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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 871 Session of 2013

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INTRODUCED BY BROWNE, SMITH, SCARNATI, FOLMER, WHITE, BREWSTER,  
RAFFERTY, EICHELBERGER, WASHINGTON, VULAKOVICH, FONTANA,  
TARTAGLIONE, FARNESE, SOLOBAY AND TEPLITZ, MAY 29, 2013

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REFERRED TO EDUCATION, MAY 29, 2013

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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--

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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  
20 guardian.

21 (14) "Service agreement" means a student's Section 504

1 service agreement pursuant to section 504 of the Rehabilitation  
2 Act of 1973 (Public Law 93-112, 29 U.S.C. § 794) and 22 Pa. Code  
3 Ch. 15 (relating to protected handicapped students).

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

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

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

21 (2) Means of monitoring blood glucose.

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

25 (4) Techniques on administering glucagon and insulin.

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

1 with diabetes. An identified employe shall complete the annual  
2 training outlined in subsection (a) or annual training offered  
3 by a licensed health care provider with expertise in the care of  
4 diabetes that includes substantially the same information as  
5 outlined in subsection (a).

6 (c) A school employe who is not a licensed health care  
7 provider may be designated in a student's service agreement to  
8 administer diabetes medication, use monitoring equipment and  
9 provide other diabetes care. A school entity may require the  
10 designated employe to complete the annual training required  
11 under subsection (b) or annual training from a licensed health  
12 care provider with the expertise in the care of diabetes, or  
13 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 annual training  
26 by a school nurse or other licensed health care provider with  
27 expertise in the care of diabetes. The provision of training by  
28 a licensed health care provider in accordance with this section  
29 shall not be construed to violate a licensing-related statute or  
30 regulation.

1 (e) For purposes of this section, "school entity" means a  
2 school district, intermediate unit, area vocational-technical  
3 school or charter school.

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

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

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

20 (1) Identifies the student with diabetes.

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

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

26 (d) For purposes of this section:

27 "School bus" means a school bus as defined in 75 Pa.C.S. §  
28 102 (relating to definitions).

29 "School entity" means a school district, intermediate unit,  
30 area vocational-technical school or 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  
4 and Monitoring Equipment.--(a) A school entity shall require  
5 the parent or guardian of a student with diabetes who desires  
6 that the student possess and self-administer diabetes medication  
7 and 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 or charter school.

1 Section 1414.5. Liability.--Nothing in section 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 may comply with the training of school employes  
7 and provision of diabetes-related care to a student with  
8 diabetes required under sections 1414.2, 1414.3 and 1414.4. A  
9 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) Nothing in section 1414.2, 1414.3, 1414.4, 1414.5 or  
15 this section shall be construed to do any of the following:

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

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

21 (c) No nonpublic school employe or nonpublic school shall be  
22 liable for civil damages as a result of the activities  
23 authorized by sections 1414.2, 1414.3 and 1414.4, except that an  
24 employe may be liable for willful misconduct.

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