectious conditions), 27.72
14 (relating to exclusions of children, and staff having contact
15 with children, for showing symptoms) and 27.75 (relating to
16 exclusion of children, and staff having contact with children,
17 during a measles outbreak) shall be excluded from school in
18 accordance with the applicable regulation. Readmission to school
19 shall be governed by 28 Pa. Code § 27.71, 27.73 (relating to
20 readmission of excluded children, and staff having contact with
21 children) or 27.74 (relating to readmission of exposed or
22 isolated children, and staff having contact with children), as
23 applicable. A school district or joint school board may
24 appropriate the necessary funds to pay for examinations and
25 testing to determine the presence or absence of a communicable
26 disease.

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

29 Section 1418. [Medical Examinations of Teachers and Other
30 Persons.--(a) All teachers, janitors, cooks and other cafeteria

1 help and all others employed at schools shall be required to
2 take a pre-employment medical examination, the results of which
3 shall be recorded on forms prescribed by the Secretary of Health
4 and shall be made available to the employing authorities.

5 (b) Each teacher, any other school employe and any person
6 providing services for school children under contract shall be
7 given tests for tuberculosis in accordance with rules and
8 regulations adopted by the Advisory Health Board. Each student
9 teacher and volunteer participating in student activities shall
10 be given the same tests for tuberculosis, but no person shall be
11 required to submit to a particular test if he shall furnish a
12 statement setting forth adequate reasons for being excused from
13 taking the test. In such case, an alternative method of testing
14 shall be administered.

15 (c) School boards may require a special medical examination
16 for any school employe at any time.] Health Evaluations of
17 School Personnel.--(a) A school district or joint school board
18 shall insure that each teacher and other employe, prior to
19 beginning work, provides documentation on a form prescribed or
20 approved by the Department of Health evidencing a physical
21 examination performed by a qualified health professional within
22 one (1) year prior to the person's start date. The results of
23 the physical examination shall include information showing that
24 the individual was evaluated for tuberculosis risk factors and
25 for other communicable diseases listed in 28 Pa. Code § 27.71
26 (relating to exclusion of children, and staff having contact
27 with children, for specified diseases and infectious conditions)
28 and tested as necessary.

29 (b) A school district or joint school board shall insure
30 that each individual, including a volunteer, who will have

1 direct contact with students for ten (10) or more hours weekly,
2 be evaluated prior to contact with students for tuberculosis
3 risk factors and other communicable diseases and tested as
4 necessary. Documentation shall be provided on a form prescribed
5 or approved by the Department of Health.

6 (d) [Medical examinations] The physical examination and
7 evaluation for tuberculosis risk factors and other communicable
8 diseases shall be made by the school physician or other
9 qualified health professional of the district if [provision
10 therefor is made by] the district or joint school board chooses
11 or by a [physician] qualified health professional of the
12 [employee's] person's own choice [legally qualified to practice
13 medicine and surgery or osteopathy or osteopathic surgery in the
14 Commonwealth].

15 Section 9. Section 1422 of the act, amended January 14, 1970
16 (1969 P.L.468, No.192), is amended to read:

17 Section 1422. Advisory Health Councils.--[District
18 superintendents may set up advisory health councils to study
19 health needs and to assist in organizing follow-up programs. An
20 advisory health council shall be composed of representatives of
21 the medical and dental associations, social organizations,
22 veterans' organizations, parent-teacher associations, service
23 clubs and other organizations in the area served. Those making
24 the medical and dental examinations shall make to this advisory
25 council an annual report, and later a report on the remedial
26 work which has been accomplished during the school year.] School
27 districts or joint school boards, individually or jointly, may
28 establish an advisory health council to provide advice and
29 support to assess health needs, initiate recommendations, and
30 plan and evaluate programs and services that will contribute

1 toward the health, safety and well-being of the school
2 community. School districts which receive funding through the
3 National School Lunch Act (60 Stat. 230, 42 U.S.C. § 1751 et
4 seq.) or the Child Nutrition Act of 1966 (Public Law 89-642, 42
5 U.S.C. § 1771 et seq.) may establish an advisory health council
6 to help plan, develop and implement a health and wellness plan
7 as required by section 204 of the Child Nutrition and WIC
8 Reauthorization Act of 2004 (Public Law 108-265, 118 Stat. 780).
9 Membership of the council may include representation from the
10 following:

- 11 (1) the school district's health services program;
- 12 (2) school administration, including school board members;
- 13 (3) teachers;
- 14 (4) guidance counselors;
- 15 (5) students;
- 16 (6) parent/teacher organizations;
- 17 (7) community health providers;
- 18 (8) local public health organizations; and
- 19 (9) other entities as deemed necessary and appropriate by
20 the school district.

21 Section 10. This act shall take effect in 120 days.