

**Department of Legislative Services**  
 Maryland General Assembly  
 2016 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

House Bill 771  
 Ways and Means

(Delegate D. Barnes, *et al.*)

Education, Health, and Environmental Affairs

**Public Schools - Administration of Diabetes Care Services - Guidelines**

This bill requires the Maryland State Department of Education (MSDE) and the Department of Health and Mental Hygiene (DHMH), to establish guidelines for public schools regarding the administration of health care services to students with diabetes and provide specified technical assistance to schools to implement the guidelines. MSDE and DHMH, in consultation with the other specified and interested stakeholders, must establish a plan for all public school health services programs in the State to provide diabetes care services so that students with diabetes can (1) remain safe in school; (2) be supported for optimal academic achievement; and (3) fully participate in all aspects of school programming, including after-school activities and other school-sponsored events. By December 1, 2016, MSDE and DHMH must report to specified committees on the implementation of the plan.

The bill takes effect July 1, 2016.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$29,200 in FY 2017 for DHMH to hire a half-time diabetes control consultant for nine months to develop guidelines, establish a plan for the implementation of policies and programs for students with diabetes, and provide technical assistance to local school systems and local health departments to implement the bill. MSDE can assist DHMH with developing the guidelines using existing resources. Revenues are not affected.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	29,200	0	0	0	0
Net Effect	(\$29,200)	\$0	\$0	\$0	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Local school system and local health department expenditures may increase to ensure that the appropriate school system personnel receive the required training, as determined by the school nurse (who must be a registered nurse (RN) as described below) and to ensure that the appropriate school or health department personnel are available to administer insulin during the school day and during other school-sponsored events and activities, including after-school activities and other school-sponsored events. The amount cannot be determined but may be significant for some local school systems depending on the guidelines that are developed. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** The guidelines developed must include, as specified in the bill:

- procedures for treating and administering medication to control diabetic symptoms;
- procedures for monitoring blood glucose and ketone levels;
- a description of parental or caregiver responsibilities in relation to the care of their child with diabetes, which must include specified elements;
- a description of school responsibilities in relation to the care of a student with diabetes, which must include specified elements;
- a description of student responsibilities in relation to the student's diabetes care that are age and clinically appropriate;
- procedures for students who have been determined by the school nurse to be capable of and responsible for self-management of their diabetes in accordance with health care provider orders; and
- any other issue that is relevant to the administration of health care services to students with diabetes.

MSDE and DHMH must provide technical assistance to schools to:

- implement the guidelines established under the bill;
- instruct school personnel at the local level regarding the guidelines established under the bill; and
- develop a process to monitor the implementation of the guidelines established under the bill.

An individual who has received instruction to provide diabetes care services to students in accordance with the guidelines adopted under the bill is not civilly liable for any act or omission in the course of providing diabetes care services to a student if:

- the individual is acting in good faith while providing diabetes care services to a student who is in need of diabetes care services or to a student who the individual believes in good faith to be in need of diabetes care services;
- the diabetes care services are provided in a reasonably prudent manner; and
- the diabetes care services are provided to the student without fee or other compensation.

The bill further specifies that the conditions described above do not affect, and may not be construed to affect, any immunities from civil liability or defenses established by any other provision of law to which an individual may be entitled.

**Current Law:** With the assistance of the local health department, each local board of education must provide adequate school health services, instruction in health education, and a healthful school environment. MSDE and DHMH must jointly develop public standards and guidelines for school health programs and offer assistance to the local boards of education and local health departments in their implementation.

MSDE and DHMH must jointly establish guidelines for public schools regarding emergency medical care for students with special health needs. The guidelines must include procedures for the emergency administration of medication and the proper follow-up emergency procedures; a description of parental or caregiver responsibilities; a description of school responsibilities; a description of student responsibilities that are age and condition appropriate; and any other issue that is relevant to the emergency medical care of students with special health needs. MSDE and DHMH must provide technical assistance to schools to implement the guidelines established, train school personnel at the local level, and develop a process to monitor the implementation of the guidelines.

In accordance with the Maryland Nurse Practice Act, and the regulations adopted under the Act, a nurse *may* delegate the responsibility to perform a nursing task to an unlicensed individual, a certified nursing assistant, or a medication technician. However, the delegating nurse retains the accountability for the nursing task. A nursing task delegated by the nurse must be (1) within the area of responsibility of the nurse delegating the act; (2) such that, in the judgment of the nurse, it can be properly and safely performed without jeopardizing the client welfare; and (3) a task that a reasonable and prudent nurse would find is within the scope of sound nursing judgment.

