

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 340

INTRODUCER: Senator Garcia

SUBJECT: Care of Students with Epilepsy or Seizure Disorders

DATE: February 23, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Grace</u>	<u>Elwell</u>	<u>AED</u>	<b>Recommend: Favorable</b>
3.	<u>Grace</u>	<u>Sadberry</u>	<u>AP</u>	<b>Favorable</b>

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**I. Summary:**

SB 340 specifies responsibilities for public schools to provide for the care of students with epilepsy or seizure disorders. The bill:

- Requires a parent seeking care for a student with epilepsy or a seizure disorder to provide the school with an individualized seizure action plan and establishes a comprehensive framework for individualized seizure action plans.
- Requires the school nurse or other appropriate school employee to coordinate the provision of epilepsy and seizure disorder care at his or her school for each student with an individualized seizure action plan, including administering anti-seizure and rescue medications to the student.
- Exempts from liability school personnel for acts or omissions made in good faith related to the care of students with epilepsy or seizure disorders.

The bill also adds training requirements for school personnel to ensure that each school employee and individual working with school-sponsored programs outside of the regular school day are trained every two years in the care of students with epilepsy and seizure disorders, including how to recognize the symptoms of epilepsy and seizure disorders.

The bill does not have an impact on state revenues or expenditures. *See* Section V. Fiscal Impact Statement.

The bill takes effect upon becoming a law.

## II. Present Situation:

Epilepsy is a common disorder of the brain that causes recurring seizures. Epilepsy affects people of all ages, but children and older adults are more likely to have epilepsy. Seizures are the main sign of epilepsy, and most people can control this with treatment.<sup>1</sup>

Approximately 6 in 1000 students have epilepsy. Compared with students with other health concerns, a Centers for Disease Control and Prevention study shows that students aged 6–17 years with epilepsy were more likely to miss 11 or more days of school in the past year. Also, students with epilepsy were more likely to have difficulties in school, use special education services, and have activity limitations such as less participation in sports or clubs compared with students with other medical conditions.<sup>2</sup>

In the United States, the U.S. Food and Drug Administration has approved several medications for out-of-hospital use for the treatment of acute repetitive seizures or clusters:<sup>3</sup>

- Diastat<sup>®</sup> - a diazepam rectal gel.
- Nayzilam<sup>®</sup> - a midazolam nasal spray.
- Valtoco<sup>®</sup> - a diazepam nasal spray.

### School Health Services Program

District school boards are responsible for attending to health, safety, and other matters relating to the welfare of students,<sup>4</sup> including the responsibility to establish emergency procedures for life-threatening emergencies.<sup>5</sup>

The Department of Health has the responsibility, in cooperation with the Department of Education, to supervise the administration of the school health services program and perform periodic program reviews.<sup>6</sup> County health departments, district school boards, and local school health advisory committees<sup>7</sup> jointly develop school health services plans, which must include provisions for meeting emergency needs at each school.<sup>8</sup>

The school health services plan describes the health services to be provided by a school.<sup>9</sup> For example, the plan must address:<sup>10</sup>

- Specified physical screenings.
- Health counseling.

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<sup>1</sup> Centers for Disease Control and Prevention, CDC Healthy Schools, *Epilepsy*, <https://www.cdc.gov/healthyschools/npao/epilepsy.htm> (last visited Jan. 12, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> Epilepsy Foundation, *Seizure Rescue Therapies*, <https://www.epilepsy.com/learn/treating-seizures-and-epilepsy/seizure-rescue-therapies> (last visited Jan. 13, 2022).

<sup>4</sup> Section 1001.42(8)(a), F.S.

<sup>5</sup> Section 1006.062(6), F.S.

<sup>6</sup> Section 381.0056(3), F.S.

<sup>7</sup> Each school health advisory committee must include members who represent the eight component areas of the Coordinated School Health model as defined by the Centers for Disease Control and Prevention. Section 381.0056(2)(b), F.S.

<sup>8</sup> Sections 381.0056(4)(a)12. and 1006.062(6), F.S.

<sup>9</sup> Section 381.0056(2)(e), F.S.

<sup>10</sup> Section 381.0056(4)(a), F.S.

