



Ohio Legislative Service Commission

Bill Analysis

Elizabeth Molnar

H.B. 264

130th General Assembly
(As Introduced)

Reps. Wachtmann and Barnes, Antonio, Beck, Grossman, Milkovich, Brown

BILL SUMMARY

- Requires that school governing authorities, including boards of education, ensure that all students with diabetes receive appropriate and needed diabetes care at school and school-related activities in accordance with orders signed by treating physicians.
- Specifies that certain diabetes care tasks be provided in schools, including blood glucose monitoring and the administration of insulin and other medications.
- Requires that a school nurse or another school employee trained in diabetes care be on site and available to provide care during regular school hours and all school-sponsored activities.
- Requires that the Ohio Department of Education adopt nationally recognized guidelines for the training of school employees in diabetes care.
- Requires that school governing authorities ensure that an adequate number of employees are trained in diabetes care and complete annual training.
- Requires that school governing authorities train certain school employees and bus drivers in the recognition and treatment of diabetes-related emergencies.
- Requires that a student with diabetes be permitted to attend the school that the student would otherwise attend if the student did not have diabetes.
- Provides that the diabetes care tasks outlined in the bill do not constitute the practice of nursing.
- Allows certain students with diabetes to manage their own care.

- Grants a qualified immunity from civil liability or disciplinary action to physicians, nurses, school employees, boards of education, and other school governing authorities for activities authorized by the bill.

CONTENT AND OPERATION

Diabetes care in schools

The bill establishes requirements concerning diabetes care provided to students in schools. Its provisions apply to the following entities:

(1) Public schools, which include schools operated by school districts, community schools (often referred to as charter schools), college-preparatory boarding schools, and science, technology, engineering, and math (STEM) schools;

(2) Chartered nonpublic schools, which are private schools that meet certain state requirements.¹

Ensuring appropriate and needed care

The bill requires that a school district board of education or other public or nonpublic school governing authority ensure that all students with diabetes in the district or school receive appropriate and needed diabetes care in accordance with orders signed by treating physicians.² Under the bill, diabetes care includes any of the following:

(1) Checking and recording blood glucose and ketone levels or assisting a student with checking and recording these levels. Blood glucose is the main sugar found in the blood and the body's main source of energy. Ketones are chemicals produced when there is a shortage of insulin in the blood and the body breaks down fat for energy.³

(2) Responding to blood glucose levels that are outside the student's target range.

¹ R.C. 3314.03, 3326.11, and 3328.24.

² R.C. 3313.7110(B).

³ American Diabetes Association, *Diabetes Basics, Common Terms* (last visited September 27, 2013), available at <www.diabetes.org/diabetes-basics/common-terms/>.

(3) Administering glucagon and other emergency treatments as prescribed. Glucagon is a hormone produced in the pancreas that raises blood sugar. It may be used to treat severe hypoglycemia. Hypoglycemia is lower than normal blood glucose.⁴

(4) Administering insulin or assisting a student in administering insulin. Insulin is a hormone that helps the body use glucose for energy.⁵

(5) Providing oral diabetes medication.

(6) Understanding recommended meal and snack schedules and food intake to calculate medication dosages pursuant to the student's physician's order.

(7) Following physician instructions regarding meals, snacks, and physical activity.

(8) Administration of diabetes medication in accordance with the bill.

Administering medication

The bill provides that diabetes medication may be administered by a school nurse or, in the absence of the school nurse, a school employee trained in diabetes care in accordance with the bill.⁶ Under the bill, when administering diabetes medication, the school nurse or employee must comply with requirements found in current law regarding the administration of drugs in schools. These requirements include the following:

(1) That the governing body or a person it designates receives a written request, signed by a parent, guardian, or other person having care or charge of the student, that the drug be administered to the student;

(2) That the governing body or a person it designates receives a statement, signed by the prescriber, that includes the student's name, address, school, and class, the drug name and dosage to be administered, the times or intervals at which each dosage is to be administered, the date the administration is to begin and to cease, any severe adverse reactions that should be reported to the prescriber, one or more telephone numbers at which the prescriber can be reached in an emergency, and any special instructions for administration of the drug, including sterile conditions and storage;

⁴ *Diabetes Basics, Common Terms.*

⁵ *Diabetes Basics, Common Terms.*

⁶ R.C. 3313.7110(C).



