

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2383

By Delegate Ellington

[Introduced January 11, 2023; Referred to the
Committee on Education then Finance]

1 A BILL to amend and reenact §18-5-22 of the Code of West Virginia, 1931, as amended, relating to
 2 school nurses; requiring counties to employ nurses in proportion to student population;
 3 requiring each county to have at least one school nurse; allowing licensed practical nurses
 4 supervised by a registered professional nurse to be counted as nurse; and requiring that
 5 registered professional nurse of a county complete needs assessment.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-22. Medical and dental inspection; school nurses; contracts with public health department for services considered equivalent; specialized health procedures; delegation of certain health care procedures to a school employee; training requirements; 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 1,500
 6 kindergarten through seventh grade pupils in net enrollment or major fraction thereof: *Provided,*
 7 That each county shall employ full time at least one school nurse: *Provided, however,* That a
 8 county board may contract with a public health department for services considered equivalent to
 9 those required by this section in accordance with a plan to be approved by the state board:
 10 *Provided further,* That the state board shall promulgate rules requiring the employment of school
 11 nurses in excess of the number required by this section to ensure adequate provision of services
 12 to severely ~~handicapped~~ disabled pupils. An appropriation may be made to the state department
 13 to be distributed to county boards to support school health service needs that exceed the capacity
 14 of staff as mandated in this section. Each county board shall apply to the state superintendent for

15 receipt of this funding in a manner set forth by the state superintendent that assesses and takes
16 into account varying acuity levels of students with specialized health care needs.

17 (c) Notwithstanding subsection (b) of this section, by the school year beginning July 1,
18 2025, each county board shall employ full-time at least one school nurse for every 1,500 pupils in
19 net enrollment or major fraction thereof in pre-kindergarten through the 12th grade: *Provided, That*
20 each county shall employ full-time at least one school nurse. Notwithstanding subsection (d) of this
21 section any person employed as a school nurse to meet the expanded requirement for school
22 nurses under this subsection may be either a registered professional nurse or licensed practical
23 nurse working under the supervision of a registered professional nurse.

24 ~~(e)~~ (d) 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)~~ (e) 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 §18-1-1 of this code and "aides" as defined in §18A-4-8 of this code.

41 Commencing with the school year beginning on July 1, 2002, "school employee" also means
42 "secretary I", "secretary II" and "secretary III" as defined in §18A-4-8 of this code: *Provided,*
43 *however,* That a "secretary I", "secretary II" and "secretary III" shall be limited to the dispensing of
44 medications.

45 ~~(e)~~ (f) 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 and
48 the county board shall receive additional pay of at least one pay grade higher than the highest pay
49 grade for which the employee is paid: *Provided,* That any training required in this section may be
50 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 aide
55 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~~ (g) The registered
58 professional nurses of each county shall perform a needs assessment. These nurses shall meet
59 ~~on the basis of the area served by their regional educational service agency, as determined by the~~
60 State Board of Education, prepare recommendations and elect a representative to serve on the
61 council of school nurses established under this section.

62 ~~(g)~~ (h) There shall be a council of school nurses which shall be convened by the State
63 Board of Education. This council shall prepare a procedural manual and shall provide
64 recommendations regarding a training course to the Commissioner of the Bureau for Public Health
65 who shall consult with the state Department of Education. The state board then has the authority to
66 promulgate a rule in accordance with the provisions of §29A-3b-1 *et seq.* of this code to implement

67 the training and to create standards used by those school nurses and school employees
68 performing specialized health procedures. The council shall meet every two years to review the
69 certification and training program regarding school employees.

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

NOTE: The purpose of this bill relates to school nurses; to require counties to employ nurses in proportion to student population; to require each county to have at least one school nurse; to allow licensed practical nurses supervised by a registered professional nurse to be counted as nurse; and to require that the registered professional nurse of a county complete a needs assessment.

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