

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2221 Session of 2014

INTRODUCED BY BAKER, MCGEEHAN, LUCAS, TALLMAN, KORTZ, THOMAS, SWANGER, D. COSTA, YOUNGBLOOD, FRANKEL, ROCK, GIBBONS, WATSON, GINGRICH, GROVE, MURT, PAINTER, OBERLANDER, HENNESSEY, SABATINA, BISHOP, O'BRIEN, CRUZ, GODSHALL, ROEBUCK, DeLUCA, CUTLER, BENNINGHOFF, MICOZZIE, SCHLOSSBERG AND V. BROWN, APRIL 30, 2014

REFERRED TO COMMITTEE ON EDUCATION, APRIL 30, 2014

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 and for liability.

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

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

22 (2) Means of monitoring blood glucose.

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

26 (4) Techniques on administering glucagon and insulin.

27 (b) Within one hundred twenty (120) days of the effective
28 date of this section the chief school administrator or a
29 designee may identify at least one school employe, who is not
30 the school nurse and who does not need to be a licensed health

1 care provider, in each school building attended by a student
2 with diabetes. An identified employe shall complete the annual
3 educational modules outlined in subsection (a) or annual
4 education offered by a licensed health care provider with
5 expertise in the care of diabetes that includes substantially
6 the same 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 medications, use monitoring equipment and
10 provide other diabetes care. A school entity may require the
11 designated employe to complete the annual educational modules
12 required under subsection (b) or annual education from a
13 licensed health care provider with expertise in the care of
14 diabetes, or both, in the administration of diabetes
15 medications, use of monitoring equipment and provision of other
16 diabetes care. Education provided to school employes shall be
17 coordinated by the chief school administrator or a designee.
18 School entities may include the education in the continuing
19 education plan submitted by the school entity to the Department
20 of Education under section 1205.1.

21 (d) Notwithstanding any other statute or regulation
22 restricting the functions that may be performed by persons other
23 than licensed health care providers, school employes are
24 authorized to perform diabetes care for students for which they
25 have been designated and educated under this section. School
26 employes shall only be authorized to administer diabetes
27 medications via injection or infusion following annual education
28 by a school nurse or other licensed health care provider with
29 expertise in the care of diabetes, and following the school's
30 receipt of written authorization from both the student's health

1 care provider and parent or guardian that an educated school
2 employe, who is not a licensed health care provider, may
3 administer specified medications. Authorization of the provision
4 of education by a licensed health care provider in accordance
5 with this section shall not be construed to violate a licensi-
6 ng-related statute or regulation, nor shall it be construed to
7 constitute any delegation by a licensed health care provider.

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

11 Section 1414.3. Diabetes Care in Schools.--(a) A parent or
12 guardian of a student with diabetes who desires that the student
13 receive diabetes-related care in a school setting shall provide
14 the school entity with written authorization for the care and
15 instructions from the student's health care provider, consistent
16 with the school entity's policies regarding the provision of
17 school health services. The required authorizations may be
18 submitted as part of a diabetes medical management plan.

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

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

27 (1) Identifies the student with diabetes.

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

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

3 (d) For purposes of this section:

4 "School bus" means a school bus as defined in 75 Pa.C.S. §
5 102 (relating to definitions).

6 "School entity" means a school district, intermediate unit,
7 area vocational-technical school, charter school or cyber
8 charter school.

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

11 Section 1414.4. Possession and Use of Diabetes Medication and
12 Monitoring Equipment.--(a) A school entity shall require the
13 parent or guardian of a student with diabetes who desires that
14 the student possess and self-administer diabetes medication and
15 monitoring equipment in a school setting to provide the
16 following:

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

1 (2) A written request from the parent or guardian that the
2 school entity comply with the direction of the student's health
3 care provider. The parent's request shall include a statement
4 relieving the school entity or any school employe of any
5 responsibility for the prescribed medication or monitoring
6 equipment and acknowledging that the school entity bears no
7 responsibility for ensuring that the medication is taken by the
8 student and the monitoring equipment is used.

9 (3) A demonstration of competency by the student satisfying
10 the school nurse that the student is capable of self-
11 administration of the medication and use of the monitoring
12 equipment.

13 (4) A written acknowledgment by the student that the student
14 has received instruction from the student's health care provider
15 on proper safety precautions for the handling and disposal of
16 the medications and monitoring equipment. The written
17 acknowledgment shall also contain a provision stating that the
18 student will not allow other students to have access to the
19 medication and monitoring equipment and that the student
20 understands appropriate safeguards.

21 (b) A school entity may revoke or restrict a student's
22 privileges to possess or self-administer diabetes medication and
23 monitoring equipment due to noncompliance with school rules and
24 provisions of a student's service agreement or due to
25 demonstrated unwillingness or inability of the student to
26 safeguard the medication and monitoring equipment from access by
27 other students.

28 (c) A school entity that restricts a student from possessing
29 and self-administering diabetes medication and monitoring
30 equipment pursuant to subsection (b) shall ensure that the

1 diabetes medication or monitoring equipment are appropriately
2 stored in a readily accessible place in the school building
3 attended by the student. The school entity shall notify
4 appropriate school employes regarding the location of the
5 diabetes medication and monitoring equipment and means to access
6 them.

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

10 Section 1414.5. Liability.--Nothing in sections 1414.2,
11 1414.3 or 1414.4 shall be construed to create, establish or
12 expand any civil liability on the part of any school entity or
13 school employe.

14 Section 1414.6. Diabetes Care in Nonpublic Schools.--(a) A
15 nonpublic school may comply with the education of school
16 employes and provision of diabetes-related care to a student
17 with diabetes required under sections 1414.2, 1414.3 and 1414.4.
18 A written education plan that outlines the aids and related
19 services required to meet the academic needs of the student with
20 diabetes may take the place of a service agreement for a student
21 with diabetes attending a nonpublic school unless a service
22 agreement is otherwise required under law or regulation.

23 (b) Nothing in section 1414.2, 1414.3, 1414.4, 1414.5 or
24 this section shall be construed to do any of the following:

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

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

30 (c) No nonpublic school employe shall be liable for civil

1 damages as a result of the activities authorized by sections
2 1414.2, 1414.3 and 1414.4, except that an employe may be liable
3 for willful misconduct.

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