

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1625 Session of 2015

INTRODUCED BY BAKER, MURT, BISHOP, MILLARD, DAVIS, SONNEY, DUSH, WARD, WATSON, PHILLIPS-HILL, D. COSTA, WHEELAND, DRISCOLL, O'BRIEN, ROZZI, ROEBUCK, McNEILL, THOMAS, YOUNGBLOOD, SAYLOR, A. HARRIS, TALLMAN, FEE, JOZWIAK, KORTZ, ZIMMERMAN, JAMES, SCHWEYER, BENNINGHOFF, OBERLANDER, COHEN, GINGRICH, HAHN, FARRY, LAWRENCE, SCHEMEL, QUIGLEY, EVERETT, TOOHL AND MACKENZIE, OCTOBER 15, 2015

REFERRED TO COMMITTEE ON HEALTH, OCTOBER 15, 2015

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, for liability, for
10 coordinating, supervising or educating not considered
11 delegation and for diabetes care in nonpublic schools.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

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

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

18 * * *

19 (13) "Diabetes medical management plan" means a document
20 describing the medical orders or diabetes regimen developed and

1 signed by the student's health care practitioner and parent or
2 guardian.

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

7 (15) "Health care practitioner" means the term as defined
8 under section 103 of the act of July 19, 1979 (P.L.130, No.48),
9 known as the Health Care Facilities Act.

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

11 Section 1414.3. Education of School Employees in Diabetes
12 Care and Management.--(a) Within one hundred twenty (120) days
13 of the effective date of this section, the Department of Health,
14 in coordination with the Department of Education, shall make
15 educational modules and guidelines for the instruction of school
16 employees in diabetes care and treatment available on its
17 publicly accessible Internet website. The educational modules
18 shall include instruction in a school entity's obligations under
19 22 Pa. Code § 12.41 (relating to student services) and its
20 responsibilities to comply with section 504 of the
21 Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 794)
22 and 22 Pa. Code Ch. 15 (relating to protected handicapped
23 students). At a minimum, the educational modules shall include
24 instruction in:

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

26 (2) Means of monitoring blood glucose.

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

30 (4) Techniques on administering glucagon and insulin.

1 (b) The school nurse, in consultation with the chief school
2 administrator or a designee, may identify at least one school
3 employee who is not the school nurse and who does not need to be
4 a licensed health care practitioner in each school building
5 attended by a student with diabetes. If the school building
6 attended by a student with diabetes does not have a school
7 nurse, the chief school administrator may, but is not required
8 to, consult with a school nurse in a different school building
9 to identify at least one school employee in the school building.
10 An identified employee shall complete the annual educational
11 modules outlined in subsection (a) or annual education offered
12 by a licensed health care practitioner with expertise in the
13 care of diabetes that includes substantially the same
14 information as outlined in subsection (a).

15 (c) A school employee who is not a licensed health care
16 practitioner and who has successfully completed the education
17 modules under subsection (a) or annual education offered by a
18 licensed health care practitioner with expertise in the care of
19 diabetes that includes substantially the same information as
20 outlined in subsection (a) may be designated in a student's
21 service agreement to administer diabetes medications, use
22 monitoring equipment and provide other diabetes care. A school
23 entity may require the designated employee to complete the annual
24 educational modules or annual education from a licensed health
25 care practitioner, or both, in the administration of diabetes
26 medications, use of monitoring equipment and provision of other
27 diabetes care. Education provided to school employees shall be
28 coordinated by the chief school administrator or a designee.
29 School entities may include the education in the continuing
30 education plan submitted by the school entity to the Department

1 of Education under section 1205.1.

2 (d) Notwithstanding any other statute or regulation
3 restricting the functions that may be performed by persons other
4 than licensed health care practitioners, school employees who
5 have completed the education requirements under this section may
6 perform diabetes care for students. School employees who are not
7 licensed health care practitioners shall only be authorized to
8 administer diabetes medications via injection or infusion
9 following annual education by a licensed health care
10 practitioner with expertise in the care of diabetes, and
11 following the school's receipt of written authorization from
12 both the student's health care practitioner and parent or
13 guardian that an educated school employe, who is not a licensed
14 health care practitioner, may administer specified medications.

