

## CHAPTER 153

( HB 147 )

AN ACT relating to seizure disorders in schools.

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

➔Section 1. KRS 158.832 is amended to read as follows:

As used in KRS 158.830 to ~~158.838~~~~{158.836}~~:

- (1) "Anaphylaxis" means an allergic reaction resulting from sensitization following prior contact with an antigen which can be a life-threatening emergency. Anaphylaxis may be triggered by, among other agents, foods, drugs, injections, insect stings, and physical activity.
- (2) "Medications" means all medicines individually prescribed by a health care practitioner for the student that pertain to his or her asthma or used to treat anaphylaxis, including but not limited to EpiPen or other auto-injectible epinephrine;
- (3) "Health care practitioner" means a physician or other health care provider who has prescriptive authority;~~and~~
- (4) "Self-administration" means the student's use of his or her prescribed asthma or anaphylaxis medications, pursuant to prescription or written direction from the health care practitioner; **and**
- (5) **"Seizure action plan" means a written, individualized health plan designed to acknowledge and prepare for the health care needs of a student diagnosed with a seizure disorder that is prepared by the student's treating physician.**

➔Section 2. KRS 158.838 is amended to read as follows:

- (1) (a) Beginning July 15, 2014, the board of each local public school district and the governing body of each private and parochial school or school district shall have at least one (1) school employee at each school who has met the requirements of KRS 156.502 on duty during the entire school day to administer or assist with the self-administration of the following medication:
  1. Glucagon subcutaneously to students with diabetes who are experiencing hypoglycemia or other conditions noted in the health care practitioner's written statement under subsection (2)(b) of this section;
  2. Insulin subcutaneously, through the insulin delivery method used by the student and at the times and under the conditions noted in the health care practitioner's written statement under subsection (2)(b) of this section; and
  3. A seizure rescue medication **or medication prescribed to treat seizure disorder symptoms** approved by the United States Food and Drug Administration and any successor agency.
- (b) For those assigned the duties under paragraph (a) of this subsection, the training provided under KRS 156.502 shall include instruction in administering:
  1. Insulin and glucagon, as well as recognition of the signs and symptoms of hypoglycemia and hyperglycemia and the appropriate steps to be taken to respond to these symptoms; **and**
  2. **Seizure medications, as well as the recognition of the signs and symptoms of seizures and the appropriate steps to be taken to respond to these symptoms.**
- (c) Any training program or guidelines adopted by any state agency for training of school personnel in the diabetes care tasks covered by this section shall be fully consistent with training programs and guidelines developed by the American Diabetes Association. Notwithstanding any state agency requirement or other law to the contrary, for purposes of this training a local school district shall be permitted to use any adequate and appropriate training program or guidelines for training of school personnel in the diabetes care tasks covered under this section.
- (d) **Any training program or guidelines adopted by any state agency for training of school personnel in the health care needs of students diagnosed with a seizure disorder shall be fully consistent with best practice guidelines from medical professionals with expertise in seizure treatment.**

