

**CHAPTER 294****(HB 126)**

AN ACT relating to the provision of health care services in the schools.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

- (1) *The Department of Education shall provide leadership and assistance to local school districts relating to student health services. The department, working in cooperation with the Department for Public Health, shall provide, contract for services, or identify resources to improve student health services, including but not limited to the following:***

  - (a) *Standardized protocols and guidelines for health procedures to be performed by health professionals and school personnel. The protocols and guidelines shall include, but not be limited to, the following:***

    - 1. *The delegation of nursing functions consistent with administrative regulations promulgated by the Kentucky Board of Nursing;***
    - 2. *Training of designated nonmedical school personnel; and***
    - 3. *Appropriate documentation and recordkeeping including, but not limited to, notification to school administrators and parents or guardians of the provision of health services by a school employee, including certification of medical necessity for health services signed by a health care professional, and informed consent for the provision of health services by a parent or guardian.***

***A copy of the protocols and guidelines shall be made available to each school in the Commonwealth and shall be maintained by each school in the school's library;***
  - (b) *Consultation, technical assistance, and development of quality improvement measures for the state and local boards of education, individual public schools, and local health departments;***
  - (c) *Facilitation of statewide and local data collection and reporting of school health services; and***
  - (d) *Information and resources that relate to the provision of school health services.***
- (2) *The Department of Education shall establish a position to assist in carrying out the responsibilities required under subsection (1) of this section. The position may be established with existing personnel resources, or by contract, with an individual who:***

  - (a) *Holds, at a minimum, a bachelor's degree in nursing with a master's degree in nursing or a related field from an accredited postsecondary institution; and***
  - (b) *Is a registered nurse licensed under the provisions of KRS Chapter 314.***
- (3) *The Department of Education shall provide fifty percent (50%) of the costs for the position required by subsection (2) of this section and the Department for Public Health shall provide the remaining fifty percent (50%) for the position. The Department of Education may enter into a contractual arrangement, such as a Memorandum of Agreement, with the Department for Public Health to share the costs.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Health services" means the provision of direct health care, including the administration of medication; the operation, maintenance, or health care through the use of medical equipment; or the administration of clinical procedures. "Health services" does not include first aid or emergency procedures; and*
- (b) *"School employee" means an employee of the public schools of this Commonwealth.*

(2) *Health services shall be provided, within the health care professional's current scope of practice, in a school setting by:*

- (a) *A physician who is licensed under the provisions of KRS Chapter 311;*
- (b) *An advanced registered nurse practitioner, registered nurse, or licensed practical nurse who is licensed under the provisions of KRS Chapter 314; or*
- (c) *A school employee who is delegated responsibility to perform the health service by a physician, advanced registered nurse practitioner, or registered nurse; and*
  - 1. *Has been trained by the delegating physician or delegating nurse for the specific health service, if that health service is one that could be delegated by the physician or nurse within his or her scope of practice; and*
  - 2. *Has been approved in writing by the delegating physician or delegating nurse. The approval shall state that the school employee consents to perform the health service when the employee does not have the administration of health services in his or her contract or job description as a job responsibility, possesses sufficient training and skills, and has demonstrated competency to safely and effectively perform the health service. The school employee shall acknowledge receipt of training by signing the approval form. A copy of the approval form shall be maintained in the student's record and the personnel file of the school employee. A delegation to a school employee under this paragraph shall be valid only for the current school year.*

(3) *If no school employee has been trained and delegated responsibility to perform a health service, the school district shall make any necessary arrangement for the provision of the health service to the student in order to prevent a loss of a health service from affecting the student's attendance or program participation. The school district shall continue with this arrangement until appropriate school personnel are delegated the responsibility for health care in subsection (2) of this section.*

(4) *A school employee who has been properly delegated responsibility for performing a medical procedure under Section 2 of this Act shall act as an agent of the school and be granted liability protection under the Federal Paul P. Coverdell Teacher Liability Protection Act of 2001, Public Law 107-110, unless the claimant establishes by clear and convincing evidence that harm was proximately caused by an act or omission of the school employee that constitutes negligence, willful or criminal misconduct, or a conscious, flagrant indifference to the rights and safety of the individual harmed.*

- (5) *Nothing in this section shall be construed to deny a student his or her right to attend public school and to receive public school services, or to deny, prohibit, or limit the administration of emergency first aid or emergency procedures.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The Department for Public Health shall provide fifty percent (50%) of the costs for the position created in subsection (2) of Section 1 of this Act. The Department for Public Health may enter into a contractual arrangement, such as a Memorandum of Agreement, with the Department of Education to share the costs.*
- (2) *The Department for Public Health shall provide access, information, assistance, and support to the education school nurse consultant necessary to assist and support the Department of Education to fulfill the duties specified in Section 1 of this Act.*
- (3) *It is the intent of the General Assembly that there be no duplication of services or duties between the Department of Education and the Department for Public Health relating to school health services and that the position created in subsection (2) of Section 1 of this Act serve as a technical advisor and liaison among state agencies, local school districts, and local health departments.*

**Approved April 9, 2002**