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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1124

02/15/2021 Authored by Edelson, Moller, Wazlawik and Keeler
03/08/2021 The bill was read for the first time and referred to the Committee on Health Finance and Policy
By motion, recalled and re-referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; modifying school health services to allow for the use of
1.3 private clinical nursing services; modifying the use of a functional behavioral
1.4 assessment; allowing certain students to participate in alternative delivery of
1.5 specialized instructional services programs; amending Minnesota Statutes 2020,
1.6 section 121A.21.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2020, section 121A.21, is amended to read:

1.9 121A.21 SCHOOL HEALTH SERVICES.

1.10 Subdivision 1. Requirements. (a) Every school board must provide services to promote
1.11 the health of its pupils.

1.12 (b) The board of a district with 1,000 pupils or more in average daily membership in
1.13 early childhood family education, preschool disabled, elementary, and secondary programs
1.14 must comply with the requirements of this paragraph. It may use one or a combination of
1.15 the following methods:

1.16 (1) employ personnel, including at least one full-time equivalent licensed school nurse;

1.17 (2) contract with a public or private health organization or another public agency for
1.18 personnel during the regular school year, determined appropriate by the board, who are
1.19 currently licensed under chapter 148 and who are certified public health nurses; or

1.20 (3) enter into another arrangement approved by the commissioner.

1.21 Subd. 2. Definitions. (a) For purposes of this section, the following terms have the
1.22 meanings given.

2.1 (b) "Clinical nursing provider" means an agency or nurse that renders clinical nursing
2.2 services and is approved to provide private duty nursing under the Medicaid program or
2.3 private insurance and by the state Board of Nursing.

2.4 (c) "Clinical nursing services" means specific health care services, based on a medically
2.5 fragile pupil's individualized education plan and a physician's or advanced practice nurse's
2.6 orders, as provided by a registered nurse or licensed practical nurse with specialized pediatric
2.7 training who attends to the pupil.

2.8 (d) "Pupil who is medically fragile" means a school-aged child who has a life-threatening
2.9 medical condition, and as a result of such condition, requires individualized and continuous
2.10 clinical nursing services.

2.11 Subd. 3. **Clinical nursing services at school.** (a) A pupil who is medically fragile who
2.12 requires clinical nursing services at home must receive the same level of clinical nursing
2.13 services care while attending school or during transportation to and from school. Maintaining
2.14 a continuity of care for students who are medically fragile is necessary for those pupils'
2.15 safety, creates a safer environment at school and during transportation, and fosters learning
2.16 and inclusion.

2.17 (b) If a pupil who is medically fragile requires clinical nursing services care at school
2.18 or during transportation to and from school, the school and the parent or legal guardian must
2.19 meet to discuss options for arranging for clinical nursing services during school. Options
2.20 may include but are not limited to:

2.21 (1) the pupil's clinical nursing provider in the home provides clinical nursing services
2.22 to the pupil at school and during transportation to and from school and such services are
2.23 paid for by the pupil's home care services or other insurance;

2.24 (2) the school contracts with the pupil's existing clinical nursing provider to provide
2.25 clinical nursing services to the pupil at school and during transportation to and from school;
2.26 and

2.27 (3) the school arranges for clinical nursing services for the pupil at school and during
2.28 transportation to and from school, either by school staff or a contract with another clinical
2.29 nursing services provider.

2.30 (c) When considering options for arranging for clinical nursing services, the school and
2.31 the parents or legal guardians shall take into account the following factors:

2.32 (1) the ability of a clinical nursing provider to provide the specific clinical nursing
2.33 services the pupil requires;

3.1 (2) the familiarity of the clinical nursing provider with the pupil's specific clinical nursing
3.2 services needs and any training that may be required; and

3.3 (3) the impact of the selection of a clinical nursing provider on the availability of clinical
3.4 nursing services to the pupil at home.

3.5 The meeting and decision between the school and parents or legal guardians may take place
3.6 during individualized education plan team meetings under the Individuals with Disabilities
3.7 in Education Act or meetings required by Section 504 of the Rehabilitation Act, if applicable,
3.8 and, if applicable, the dispute resolution processes available under either act are available
3.9 to the school and to the parents or legal guardian.

3.10 (d) For the purposes of this subdivision:

3.11 (1) an eligible provider must have a license issued by the Board of Nursing under chapter
3.12 148 and have complied with federal law and all school district policies, including a policy
3.13 requiring a background check. If the district requires a background check, the student's
3.14 parent must provide the results of a background check conducted within the previous three
3.15 years or provide the district with payment for the cost of a background check under section
3.16 123B.03;

3.17 (2) the school district and nurse or clinical nursing service provider may enter into
3.18 agreements as necessary to establish mutual expectations of the nurse or provider's conduct
3.19 in the school environment, including confidentiality agreements, liability coverage, and the
3.20 nurse or provider's authority within the school environment;

3.21 (3) the school district bears no liability for the actions of nurses under this paragraph on
3.22 school premises; and

3.23 (4) if the clinical nursing provider or nurse is not employed by the school district for the
3.24 purposes of providing clinical nursing services to the pupil who is medically fragile, the
3.25 clinical nursing provider shall report to and be supervised by their clinical nursing provider
3.26 employer for the purposes of providing clinical nursing services to the pupil who is medically
3.27 fragile.