According to the Maryland Code of Regulations, (COMAR 13A.05.05.08), a local board of education, in conjunction with the local health department, must formulate written

policies ensuring the provision of school health services to students with special health needs. A student with special health needs that may require particular attention during the school day must have a statement of those health needs and a nursing care plan for emergency and routine care prepared by the designated school health services professional. The designated school health services professional must make appropriate school personnel aware of the students in the school who have special health needs that may require intervention during the school day. The principal, in consultation with the designated school health services professional, must identify school personnel who must receive in-service training in providing the recommended services for students with special health needs. A designated school health services professional may serve on all levels of the pupil services team and the admissions, review, and dismissal committees and participate, when appropriate in the health services component of the Individualized Education Plan, the Individualized Family Service Plan, or the Transitional Plan or any combination of these. A local board of education, in conjunction with the local health department, must formulate written policies regarding storage and administration of medication during school hours and during school-sponsored activities.

### *504 Plans*

Under [Section 504 of the federal Rehabilitation Act of 1973](#), an organization that receives federal money, including public and many private schools, may not discriminate against a person on the basis of a disability. Section 504 requires schools to make a “reasonable accommodation” for students with disabilities to allow them to participate in school and school-related activities.

Section 504 plans can be created to help students with disabilities receive accommodations that are not covered by their individualized education program (IEPs). Or, students with disabilities who do not need an IEP may still receive accommodations through a Section 504 plan.

For example, a student who has diabetes may have a Section 504 plan that includes a schedule for getting medication. A student who uses a wheelchair may have a Section 504 plan that provides for special transportation during field trips.

### **Background:**

#### *Diabetes Statistics*

According to the Centers for Disease Control and Prevention, as of 2012, approximately 208,000 individuals under 20 years of age, or 0.25% of the U.S. population in the age group, had diagnosed type 1 or type 2 diabetes. A study of the same age group during 2008-2009 estimated that 18,436 individuals annually were diagnosed with type 1 diabetes,

and 5,089 individuals annually were newly diagnosed with type 2 diabetes. The study found that nonHispanic white children and adolescents had the highest rate of new cases of type 1 diabetes. Conversely, the study found higher rates of new cases of type 2 diabetes among U.S. minority populations.

Type 1 diabetes is an autoimmune disease in which the body's immune system destroys the insulin-producing cells of the pancreas. According to the Centers for Disease Control and Prevention, although disease onset can occur at any age, the peak age for diagnosis is in the mid-teens. People with type 1 diabetes must have insulin delivered by injection or a pump to manage blood glucose levels. However, insulin is not a cure. Although blood glucose control can reduce the risk, type 1 diabetes can still lead to kidney failure, blindness, nerve damage, amputation, heart attack, or stroke. In addition, a potential complication of insulin treatment is hypoglycemia, or low blood glucose, which can result in seizure, unconsciousness, or even death.

Type 2 diabetes is the most common type of diabetes, accounting for 90% to 95% of diagnosed cases of diabetes in adults. Type 2 diabetes usually begins with insulin resistance, a disorder in which cells do not use insulin properly, but also involves varying degrees of dysfunction of the insulin-producing cells. Anyone can develop type 2 diabetes; however, greater risk is associated with older age, obesity, family history of diabetes, women who have had gestational diabetes, impaired glucose metabolism, physical inactivity, and race/ethnicity.

#### *Current State Guidelines Regarding the Management of Students with Diabetes in Schools*

Under [guidelines](#) developed by MSDE and DHMH dating from 2006 regarding the management of students with diabetes in schools, when an individual with diabetes enters school or a student is diagnosed with diabetes, the school nurse performs an appraisal and assessment and, in conjunction with the student's family and health care providers, develops an individualized care plan for the student. The care plan must address routine and emergency care, including the administration of medication during school hours and school-sponsored activities, and outline what will be done if the school nurse is not available. The school nurse determines whether and to whom any responsibility may be delegated for monitoring blood glucose testing or administering any treatment or medication.

The Maryland State Management of Diabetes at School/Order Form, or other orders addressing all of the same elements, must be completed by an authorized prescriber and submitted to the school by a parent or guardian before a student may receive medication or have an invasive medical procedure, such as blood glucose testing, performed in school.

According to DHMH, diabetes care management protocols exist within school health services programs operating in all of Maryland's 24 school systems. Additional diabetes care is provided in school-based health centers operating in 14 school systems.