- (2) (a) Prior to administering any of the medications listed under subsection (1)(a) of this section to a student, the student's parent or guardian shall:
1. ~~(a)~~ Provide the school with a written authorization to administer the medication at school;
  2. ~~(b)~~ Provide a written statement from the student's health care practitioner, which shall contain the following information:
    - a~~1~~. Student's name;
    - b~~2~~. The name and purpose of the medication;
    - c~~3~~. The prescribed dosage;
    - d~~4~~. The route of administration;
    - e~~5~~. The frequency that the medication may be administered; and
    - f~~6~~. The circumstances under which the medication may be administered; and
  3. ~~(c)~~ Provide the prescribed medication to the school in its unopened, sealed package with the label affixed by the dispensing pharmacy intact.
- (b) *In addition to the statements required in paragraph (a) of this subsection, the parent or guardian of each student diagnosed with a seizure disorder shall collaborate with school personnel to implement the seizure action plan. The Kentucky Board of Education shall promulgate administrative regulations establishing procedures for the implementation of seizure action plans.*
- (3) (a) The statements *and seizure action plan* required in subsection (2) of this section shall be kept on file in the office of the school nurse or school administrator.
- (b) *Any school personnel or volunteers responsible for the supervision or care of a student diagnosed with a seizure disorder shall be given notice of the seizure action plan, the identity of the school employee or employees trained in accordance with subsection (1)(a) of this section, and the method by which the trained school employee or employees may be contacted in the event of an emergency.*
- (4) The school district or the governing body of each private and parochial school or school district shall inform the parent or guardian of the student that the school and its employees and agents shall not incur any liability as a result of any injury sustained by the student from any reaction to any medication listed under subsection (1)(a) of this section that a parent or guardian has authorized the school district to administer to a student to treat a hypoglycemic or hyperglycemic episode or a seizure or its administration, unless the injury is the result of negligence or misconduct on behalf of the school or its employees. The parent or guardian of the student shall sign a written statement acknowledging that the school shall incur no liability except as provided in this subsection, and the parent or guardian shall hold harmless the school and its employees against any claims made for any reaction to any medication listed under subsection (1)(a) of this section that a parent or guardian has authorized the school district to administer to a student to treat a hypoglycemic or hyperglycemic episode or a seizure or its administration if the reaction is not due to negligence or misconduct on behalf of the school or its employees.
- (5) The permission for the administration of any of the medications listed under subsection (1)(a) of this section shall be effective for the school year in which it is granted and shall be renewed each following school year upon fulfilling the requirements of subsections (2) to (4) of this section.
- (6) The school nurse or school administrator shall check the expiration date monthly for each medication listed under subsection (1)(a) of this section that is in the possession of the school. At least one (1) month prior to the expiration date of each medication, the school nurse or school administrator shall inform the parent or guardian of the expiration date.
- (7) Upon the written request of the parent or guardian of the student and written authorization by the student's health care practitioner, a student with diabetes shall be permitted to perform blood glucose checks, administer insulin through the insulin delivery system the student uses, treat hypoglycemia and hyperglycemia, and otherwise attend to the care and management of his or her diabetes in the school setting and at school-related activities. A student shall be permitted to possess on his or her person at all times necessary supplies and equipment to perform these monitoring and treatment functions. Upon request by the parent or student, the student shall have access to a private area for performing diabetes care tasks.

- (8) (a) Beginning July 15, 2014, a school district shall permit a student who has diabetes or a seizure disorder to attend the same school the student would attend if the student did not have diabetes or a seizure disorder. Such a student may only be transferred to a different school based on health care needs if the individualized education program team, the Section 504 team, or, if appropriate, the student's health services team, makes the determination that the student's health condition requires that the student's care be provided by a licensed health care professional at a different school. For the purpose of this determination, the teams shall include the parent or guardian. The parent or guardian may invite the student's treating physician to the team meeting and the team shall consider the physician's input, whether in person or in written form, when making this determination. This determination shall be based on individualized factors related to the student's health conditions. A school district shall not prohibit a student who has diabetes or a seizure disorder from attending any school on the sole basis that:
1. The student has diabetes or a seizure disorder;
  2. The school does not have a full-time school nurse; or
  3. The school does not have school employees who are trained in accordance with KRS 156.502 and assigned to provide care under this section.
- (b) Parents or guardians of students who have diabetes or a seizure disorder shall not be required or pressured by school personnel to provide care for a student with diabetes or a seizure disorder during regular school hours or during school-related activities in which the student is a participant. For the purposes of this paragraph, a participant is not a student who merely observes the activity.
- (9) The requirements of subsections (1) to (8) of this section shall apply only to schools that have a student enrolled who:
- (a) Has a seizure disorder and has a seizure rescue medication *or medication prescribed to treat seizure disorder symptoms* approved by the United States Food and Drug Administration and any successor agency prescribed by the student's health care provider; or
  - (b) Has diabetes mellitus and has any of the medications listed under subsection (1)(a) of this section prescribed by the student's health care provider.
- (10) Nothing in this section shall be construed to require a school employee to consent to administer medications listed under subsection (1)(a) of this section to a student if the employee does not otherwise consent to provide the health service under KRS 156.502.
- (11) Notwithstanding any other provision of the law to the contrary:
- (a) The administration of the medications listed under subsection (1)(a) of this section by school employees shall not constitute the practice of nursing and shall be exempt from all applicable statutory and regulatory provisions that restrict the activities that may be delegated to or performed by a person who is not a licensed health care professional; and
  - (b) A licensed health care professional may provide training to or supervise school employees in the administration of the medications listed under subsection (1)(a) of this section.
- ➔Section 3. KRS 158.070 is amended to read as follows:
- (1) As used in this section:
- (a) "Election" has the same meaning as in KRS 121.015;
  - (b) "Minimum school term" or "school term" means not less than one hundred eighty-five (185) days composed of the student attendance days, teacher professional days, and holidays;
  - (c) "School calendar" means the document adopted by a local board of education that establishes the minimum school term, student instructional year or variable student instructional year, and days that school will not be in session;
  - (d) "School district calendar committee" means a committee consisting of:
    1. One (1) school district principal;
    2. One (1) school district office administrator other than the superintendent;

