

**STORAGE NAME:** h0357.ei.doc  
**DATE:** March 2, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
EDUCATION INNOVATION  
ANALYSIS**

**BILL #:** HB 357  
**RELATING TO:** Parental Consent  
**SPONSOR(S):** Representative(s) Crow  
**TIED BILL(S):** None

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

- (1) EDUCATION INNOVATION
  - (2) COUNCIL FOR LIFELONG LEARNING
  - (3)
  - (4)
  - (5)
- 

I. SUMMARY:

HB 357 authorizes school district personnel to assist students in the administration of nonprescription medications if the following conditions are met: (1) each district school board adopts in its approved school health services plan a procedure to provide training to school district personnel designated by the principal to assist students in the administration of nonprescription medication, and (2) each district school board adopts policies and procedures governing the administration of nonprescription medication.

This bill requires that the policies and procedures adopted must include, but must not be limited to, the following provisions: (1) a parent or guardian must submit a written statement granting the principal, the school nurse, or the principal's designee permission to assist in the administration of nonprescription medication; and (2) the written statement must include an explanation of the necessity for the nonprescription medication to be provided during the school day. In addition to prescribed medication, each nonprescription medication to be administered by school district personnel must be received, counted, and stored in its original container, and when the medication is not in use, it must be stored in a safe place under lock and key. Pursuant to current law, the bill requires that a student be exempt from any of the services provided under the school health services program if his or her parent or guardian requests the exemption in writing.

Under certain conditions required by law, the bill provides that district school boards may authorize students to be transported in privately owned vehicles, on a case-by-case basis, when an ill or injured student must be taken to a medical treatment facility under imminently life-threatening circumstances. However, this bill limits the transportation of a student in a school district vehicle or a privately owned vehicle to a medical treatment facility, without parental consent, to circumstances when immediate medical treatment is necessary for the health and safety of the student.

The Department of Health (DOH) estimates a cost of \$3.8 million for the first year and \$4.7 million for the second year this bill is in effect. The basis for this fiscal impact is that this bill will require 91 nurses to provide training and supervision at a minimum of 1 nurse to 5 schools in each county across the state. Also included in these amounts is travel expense for the 91 nurses at 11,138 miles a year.

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However, the Department of Education (DOE) states that paraprofessionals are currently trained to administer and store prescribed medications, and as a result, it does not believe that adding nonprescription medications will have a great fiscal impact.

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**

Subsection 232.46(1), Florida Statutes, 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 includes 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 licensed physician assistant to the school personnel designated by the principal to assist students in the administration of prescribed medication.
- Each district school board adopts policies and procedures governing the administration of prescription medication by school district personnel. The policies and procedures for each prescribed medication must include the following provisions: (1) a written statement from the student's parent or guardian granting the principal or the principal's designee permission to administer such medication must be submitted; (2) each prescribed medication to be administered by school district personnel must be received, counted, and stored in its original container; and (3) when the medication is not in use, it must be stored in a safe place under lock and key.

According to the Department of Health, school nurses are currently required to provide child specific training to school district personnel designated to assist children in taking prescribed medication. Most counties have developed policies for both nonprescription and prescribed medications. Because district policies prohibit children from carrying medications on their persons, and because of parental pressure to meet the needs of children with occasional problems that may respond to nonprescription medications such as analgesics, some school districts have included the administration of nonprescription medications in their policies. In recent years, policies or lack of policies for nonprescription medications have become increasingly controversial as more and more students bring medicinal products to school that have not been prescribed by physicians, and may not be standardized for purity and safety under Federal Drug Administration regulations.

**PROVISION OF MEDICAL SERVICES**

Section 232.465, Florida Statutes, provides that nonmedical school district personnel must not be allowed to perform invasive medical services that require special knowledge, nursing judgment, and nursing assessment. However, nonmedical school district personnel can perform certain health

related services if a registered nurse, licensed practical nurse, licensed physician, or licensed physician assistant trains them. For all invasive medical services, not specified in Section 234.465, Florida Statutes, a registered nurse, licensed practical nurse, licensed physician, or licensed physician assistant must determine if nonmedical school district personnel can be allowed to perform such services. Each district school board must establish procedures for life-threatening emergencies in accordance with the School Health Services Act in Subsection 381.0056(5), Florida Statutes.

The "school health services plan" as defined in the School Health Services Act, Section 381.0056, Florida Statutes, requires each county health department to develop, jointly with the district school board and the local school health advisory committee, a school health services plan; that includes, but is not limited to the following: provisions for a health appraisal, records review, nurse assessment, nutrition assessment, a preventive dental program, vision screening, hearing screening, and scoliosis screening, on all students. At the beginning of each school year, district school boards are required to inform parents or guardians in writing that their children who are students in the district schools will receive specified health services. A student will be exempt from any of these services as provided for in the district health services plan if his or her parent requests the exemption in writing.

#### **TRANSPORTATION OF ILL OR INJURED STUDENTS**

Section 234.02, Florida Statutes, states that the maximum regard for safety and adequate protection of health are primary requirements that must be observed by district school boards in routing buses, appointing drivers, and providing and operating equipment. District school boards must use school buses as defined in Section 234.051, Florida Statutes, for all regular transportation. District school boards may authorize the transportation of students in privately owned motor vehicles on a case-by-case basis in certain circumstances.

