

1 AN ACT relating to the emergency administration of medication in schools.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 158.838 is amended to read as follows:

4 (1) (a) Beginning July 15, 2014, the board of each local public school district and the  
5 governing body of each private and parochial school or school district shall  
6 have at least one (1) school employee at each school who has met the  
7 requirements of KRS 156.502 on duty during the entire school day to  
8 administer or assist with the self-administration of the following medication:

9 1. Glucagon subcutaneously to students with diabetes who are  
10 experiencing hypoglycemia or other conditions noted in the health care  
11 practitioner's written statement under subsection (2)(a)2. of this section;

12 2. Insulin subcutaneously, through the insulin delivery method used by the  
13 student and at the times and under the conditions noted in the health care  
14 practitioner's written statement under subsection (2)(a)2. of this section;

15 ~~and~~

16 3. A seizure rescue medication or medication prescribed to treat seizure  
17 disorder symptoms approved by the United States Food and Drug  
18 Administration and any successor agency; ***and***

19 **4. Naloxone in accordance with KRS 217.186.**

20 (b) For those assigned the duties under paragraph (a) of this subsection, the  
21 training provided under KRS 156.502 shall include instruction in  
22 administering:

23 1. Insulin and glucagon, as well as recognition of the signs and symptoms  
24 of hypoglycemia and hyperglycemia and the appropriate steps to be  
25 taken to respond to these symptoms; ~~and~~

26 2. Seizure medications, as well as the recognition of the signs and  
27 symptoms of seizures and the appropriate steps to be taken to respond to

1                   these symptoms; and

2                   3. Naloxone as required under KRS 217.186.

3           (c) Any training program or guidelines adopted by any state agency for training of  
4           school personnel in the diabetes care tasks covered by this section shall be  
5           fully consistent with training programs and guidelines developed by the  
6           American Diabetes Association. Notwithstanding any state agency  
7           requirement or other law to the contrary, for purposes of this training a local  
8           school district shall be permitted to use any adequate and appropriate training  
9           program or guidelines for training of school personnel in the diabetes care  
10          tasks covered under this section.

11          (d) Any training program or guidelines adopted by any state agency for training of  
12          school personnel in the health care needs of students diagnosed with a seizure  
13          disorder shall be fully consistent with best practice guidelines from medical  
14          professionals with expertise in seizure treatment.

15   (2) (a) Prior to administering any of the medications listed under  
16          ~~subparagraphs~~<sup>[subsection (1)(a)]</sup> 1., 2., and 3. of subsection (1)(a) of this  
17          section to a student, the student's parent or guardian shall:

- 18           1. Provide the school with a written authorization to administer the  
19           medication at school;
- 20           2. Provide a written statement from the student's health care practitioner,  
21           which shall contain the following information:
  - 22               a. Student's name;
  - 23               b. The name and purpose of the medication;
  - 24               c. The prescribed dosage;
  - 25               d. The route of administration;
  - 26               e. The frequency that the medication may be administered; and
  - 27               f. The circumstances under which the medication may be

1 administered; and

2 3. Provide the prescribed medication to the school in its unopened, sealed  
3 package with the label affixed by the dispensing pharmacy intact.

4 (b) In addition to the statements required in paragraph (a) of this subsection, the  
5 parent or guardian of each student diagnosed with a seizure disorder shall  
6 collaborate with school personnel to implement the seizure action plan. The  
7 Kentucky Board of Education shall promulgate administrative regulations  
8 establishing procedures for the implementation of seizure action plans.

9 (3) (a) The statements and seizure action plan required in subsection (2) of this  
10 section shall be kept on file in the office of the school nurse or school  
11 administrator.

12 (b) Any school personnel or volunteers responsible for the supervision or care of  
13 a student diagnosed with a seizure disorder shall be given notice of the seizure  
14 action plan, the identity of the school employee or employees trained in  
15 accordance with subsection (1)(a) of this section, and the method by which the  
16 trained school employee or employees may be contacted in the event of an  
17 emergency.

18 (4) The school district or the governing body of each private and parochial school or  
19 school district shall inform the parent or guardian of the student that the school and  
20 its employees and agents shall not incur any liability as a result of any injury  
21 sustained by the student from any reaction to any medication listed under  
22 subparagraphs~~[subsection (1)(a)]~~ 1., 2., and 3. of subsection (1)(a) of this section  
23 that a parent or guardian has authorized the school district to administer to a student  
24 to treat a hypoglycemic or hyperglycemic episode or a seizure or its administration,  
25 unless the injury is the result of negligence or misconduct on behalf of the school or  
26 its employees. The parent or guardian of the student shall sign a written statement  
27 acknowledging that the school shall incur no liability except as provided in this

1 subsection, and the parent or guardian shall hold harmless the school and its  
2 employees against any claims made for any reaction to any medication listed under  
3 subparagraphs~~[subsection (1)(a)]~~ 1., 2., and 3. of subsection (1)(a) of this section  
4 that a parent or guardian has authorized the school district to administer to a student  
5 to treat a hypoglycemic or hyperglycemic episode or a seizure or its administration  
6 if the reaction is not due to negligence or misconduct on behalf of the school or its  
7 employees.

