

ASSEMBLY BILL

No. 1802

Introduced by Assembly Member Hall
(Coauthor: Assembly Member Blumenfield)
(Coauthor: Senator Cox)

February 10, 2010

An act to add Section 49414.6 to the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1802, as introduced, Hall. Pupil health: diabetes: insulin injections.

Existing law provides that each pupil who is required to take, during the regular schoolday, medication prescribed for him or her by a physician, may be assisted by the school nurse or other designated school personnel if the school district receives a written statement from the physician detailing the method, amount, and time schedules by which the medication is to be taken and a written statement from the parent or guardian of the pupil indicating the desire that the school district assist the pupil in the matters set forth in the physician's statement. Existing law, in the absence of a credentialed school nurse or other licensed nurse, authorizes a school district to provide voluntary emergency medical training to school personnel, as defined, to administer emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia, subject to specified conditions.

This bill would authorize a parent or guardian of a pupil with diabetes, if a credentialed school nurse or other licensed health care professional is not immediately available onsite at the school, to designate one or more school employees as parent-designated school employees for the

purpose of administering insulin to the pupil as necessary during the regular school day. The bill would authorize a parent-designated school employee to administer insulin only (1) on a volunteer basis, (2) in accordance with the performance instructions set forth by the licensed health care provider of the pupil, and (3) after receiving appropriate training. The bill would require that the parent or guardian submit a written statement, valid for a maximum of one year, indicating the names of the school employees being designated, stating that those employees have volunteered to serve and have submitted a letter of intent, as specified, and acknowledging the provisions discussed below regarding immunity from criminal and civil liability. The bill would require the school district to keep a copy of that statement and to obtain other specified statements from the physician of the pupil and the parent or guardian. The bill would require a school district, within 3 business days of receiving a written request from the parent or guardian of a pupil with diabetes to notify school staff regarding the intent of the parent or guardian to designate school employees to administer insulin to the pupil, and to distribute to all staff members a written notice regarding that request, as specified. The bill would authorize a licensed health care professional, as described, to provide training to parent-designated school employees in the administration of insulin and to supervise those employees in performing that task. The bill would provide that a parent-designated school employee who, acting in good faith and in substantial compliance with the instructions of the pupil's licensed health care professional, administers insulin pursuant to the bill's provisions is not liable in any criminal action or for civil damages in his or her individual or official capacity as a result of administering the insulin. By requiring school districts to perform additional duties, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Diabetes is an incurable disease in which the body does not
4 produce or properly use insulin, a hormone needed for daily life.

5 (2) Diabetes is the sixth leading cause of death in the United
6 States.

7 (3) Numerous medical and scientific studies have shown that
8 the complications associated with the disease can be prevented
9 through proper disease management.

10 (4) Approximately 15,000 children in California have diabetes,
11 many of whom attend public schools.

12 (5) The vast majority of pupils with diabetes must receive insulin
13 by injection or through an insulin pump one or more times each
14 day during school hours as well as during other school activities.

15 (6) Lack of access to insulin whenever needed during the school
16 day puts pupils with diabetes at risk for developing serious, and
17 potentially life-threatening, short and long-term complications of
18 the disease as well as diminishing their ability to learn.

19 (7) While schools have ensured that the majority of children
20 with diabetes have assistance with blood glucose monitoring and
21 glucagon administration in the event of an emergency, accessing
22 assistance with insulin administration remains very difficult.

23 (8) There is a severe nursing shortage in California, especially
24 in public elementary and secondary schools, with the result that,
25 according to the California School Nurses Organization, there is
26 only one credentialed school nurse for every 2,700 pupils in the
27 California public school system.

28 (9) The subject of which employees a school district may
29 designate to administer insulin to pupils as required by their
30 medical condition remains controversial, and school districts have
31 experienced significant confusion and uncertainty in determining
32 how to meet the needs of these pupils because school nurses or
33 other health care professionals are not always available to
34 administer insulin as prescribed by their health care providers.

35 (b) It is therefore the intent of the Legislature in enacting this
36 act to clarify and expand upon existing law to provide school
37 districts with explicit options and added flexibility in providing
38 insulin administration to pupils who require this service by

1 establishing protocols that parents of pupils with diabetes may use
2 to designate volunteer school employees to be trained to administer
3 insulin to the pupil.