3. One (1) member of the local board of education;
  4. Two (2) parents of students attending a school in the district;
  5. One (1) school district elementary school teacher;
  6. One (1) school district middle or high school teacher;
  7. Two (2) school district classified employees; and
  8. Two (2) community members from the local chamber of commerce, business community, or tourism commission;
- (e) "Student attendance day" means any day that students are scheduled to be at school to receive instruction, and encompasses the designated start and dismissal time;
- (f) "Student instructional year" means at least one thousand sixty-two (1,062) hours of instructional time for students delivered on not less than one hundred seventy (170) student attendance days;
- (g) "Teacher professional day" means any day teachers are required to report to work as determined by a local board of education, with or without the presence of students; and
- (h) "Variable student instructional year" means at least one thousand sixty-two (1,062) hours of instructional time delivered on the number of student attendance days adopted by a local board of education which shall be considered proportionally equivalent to one hundred seventy (170) student attendance days and calendar days for the purposes of a student instructional year, employment contracts that are based on the school term, service credit under KRS 161.500, and funding under KRS 157.350.
- (2) (a) Beginning with the 2018-2019 school year, and each year thereafter, the local board of education, upon recommendation of the local school district superintendent, shall annually appoint a school district calendar committee to review, develop, and recommend school calendar options.
- (b) The school district calendar committee, after seeking feedback from school district employees, parents, and community members, shall recommend school calendar options to the local school district superintendent for presentation to the local board of education. The committee's recommendations shall comply with state laws and regulations and consider the economic impact of the school calendar on the community and the state.
- (c) Prior to adopting a school calendar, the local board of education shall hear for discussion the school district calendar committee's recommendations and the recommendation of the superintendent at a meeting of the local board of education.
- (d) During a subsequent meeting of the local board of education, the local board shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, student attendance days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.
- (e) For local board of education meetings described in paragraphs (c) and (d) of this subsection, if the meeting is a regular meeting, notice shall be given to media outlets that have requests on file to be notified of special meetings stating the date of the regular meeting and that one (1) of the items to be considered in the regular meeting will be the school calendar. The notice shall be sent at least twenty-four (24) hours before the regular meeting. This requirement shall not be deemed to make any requirements or limitations relating to special meetings applicable to the regular meeting.
- (f) Beginning with the 2018-2019 school year, and each year thereafter, a local school board of education that adopts a school calendar with the first student attendance day in the school term starting no earlier than the Monday closest to August 26 may use a variable student instructional year. Districts may set the length of individual student attendance days in a variable student instructional schedule, but no student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.
- (3) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of students pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of

professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.

- (b) In addition to the four (4) days required under paragraph (a) of this subsection:~~{}~~
1. A minimum of two (2) hours of self-study review of suicide prevention materials shall be required for all high school and middle school principals, guidance counselors, and teachers each school year; *and*
  2. *At least one (1) hour of self-study review of seizure disorder materials shall be required for all principals, guidance counselors, and teachers hired after July 1, 2019.*
- (c) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.
1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.
  2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.
- (d) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.
- (e) Each local board may use two (2) days for planning activities without the presence of students.
- (f) Each local board may close schools for the number of days deemed necessary for:
1. National or state emergency or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;
  2. Local emergency which would endanger the health or safety of children; and
  3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.
- (4) (a) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of student attendance days as a result of a local emergency, as described in subsection (3)(f)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of waivers from the requirements of a student instructional year in subsection (1)(f) of this section for districts that wish to adopt innovative instructional calendars, or for circumstances that would create extreme hardship.
- (b) If a local board of education amends its school calendar after its adoption due to an emergency, it may lengthen or shorten any remaining student attendance days by thirty (30) minutes or more, as it deems necessary, provided the amended calendar complies with the requirements of a student instructional year in subsection (1)(f) of this section or a variable student instructional year in subsection (1)(h) of this section. No student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.