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

18 Section 1414.4. Diabetes Care in Schools.--(a) A parent or
19 guardian of a student with diabetes who desires that the student
20 receive diabetes-related care in a school setting shall provide
21 the school entity with written authorization for the care and
22 instructions from the student's health care practitioner,
23 consistent with the school entity's policies regarding the
24 provision of school health services. The required authorizations
25 may be submitted as part of a diabetes medical management plan.

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

30 (c) A student's service agreement may require a school

entity to provide the driver of a school bus or school vehicle,
who provides transportation to a student with diabetes, with an
information sheet that:

(1) Identifies the student with diabetes.

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

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

(d) For purposes of this section:

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

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

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

Section 1414.5. Possession and Use of Diabetes Medication
and Monitoring Equipment.--(a) A school entity shall require
the parent or guardian of a student with diabetes who desires
that the student possess and self-administer diabetes medication
and monitoring equipment in a school setting to provide the
following:

(1) A written statement from the student's health care
practitioner that provides the name of the drug, the dose, the
times when the medication is to be taken or the monitoring
equipment to be used, the specified time period for which the
medication or monitoring equipment is authorized to be used and
the diagnosis or reason the medicine or monitoring equipment is
needed. The student's health care practitioner shall indicate

1 the potential of any serious reaction to the medication that may
2 occur, as well as any necessary emergency response. The
3 student's health care practitioner shall state whether the
4 student is competent to self-administer the medication or
5 monitoring equipment and whether the student is able to practice
6 proper safety precautions for the handling and disposal of the
7 medication and monitoring equipment.

8 (2) A written request from the parent or guardian that the
9 school entity comply with the direction of the student's health
10 care practitioner. The parent's request shall include a
11 statement relieving the school entity or any school employe of
12 any responsibility for the prescribed medication or monitoring
13 equipment and acknowledging that the school entity bears no
14 responsibility for ensuring that the medication is taken by the
15 student and the monitoring equipment is used.

16 (3) A demonstration of competency by the student satisfying
17 the school nurse that the student is capable of self-
18 administration of the medication and use of the monitoring
19 equipment.

20 (4) A written acknowledgment by the student that the student
21 has received instruction from the student's health care
22 practitioner on proper safety precautions for the handling and
23 disposal of the medications and monitoring equipment. The
24 written acknowledgment shall also contain a provision stating
25 that the student will not allow other students to have access to
26 the medication and monitoring equipment and that the student
27 understands appropriate safeguards.

28 (b) A school entity may revoke or restrict a student's
29 privileges to possess or self-administer diabetes medication and
30 monitoring equipment due to noncompliance with school rules and

provisions of a student's service agreement or due to
demonstrated unwillingness or inability of the student to
safeguard the medication and monitoring equipment from access by
other students.

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

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

Section 1414.6. Liability.--Nothing in sections 1414.3,
1414.4 or 1414.5 shall be construed to create, establish or
expand any civil liability on the part of any school entity or
school employee.

Section 1414.7. Coordinating, Supervising or Educating Not
Considered Delegation.--(a) Notwithstanding any other law to
the contrary, coordinating or supervising the provision of
diabetes care by school employees authorized in sections 1414.3
and 1414.4 and providing education in accordance with section
1414.3 shall not be construed as a delegation by a licensed
health care practitioner.

(b) A licensed health care practitioner who, acting in
compliance with sections 1414.3 and 1414.4, coordinates or
supervises care for a student or provides education to a school

employee shall not be subject to any criminal or civil liability or any professional disciplinary action for the same.

Section 1414.8. Diabetes Care in Nonpublic Schools.--(a) A nonpublic school may comply with the education of school employees and provision of diabetes-related care to a student with diabetes required under sections 1414.3, 1414.4 and 1414.5. A written education plan that outlines the aids and related services required to meet the academic needs of the student with diabetes may take the place of a service agreement for a student with diabetes attending a nonpublic school unless a service agreement is otherwise required under law or regulation.

(b) Nothing in section 1414.3, 1414.4, 1414.5, 1414.6 or this section shall be construed to do any of the following:

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

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

(c) No nonpublic school employee or nonpublic school shall be liable for civil damages as a result of the activities authorized by sections 1414.3, 1414.4 and 1414.5, except that an employee may be liable for willful misconduct.

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