

CHAPTER 99-214

Committee Substitute for Senate Bill No. 1356

An act relating to school health services; amending s. 381.0056, F.S.; defining the term “entity” or “health care entity”; requiring that certain services be documented in a local school health services plan; providing that certain entities providing school health services under contract with the Department of Health are instrumentalities of the state for certain purposes; providing limitations on tort actions; requiring such contractor to require providers to obtain certain liability insurance coverage; creating s. 381.0059, F.S., relating to background screening requirements for school health services providers; specifying the persons who must submit to such screening; specifying payment for screening services; providing grounds for disqualification; requiring certain attestation to screening requirements; directing the Department of Health to determine a means by which certain units of local government may receive a designation for purposes of federal Title V programs; requiring a study of training requirements for school health nurses; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 381.0056, Florida Statutes, is amended to read:

381.0056 School health services program.—

(1) This section may be cited as the “School Health Services Act.”

(2) The Legislature finds that health services conducted as a part of the total school health program should be carried out to appraise, protect, and promote the health of students. School health services supplement, rather than replace, parental responsibility and are designed to encourage parents to devote attention to child health, to discover health problems, and to encourage use of the services of their physicians, dentists, and community health agencies.

(3) When used in or for purposes of this section:

(a) “Emergency health needs” means onsite management and aid for illness or injury pending the student’s return to the classroom or release to a parent, guardian, designated friend, or designated health care provider.

(b) “Entity” or “health care entity” means a unit of local government or a political subdivision of the state; a hospital licensed under chapter 395; a health maintenance organization certified under chapter 641; a health insurer authorized under the Florida Insurance Code; a community health center; a migrant health center; a federally qualified health center; an organization that meets the requirements for nonprofit status under section 501(c)(3) of the Internal Revenue Code; a private industry or business; or a

philanthropic foundation that agrees to participate in a public-private partnership with a county health department, local school district, or school in the delivery of school health services, and agrees to the terms and conditions for the delivery of such services as required by this section and as documented in the local school health services plan.

~~(c)~~^(b) “Invasive screening” means any screening procedure in which the skin or any body orifice is penetrated.

~~(d)~~^(e) “Physical examination” means a thorough evaluation of the health status of an individual.

~~(e)~~^(d) “School health services plan” means the document that describes the services to be provided, the responsibility for provision of the services, the anticipated expenditures to provide the services, and evidence of cooperative planning by local school districts and county health departments.

~~(f)~~^(e) “Screening” means presumptive identification of unknown or unrecognized diseases or defects by the application of tests that can be given with ease and rapidity to apparently healthy persons.

(4) The Department of Health shall have the responsibility, in cooperation with the Department of Education, to supervise the administration of the school health services program and perform periodic program reviews. However, the principal of each school shall have immediate supervisory authority over the health personnel working in the school.

(5) Each county health department shall develop, jointly with the district school board and the local school health advisory committee, a school health services plan; and the plan shall include, at a minimum, provisions for:

- (a) Health appraisal;
- (b) Records review;
- (c) Nurse assessment;
- (d) Nutrition assessment;
- (e) A preventive dental program;
- (f) Vision screening;
- (g) Hearing screening;
- (h) Scoliosis screening;
- (i) Growth and development screening;
- (j) Health counseling;
- (k) Referral and followup of suspected or confirmed health problems by the local county health department;