- Meeting emergency health needs in each school.
- Consultation with a student's parent or guardian regarding the need for health attention by the family physician, dentist, or other specialist when definitive diagnosis or treatment is indicated.
- Maintenance of records on incidents of health problems, corrective measures taken, and such other information as may be needed to plan and evaluate health programs.

In attending to student health, the district school board is required to:<sup>11</sup>

- Provide inservice health training for school personnel;
- Make available adequate physical facilities for health services;
- At the beginning of each school year, inform parents or guardians in writing that their children who are students in the district schools will receive specified health services as provided for in the district health services plan. A student will be exempt from any of these services if his or her parent or guardian requests such exemption in writing.

In the absence of negligence, no person is liable for any injury caused by an act or omission in the administration of school health services.<sup>12</sup>

### **The Provision of Medical Services by School Board Personnel**

All employees who staff school health rooms must be currently certified in first aid and cardiopulmonary resuscitation (CPR).<sup>13</sup> Additionally, each school must ensure that at least two school staff members and all school bus operators and attendants are currently certified to provide first aid and CPR.<sup>14</sup> School bus operators and attendants must also receive CPR and first aid refresher in-service training at least biennially.<sup>15</sup>

Nonmedical assistive personnel may perform health-related services upon successful completion of child-specific training by authorized licensed health care personnel.<sup>16</sup> All procedures must be monitored periodically by a nurse, advanced practice registered nurse, physician assistant, or physician, and may include administering emergency injectable medication.<sup>17</sup> Except for certain invasive procedures prohibited by law,<sup>18</sup> whether nonmedical district school board personnel may perform a specific health-related service is determined by authorized licensed health care personnel.<sup>19</sup>

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<sup>11</sup> Section 381.0056(6), F.S.

<sup>12</sup> Section 381.0056(8), F.S.

<sup>13</sup> Rule 64F-6.004(2), F.A.C.

<sup>14</sup> Rule 64F-6.004, F.A.C.; Rule 6A-3.0121(2)(b)3., F.A.C.

<sup>15</sup> Rule 6A-3.0121(2)(b)3., F.A.C.

<sup>16</sup> Section 1006.062(4), F.S. Authorized personnel include only a registered nurse or advanced practice registered nurse licensed under chapter 464, a physician licensed pursuant to chapter 458 or chapter 459, or a physician assistant licensed pursuant to chapter 458 or chapter 459. *Id.*

<sup>17</sup> Section 1006.062(4), F.S.

<sup>18</sup> Nonmedical district school board personnel may not perform sterile catheterization, nasogastric tube feeding, or cleaning and maintaining a tracheostomy or deep suctioning of a tracheostomy. Section 1006.062(3), F.S.

<sup>19</sup> Section 1006.062(5), F.S.

## **The Administration of Medication by School Board Personnel**

District school board personnel may assist students in the administration of certain medication.<sup>20</sup> School personnel designated to assist in the administration of medication must be trained by authorized licensed healthcare personnel.<sup>21</sup>

For each medication prescribed to a student, the principal must obtain from the parent a written explanation of the necessity for the medication to be provided during the school day, including any occasion when the student is away from school property on official school business, and grant permission to assist the student in the administration of such medication.<sup>22</sup> Each prescribed medication to be administered by district school board personnel must be received, counted, and stored in its original container. When the medication is not in use, it must be stored in its original container in a secure fashion under lock and key in a location designated by the school principal.<sup>23</sup>

School personnel administering medication are exempt from liability for civil damages when acting as an ordinarily reasonably prudent person would have acted under the same or similar circumstances.<sup>24</sup>

## **Individualized Healthcare Plans**

The school nurse creates individualized healthcare plans (IHPs) for students with healthcare needs that, if not addressed, may negatively affect attendance or academic performance. The IHPs foster communication among nursing staff to promote continuity of care.<sup>25</sup>

Depending on the health condition, the IHP may prompt the nurse to develop an emergency care plan (ECP).<sup>26</sup> The ECP is a clearly written step-by-step set of instructions for what to do in a particular emergency situation.<sup>27</sup> Unlike the IHP, the ECP is distributed to appropriate staff, and the school nurse trains that staff to respond to emergencies that may arise with individual students.<sup>28</sup>

Though not currently required, the establishment of an IHP and ECP for a student with epilepsy or a seizure disorder is best practice.<sup>29</sup> Whenever there is a known risk for a potential medical emergency, as there is in the management of students with epilepsy and seizure disorders, the school nurse should create, at a minimum, an ECP.<sup>30</sup>

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<sup>20</sup> Section 1006.062, F.S.