One such circumstance is authorized when a student is ill or injured and must be taken home or to a medical treatment facility under nonemergency circumstances, if the following conditions are met: (1) the school has been unable to contact the parent, or the parent is not available to provide transportation; (2) proper adult supervision is available at the destination; (3) transportation is approved by the appropriate school official; and (4) the school continues to try to contact the parent until the school notifies the parent or guardian of the transportation and the relevant circumstances.

#### **C. EFFECT OF PROPOSED CHANGES:**

##### **ADMINISTRATION OF MEDICATION BY SCHOOL DISTRICT PERSONNEL**

HB 357 authorizes school district personnel to assist students in the administration of nonprescription medications if the following conditions are met: (1) each district school board adopts in its approved school health services plan a procedure to provide training to school district personnel designated by the principal to assist students in the administration of nonprescription medication, and (2) each district school board adopts policies and procedures governing the administration of nonprescription medication.

This bill requires that the policies and procedures adopted must include, but must not be limited to, the following provisions: (1) a parent or guardian must submit a written statement granting the principal, the school nurse, or the principal's designee permission to assist in the administration of nonprescription medication; and (2) the written statement must include an explanation of the necessity for the nonprescription medication to be provided during the school day. In addition to prescribed medication, each nonprescription medication to be administered by school district personnel must be received, counted, and stored in its original container, and when the medication is not in use, it must be stored in a safe place under lock and key.

### **PROVISION OF MEDICAL SERVICES**

HB 357 requires that a student be exempt from any of the services provided under the school health services program if his or her parent or guardian requests the exemption in writing. However, this exemption is already provided for in Subsection 381.0056(7)(d), Florida Statutes.

### **TRANSPORTATION OF ILL OR INJURED STUDENTS**

This bill amends Subsection 234.02(2)(a), Florida Statutes, authorizing district school boards to transport students in privately owned motor vehicles on a case-by case basis if a student who is under imminently life-threatening circumstances must be taken to a medical treatment facility. The above provisions apply if:

- the school has been unable to contact the student's parent or guardian, or the parent, guardian, or responsible adult designated by the parent or guardian is not available to provide the transportation;
- proper adult supervision of the student is available at the location where the student is being transported;
- transportation is approved by the school principal, or a school administrator designated by the principal, or in the absence of the principal or designee, by the highest ranking school administrator or teacher available under the circumstances; and
- the school has been unable to contact the parent or guardian prior to the transportation, and the school continues to attempt to contact the parent or guardian until the school is able to notify the parent or guardian of the transportation and the pertinent circumstances.

In addition, the bill amends Subsection 234.02(8), Florida Statutes to limit transportation of a student in a school district vehicle or a privately owned vehicle to a medical treatment facility without parental consent to those circumstances when immediate medical treatment is necessary for the health and safety of the student.

According to the Department of Health, this bill appears to have a significant fiscal impact; however, the Department of Education states that the fiscal impact may be the result of additional time to train personnel, administer medication, and maintain records (Please see fiscal comments).

#### **D. SECTION-BY-SECTION ANALYSIS:**

**Section 1:** Amends Section 232.46, Florida Statutes, to (1) revise provisions relating to the administration of medication by school district personnel; (2) require district school boards to adopt policies and procedures governing the administration of nonprescription medication; (3) require written parental permission for the administration of nonprescription medication; (4) add the school nurse to personnel who can accept permission to assist in the administration of such medication; (5) require nonprescription medication that is to be administered by school district personnel to be received, counted, and stored in its original container, and when not in use, to be stored in a secure fashion under lock and key.

**Section 2:** Amends Section 232.465, Florida Statutes, to provide that a student is exempt from certain services under the school health services program if parent or guardian requests such an exemption in writing.

**Section 3:** Amends Section 234.02, Florida Statutes, to limit transportation of a student in a privately owned motor vehicle on a case-by-case basis only when a student is ill or injured and must be taken home under nonemergency circumstances or to a medical treatment facility under imminently life-threatening circumstances.

**Section 4:** Provides an effective date of July 1, 2001

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

Please see Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

Please see Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Please see Fiscal Comments.

D. FISCAL COMMENTS:

The Department of Health (DOH) estimates a cost of \$3.8 million for the first year and \$4.7 million for the second year this bill is in effect. The fiscal note is based on the projected needs for increased training and concurrent monitoring of the paraprofessionals who will likely administer most of the nonprescribed medications. The DOH estimates this bill will require 91 nurses to provide training and supervision at a minimum of 1 nurse to 5 schools in each county across the state. These amounts also include the travel expense for the 91 nurses at 11,138 miles a year. The DOH also states that it is impossible to provide a good analysis because of several factors that may vary. Those factors include:

- The unpredictability of deciding how many children needing medication will increase and how that will affect the nurses and paraprofessionals currently giving more than 80,000 medications per day.
- The inability to predict the increased need. Children may need to be given anywhere from one or more medication doses per day to one dose per month or per year. This inability to estimate the numbers of nonprescription medications to be administered by school district personnel makes predicting the additional workload and increases on tight storage space difficult.

However, the Department of Education (DOE) states that paraprofessionals are currently trained to administer and store prescribed medications, and as a result, it does not believe that adding nonprescription medications will have a great fiscal impact. The DOE states additional staff time

will be required to administer nonprescription medications and additional administrative time will be required for the authorization process and record keeping.

In view of the differences in opinion by the DOH and the DOE, referring this bill to a fiscal committee might be beneficial.

III. 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 a state tax shared with counties and municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill does not appear to violate any constitutional issues.

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rulemaking authority.

C. OTHER COMMENTS:

SB 780 is similar to HB 357.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VI. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

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