

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

# A Bill

DRAFT CLR/CLR  
HOUSE BILL

5 By: Representative D. Hutchinson  
6  
7

## For An Act To Be Entitled

9 AN ACT TO AUTHORIZE PUBLIC SCHOOLS AND PUBLIC  
10 SCHOOL DISTRICTS TO PROVIDE TRAINED DIABETES  
11 MANAGEMENT PERSONNEL TO ASSIST STUDENTS WITH  
12 DIABETES; AND FOR OTHER PURPOSES.  
13

## Subtitle

14 AN ACT TO AUTHORIZE PUBLIC SCHOOLS AND  
15 PUBLIC SCHOOL DISTRICTS TO PROVIDE  
16 TRAINED DIABETES MANAGEMENT PERSONNEL TO  
17 ASSIST STUDENTS WITH DIABETES.  
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19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code Title 6, Chapter 18, Subchapter 7 is amended  
24 to add an additional section to read as follows:

25 6-18-708. Care of students with diabetes

26 (a) As used in this section:

27 (1) "Diabetes medical management plan" means the plan required  
28 by subsection (c) of this section that sets out the health services needed by  
29 the student while at school or participating in a school-related activity;

30 (2) "Individualized health care plan" means the plan required by  
31 § 6-18-1005(a)(6);

32 (3) "Principal" means the principal of a public school and  
33 includes the principal's designee;

34 (4) "Public school" means a school receiving state funds under §  
35 6-20-2305 with students enrolled in any grade from kindergarten through grade  
36 twelve (K-12);

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1           (5) "Public school employee" means a person employed by:

2           (A) A public school;

3           (B) A local health department that assists a public school  
4 under this section; or

5           (C) Another entity with which a public school has  
6 contracted to perform the activities authorized by this section;

7           (6) "School-related activity" means any school-sponsored  
8 activity before or after school, including without limitation:

9           (A) A field trip;

10          (B) An extracurricular activity; and

11          (C) The public school transportation to and from the  
12 activity;

13          (7) "Student" means a student with diabetes who is enrolled in a  
14 public school; and

15          (8)(A) "Trained diabetes school health aide" means a person who:

16                  (i) Has successfully completed the training relating  
17 to the care of students with diabetes required by this section; and

18                  (ii) In the absence of a school nurse or licensed  
19 health care professional, performs certain diabetes management activities for  
20 a student as authorized by this section.

21                  (B)(i) A trained diabetes school health aide is not  
22 required to be a licensed health care professional.

23                  (ii)(a) A public school employee who volunteers and  
24 receives the required training may perform the activities authorized by this  
25 section as a trained diabetes school health aide.

26                  (b) A public school employee shall not be  
27 subject to any penalty or disciplinary action for refusing to serve as a  
28 trained diabetes school health aide.

29                  (b)(1)(A) At the written request of the parent or legal guardian of a  
30 student, a public school or public school district shall provide a trained  
31 diabetes school health aide to perform the diabetes management activities  
32 authorized by this section.

33                  (B) Nothing in this section requires a public school or  
34 public school district to provide a trained diabetes school health aide if a  
35 school nurse is present at all times during the school day on the campus at  
36 which the student is enrolled and is present at any school-related activity

1 attended by the student.

2 (2) To request that the public school or public school district  
3 provide a trained diabetes school health aide, the parent or legal guardian  
4 of a student shall submit to the public school a copy of the student's  
5 diabetes medical management plan.

6 (c)(1) A diabetes medical management plan shall be a part of the  
7 student's individualized health care plan and shall include without  
8 limitation:

9 (A) The health care services the student may receive while  
10 attending public school or participating in a school-related activity;

11 (B) The student's physician's instructions concerning  
12 diabetes medication drug dosage, frequency of administration, and manner of  
13 administration;

14 (C) The recommended schedules and food intake for the  
15 student's meals and snacks;

16 (D) The proper actions to be taken if the student's  
17 schedule is disrupted;

18 (E) The possible effect of physical activity on the  
19 student's blood glucose levels;

20 (F) Procedures for regular review of the diabetes medical  
21 management plan;

22 (G) The responsibilities and appropriate staff development  
23 for teachers and other school personnel;

24 (H) An emergency care plan;

25 (I) A list of the medical supplies to be provided by the  
26 student's parent or legal guardian and instructions for the use and storage  
27 of the supplies; and

28 (J) An evaluation of the student's ability to understand  
29 and manage the student's diabetes.