- (5)
  - (a)
    1. In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings.
    2. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the commissioner of education may designate alternate dates.
    3. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit employees who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence.
    4. The commissioner of education shall designate one (1) additional day during the school year when schools may be closed to permit professional school employees to participate in regional or district professional meetings.
    5. These three (3) days so designated for attendance at professional meetings may be counted as a part of the minimum school term.
  - (b)
    1. If any school in a district is used as a polling place, the school district shall be closed on the day of the election, and those days may be used for professional development activities, professional meetings, or parent-teacher conferences.
    2. A district may be open on the day of an election if no school in the district is used as a polling place.
  - (c) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:
    1. Designate the day as one (1) of the four (4) holidays permitted under subsection (3)(d) of this section; or
    2. Not include the day in the minimum school term specified in subsection (1) of this section.
- (6)
  - (a) The Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, shall be encouraged to schedule athletic competitions outside the regularly scheduled student attendance day.
  - (b) Beginning with the 2009-2010 school year, any member of a school-sponsored interscholastic athletic team who competes in a regional tournament or state tournament sanctioned by the Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, and occurring on a regularly scheduled student attendance day may be counted present at school on the date or dates of the competition, as determined by local board policy, for a maximum of two (2) days per student per year. The student shall be expected to complete any assignments missed on the date or dates of the competition.
  - (c) The school attendance record of any student for whom paragraph (b) of this subsection applies shall indicate that the student was in attendance on the date or dates of competition.
- (7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.
- (8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the student attendance day on a limited basis. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the student attendance day.

- (9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the student instructional year in subsection (1)(f) of this section, or a variable student instructional year in subsection (1)(h) of this section, except that the commissioner of education may grant up to the equivalent of ten (10) student attendance days for school districts that have an alternative instruction plan approved by the commissioner of education for the use of alternative methods of instruction, including virtual learning, on days when the school district is closed for health or safety reasons, on nontraditional days, or on nontraditional time. The district's plan shall demonstrate how teaching and learning in the district will not be negatively impacted. Average daily attendance for purposes of Support Education Excellence in Kentucky program funding during the student attendance days granted shall be calculated in compliance with administrative regulations promulgated by the Kentucky Board of Education.
- (10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (2) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the beginning of the student attendance day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the student attendance day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.
- (11) Notwithstanding any other statute to the contrary, the following provisions shall apply to a school district that misses student attendance days due to emergencies, including weather-related emergencies:
- (a) A certified school employee shall be considered to have fulfilled the minimum one hundred eighty-five (185) day contract with a school district under KRS 157.350 and shall be given credit for the purpose of calculating service credit for retirement under KRS 161.500 for certified school personnel if:
    1. State and local requirements under this section are met regarding the equivalent of the number and length of student attendance days, teacher professional days, professional development days, holidays, and days for planning activities without the presence of students; and
    2. The provisions of the district's school calendar to make up student attendance days missed due to any emergency, as approved by the Kentucky Department of Education when required, including but not limited to a provision for additional instructional time per day, are met.
  - (b) Additional time worked by a classified school employee shall be considered as equivalent time to be applied toward the employee's contract and calculation of service credit for classified employees under KRS 78.615 if:
    1. The employee works for a school district with a school calendar approved by the Kentucky Department of Education that contains a provision that additional instructional time per day shall be used to make up full days missed due to an emergency;
    2. The employee's contract requires a minimum six (6) hour work day; and
    3. The employee's job responsibilities and work day are extended when the instructional time is extended for the purposes of making up time.
  - (c) Classified employees who are regularly scheduled to work less than six (6) hours per day and who do not have additional work responsibilities as a result of lengthened student attendance days shall be excluded from the provisions of this subsection. These employees may be assigned additional work responsibilities to make up service credit under KRS 78.615 that would be lost due to lengthened student attendance days.

➔Section 4. Each local school district shall require all principals, guidance counselors, and teachers to complete at least one hour of self-study review of seizure disorder materials no later than July 1, 2019. This self-study review shall be in addition to the four days required under KRS 158.070(3)(a), unless otherwise approved by the school district. Nothing in this section shall be construed to limit the authority of a school district or the Kentucky Department of Education to require additional seizure disorder training.

➔Section 5. This Act may be cited as the Lyndsey Crunk Act.

**Signed by Governor April 13, 2018.**