<sup>21</sup> Section 1006.062(1)(a), F.S.

<sup>22</sup> Section 1006.062(1)(b), F.S.

<sup>23</sup> Section 1006.062(1)(b)2., F.S.

<sup>24</sup> Section 1006.062(2), F.S.

<sup>25</sup> Department of Education, *Legislative Bill Analysis for SB 340 (2022)*. See also National Association of School Nurses, *Use of Individualized Healthcare Plans to Support School Health Services* (2020).

<sup>26</sup> *Id.*

<sup>27</sup> Department of Education, *Legislative Bill Analysis for SB 340 (2022)*.

<sup>28</sup> Rule 64F-6.004(4), F.A.C. See also Department of Education, *Legislative Bill Analysis for SB 340 (2022)*.

<sup>29</sup> Department of Education, *Legislative Bill Analysis for SB 340 (2022)*.

<sup>30</sup> *Id.*

A Seizure Action Plan contains the essential information school staff may need to know in order to help a student who has seizures. It includes information on first aid, parent and health care provider contacts, and medications specifically for that child. Seizure Action Plans are an important tool that help parents and schools partner to keep children safe and healthy during the school day.<sup>31</sup>

*Seizure Training for School Nurses: Caring for Students* is a 2.75 hour program available online or in person that is designed to provide the school nurse with information, strategies, and resources that will enable him or her to better manage the student with seizures by supporting positive treatment outcomes, maximizing educational and developmental opportunities, and ensuring a safe and supportive environment. The program consists of seven modules to assist the school nurse in learning to effectively manage seizures in a school environment.<sup>32</sup>

During the 2019-2020 school year, local school health programs reported at total of 17,282 students with epilepsy/seizure disorders. A total of 90,826 individualized healthcare plans were completed by 1,157 registered nurses.<sup>33</sup>

### III. Effect of Proposed Changes:

This bill specifies responsibilities for public schools to provide for the care of students with epilepsy or seizure disorders. The bill creates s. 1006.0626, F.S., to provide for and govern the care of students with epilepsy or seizure disorders. The bill provides definitions applicable to the care of students with epilepsy or seizure disorders. Specifically, the bill defines:

- “Individualized seizure action plan” as a document developed and signed by a medical professional who provides epilepsy or seizure disorder care to the student, in consultation with the student’s parent, who must also sign the individualized seizure action plan, and reviewed by the school nurse. The bill requires the individualized seizure action plan to outline a set of procedural guidelines that provide specific directions for the health care services needed by the student at school and the steps to take in a particular emergency situation.
- “Medical professional” as a physician licensed under chapter 458<sup>34</sup> or chapter 459,<sup>35</sup> a physician assistant licensed under chapter 458 or chapter 459, or an advanced practice registered nurse licensed under s. 464.012<sup>36</sup> who provides epilepsy or seizure disorder care to the student.
- “School” as a public school<sup>37</sup> in Florida.

<sup>31</sup> Centers for Disease Control and Prevention, CDC Healthy Schools, *Epilepsy*, <https://www.cdc.gov/healthyschools/npao/epilepsy.htm> (last visited Jan. 12, 2022).

<sup>32</sup> Epilepsy Foundation, *Seizure Training for School Nurses* <https://www.epilepsy.com/living-epilepsy/our-training-and-education/seizure-training-school-nurses-caring-students> (last visited Jan. 12, 2022).

<sup>33</sup> Department of Education, *Legislative Bill Analysis for SB 340* (2022).

<sup>34</sup> Chapter 458, F.S., relates to medical practice.

<sup>35</sup> Chapter 459, F.S., relates to osteopathic medicine.

<sup>36</sup> Section 464.012, F.S., governs the licensure of advanced practice registered nurses, including education, training, and certification requirements.

<sup>37</sup> Charter schools are required to comply with laws pertaining to student health, safety, and welfare. Section 1002.33(16)(a)5., F.S.

- “School employee” as a person employed by the school district<sup>38</sup> at the student’s school of enrollment or who has contact with the student.
- “Student” as a student enrolled in kindergarten through grade 12 in a public school who has been diagnosed with epilepsy or a seizure disorder.

