



# Ohio Legislative Service Commission

## Bill Analysis

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### Sub. H.B. 264

130th General Assembly

(As Reported by S. Medicaid, Health and Human Services)

**Reps.** Wachtmann and Barnes, Antonio, Beck, Grossman, Milkovich, Brown, Bishoff, Johnson, Sears, Smith, Sprague, Amstutz, Anielski, Baker, Blair, Buchy, Carney, Fedor, Foley, Green, Hackett, C. Hagan, Hill, Huffman, Mallory, Rogers, Sheehy, Young, Batchelder

**Sen.** Tavares

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## BILL SUMMARY

- Requires that a school governing authority, including a board of education, ensure that each student with diabetes receives appropriate and needed diabetes care in accordance with an order signed by the student's treating physician.
- 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 governing authority notify the student's parent, guardian, or other person having care or charge of the student that the student may be entitled to a 504 plan under federal law.
- Requires that the Ohio Department of Education develop a 504 plan information sheet as well as adopt nationally recognized guidelines for the training of school employees in diabetes care.
- Permits a school governing authority to provide diabetes care training to school employees.
- Permits a school governing authority to 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.

- Allows a student with diabetes to manage the student's own care if the student's treating physician determines that the student is capable of doing so.
- Specifies that a school employee is not subject to disciplinary action under school or district policies for providing care or performing duties under the bill.
- Grants qualified immunity from civil liability to school employees, boards of education, and other school governing authorities for activities authorized by the bill.
- Requires that a school governing authority report annually to the Ohio Department of Education the number of students with diabetes enrolled in the district and the number of errors associated with the administration of diabetes medication.
- Requires that the Department annually issue and make available on its website a report summarizing the information received.

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## **CONTENT AND OPERATION**

### **Diabetes care in schools**

The bill includes provisions that govern the care provided to students with diabetes in schools. The bill applies 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.<sup>1</sup>

### **Ensuring appropriate and needed care**

The bill requires a school district board of education or other public or nonpublic school governing authority to ensure that each student with diabetes enrolled in the district or school receives appropriate and needed diabetes care in accordance with an order signed by the student's treating physician.<sup>2</sup> The diabetes care to be provided includes any of the following:

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<sup>1</sup> R.C. 3314.03, 3326.11, and 3328.24.

<sup>2</sup> R.C. 3313.7110(B)(1).



(1) Checking and recording blood glucose and ketone levels or assisting the 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.<sup>3</sup>

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

(3) In the case of severe hypoglycemia, 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.<sup>4</sup>

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

(5) Providing oral diabetes medications.

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

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

(8) Administering diabetes medication in accordance with the bill.

### **504 plan**

The bill requires that, not later than 14 days after receiving an order signed by a student's treating physician, the school district board of education or other public or nonpublic school governing authority inform the student's parent, guardian, or other person having care or charge of the student that the student may be entitled to a 504 plan under federal law. A 504 plan is a plan based on an evaluation conducted in accordance with section 504 of the federal Rehabilitation Act of 1973.<sup>6</sup>

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<sup>3</sup> American Diabetes Association, *Diabetes Basics, Common Terms* (last visited June 2, 2014), available at <[www.diabetes.org/diabetes-basics/common-terms/](http://www.diabetes.org/diabetes-basics/common-terms/)>.

<sup>4</sup> *Diabetes Basics, Common Terms*.

<sup>5</sup> *Diabetes Basics, Common Terms*.

<sup>6</sup> 29 United States Code (U.S.C.) 794.



The bill also requires the Ohio Department of Education to develop a 504 plan information sheet for use by a board or governing authority when informing a student's parent, guardian, or other person having care or charge of the student that the student may be entitled to a 504 plan regarding the student's diabetes.<sup>7</sup>

### **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.<sup>8</sup> 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;

(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.<sup>9</sup>

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<sup>7</sup> R.C. 3313.7110(B)(2).

<sup>8</sup> R.C. 3313.7110(C).

<sup>9</sup> R.C. 3313.7110(C) and 3313.713.



## **Storing medication**

The bill permits the school or district to keep diabetes medication that is to be administered in easily accessible locations.<sup>10</sup>

## **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 either (1) a person employed by a school district board of education or other public or nonpublic school governing authority or (2) a licensed health care professional employed by or under contract with a local health department who is assigned to a school. A "licensed healthcare professional" is either a physician or a registered or licensed practical nurse.<sup>11</sup>

## **Ohio 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.<sup>12</sup>

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.<sup>13</sup>

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

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

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<sup>10</sup> R.C. 3313.7110(C).

<sup>11</sup> R.C. 3313.7110(A).

<sup>12</sup> R.C. 3313.7110(D).

<sup>13</sup> *Diabetes Basics, Common Terms.*



(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 that may be taken if the recommended diet is not followed.

