

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Originating

House Bill 4735

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[Originating in the Committee on Education; Reported
on February 5, 2020]

1 A BILL to amend and reenact §18-5-22 of the Code of West Virginia, 1931, as amended, related
2 to the employment of at least one school nurse or licensed practical nurse, as appropriate,
3 at every school.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

**§18-5-22. Medical and dental inspection; school nurses; specialized health procedures;
establishment of council of school nurses.**

1 (a) County boards shall provide proper medical and dental inspections for all pupils
2 attending the schools of their county and have the authority to take any other action necessary to
3 protect the pupils from infectious diseases, including the authority to require from all school
4 personnel employed in their county, certificates of good health and of physical fitness.

5 (b) Each county board shall employ full time at least one school nurse for every one
6 thousand five hundred kindergarten through seventh grade pupils in net enrollment or major
7 fraction thereof: *Provided*, That each county shall employ full time at least one school nurse:
8 *Provided, however*, That commencing with the school year 2021 – 2022, subject to funds
9 appropriated by the Legislature therefore, each county board shall employ at least one school
10 nurse or licensed practical nurse, as appropriate, at every school: ~~*Provided however*~~ *further*, That
11 a county board may contract with a public health department for services considered equivalent
12 to those required by this section in accordance with a plan to be approved by the state board:
13 ~~*Provided further*~~ *And further provided*, That the state board shall promulgate rules requiring the
14 employment of school nurses in excess of the number required by this section to ensure adequate
15 provision of services to severely handicapped pupils. An appropriation may be made to the state
16 department to be distributed to county boards to support school health service needs that exceed
17 the capacity of staff as mandated in this section. Each county board shall apply to the state
18 superintendent for receipt of this funding in a manner set forth by the state superintendent that
19 assesses and takes into account varying acuity levels of students with specialized health care

20 needs.

21 (c) Any person employed as a school nurse must be a registered professional nurse
22 properly licensed by the West Virginia Board of Examiners for Registered Professional Nurses in
23 accordance with article seven, chapter thirty of this code.

24 (d) Specialized health procedures that require the skill, knowledge and judgment of a
25 licensed health professional may be performed only by school nurses, other licensed school
26 health care providers as provided in this section, or school employees who have been trained and
27 retrained every two years who are subject to the supervision and approval by school nurses. After
28 assessing the health status of the individual student, a school nurse, in collaboration with the
29 student's physician, parents and, in some instances, an individualized education program team,
30 may delegate certain health care procedures to a school employee who shall be trained pursuant
31 to this section, considered competent, have consultation with, and be monitored or supervised by
32 the school nurse: *Provided*, That nothing in this section prohibits any school employee from
33 providing specialized health procedures or any other prudent action to aid any person who is in
34 acute physical distress or requires emergency assistance. For the purposes of this section
35 "specialized health procedures" means, but is not limited to, catheterization, suctioning of
36 tracheostomy, naso-gastric tube feeding or gastrostomy tube feeding. "School employee" means
37 "teachers" as defined in section one, article one of this chapter and "aides" as defined in section
38 eight, article four, chapter eighteen-a of this code. Commencing with the school year beginning
39 on July 1, 2002, "school employee" also means "secretary I", "secretary II" and "secretary III" as
40 defined in section eight, article four, chapter eighteen-a of this code: *Provided, however*, That a
41 "secretary I", "secretary II" and "secretary III" shall be limited to the dispensing of medications.

42 (e) Any school service employee who elects, or is required by this section, to undergo
43 training or retraining to provide, in the manner specified in this section, the specialized health care
44 procedures for those students for which the selection has been approved by both the principal
45 and the county board shall receive additional pay of at least one pay grade higher than the highest

46 pay grade for which the employee is paid: *Provided*, That any training required in this section may
47 be considered in lieu of required in-service training of the school employee and a school employee
48 may not be required to elect to undergo the training or retraining: *Provided, however*, That
49 commencing with July 1, 1989, any newly employed school employee in the field of special
50 education is required to undergo the training and retraining as provided in this section: *Provided*
51 *further*, That if an employee who holds a class title of an aide is employed in a school and the
52 aide has received the training, pursuant to this section, then an employee in the field of special
53 education is not required to perform the specialized health care procedures.

54 (f) Each county school nurse, as designated and defined by this section, shall perform a
55 needs assessment. These nurses shall meet on the basis of the area served by their regional
56 educational service agency, prepare recommendations and elect a representative to serve on the
57 council of school nurses established under this section.

58 (g) There shall be a council of school nurses which shall be convened by the state Board
59 of Education. This council shall prepare a procedural manual and shall provide recommendations
60 regarding a training course to the Commissioner of the Bureau for Public Health who shall consult
61 with the state Department of Education. The state board then has the authority to promulgate a
62 rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code to
63 implement the training and to create standards used by those school nurses and school
64 employees performing specialized health procedures. The council shall meet every two years to
65 review the certification and training program regarding school employees.

66 (h) The State Board of Education shall work in conjunction with county boards to provide
67 training and retraining every two years as recommended by the Council of School Nurses and
68 implemented by the rule promulgated by the state board.

NOTE: The purpose of this bill is to require county boards to employ at least one school nurse or licensed practical nurse, as appropriate, at every school commencing with the 2021 -2022 school year.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.