(3) That the parent, guardian, or other person having care or charge of the student agrees to submit a revised statement signed by the prescriber to the governing body or a person it designates if any of the information provided by the prescriber changes;

(4) That the school nurse or employee receives a copy of the prescriber's statement and any revised statement;

(5) That the drug is received by the school nurse or employee in the container in which it was dispensed by the prescriber or licensed pharmacist.⁷

Storing medication

The bill permits the school or district to keep diabetes medication that is to be administered in easily accessible locations.⁸

Availability of care

The bill requires that a school nurse or at least one school employee trained in diabetes care be on site and available to provide care to each student with diabetes during regular school hours and all school-sponsored activities, including school-sponsored before school and after school care programs, field trips, extended off-site excursions, extracurricular activities, and busing to and from these activities. In the case of busing to and from school-sponsored activities, a school nurse or employee trained in diabetes care is not required to be on-site and available if the bus driver has completed training in diabetes care.⁹

Training school employees in diabetes care

The bill includes several provisions that govern the training of school employees in diabetes care. Under the bill, "school employee" or "employee" is (1) a person employed by a school district board of education or other public or nonpublic school governing authority, (2) a person employed by a local health department and assigned to a school, or (3) a subcontractor of a local health department assigned to a school.¹⁰

⁷ R.C. 3313.7110(C) and 3313.713.

⁸ R.C. 3313.7110(C).

⁹ R.C. 3313.7110(C).

¹⁰ R.C. 3313.7110(A).



Department of Education guidelines

The bill requires that the Ohio Department of Education (ODE) adopt nationally recognized guidelines for the training of school employees in diabetes care for students. The guidelines are to be adopted no later than 180 days after the bill's effective date. In adopting guidelines, ODE must consult with the Ohio Department of Health, the American Diabetes Association, and the Ohio School Nurses Association. ODE may also consult with any other appropriate organization.¹¹

The guidelines must address all of the following issues:

(1) Recognizing the symptoms of hypoglycemia and hyperglycemia. Hyperglycemia is excessive blood glucose, while hypoglycemia is lower than normal blood glucose.¹²

(2) The appropriate treatment for a student exhibiting symptoms of hypoglycemia and hyperglycemia.

(3) Recognizing situations that require the provision of emergency medical assistance to a student.

(4) Understanding the appropriate treatment for a student, based on a physician's order, if the student's blood glucose level is not within the target range indicated by the order.

(5) Understanding the instructions in a physician's order concerning necessary medications.

(6) Performing blood glucose and ketone tests in accordance with a physician's order and recording the results of those tests.

(7) Administering insulin, glucagon, or other medication in accordance with a physician's order and recording the results of the administration.

(8) Understanding the relationship between the diet recommended in a physician's order and actions which may be taken if the recommended diet is not followed.

¹¹ R.C. 3313.7110(D).

¹² *Diabetes Basics, Common Terms.*



Adequate number of trained employees

The bill requires that a school district board of education or other public or nonpublic school governing authority ensure that an adequate number of school employees at a school attended by a student with diabetes have completed diabetes care training that complies with ODE guidelines. The bill allows each board or governing authority to determine the adequate number of trained employees for each school.¹³

The bill further requires that a school nurse coordinate the training or, if a school does not employ a nurse, a health care professional with expertise in diabetes who is approved by the school provides the training.¹⁴ Under the bill, training must take place prior to the beginning of each school year or, as needed, within 14 days of the enrollment of a student with diabetes or within 14 days after the parent of a child enrolled at the school notifies the school of the child's diagnosis of diabetes. The bill also requires that the school nurse or approved health care professional with expertise in diabetes promptly provide all necessary follow-up training and supervision to employees who receive training.¹⁵

Notice of training opportunity

In the event that fewer than the adequate number of school employees at a school attended by a student with diabetes have received training, the bill requires that the principal or another school administrative official authorized to act on behalf of the principal distribute a written notice to all employees that contains the following information:

(1) A statement that the school is required to provide diabetes care to one or more students with diabetes and is seeking employees who are willing to be trained to provide that care;

(2) A description of the tasks to be performed;

(3) A statement that participation is voluntary and that the school district will take no action against any employee who does not agree to provide diabetes care;

(4) A statement that training will be provided to employees who agree to provide care;

¹³ R.C. 3313.7110(E).