## **Training**

The bill permits a school board of education or other public or nonpublic school governing authority to provide diabetes care training to school employees. If training is provided, the bill further requires that a school nurse coordinate the training or, if a school does not employ a nurse, a licensed health care professional with expertise in diabetes who is approved by the school to provide the training.<sup>14</sup> Any training must take place prior to the beginning of each school year or, as needed, not later than 14 days after receipt of an order signed by the student's treating physician. The bill also requires that, on completion of the training, the school district board of education or other public or nonpublic school governing authority determine whether each employee trained is competent to provide diabetes care. Under the bill, the school nurse or approved licensed health care professional with expertise in diabetes must promptly provide all necessary follow-up training and supervision to an employee who receives training.<sup>15</sup>

## **Notice of training opportunity**

The bill permits the principal of a school attended by a student with diabetes or another school administrative official authorized to act on behalf of the principal to distribute a written notice to each employee containing all of the following information:

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<sup>14</sup> R.C. 3313.7110(E) and (I)(1).

<sup>15</sup> R.C. 3313.7110(E).



(1) A statement that the school is required to provide diabetes care to a student 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 not take action against an employee who does not agree to provide diabetes care;

(4) A statement that training will be provided by a licensed health care professional to an employee who agrees to provide care;

(5) A statement that a trained employee is immune from liability as provided by the bill;

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

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.<sup>17</sup>

### **Emergency training**

The bill permits a school district board of education or other public or nonpublic school governing authority to provide training in the recognition of hypoglycemia and hyperglycemia and actions to take in response to emergency situations involving hypoglycemia and hyperglycemia. The training may be provided to both of the following:

(1) A school employee who has primary responsibility for supervising a child with diabetes during some portion of the school day;

(2) A bus driver employed by a school district or chartered nonpublic school responsible for the transportation of a student with diabetes.<sup>18</sup>

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<sup>16</sup> R.C. 3313.7110(E)(2).

<sup>17</sup> R.C. 3313.7110(E)(3) and (4).

<sup>18</sup> R.C. 3313.7110(F).



## **Students**

### **Attending school**

The bill requires that a student with diabetes be permitted to attend the school the student would otherwise attend if the student 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 the 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 an employee trained in diabetes care. The bill also provides that a school cannot require or pressure a parent, guardian, or other person having care or charge of a student to provide diabetes care for the student with diabetes at school or school-related activities.<sup>19</sup>

### **Student self-management of diabetes care**

Under the bill, on the written request of a parent, guardian or other person having care or charge of a student and as authorized by the student's treating physician, a student with diabetes is permitted to attend to the care and management of the student's own diabetes in accordance with the student's physician's order during regular school hours and school-sponsored activities if the treating physician determines that the student is capable of doing so. The bill also allows the student to possess on the student's self at all times all necessary supplies and equipment to perform diabetes care tasks. The bill requires that a student have access to a private area for performing diabetes care tasks if requested by the student or the parent, guardian, or other person having care or charge of a student.

The bill authorizes a school board of education or other public or nonpublic school governing authority to revoke the student's permission to attend to the care and management of the student's diabetes if the student performs any diabetes care tasks or uses medical equipment for purposes other than the student's own care.<sup>20</sup>

## **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

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<sup>19</sup> R.C. 3313.7110(G).

<sup>20</sup> R.C. 3313.7110(H).



504 of the Rehabilitation Act) or Americans with Disabilities Act are diminished by the bill's provisions.<sup>21</sup>

### **Immunity from liability and disciplinary action**

The bill provides that a school or school district, a member of a board or governing authority, or a district or school employee is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from providing care or performing duties required by the bill, unless the act or omission constitutes willful or wanton misconduct.<sup>22</sup>

A school employee is not subject to disciplinary action under school or district policies for providing care or performing duties specified in the bill. The bill also provides that a school nurse or other licensed health professional is immune from disciplinary action by the Ohio Board of Nursing or any other regulatory board if the care provided or duties performed are consistent with applicable professional standards.<sup>23</sup>

### **Reporting**

The bill requires that a school board of education or other public or nonpublic school governing authority report annually (by December 31) to the Ohio Department of Education (ODE) both of the following:

(1) The number of students with diabetes enrolled in the district or chartered nonpublic school during the previous school year;

(2) The number of errors associated with the administration of diabetes medication to students with diabetes during the previous school year.

The bill also requires that ODE annually (by March 31) issue a report summarizing the information received for the previous school year. ODE must make the report available on its Internet website.<sup>24</sup>

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<sup>21</sup> R.C. 3313.7110(I)(2). *See also* 20 U.S.C. 1400 *et seq.*, 29 U.S.C. 794, and 42 U.S.C. 12101 *et seq.*

<sup>22</sup> R.C. 3313.7110(J).

<sup>23</sup> R.C. 3313.7110(J).

<sup>24</sup> R.C. 3313.7110(K).



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## HISTORY

ACTION	DATE
Introduced	09-12-13
Reported, H. Health & Aging	02-12-14
Passed House (96-1)	02-26-14
Reported, S. Medicaid, Health & Human Services	05-28-14

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