

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 896

INTRODUCER: Senator Peaden and others

SUBJECT: Students with Diabetes

DATE: March 15, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Matthews	ED	Fav/1 amendment
2.			HR	
3.			EA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	<input type="checkbox"/>	Statement of Substantial Changes
B. AMENDMENTS.....	<input checked="" type="checkbox"/>	Technical amendments were recommended
	<input type="checkbox"/>	Amendments were recommended
	<input type="checkbox"/>	Significant amendments were recommended

I. Summary:

This bill would require each public and private school in Florida in which a student with diabetes is enrolled to have at least three trained employees to provide medical management and care to the student. The Department of Health (DOH) would be required to adopt a new rule to adopt diabetes training guidelines by August 1, 2010. The bill specifies the elements of training, required care, and reporting requirements. The bill provides immunity from civil liability for a physician, nurse, school employee, or school district who carries out the activities authorized by the bill.

This bill creates one unnumbered section of law.

II. Present Situation:

According to the Department of Health (DOH), in 2008-2009, there were 1,169 registered nurses providing oversight for 7,968 students reportedly diagnosed with diabetes in 3,658 traditional public schools (not including charter schools).

Section 1006.062, F.S., currently allow nonmedical district school board personnel to perform health-related services upon successful completion of child-specific training by a licensed health care professional—a registered nurse, advanced registered nurse practitioner, physician, or a physician assistant. All health-related procedures are required to be monitored periodically by a nurse, advanced registered nurse practitioner, physician assistant, or physician. The statute specifically authorizes monitoring blood glucose and administration of emergency injectable medication. Each school board must have written policies and procedures for the administration of prescription medications and must receive, count, and store the medication in its original container. The statute exempts the person administering the medication from civil liability.

The DOH in cooperation with the Department of Education (DOE), local school health providers, and community stakeholders has developed and updated “Nursing Guidelines for the Delegation of Care for Students with Diabetes in Florida Schools” (2003)¹ to help ensure that students with diabetes are provided a safe learning environment. Diabetes management means monitoring or checking blood glucose levels throughout the day, following an individualized meal plan, getting regular physical activity, and administering insulin or medications to help keep blood glucose levels in the target range and to prevent the onset of hypoglycemia or hyperglycemia.² As recommended in the guidelines, all students with diabetes need an individual health care plan that includes an emergency care plan. Section 504 of the federal Rehabilitation Act of 1973³, requires school personnel to provide appropriate accommodations in order for students with diabetes to participate in the same academic, nonacademic, and extracurricular activities as their peers.

According to DOE, effective school-based diabetes management requires a two-pronged approach:

- All school staff members who have contact with students with diabetes should receive training that provides a basic understanding of general diabetes management, how to identify medical emergencies related to diabetes, and whom to contact in case of an emergency.
- In addition to the above general diabetes training, certain designated school staff members should receive training from a qualified health care professional for child-specific management and emergency care in accordance with an individual healthcare plan so that at least one school staff member is always on campus for each student with diabetes.⁴

The Florida Nurse Practice Act⁵ defines the process for delegating nursing tasks and activities, such as insulin and glucagon administration, to unlicensed assistive personnel. Since many Florida schools do not have a full-time nurse on campus, “Technical Assistance Guidelines: The Role of the Professional School Nurse in the Delegation of Care in Florida Schools” (2005)⁶ has been developed by the DOH in cooperation with the DOE, local school health providers, and

¹ <http://www.doh.state.fl.us/Family/school/health/diabetes.html>

² <http://ndep.nih.gov/publications/OnlineVersion.aspx?NdepId=NDEP-61#page8>, (last viewed on March 14, 2010).

³ 29 U.S.C. Section 794

⁴ Department of Education analysis of SB 896, on file with the Senate Education Pre-K-12 Committee.

⁵ Chapter 464, F.S., and ch. 64B9-14.001-14.003, F.A.C.

⁶ http://www.doh.state.fl.us/Family/school/attachments/Documents/TA_guidelines.html

community stakeholders in order to address delegation of health care services in Florida schools to ensure the well-being and safe care of students.

