

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2397**

BY DELEGATES ATKINSON, J. KELLY, MILLER, COOPER,

ROHRBACH, MANDT AND HOLLEN

[Introduced January 14, 2019; Referred  
to the Committee on Prevention and Treatment of  
Substance Abuse then Education.]

1 A BILL to amend and reenact §18-5-22 of the Code of West Virginia, 1931, as amended, relating  
 2 to requiring county school boards to provide adequate mental health and counseling  
 3 services in the form of the employment of a psychologist or psychiatrist to pupils to address  
 4 issues stemming from rampant drug abuse.

*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, or upon concerned  
 2 suspicious, adequate mental health evaluations, for all pupils attending the schools of their county  
 3 and have the authority to take any other action necessary to protect the pupils from infectious  
 4 diseases, including the authority to require from all school personnel employed in their county,  
 5 certificates of good health and of physical fitness. County boards shall, additionally, provide  
 6 adequate mental health and counseling services to pupils attending the schools of their county  
 7 who are in need of those services arising as a result of issues stemming from drug abuse in the  
 8 state.

9 (b) Each county board shall employ full time at least one school nurse for every one  
 10 thousand five hundred kindergarten through seventh grade pupils in net enrollment or major  
 11 fraction thereof: *Provided,* That each county shall employ full time at least one school nurse and  
 12 at least one school psychologist licensed under §30-21-8a of this code, for every 1000  
 13 kindergarten through seventh grade pupils in net enrollment or major fraction thereof or a  
 14 psychiatrist licensed under §30-3-1 et seq. of this code: *Provided, however,* That a county board  
 15 may contract with a public health department for services considered equivalent to those required  
 16 by this section in accordance with a plan to be approved by the state board: *Provided further,*  
 17 That the state board shall promulgate rules requiring the employment of school nurses in excess  
 18 of the number required by this section to ensure adequate provision of services to severely

19 handicapped pupils. An appropriation may be made to the state department to be distributed to  
20 county boards to support school health service needs that exceed the capacity of staff as  
21 mandated in this section. Each county board shall apply to the state superintendent for receipt of  
22 this funding in a manner set forth by the state superintendent that assesses and takes into account  
23 varying acuity levels of students with specialized health care needs.

24 (c) Any person employed as a school nurse must be a registered professional nurse  
25 properly licensed by the West Virginia Board of Examiners for Registered Professional Nurses in  
26 accordance with §30-7-1 *et seq.* of this code.

27 (d) Specialized health procedures that require the skill, knowledge and judgment of a  
28 licensed health professional may be performed only by school nurses, other licensed school  
29 health care providers as provided in this section, or school employees who have been trained and  
30 retrained every two years who are subject to the supervision and approval by school nurses. After  
31 assessing the health status of the individual student, a school nurse, in collaboration with the  
32 student's physician, parents and, in some instances, an individualized education program team,  
33 may delegate certain health care procedures to a school employee who shall be trained pursuant  
34 to this section, considered competent, have consultation with, and be monitored or supervised by  
35 the school nurse: *Provided*, That nothing in this section prohibits any school employee from  
36 providing specialized health procedures or any other prudent action to aid any person who is in  
37 acute physical distress or requires emergency assistance. For the purposes of this section  
38 "specialized health procedures" means, but is not limited to, catheterization, suctioning of  
39 tracheostomy, naso-gastric tube feeding or gastrostomy tube feeding. "School employee" means  
40 "teachers" as defined in section one, article one of this chapter and "aides" as defined in §18A-4-  
41 8 of this code. Commencing with the school year beginning on July 1, 2002, "school employee"  
42 also means "secretary I", "secretary II" and "secretary III" as defined in §18A-4-8 of this code:  
43 *Provided, however*, That a "secretary I", "secretary II" and "secretary III" shall be limited to the  
44 dispensing of medications.

45 (e) Any school service employee who elects, or is required by this section, to undergo  
46 training or retraining to provide, in the manner specified in this section, the specialized health care  
47 procedures for those students for which the selection has been approved by both the principal  
48 and the county board shall receive additional pay of at least one pay grade higher than the highest  
49 pay grade for which the employee is paid: *Provided*, That any training required in this section may  
50 be considered in lieu of required in-service training of the school employee and a school employee  
51 may not be required to elect to undergo the training or retraining: *Provided, however*, That  
52 commencing with July 1, 1989, any newly employed school employee in the field of special  
53 education is required to undergo the training and retraining as provided in this section: *Provided*  
54 *further*, That if an employee who holds a class title of an aide is employed in a school and the  
55 aide has received the training, pursuant to this section, then an employee in the field of special  
56 education is not required to perform the specialized health care procedures.

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

61 (g) There shall be a council of school nurses which shall be convened by the State Board  
62 of Education. This council shall prepare a procedural manual and shall provide recommendations  
63 regarding a training course to the Commissioner of the Bureau for Public Health who shall consult  
64 with the state Department of Education. The state board then has the authority to promulgate a  
65 rule in accordance with ~~the provisions of~~ 29A-3B-1 *et seq.* of this code to implement the training  
66 and to create standards used by those school nurses and school employees performing  
67 specialized health procedures. The council shall meet every two years to review the certification  
68 and training program regarding school employees.

69 (h) The State Board of Education shall work in conjunction with county boards to provide  
70 training and retraining every two years as recommended by the Council of School Nurses and

71 implemented by the rule promulgated by the state board.

NOTE: The purpose of this bill is to require county school boards to provide adequate mental health and counseling services in the form of the employment of a psychologist or psychiatrist to pupils to address issues stemming from drug abuse.

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