30 (2) The diabetes medical management plan shall be signed by:

31 (A) The student's parent or legal guardian; and

32 (B) The members of the student's personal health care team  
33 identified in the diabetes medical management plan.

34 (d)(1) A trained diabetes school health aide may perform the following  
35 activities for a student in accordance with the student's diabetes medical  
36 management plan:

1                   (A) Take the proper action to treat the student's symptoms  
2 of hypoglycemia and hyperglycemia;

3                   (B) Respond to the student's blood glucose level if it is  
4 outside the target range specified in the diabetes medical management plan;

5                   (C) Administer glucagon to the student;

6                   (D) Administer insulin to the student or assist the  
7 student in administering insulin through an insulin delivery system that the  
8 student uses;

9                   (E) Administer oral diabetes medication to the student;

10                   (F) Perform the following checks on the student and record  
11 the results of those checks:

12                   (i) Finger-sticks to check blood glucose levels; and

13                   (ii) Checking urine ketone levels; and

14                   (G) Assist the student in following instructions in the  
15 student's diabetes medical management plan regarding meals, snacks, and  
16 physical activity.

17                   (e) A trained diabetes school health aide who is performing an  
18 activity described by subsection (d) of this section:

19                   (1) Is not considered to be engaging in the practice of  
20 professional or vocational nursing under state law or rule; and

21                   (2) Is exempt from any applicable state law or rule that  
22 restricts the activities that may be performed by a person who is not a  
23 licensed health care professional.

24                   (f)(1) A public school or public school district that agrees to  
25 provide a trained diabetes school health aide to a student under this section  
26 shall ensure that a school nurse or at least one (1) trained diabetes school  
27 health aide is present and available to provide the required care to the  
28 student during the regular school day or while the student is participating  
29 in a school-related activity.

30                   (2) No person may act or identify himself or herself as a  
31 trained diabetes school health aide unless the person has successfully  
32 completed the training prescribed by this section.

33                   (g)(1) The State Board of Education shall adopt guidelines for:

34                   (A) The development of a diabetes medical management plan;  
35 and

36                   (B) The training of a person who is not a licensed health

1 care professional to become a trained diabetes school health aide.

2 (2) In the development of these guidelines, the State Board of  
3 Education shall consult with:

4 (A) The Department of Education Coordinated School Health  
5 program;

6 (B) The Arkansas State Board of Nursing;

7 (C) The Arkansas State Medical Board;

8 (D) The Arkansas Diabetes Prevention & Control Program;

9 (E) The American Diabetes Association;

10 (F) The Juvenile Diabetes Research Foundation  
11 International;

12 (G) The American Association of Diabetes Educators;

13 (H) The Arkansas Nurses Association;

14 (I) The Arkansas School Nurses Association;

15 (J) The Department of Health; and

16 (K) The Department of Human Services.

17 (3) The State Board of Education guidelines for the development  
18 of a diabetes medical management plan shall include without limitation  
19 procedures for the development of a diabetes medical management plan at the  
20 written request of the student's parent or legal guardian and involving:

21 (A) The student's parent or legal guardian;

22 (B) The student's health care provider;

23 (C) The student, if appropriate;

24 (D) The school nurse, if available; and

25 (E) Other appropriate school personnel.

26 (4) The State Board of Education guidelines for training a person  
27 seeking to become a trained diabetes school health aide under this section  
28 shall include without limitation instruction in:

29 (A) The skills and knowledge required to properly perform  
30 each of the activities authorized by subsection (d) of this section; and

31 (B) Recognizing complications that can arise in the health  
32 of a student with diabetes that require seeking emergency assistance.

33 (h) Training for a person seeking to become a trained diabetes school  
34 health aide shall be provided by a person licensed to practice medicine in  
35 this state.

36 (i) A trained diabetes school health aide shall sign a document

1 prescribed by the State Board of Education that protects the confidentiality  
2 of the student's protected health information.

3 (j) The school nurse or principal shall maintain:

4 (1) A copy of the training guidelines; and

5 (2) Any records associated with the trained diabetes school  
6 health aide, including without limitation:

7 (A) The name, address, and phone number of the trained  
8 diabetes school health aide;

9 (B)(i) Evidence that the trained diabetes school health  
10 aide completed the training required by this section.

11 (ii) The State Board of Education shall determine by  
12 rule what evidence of training is required; and

13 (C) The signed confidentiality document required by  
14 subsection (i) of this section.