In addition to the Florida Diabetes and Delegation Guidelines, the Florida School Health Administrative Guidelines (2007)⁷ provides overall policy guidance for school health administrators in Florida. Chapter 6 of the guidelines addresses the necessity for an Individual Health Care Plan (IHCP) based on the student's medical management plan from the physician.

Section 381.0056, F.S., defines "school health services plan" as the document that describes the health services to be provided, responsibility for provision of the services, anticipated expenditures to provide the health services, and evidence of cooperative planning by school districts and county health departments. The school health services plan must include annual notification to the local nonpublic schools of the opportunity for representatives of these schools to voluntarily participate in the school health services program.

III. Effect of Proposed Changes:

Required Training

This bill requires annual training of at least three school employees, including bus drivers, at each public or private school attended by a student who has diabetes. The training must be coordinated by a school nurse or other health care professional and must include aspects of diabetes recognition, management, and training.

DOH Rules

The bill requires DOH to adopt rules, by August 1, 2010, containing training guidelines for school personnel. The guidelines must be developed with the assistance of the Department of Education, American Diabetes Association, American Association of Diabetes Educators, and the Florida Association of School Nurses.

Required Care

If a student's parent submits the student's diabetes medical management plan to the school, the school nurse or trained diabetes personnel must implement the plan including blood glucose monitoring, insulin injections, diabetes medication, dietary management, and physical activity. The bill would permit student self-management of diabetes upon written parental request and physician authorization. This bill's requirement for a diabetes medical management plan does not reference the IHCP and appears to require a separate disease-specific plan for students with diabetes. The school nurse or trained diabetes personnel must be onsite and available to provide care during school, extracurricular activities, and during bus transportation when the bus driver has not completed diabetes training. The bill prohibits assigning a student to a particular school based on the availability of a nurse or trained diabetes personnel.

Activities of Nurses and Unlicensed Personnel

The bill stipulates that the required diabetes care activities do not constitute the practice of nursing and are exempt from any applicable state law or rule that restricts activities that may be delegated to, or performed by unlicensed personnel. This bill references "school nurse" but does

⁷ http://www.doh.state.fl.us/Family/school/attachments/sh_index.htm#Administrative%20G

not specify the level of practice. According to DOH, requirements for nursing scope of practice are established by the Nurse Practice Act (ch. 464, F.S.). Only a registered nurse has the authority to perform acts requiring specialized knowledge and judgment, delegation, supervision, and to provide training. This includes many of the tasks related to student diabetes care contained in this bill. A licensed practical nurse may perform selected acts under the direction of a registered nurse or other specified licensed providers. In addition, nursing practice guidelines agree that it is the registered nurse that meets the necessary requirements to ensure student safety in these independent practice settings.

Immunity from Civil Liability

The bill provides that a physician, nurse, school employee, or school district is not liable for civil damages or subject to disciplinary action under professional licensing rules or school disciplinary policies as a result of the activities authorized by this bill, when such acts are committed as an ordinarily reasonably prudent person would have acted under the same or similar circumstances. The bill does not extend immunity from civil liability to a charter school or private school.

Reporting Requirements

Beginning in 2011, each district school board, and the governing board of each charter school and private school must submit annual reports to the DOE showing compliance with the requirements of the bill. The bill does not provide a penalty for noncompliance. The report must be in accordance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Each private school in which a student with diabetes is enrolled will incur the cost of compiling an annual compliance report and possibly a cost for training employees.

C. Government Sector Impact:

According to the DOE, the cost is indeterminate. The cost of training three employees at each school having a student with diabetes could potentially impact all 2,866 traditional public schools and 412 charter schools. The requirement for training bus drivers could potentially mean that all 15,288 permanent and 1,520 substitute bus drivers will have to be trained. Each traditional and charter school in all districts would incur the cost of compiling an annual compliance report.

The DOE will incur an indeterminate workload to collect reports from each traditional, charter, and private school on whether students with diabetes are enrolled and compliance information.

VI. Technical Deficiencies:

On line 163, the words “who has” should be deleted.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

Barcode 353002 by Education Pre-K-12 Committee on March 17, 2010:

This technical amendment removes the words “who has” on line 163 to clarify that it is the bus driver, not the student, who has diabetes training.