### **Parental Obligations**

The bill specifies requirements for a parent who seeks epilepsy or seizure disorder care for his or her student while at school or engaged in a school-related activity. In order to obtain care for a student, the bill provides that the parent must:

- Inform the school nurse or an appropriate school employee and provide him or her with an individualized seizure action plan.
- Provide an individualized seizure action plan that is updated by a medical professional before the beginning of each school year and as necessary if there is a change in the health status of the student.
- Annually provide written authorization to the school district for the health care services provided through such plan.

### **Individualized Seizure Action Plans**

The bill establishes a comprehensive framework for individualized seizure action plans. The bill requires each individualized seizure action plan to include:

- Written orders from the student’s medical professional outlining the student’s epilepsy or seizure disorder recommended care.
- The student’s epilepsy or seizure disorder symptoms.
- Whether the student can fully participate in physical exercise or athletic competitions, any contraindications to such exercise or competitions, or any accommodations that must be made for the student for such exercise or competitions.
- Any accommodations the student requires for school trips, after-school programs and activities, class parties, and any other school-related activities.
- When and whom to call for medical assistance.
- The student’s ability to manage, and the student’s level of understanding of, his or her epilepsy or seizure disorder.
- How to maintain communication with the student, the student’s parent, and the student’s health care team, school nurse, and educational staff.
- Any rescue medication prescribed by the student’s medical professional and how and when to administer the medication.

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<sup>38</sup> The district school board is responsible for operating, controlling, and supervising the school district. Art. IX, s. 4, Fla. Const. A charter school may select its own employees, be a private or public employer, or contract with the district school board for the services of personnel employed by the school board. Section 1002.33(12)(a) and (i), F.S.

## **Obligations of School Personnel**

### ***The Provision of Medical Services***

The bill adds responsibilities for school board personnel to attend to the care of students with epilepsy or seizure disorders. Specifically, the bill requires the school nurse or other appropriate school employee to:

- Coordinate the provision of epilepsy and seizure disorder care<sup>39</sup> at his or her school for each student with an individualized seizure action plan, including administering anti-seizure and rescue medications to the student, as outlined in the student's individualized seizure action plan.
- Ensure that each school employee and individual working with school-sponsored programs outside of the regular school day are trained every two years in the care of students with epilepsy and seizure disorders, including how to recognize the symptoms of and provide care for epilepsy and seizure disorders.

### ***Training for School Personnel***

The bill sets standards for the required training for school employees. The training must include a course of instruction provided by a nonprofit national organization that supports the welfare of individuals with epilepsy and seizure disorders. The course of instruction must be:

- Approved by the Department of Education
- Provided online or in person.
- Provided to a school district free of charge if the training is provided in an online format.

### ***The Care of Students on School Buses***

The bill also addresses the care of students on school buses. The bill provides that a school district must provide a school bus driver who transports a student that has epilepsy or a seizure disorder with:

- A notice of the student's condition.
- Information on how to provide the recommended care for the student if he or she shows symptoms of the epilepsy or seizure disorder.
- The contact information for the student's parent and emergency contacts.
- Epilepsy and seizure disorder first aid training every two years.

### ***Continuity of Care***

In order to facilitate continuity of care between schools and health care providers, the bill requires the school nurse or an appropriate school employee to obtain a release from the student's parent to authorize the sharing of medical information between himself or herself and the student's health care providers. The bill specifies that the release must also authorize the school nurse or other appropriate school employee to share medical information with other school employees as necessary.

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<sup>39</sup> The care must comply with s. 1006.062, F.S., governing the conditions under which a district school board employee may assist students in the administration of prescription medication or specified medical services authorized by licensed medical personnel.

**Exemption from Liability**

The bill exempts a school employee, officer, or agent of the school district from liability for an act or omission made in good faith related to the care of students with epilepsy or seizure disorders. The bill specifies that “good faith” does not include willful misconduct, gross negligence, or recklessness. The bill also prohibits the Board of Nursing from taking action against a school nurse for any act or omission taken by a person trained by the school nurse pursuant to requirements for the care of students with epilepsy or seizure disorders.

The bill takes effect upon becoming a law.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill does not have an impact on state revenues or expenditures. There may be a cost to the school districts to provide the required training and care planning but likely minimal.



**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 1006.0626 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.