

STORAGE NAME: h0773z.ei
DATE: May 18, 2000

****FAILED TO PASS THE LEGISLATURE**

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
EDUCATION INNOVATION
FINAL ANALYSIS**

BILL #: HB 773
RELATING TO: School/Student's Medical Needs
SPONSOR(S): Representative Crow
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION INNOVATION YEAS 11 NAYS 0
 - (2) GOVERNMENTAL RULES & REGULATIONS YEAS 8 NAYS 0
 - (3) EDUCATION APPROPRIATIONS WITHDRAWN
 - (4)
 - (5)
-

I. SUMMARY:

HB 773, as amended by the Education Innovation Committee, requires the following:

- Each school district board shall adopt policies and procedures governing the administration of prescription and non-prescription medication by school district personnel;
- A parent must provide a written statement to the principal granting permission for the administration of medication;
- A school nurse, in addition to a principal and principal's designee may administer medication;
- Each medication, administered by school district personnel, is received, counted, and stored in its original container, and when not in use, stored under lock and key; and
- Students be exempt from any services provided under the school health services program if his or her parent or guardian request such exemption in writing.

The amended bill prohibits:

- Transportation of a student in a school district vehicle or a privately owned vehicle to a medical treatment facility without the consent of the parent except in imminently life-threatening circumstances.

HB 773 has no fiscal impact, and takes effect on July 1, 2000.

The bill is traveling with a "strike everything after the enacting clause" amendment. (See Section VI of the analysis.)

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Administration of Medication by School District Personnel

Section 232.46(1), F.S., provides that, notwithstanding the provisions of the Nurse Practice Act, school district personnel are authorized to assist students in the administration of prescription medication when the following conditions have been met:

- Each district school board must include in its approved school health services plan a procedure to provide training, by a registered nurse, a licensed practical nurse, a licensed physician, or a physician assistant, pursuant to chapter 458, F.S., or chapter 459, F.S., to the school personnel designated by the principal.
- Each district school board must adopt policies and procedures governing the administration of prescription medication by school district personnel. The policies and procedures must include:
- For each prescribed medication, the student's parent or guardian must provide to the school principal a written statement which must grant to the principal or the principal's designee permission to assist in the administration of such medication.
- Each prescribed medication to be administered by school district personnel must be received, counted, and stored in its original container. When the medication is not in use, it must be stored in a safe place under lock and key.

Chapter 464, F.S., the Nurse Practices Act, differentiates between professional nursing, as practiced by a licensed registered nurse, and practical nursing, as practiced by a licensed practical nurse. According to the Department of Health (DOH), a professional nurse, by virtue of substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences, may perform at a higher level of nursing than a licensed practical nurse. A licensed practical nurse performs selected acts under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist. The registered nurse may supervise and teach other personnel in the theory and performance of nursing acts.

The "school health services plan" as defined in s. 381.0056, F.S., is the document that describes the services to be provided, the responsibility for provision of the services, the anticipated expenditures to provide the services, and evidence of cooperative planning by local school districts and county health departments. According to the 1999-2001 School Health Services Plan, each school district is responsible for having a current school district medication policy for administration of prescribed and over-the-counter medication. Local control currently determines policy and procedures regarding prescription and non-prescription medication administration for students at school. According to the Florida Department of Health, in recent years, policies for non-prescription medication have become increasingly more controversial as more students utilize over-the-counter homeopathic remedies that have not been prescribed by physicians and may not be standardized for purity and safety or proven to be efficacious.

Each district's School Health Services Plan also includes evidence of a curriculum and procedure to provide training by a licensed professional to the school personnel designated by the principal to administer medications, evidence of supervision and monitoring of all staff designated by the principal to administer medications, evidence of use of an individual student medication record, and evidence that medications are received, counted, and stored in the original container and under lock and key when not in use. According to the Department of Education (DOE), school-based individuals are trained in recognizing indicators of possible medical conditions, such as seizures, vision deficits, and attention problems. Currently, school personnel other than licensed medical personnel advise parents of suspected medical conditions that may need further investigation by a physician or health care provider.

Section 232.46(2), F.S., provides that there will be no liability for civil damages as an effect of the administration of such medication when the person administering acts as an ordinarily reasonably prudent person would have acted under the same or similar circumstances.

Provisions of Medical Services

Section 232.465, F.S., provides that nonmedical school district personnel must *not* be allowed to perform invasive medical services that require special knowledge, nursing judgment, and nursing assessment. School based nonmedical personnel who administer prescribed medication must be trained by medical personnel. All procedures must be monitored periodically by the nurse. For all other invasive medical services, the appropriate qualified medical official must determine if nonmedical school district personnel will be allowed to perform such services. Each district school board must establish emergency procedures in accordance with the School Health Services Act in s. 381.0056(5), F.S., for life-threatening emergencies.

Sections 232.46 and 232.465, F.S., include provisions for licensed practical nurses to act in the capacity of registered nurses to:

- Provide training to school personnel designated by the principal to assist students in the administration of prescribed medication;
- Provide child-specific training to non-licensed personnel relative to performing selected nursing services; and
- Determine if non-licensed school district personnel shall be allowed to perform invasive medical services except for those listed in s. 232.465, F.S., which are: sterile catheterization, nasogastric tube feeding, cleaning and maintaining a tracheostomy and deep suctioning of a tracheostomy, cleaning intermittent

catheterization, gastrostomy tube feeding, monitoring blood glucose, and administering emergency injectable medication.