¹⁴ R.C. 3313.7110(E) and (I)(2).

¹⁵ R.C. 3313.7110(E).



(5) A statement that trained employees are protected from liability as provided by the bill;

(6) The name of the contact person if an employee is interested in providing diabetes care.¹⁶

The bill specifies that an employee of a school or district is not subject to any penalty or disciplinary action for refusing to volunteer for diabetes care training. The bill also provides that a school or district cannot discourage employees from agreeing to provide diabetes care.¹⁷

Emergency training

The bill requires that a school district board of education or other public or nonpublic school governing authority provide training in the recognition of hypoglycemia and hyperglycemia and actions to take in response to emergency situations involving hypoglycemia and hyperglycemia to both of the following groups of individuals:

(1) All school employees who have primary responsibility for supervising a child with diabetes during some portion of the school day;

(2) Bus drivers responsible for the transportation of a student with diabetes.¹⁸

Students

Attending school

The bill requires that students with diabetes be permitted to attend the school they would otherwise attend if they did not have diabetes. The bill prohibits a school district board of education or other public or nonpublic school governing authority from restricting a student who has diabetes from attending any school on the basis of any of the following: (1) the student has diabetes, (2) the school does not have a full-time school nurse, or (3) the school does not have employees trained in diabetes care. The bill also provides that a school cannot require or pressure parents or guardians to render diabetes care to a student with diabetes at school or school-related activities.¹⁹

¹⁶ R.C. 3313.7110(E)(2).

¹⁷ R.C. 3313.7110(E)(3) and (4).

¹⁸ R.C. 3313.7110(F).

¹⁹ R.C. 3313.7110(G).



Student self-management of diabetes care

Under the bill, on the written request of a parent or guardian and as authorized by the student's treating physician, a student with diabetes is permitted to perform blood glucose checks, administer insulin through the insulin delivery system used by the student, treat hypoglycemia and hyperglycemia, and otherwise attend to the care and management of the student's own diabetes in any area of the school or school grounds and at any school-related activity. The bill also allows the student to possess on the student's self at all times all supplies and equipment necessary to monitor and treat diabetes. The bill requires that a student have access to a private area for performing diabetes care tasks if requested by the student or parent.²⁰

Practice of nursing

The bill provides that the diabetes care tasks outlined in the bill do not constitute the practice of nursing. The bill also provides that these tasks are exempt from all applicable statutory and regulatory provisions that restrict the activities that can be delegated to or performed by a person who is not a licensed health care professional.²¹

Federal law

The bill specifies that neither the rights of eligible students nor the obligations of school districts under the federal Individuals with Disabilities Education Act (Section 504 of the Rehabilitation Act) or Americans with Disabilities Act are diminished by the bill's provisions.²²

Qualified immunity from liability and disciplinary action

The bill provides that a physician, nurse, school employee, school district board of education, or other public or nonpublic school governing authority is not liable for civil damages or subject to disciplinary action under professional licensing regulations or school disciplinary policies as a result of the activities authorized by the bill if an ordinarily reasonably prudent person would have acted in the same manner under similar circumstances.²³

²⁰ R.C. 3313.7110(H).

²¹ R.C. 3313.7110(I)(1).

²² R.C. 3313.7110(I)(3). *See also* 20 United States Code (U.S.C.) 1400 *et seq.*, 29 U.S.C. 794, and 42 U.S.C. 12101 *et seq.*

²³ R.C. 3313.7110(J).



HISTORY

ACTION

DATE

Introduced

09-12-13

H0264-I-130.docx/emr