4 SEC. 2. Section 49414.6 is added to the Education Code, to
5 read:

6 49414.6. (a) Notwithstanding the Nursing Practice Act
7 (Chapter 6 (commencing with Section 2700) of Division 2 of the
8 Business and Professions Code) or any other provision of law, if
9 a credentialed school nurse or other licensed health care
10 professional is not immediately available onsite at the school, the
11 parent or guardian of a pupil with diabetes may designate one or
12 more school employees for the purpose of administering insulin
13 to the pupil as necessary during the regular school day, as defined
14 in subdivision (g) of Section 601 of Title 5 of the California Code
15 of Regulations. A parent-designated school employee may
16 administer insulin pursuant to this section only (1) on a volunteer
17 basis, (2) in accordance with the performance instructions set forth
18 by the licensed health care provider of the pupil, and (3) after
19 receiving appropriate training pursuant to subdivision (b). The
20 parent or guardian shall file a written statement, valid for a
21 maximum of one year, indicating the names of the school
22 employees being designated, stating that those employees have
23 volunteered to serve as parent-designated school employees and
24 have submitted the letter of intent described in subdivision (d),
25 and acknowledging the immunity from criminal and civil liability
26 provided in subdivision (h). The school district shall keep a copy
27 of this statement and shall obtain the statements required by
28 subdivision (a) of Section 49423.

29 (b) A school employee may serve as a parent-designated school
30 employee pursuant to subdivision (a) only if he or she has been
31 trained in administering insulin by a licensed nurse, physician,
32 certified diabetes educator, or other health care professional with
33 expertise in diabetes. A health care professional employed by the
34 school district provides training pursuant to this subdivision shall
35 not be responsible for the supervision of the parent-designated
36 school employee in administering medication to the pupil.

37 (c) Within three business days of receiving a written request
38 from the parent or guardian of a pupil with diabetes that school
39 staff be notified regarding the intent of the parent or guardian to
40 designate school employees to administer insulin to the pupil, a

1 school district shall distribute to all staff members a written notice
2 regarding that request that contains all of the following information:

3 (1) A statement that the parent or guardian of a child with
4 diabetes is seeking to designate school employees to administer
5 insulin to the pupil.

6 (2) A statement, consistent with subdivision (d), that a designee
7 will only administer insulin on a volunteer basis and that the school
8 district will take no action against any staff member who does not
9 volunteer for designation.

10 (3) A statement that training will be provided to all
11 parent-designated school employees, pursuant to subdivision (b).

12 (4) A statement that parent-designated school employees are
13 protected from liability pursuant to subdivision (h).

14 (5) Information regarding who to contact to volunteer to be a
15 parent-designated school employee.

16 (d) Each parent-designated school employee shall submit a
17 voluntary letter of intent stating the employee's willingness to
18 serve as a parent-designated school employee. A school employee
19 shall not be required or coerced in any manner to serve as a
20 parent-designated school employee. The school district shall take
21 no disciplinary or retaliatory action against any school employee
22 who does not volunteer to serve as a parent-designated school
23 employee.

24 (e) All materials necessary to administer insulin shall be
25 provided by the parent or guardian of the pupil.

26 (f) Notwithstanding any other provision of law, a licensed health
27 care professional, including a physician, credentialed school nurse,
28 registered nurse, or certificated public health nurse, may provide
29 training to parent-designated school employees in the
30 administration of insulin and supervise those employees in
31 performing that task.

32 (g) This section is not intended to alter or diminish the rights
33 of pupils to receive medication at school or to restrict the persons
34 who may be designated by the school district to administer that
35 medication under any other provision of law. Nothing in this
36 section alters or diminishes the rights of eligible pupils or the
37 obligations of school districts under the federal Individuals with
38 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or Section
39 504 of the federal Rehabilitation Act (29 U.S.C. Sec. 701 et seq.),
40 and the federal Americans with Disabilities Act (42 U.S.C. Sec.

1 12101 et seq.), and the failure of a parent to designate a school
2 employee pursuant to subdivision (a) does not alter the school
3 district's obligation to administer insulin under those laws.

4 (h) A parent-designated school employee who, acting in good
5 faith and in substantial compliance with the instructions of the
6 pupil's licensed health care professional, administers insulin
7 pursuant to this section shall not be liable under state law in any
8 criminal action or for civil damages in his or her individual or
9 official capacity as a result of administering the insulin.

10 SEC. 3. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.