Section 381.0056, F.S., requires school districts to conduct health screening on all students. Currently, parents of all public school students are advised that this will be provided for their children, and that they have the right to request these screening services not be given to their child. A parent may place service restrictions in their child's record such as in the case of religious beliefs. For the safety of students, individual screening for suspected contagious diseases (such as conjunctivitis and head lice) are conducted by school personnel trained in symptoms of these diseases.

Section 230.23, F.S., requires districts to conduct evaluations of exceptional students. According to the DOE, section 504 of the federal Rehabilitation Act of 1973 also requires evaluations of students to determine their eligibility for protection. Parental consent is required for the federal Individuals with Disabilities Education Act (IDEA) evaluations and reevaluations. Although not specifically required by federal law, according to DOE, districts usually follow IDEA requirements for parental consent regarding Section 504 evaluations.

Section 232.465, F.S., provides school district personnel must not refer students to or offer students at school facilities contraceptive services without the consent of the parent or guardian, unless this provision conflicts with any provision for public health found in Chapter 381, F.S.

Currently, according to DOE, the school health curriculum provides lessons that guide students towards healthy lifestyles, both physically and emotionally. Students are currently provided with counseling services and behavioral skills training (anger management and conflict resolution) as part of each district's responsibility to provide student support services through the school counselor, school psychologist, school social worker, and school nurse. In cases of emotional crisis (such as suicide threat) or imminent physical danger, trained staff provides immediate first aid and/or psychological counseling to preclude endangerment of the students. Once the crisis intervention has taken place, school personnel provide parents/guardians with referral information for both medical and psychological treatment when a student displays symptoms associated with physical and/or mental illness. Many student services professionals hold advanced degrees and training, being licensed or eligible for licensure under Chapters 490 and 491, F.S. Upon the parents' request, and within the parameters of training of the student services professional (school counselor, school psychologist, school social worker, and school nurse), psychological therapy may be provided.

According to DOE, student services personnel (school counselor, school psychologist, school social worker, and school nurse) are approved Medicaid providers in the areas of behavioral health services.

According to the DOH, the provision of mental health and psychological testing is outside the scope of school health services staff.

Transportation of Ill or Injured Students or In An Emergency Situation

Section 234.02, F.S., states that the maximum regard for safety and adequate protection of health are primary requirements that must be observed by school boards in routing buses, appointing drivers, and providing and operating equipment. School boards must use school buses as defined in 234.051, F.S., for all regular transportation. School boards may

authorize the transportation of students in privately owned motor vehicles on a case-by-case basis in certain circumstances.

C. EFFECT OF PROPOSED CHANGES:

Administration of Medication by School District Personnel

HB 773 provides that school district board adopt policies and procedures governing the administration of prescription and non-prescription medication by school district personnel.

The bill requires that for each child's medication, the parent must provide a written statement to the principal granting the principal, school nurse, or principal's designee permission to assist in the administration of the medication. Each medication, administered by school district personnel, is to be received, counted, and stored in its original container. When not in use, it is to be stored in its original container under lock and key.

Medical Services

The bill allows students to be exempt from any services provided under the school health services program if his or her parent or guardian request such exemption in writing.

Transportation of Ill or Injured Students or In An Emergency Situation

HB 773 provides for transportation of a student in a school district vehicle or a privately owned vehicle to a medical treatment facility without the consent of the parent in imminently life-threatening circumstances.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 232.46, F.S., revising provisions requiring district school boards to adopt policies and procedures governing the administration of prescription and non-prescription medication by school district personnel; adding school nurse to principal or principal designee who can assist in the administration of medication.

Section 2: Amends s. 232.465, F.S., exempting a student from any services provided under the school health services program if his or her parent or guardian request such exemption in writing.

Section 3: Amends 234.02, F.S., requiring the transportation of a student in a school district vehicle or a privately owned vehicle to a medical treatment facility without the consent of the parent only in imminently life-threatening circumstances.

Section 4: Provides an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Fiscal Comments by the Committee on Education Innovation

If school districts have been using non-medical degree staff to provide medical diagnoses or give clinical tests to students and begin using staff with medical degrees for the same purpose, there could be a fiscal impact to the district or school.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentages of state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee of Education Innovation reported HB 773 favorably with one “strike-everything” amendment. The amended bill differs from the original in the following:

- Requires each district school board to adopt policies and procedures governing the administration of non-prescription medication.
- Allows transportation of a student in a school district vehicle or a privately owned vehicle to a medical treatment facility without the consent of the parent in circumstances where immediate medical treatment is necessary for the health and safety of the student.
- Allows students to be exempt from any services provided under the school health services program if his or her parent or guardian requests such exemption in writing.
- From the bill, deletes provision that only licensed medical personnel are allowed to make medical recommendations to the parent or legal guardian.
- From the bill, deletes provision that written parental consent must be given for non-prescription medication administered by school district personnel.
- From the bill, deletes provision that all in-school physical or mental examinations are prohibited unless they are approved in writing by the student’s parent.
- From the bill, deletes provision prohibiting a school administrator, teacher, guidance counselor, psychologist or any other staff member who does not have a medical degree from providing a medical diagnosis or giving a clinical test to any student.
- From the bill, deletes provision prohibiting nonmedical school personnel from presenting lessons or activities that could be defined as medical or psychological therapy.
- From the bill, deletes provision prohibiting a parent from being coerced to seek medication or pursue specific medical or psychological diagnosis, psychotherapy, or other treatment for his or her child.

On April 19, 2000, the Governmental Rules and Regulations Committee passed HB 773, as amended, 8 to 0.

The bill was withdrawn from Education Appropriations Committee and on May 5, 2000, died on the House calendar.

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VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

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AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES & REGULATIONS:

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

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