

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 Health Regulation Committee

BILL: CS/SB 896

INTRODUCER: Health Regulation Committee and Senators Peaden and others

SUBJECT: Students with Diabetes

DATE: March 26, 2010

REVISED: _____

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

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

This bill requires 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) is required to adopt by rule guidelines for diabetes care training 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 that carries out the activities authorized by the bill.

This bill creates an undesignated section of law.

II. Present Situation:

Growing Prevalence of Diabetes

Diabetes is a disease associated with high levels of blood glucose resulting from defects in insulin production that causes sugar to build up in the body. It is the seventh leading cause of death in the country and can cause serious health complications including heart disease,

blindness, kidney failure, and lower-extremity amputations.¹ The term “diabetes” often refers to either Type 1 diabetes or Type 2 diabetes. Type 1 diabetes more often affects children and young adults, and was previously called “juvenile-onset diabetes.” Type 2 diabetes accounts for 90 to 95 percent of all diagnosed cases of diabetes in adults, and was previously called “adult-onset diabetes.” Type 2 diabetes tends to be associated with older age, obesity, physical inactivity, and race/ethnicity. Type 2 diabetes in children and adolescents, although still rare, is being diagnosed more frequently among American Indians, African Americans, Hispanic/Latino Americans, and Asians/Pacific Islanders.²

According to the Centers for Disease Control and Prevention (CDC), in 2007 there were 23.6 million people (7.8 percent of the population) who had diabetes and the overall prevalence of the disease is rising.³ In 2008, the number of people with diabetes increased to 24 million.⁴ In the state of Florida, 8.1 to 9.1 percent of adults had diabetes in 2008.⁵ The CDC reported that in 2007, about 186,300 people younger than 20 years had diabetes, which represents 0.2 percent of all people in this age group.⁶

Students who have Diabetes in Florida

According to the DOH, 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) in 2008-2009.

Section 1006.062, F.S., currently allows 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 the “Nursing Guidelines for the Delegation of Care for Students with Diabetes in Florida Schools” (2003)⁷ to help ensure that

¹ U.S. Centers for Disease Control and Prevention (CDC), Press Release available at:

<<http://www.cdc.gov/media/pressrel/2008/r080624.htm>> (Last visited on March 25, 2010).

² CDC, “National Diabetes Fact Sheet, 2007.” Available at: <http://www.cdc.gov/diabetes/pubs/pdf/ndfs_2007.pdf> (Last visited on March 25, 2010).

³ CDC, “National Diabetes Fact Sheet, 2007.” Available at: <http://www.cdc.gov/diabetes/pubs/pdf/ndfs_2007.pdf> (Last visited on March 25, 2010).

⁴ CDC, Press Release available at: <<http://www.cdc.gov/media/pressrel/2008/r080624.htm>> (Last visited on March 25, 2010).

⁵ Found at: “Florida – Percentage of Adults Diagnosed with Diabetes 1984 – 2008”

<<http://apps.nccd.cdc.gov/ddtstrs/Index.aspx?stateId=12&state=Florida&cat=prevalence&Data=data&view=TO&trend=prevalence&id=1>> (Last visited on March 25, 2010).

⁶ CDC, “National Diabetes Fact Sheet, 2007.” Available at: <http://www.cdc.gov/diabetes/pubs/pdf/ndfs_2007.pdf> (Last visited on March 25, 2010).

⁷ Available at: <<http://www.doh.state.fl.us/Family/school/reports/DiabetesGuidelines2003.pdf>> (Last visited on March 25, 2010).

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.⁸ 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 1973⁹, 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 the 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 health care plan so that at least one school staff member is always on campus for each student with diabetes.¹⁰

The Florida Nurse Practice Act¹¹ 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” (2006)¹² has been developed by the DOH, in cooperation with the DOE, local school health providers, and 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)¹³ 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

⁸ National Diabetes Education Program “Helping Students with Diabetes Succeed: A Guide for School Personnel.” Available at: <<http://ndep.nih.gov/publications/OnlineVersion.aspx?NdepId=NDEP-61#page8>> (Last visited on March 25, 2010).

⁹ 29 U.S.C. Section 794

¹⁰ Department of Education SB 896 Bill Analysis, January 7, 2010. On file with the Senate Committee on Health Regulation.

¹¹ Chapter 464, F.S., and ch. 64B9-14.001-14.003, F.A.C.

¹² Found at: <http://www.doh.state.fl.us/Family/school/attachments/Documents/TA_guidelines.html> (Last visited on March 25, 2010).

¹³ Available at: <http://www.doh.state.fl.us/Family/school/attachments/sh_index.htm#Administrative%20Guidelines> (Last visited on March 25, 2010).

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:

The bill provides whereas clauses describing the health significance of diabetes, and providing reasons for legislative action.

The bill defines the following terms:

“Diabetes medical management plan” means a document developed by the student’s personal health care professional which sets out the health services needed by the student at school and is signed by the student’s personal health care professional and parent or legal guardian.

“Glucagon” means a hormone that immediately raises blood glucose levels for severe hypoglycemia.

“School” means any primary or secondary public school, charter school, or private school located within the state.

“School employee” means a person employed by: a school; a local health department that assists a school under this section; or, another entity with which a school has contracted to perform its duties under this section.

“Trained diabetes personnel” means a group of school employees who volunteer and have successfully completed the training required under subsection (3). Such employee need not be a health care professional.

Required Training

The bill requires annual training of at least three school employees at each public school, charter school, or private school attended by a student who has diabetes. The bill also requires training for bus drivers who are responsible for the transportation of a diabetic student. The training must be coordinated by a school nurse or other health care professional and must include instruction in:

- Recognizing and treating hypoglycemia and hyperglycemia;
- Understanding the appropriate actions to take when blood glucose levels are outside of target ranges;
- Understanding the instructions from the student’s personal health care professional concerning drug dosage, amount and the manner of administration of the student’s medication;
- Performing finger sticks to check blood-glucose levels, checking urine ketone levels, and recording the results;
- Administering glucagon and insulin and recording the doses;
- Understanding how to perform basic insulin pump functions;
- Recognizing complications that require emergency assistance;
- Understanding the recommended schedules for food intake, the effect of physical activity upon blood-glucose levels, and the proper actions to be taken if the student’s schedule is disrupted; and

- Understanding and operating glucose monitors.

The bill requires that the training take place before the commencement of each school year, or as needed when a student who has diabetes is newly enrolled at a school or a student is newly diagnosed with diabetes. The school nurse is required to provide followup training and supervision.

DOH Rules

The bill requires the DOH to adopt, by rule, guidelines by August 1, 2010. The guidelines must be developed with the assistance of the DOE, 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 authorization by the student's diabetes medical management plan. 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 not specify the level of practice. According to the 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

The bill requires each district school board, and the governing board of each charter school and private school, to submit annual reports beginning by August 15, 2011 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.

The bill provides an effective date of July 1, 2010.

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

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

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. It is unknown how many of the 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:

None.

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.)

CS by Health Regulation on March 26, 2010:

This Committee Substitute clarifies that bus drivers who are responsible for the transportation of students who have diabetes are to be trained in the recognition of hypoglycemia and hyperglycemia and in actions to take in response to emergency situations.

- B. **Amendments:**

None.