- (l) Meeting emergency health needs in each school;
 - (m) County health department personnel to assist school personnel in health education curriculum development;
 - (n) Referral of students to appropriate health treatment, in cooperation with the private health community whenever possible;
 - (o) Consultation with a student's parent or guardian regarding the need for health attention by the family physician, dentist, or other specialist when definitive diagnosis or treatment is indicated;
 - (p) Maintenance of records on incidents of health problems, corrective measures taken, and such other information as may be needed to plan and evaluate health programs; except, however, that provisions in the plan for maintenance of health records of individual students must be in accordance with s. 228.093;
 - (q) Health information which will be provided by the school health nurses, when necessary, regarding the placement of students in exceptional student programs and the reevaluation at periodic intervals of students placed in such programs; and
 - (r) Notification to the local nonpublic schools of the school health services program and the opportunity for representatives of the local nonpublic schools to participate in the development of the cooperative health services plan.
- (6) A nonpublic school may request to participate in the school health services program. A nonpublic school voluntarily participating in the school health services program shall:
- (a) Cooperate with the county health department and district school board in the development of the cooperative health services plan;
 - (b) Make available adequate physical facilities for health services;
 - (c) Provide inservice health training to school personnel;
 - (d) Cooperate with public health personnel in the implementation of the school health services plan;
 - (e) Be subject to health service program reviews by the Department of Health and the Department of Education; and
 - (f) At the beginning of each school year, inform parents or guardians in writing that their children who are students in the school will receive specified health services as provided for in the district health services plan. A student will be exempt from any of these services if his or her parent or guardian requests such exemption in writing. This paragraph shall not be construed to authorize invasive screening; if there is a need for such procedure, the consent of the student's parent or guardian shall be obtained in writing prior to performing the screening. However, the laws and rules

relating to contagious or communicable diseases and sanitary matters shall not be violated.

(7) The district school board shall:

(a) Coordinate the educational aspects of the school health services program with the Florida Comprehensive Health Education and Substance Abuse Prevention Act;

(b) Include health services and health education as part of the comprehensive plan for the school district;

(c) Provide inservice health training for school personnel;

(d) Make available adequate physical facilities for health services; and

(e) At the beginning of each school year, inform parents or guardians in writing that their children who are students in the district schools will receive specified health services as provided for in the district health services plan. A student will be exempt from any of these services if his or her parent or guardian requests such exemption in writing. This paragraph shall not be construed to authorize invasive screening; if there is a need for such procedure, the consent of the student's parent or guardian shall be obtained in writing prior to performing the screening. However, the laws and rules relating to contagious or communicable diseases and sanitary matters shall not be violated.

(8) The Department of Health, in cooperation with the Department of Education, may adopt rules necessary to implement this section.

(9) In the absence of negligence, no person shall be liable for any injury caused by an act or omission in the administration of school health services.

(10) Any health care entity that provides school health services under contract with the department pursuant to a school health services plan developed under this section, and as part of a school nurse services public-private partnership, is deemed to be a corporation acting primarily as an instrumentality of the state solely for the purpose of limiting liability pursuant to s. 768.28(5). The limitations on tort actions contained in s. 768.28(5) shall apply to any action against the entity with respect to the provision of school health services, if the entity is acting within the scope of and pursuant to guidelines established in the contract or by rule of the department. The contract must require the entity, or the partnership on behalf of the entity, to obtain general liability insurance coverage, with any additional endorsement necessary to insure the entity for liability assumed by its contract with the department. The Legislature intends that insurance be purchased by entities, or by partnerships on behalf of the entity, to cover all liability claims, and under no circumstances shall the state or the department be responsible for payment of any claims or defense costs for claims brought against the entity or its subcontractor for services performed under the contract with the department. This subsection does not preclude consideration by the Legislature for payment by the state of any claims bill involving an entity contracting with the department pursuant to this section.

Section 2. Section 381.0059, Florida Statutes, is created to read:

381.0059 Background screening requirements for school health services personnel.—

(1)(a) Any person who provides services under a school health services plan pursuant to s. 381.0056 must complete level 2 screening as provided in chapter 435. A person may satisfy the requirements of this subsection by submitting proof of compliance with the requirements of level 2 screening under s. 435.04, conducted within 12 months before the date that person initially provides services under a school health services plan pursuant to s. 381.0056. Any person who provides services under a school health services plan pursuant to s. 381.0056 shall be on probationary status pending the results of the level 2 screening.

