

AMENDED IN ASSEMBLY MARCH 17, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1802**

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**Introduced by Assembly Member Hall**  
**(~~Coauthor: Assembly Member Blumenfield~~)**  
**(~~Coauthor: Senator Cox~~)**  
*(Principal coauthor: Senator Padilla)*  
**(~~Coauthors: Assembly Members Blumenfield and Nestande~~)**  
*(Coauthors: Senators Cox and Negrete McLeod)*

February 10, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1802, as amended, 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 schoolday when a credentialed school nurse or other health care professional is not immediately available onsite at the school. 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. In order to designate an employee for these purposes, 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 as specified. 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, and, upon 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 with immunity from criminal action or for and civil damages in his or her individual or official capacity as a result of administering the insulin liability, as specified. 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) *Improvements in insulin administration technology,*  
16 *specifically the increased accuracy and use of insulin pumps,*  
17 *insulin pens, and blood glucose monitors, have dramatically*  
18 *reduced medical errors and improved the safety of daily insulin*  
19 *administration for children and adults throughout the United*  
20 *States.*

21 ~~(6)~~

22 (7) Lack of access to insulin whenever needed during the school  
23 day schoolday puts pupils with diabetes at risk for developing  
24 serious, and potentially life-threatening, short-and long-term  
25 complications of the disease as well as diminishing their ability to  
26 learn.

27 ~~(7)~~

28 (8) While schools have ensured that the majority of children  
29 with diabetes have assistance with blood glucose monitoring and  
30 glucagon administration in the event of an emergency, accessing  
31 assistance with insulin administration remains very difficult.

1 (8)

2 (9) There is a severe nursing shortage in California, especially  
3 in public elementary and secondary schools, with the result that,  
4 according to the California School Nurses Organization, there is  
5 only one credentialed school nurse for every 2,700 pupils in the  
6 California public school system.

7 (9)

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

15 (b) It is therefore the intent of the Legislature in enacting this  
16 act to clarify and expand upon existing law to provide school  
17 districts with explicit options and added flexibility in providing  
18 insulin administration to pupils who require this service by  
19 establishing protocols that parents of pupils with diabetes may use  
20 to designate volunteer school employees to be trained to administer  
21 insulin to the pupil.

22 SEC. 2. Section 49414.6 is added to the Education Code, to  
23 read:

24 49414.6. (a) Notwithstanding the Nursing Practice Act  
25 (Chapter 6 (commencing with Section 2700) of Division 2 of the  
26 Business and Professions Code) or any other provision of law, ~~if~~  
27 ~~a credentialed school nurse or other licensed health care~~  
28 ~~professional is not immediately available onsite at the school, the~~  
29 *the parent or guardian of a pupil with diabetes who attends that*  
30 *school may designate one or more school employees for the*  
31 *purpose of administering insulin to the pupil as necessary during*  
32 *the regular-school-day schoolday, as defined in subdivision (g) of*  
33 *Section 601 of Title 5 of the California Code of Regulations, when*  
34 *a credentialed school nurse or other licensed health care*  
35 *professional is not immediately available onsite at the school. A*  
36 *parent-designated school employee may administer insulin pursuant*  
37 *to this section only (1) on a volunteer basis, (2) in accordance with*  
38 ~~the performance instructions~~ *written orders* ~~set forth by the licensed~~  
39 *health care provider of the pupil, and (3) after receiving appropriate*  
40 *training pursuant to subdivision (b). The parent or guardian shall*

1 file a written statement, valid for a maximum of one year,  
2 indicating the names of the school employees being designated,  
3 stating that those employees have volunteered to serve as  
4 parent-designated school employees and have submitted the letter  
5 of intent described in subdivision (d), and acknowledging the  
6 immunity from criminal and civil liability provided in subdivision  
7 (h). The school district shall keep a copy of this statement and  
8 shall obtain the statements required by subdivision (a) of Section  
9 49423.

10 (b) A school employee may serve as a parent-designated school  
11 employee pursuant to subdivision (a) only if he or she has been  
12 trained in administering insulin by a licensed nurse, physician,  
13 certified diabetes educator, or other health care professional with  
14 expertise in diabetes. A health care professional employed by the  
15 school district *who* provides training pursuant to this subdivision  
16 shall not be responsible for the supervision of the parent-designated  
17 school employee in administering medication to the pupil.

18 (c) ~~Within three business days of~~ Upon receiving a written  
19 request from the parent or guardian of a pupil with diabetes that  
20 school staff be notified regarding the intent of the parent or  
21 guardian to designate school employees to administer insulin to  
22 the pupil, a school district ~~shall~~ *may* distribute to all staff members  
23 a written *or electronic* notice regarding that request that contains  
24 all of the following information:

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

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

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

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

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

38 (d) Each parent-designated school employee shall submit a  
39 voluntary letter of intent stating the employee's willingness to  
40 serve as a parent-designated school employee. A school employee

1 shall not be required or coerced in any manner to serve as a  
 2 parent-designated school employee. The school district shall take  
 3 no disciplinary or retaliatory action against any school employee  
 4 ~~who does not volunteer~~ *whether the employee volunteers to serve*  
 5 *as a parent-designated school employee or chooses to not volunteer*  
 6 .

7 (e) All materials necessary to administer insulin shall be  
 8 provided *to the district* by the parent or guardian of the pupil.

9 (f) Notwithstanding any other provision of law, a licensed health  
 10 ~~care professional, including a physician, credentialed school nurse,~~  
 11 ~~registered nurse, or certificated public health nurse, may provide~~  
 12 *nurse, physician, certified diabetes instructor, or other health care*  
 13 *professional with expertise in diabetes may provide training to*  
 14 *parent-designated school employees in the administration of insulin*  
 15 ~~and supervise those employees in performing that task.~~ *insulin. A*  
 16 *parent-designated employee who has received training as described*  
 17 *in this subdivision may administer insulin in accordance with this*  
 18 *section.*

19 (g) This section is not intended to alter or diminish the rights  
 20 of pupils to receive medication at school or to restrict the persons  
 21 who may be designated by the school district to administer that  
 22 medication under any other provision of law. Nothing in this  
 23 section alters or diminishes the rights of eligible pupils or the  
 24 obligations of school districts under the federal Individuals with  
 25 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or Section  
 26 504 of the federal Rehabilitation Act (29 U.S.C. Sec. 701 et seq.),  
 27 and the federal Americans with Disabilities Act (42 U.S.C. Sec.  
 28 12101 et seq.), and the failure of a parent to designate a school  
 29 employee pursuant to subdivision (a) does not alter the school  
 30 district's obligation to administer insulin under those laws.

31 (h) A parent-designated school employee who, acting in good  
 32 faith and in substantial compliance with the ~~instructions~~ *orders* of  
 33 the pupil's licensed health care professional, administers insulin  
 34 pursuant to this section shall not be liable under state law in any  
 35 criminal action or for civil damages in his or her individual or  
 36 official capacity as a result of administering the insulin.

37 SEC. 3. If the Commission on State Mandates determines that  
 38 this act contains costs mandated by the state, reimbursement to  
 39 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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