8 (5) The permission for the administration of any of the medications listed under  
9 subparagraphs~~[subsection (1)(a)]~~ 1., 2., and 3. of subsection (1)(a) of this section  
10 shall be effective for the school year in which it is granted and shall be renewed  
11 each following school year upon fulfilling the requirements of subsections (2) to (4)  
12 of this section.

13 (6) The school nurse or school administrator shall check the expiration date monthly for  
14 each medication listed under subsection (1)(a) of this section that is in the  
15 possession of the school. At least one (1) month prior to the expiration date of each  
16 medication, the school nurse or school administrator shall inform the parent or  
17 guardian of the expiration date.

18 (7) Upon the written request of the parent or guardian of the student and written  
19 authorization by the student's health care practitioner, a student with diabetes shall  
20 be permitted to perform blood glucose checks, administer insulin through the  
21 insulin delivery system the student uses, treat hypoglycemia and hyperglycemia, and  
22 otherwise attend to the care and management of his or her diabetes in the school  
23 setting and at school-related activities. A student shall be permitted to possess on  
24 his or her person at all times necessary supplies and equipment to perform these  
25 monitoring and treatment functions. Upon request by the parent or student, the  
26 student shall have access to a private area for performing diabetes care tasks.

27 (8) (a) Beginning July 15, 2014, a school district shall permit a student who has

1 diabetes or a seizure disorder to attend the same school the student would  
2 attend if the student did not have diabetes or a seizure disorder. Such a student  
3 may only be transferred to a different school based on health care needs if the  
4 individualized education program team, the Section 504 team, or, if  
5 appropriate, the student's health services team, makes the determination that  
6 the student's health condition requires that the student's care be provided by a  
7 licensed health care professional at a different school. For the purpose of this  
8 determination, the teams shall include the parent or guardian. The parent or  
9 guardian may invite the student's treating physician to the team meeting and  
10 the team shall consider the physician's input, whether in person or in written  
11 form, when making this determination. This determination shall be based on  
12 individualized factors related to the student's health conditions. A school  
13 district shall not prohibit a student who has diabetes or a seizure disorder from  
14 attending any school on the sole basis that:

- 15 1. The student has diabetes or a seizure disorder;
- 16 2. The school does not have a full-time school nurse; or
- 17 3. The school does not have school employees who are trained in  
18 accordance with KRS 156.502 and assigned to provide care under this  
19 section.

20 (b) Parents or guardians of students who have diabetes or a seizure disorder shall  
21 not be required or pressured by school personnel to provide care for a student  
22 with diabetes or a seizure disorder during regular school hours or during  
23 school-related activities in which the student is a participant. For the purposes  
24 of this paragraph, a participant is not a student who merely observes the  
25 activity.

26 (9) (a) The requirements ***in this section for seizure rescue medication identified***  
27 ***under subsection (1)(a)3.***~~[of subsections (1) to (8)]~~ of this section shall apply

1           only to schools that have a student enrolled who~~;~~  
2       ~~(a)~~ has a seizure disorder and has a seizure rescue medication or medication  
3       prescribed to treat seizure disorder symptoms approved by the United States  
4       Food and Drug Administration and any successor agency prescribed by the  
5       student's health care provider.~~;~~~~or~~

6       (b) **The requirements in this section for diabetes medication identified under**  
7       **subparagraphs 1. and 2. of subsection (1)(a) of this section shall apply only**  
8       **to schools that have a student enrolled who** has diabetes mellitus and has any  
9       of the medications listed under subsection (1)(a) of this section prescribed by  
10      the student's health care provider.

11      (10) Nothing in this section shall be construed to require a school employee to consent to  
12      administer medications listed under subsection (1)(a) of this section to a student if  
13      the employee does not otherwise consent to provide the health service under KRS  
14      156.502.

15      (11) Notwithstanding any other provision of the law to the contrary:

16      (a) The administration of the medications listed under subsection (1)(a) of this  
17      section by school employees shall not constitute the practice of nursing and  
18      shall be exempt from all applicable statutory and regulatory provisions that  
19      restrict the activities that may be delegated to or performed by a person who is  
20      not a licensed health care professional; and

21      (b) A licensed health care professional may provide training to or supervise  
22      school employees in the administration of the medications listed under  
23      subsection (1)(a) of this section.