15 (k)(1) At all times that the trained diabetes school health aide is  
16 functioning in that capacity, the trained diabetes school health aide shall  
17 have immediate access to an individual with expertise in the care of persons  
18 with diabetes, such as a physician, a registered nurse, a certified diabetes  
19 educator, or a licensed dietitian; or

20 (2) The principal shall have immediate access to a licensed  
21 health care professional identified in the student's diabetes medical  
22 management plan as a member of the student's personal health team.

23 (l)(1) The public school or public school district shall pay for the  
24 cost of the training required by this section.

25 (2) The public school or public school district may pay for the  
26 cost of the training from state funds and may accept gifts, grants, and  
27 donations from private sources, municipal and county governments, the state,  
28 and the federal government to be used for the purposes of this section.

29 (m)(1) Each public school district shall report to the State Board of  
30 Education the following information for the current school year by September  
31 30 of each year:

32 (A) The number of students enrolled in the public school  
33 district who have advised the public school district that the student has  
34 diabetes; and

35 (B) The name, address, and phone number of any trained  
36 diabetes health aide providing services authorized by this section at the

1 public school district or one of its public schools.

2 (2) The public school district shall update the report required  
3 by this subsection (m) as may be directed by the State Board of Education.

4 (n) On the written request of a parent or legal guardian of a student  
5 and in accordance with the student's diabetes medical management plan, a  
6 public school shall permit the student to:

7 (1) Perform blood glucose level checks;

8 (2) Administer insulin through the insulin delivery system the  
9 student uses;

10 (3) Treat hypoglycemia and hyperglycemia;

11 (4) Possess on the student's person at any time any supplies or  
12 equipment necessary to monitor and care for the student's diabetes; and

13 (5) Otherwise attend to the management and care of the student's  
14 diabetes in the classroom, in any area of the public school or school  
15 grounds, or during any school-related activity.

16 (o)(1) Except as provided in subdivisions (o)(3) and (4) of this  
17 section, no person, public school, or public school district is liable for  
18 civil damages in any action in this state for any act or omission resulting  
19 from an activity authorized under this section that is performed by:

20 (A) A trained diabetes school health aide; or

21 (B) A student under subsection (n) of this section.

22 (2) The immunity under subdivision (o)(1) of this section  
23 includes without limitation immunity from disciplinary action under:

24 (A) A public school or public school district disciplinary  
25 policy;

26 (B) A State Board of Education regulation for:

27 (i) Public school or public school district  
28 accreditation or accountability; or

29 (ii) Licensure of public school employees; or

30 (C) A professional licensing regulation for health care  
31 professionals.

32 (3) No person is immune from liability under this subsection (o)  
33 for an act or omission that is the result of gross negligence or willful  
34 misconduct.

35 (4) This subsection (o) is not intended to alter in any way the  
36 provision of immunity under § 21-9-301.

1  
2 SECTION 2. NOT TO BE CODIFIED. The training guidelines required by  
3 Section 1 of this act shall be developed and published to all public school  
4 districts within twelve (12) months from the effective date of this act.

5  
6 SECTION 3. Arkansas Code § 6-18-1005(a)(6), concerning health services  
7 provided to students, is amended to read as follows:

8 (6) Health services, which shall include, but are not limited  
9 to, the following:

10 (A) Students with special health care needs, including the  
11 chronically ill, medically fragile, and technology-dependent, and students  
12 with other health impairments shall have individualized health care plans;

13 (B)(i) Invasive medical procedures required by students  
14 and provided at the school shall be performed by:

15 (a) ~~trained~~ Trained, licensed personnel who  
16 are licensed to perform the task subject to § 17-87-102(6)(D) or other  
17 professional licensure statutes; or

18 (b) A trained diabetes school health aide if  
19 the procedure is authorized by § 6-18-708.

20 (ii) The regular classroom teacher shall not perform  
21 these tasks; and

22 (C) Custodial health care services required by students  
23 under individualized health care plans shall be provided by trained school  
24 employees other than the regular classroom teachers; and

25 (D) Care for a public school student with diabetes under §  
26 6-18-708; and

27  
28 SECTION 4. Arkansas Code § 17-87-103(11)(A), concerning exceptions to  
29 the list of activities for which a nurse's license is required, is amended to  
30 read as follows:

31 (11)(A) Health maintenance activities by a designated care aide  
32 for a:

33 (i) Competent adult at the direction of the adult;

34 ~~or~~

35 (ii) Minor child or incompetent adult at the  
36 direction of a caretaker; or