In Maryland, school health services programs are mandated and are the responsibility of the local boards of education with assistance from the local health departments. A variety of school health service delivery models have been developed to assure the health needs of children are met in the school setting. These models may include, but are not limited to:

- RNs only;
- both RNs and Licensed Practical Nurses (LPNs);
- both RNs and Certified Nursing Assistant (CNAs); and
- RNs, LPNs, and CNAs.

However, due to a 2004 declaratory ruling of the Maryland Board of Nursing, regardless of the service delivery model, the RN is always the leader of the school health nursing team. The RN, the expert in nursing and health, makes the decisions about how care is provided and who provides the care to the child in the school system. Only the school RN has the authority to use the title school nurse. All other health staff must be referred by their title such as LPN, CNA, or Health Assistant/Health Technician.

#### *Montgomery County Public School System's Current Diabetes Management Procedures*

Montgomery County Public School System (MCPS) advises that during the 2014-2015 school year MCPS had more than 300 students with diabetes who attended more than 120 schools (out of 203 total MCPS schools). Over 75% of these students had orders for glucagon to be administered by intramuscular injection for a life-threatening episode of hypoglycemia (*i.e.*, extremely low blood sugar) resulting in unresponsiveness and/or diabetic seizures. Almost 70% of these students had an insulin order. Of these students, nearly 50 young children in prekindergarten through grade five are unable to calculate their insulin dosage and thus require daily assistance by an RN from the school health services (SHS). Many of these students have complex and unstable medical needs and are considered "brittle" diabetics, requiring the ongoing assessment and intervention by an SHS school community health nurse.

According to MCPS, under its current model, an RN may delegate certain tasks, as appropriate and as provided for in the Nurse Practice Act, to a CNAs/Certified Medication Technician. Under this model, SHS staff members, in collaboration with parents and MCPS staff members, address the needs of diabetic students throughout the school day. If medically indicated by the school nurse, MCPS has provided an agency nurse (usually the nurse is an LPN) to accompany a student on a field trip.

**State Expenditures:** General fund expenditures increase by \$29,200 in fiscal 2017, which accounts for a 90-day start-up delay after the bill's July 1, 2016 effective date. DHMH has determined that 1.0 contractual position is needed to implement this bill. However, the Department of Legislative Services advises that only a half-time contractual position is needed. This estimate reflects the cost of hiring one half-time contractual diabetes specialist to develop, in consultation with MSDE, the required guidelines, develop the plan for the implementation of policies and programs for students with diabetes by December 1, 2016, and provide technical assistance to local school systems and local health departments. It includes a salary, fringe benefits, one-time start-up costs, and operating expenses.

Contractual Position	0.5
Salary and Fringe Benefits	\$24,611
Operating Expenses	<u>4,589</u>
<b>Total FY 2017 State Expenditures</b>	<b>\$29,200</b>

This estimate reflects a July 1, 2017 termination date for the half-time contractual position due to the assumptions that the plan for the implementation of policies and programs for students with diabetes will be developed by December 1, 2016, and that the contractual position will spend six months providing technical assistance to local school systems and local health departments. However, if additional time is required, DHMH general fund expenditures increase accordingly.

**Local Expenditures:** Local school system expenditures may increase to ensure that the appropriate school system personnel get the required training, as determined by the school nurse (who must be an RN) and to ensure that appropriate school personnel are available to administer insulin during the school day and during other school-sponsored events and activities, including after-school activities and other school-sponsored events. Due to the different models of SHSs, an RN (the only nurse that can be officially called a school nurse) may not be on-site during all school hours and at all school-sponsored activities under current practice.

Costs cannot be reliably estimated and will vary by school system. Costs may be significant for some school systems with a significant number of students with diabetes who need additional diabetes care. Harford County Public Schools advises that until the guidelines are developed by MSDE and DHMH, a reliable fiscal estimate cannot be determined.

## **Additional Information**

**Prior Introductions:** SB 672 of 2015 passed the Senate, but no further action was taken. Its cross file HB 992 received a hearing in the House Ways and Means Committee, but no further action was taken.

**Cross File:** SB 71 (Senators Young and Nathan-Pulliam) - Education, Health, and Environmental Affairs.

**Information Source(s):** Centers for Disease Control and Prevention; Maryland State Department of Education; Department of Health and Mental Hygiene; Carroll, Montgomery, and Wicomico counties; Department of Legislative Services

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