(b) In order to conduct level 2 screening, any person who provides services under a school health services plan pursuant to s. 381.0056 must furnish to the Department of Health a full set of fingerprints to enable the department to conduct a criminal background investigation. Each person who provides services under a school health services plan pursuant to s. 381.0056 must file a complete set of fingerprints taken by an authorized law enforcement officer and must provide sufficient information for a statewide criminal records correspondence check through the Florida Department of Law Enforcement. The Department of Health shall submit the fingerprints to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check.

(c) The person subject to the required background screening or his or her employer must pay the fees required to obtain the background screening. Payment for the screening and the abuse registry check must be submitted to the Department of Health. The Florida Department of Law Enforcement shall charge the Department of Health for a level 2 screening at a rate sufficient to cover the costs of such screening pursuant to s. 943.053(3). The Department of Health shall establish a schedule of fees to cover the costs of the level 2 screening and the abuse registry check. The applicant or his or her employer who pays for the required screening may be reimbursed by the Department of Health from funds designated for this purpose.

(2)(a) When the Department of Health has reasonable cause to believe that grounds exist for the disqualification of any person providing services under a school health services plan pursuant to s. 381.0056, as a result of background screening, it shall notify the person in writing, stating the specific record that indicates noncompliance with the level 2 screening standards. The Department of Health must disqualify any person from providing services under a school health services plan pursuant to s. 381.0056 if the department finds that the person is not in compliance with the level 2 screening standards. A person who provides services under a school health plan pursuant to s. 381.0056 on a probationary status and who is disqualified because of the results of his or her background screening may contest that disqualification.

(b) As provided in s. 435.07, the Department of Health may grant an exemption from disqualification to a person providing services under a school health services plan pursuant to s. 381.0056 who has not received a professional license or certification from the Department of Health.

(c) As provided in s. 435.07, the Department of Health may grant an exemption from disqualification to a person providing services under a school health services plan pursuant to s. 381.0056 who has received a professional license or certification from the Department of Health.

(3) Any person who is required to undergo the background screening to provide services under a school health plan pursuant to s. 381.0056 who refuses to cooperate in such screening or refuses to submit the information necessary to complete the screening, including fingerprints, shall be disqualified for employment or volunteering in such position or, if employed, shall be dismissed.

(4) Under penalty of perjury, each person who provides services under a school health plan pursuant to s. 381.0056 must attest to meeting the level 2 screening requirements for participation under the plan and agree to inform the Department of Health immediately if convicted of any disqualifying offense while providing services under a school health services plan pursuant to s. 381.0056.

Section 3. The Department of Health shall explore, with the federal Department of Health and Human Services, ways by which units of local government, other than county health departments, which participate in a school nurse services public-private partnership developed under section 381.0058, Florida Statutes, may be entitled to designation as Title V (Maternal and Child Health Block Grant) agencies. If the federal Department of Health and Human Services approves, the department shall adopt by rule the criteria and guidelines necessary to ensure oversight, flexibility, and accountability for purposes of granting such a designation. This designation is not intended to obligate any direct funding to the designated entity from the Title V funds of the Department of Health. Any money earned from Medicaid by such a designated entity must be reinvested in the school health services.

Section 4. The Department of Health shall study the feasibility of requiring additional training for nurses providing school health services. The Secretary of Health shall appoint two representatives from each of the following entities to serve on a study group: the Department of Health; the Department of Education; the Florida Nurses Association; the State University System; and the Board of Nursing. The Secretary of Health shall appoint a member of the study group to serve as chair. Members of the study group shall serve without compensation. The study group shall ascertain which services are being rendered and which aspects of these services are sufficiently unique to justify specific training in preparation for the delivery of such services; the appropriate duration for and content of a training curriculum for school health nurses; the costs and availability of training programs and resources for such training programs; the number of nurses currently employed in a school health capacity and whether these nurses

require additional training or should be grandfathered-in; the factors that motivate nurses to seek such additional training; and any existing national training programs and their suitability for application in this state. The department shall report the findings and recommendations of the work group to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2000.

Section 5. This act shall take effect July 1, 1999.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.