

BILL ANALYSIS

C.S.H.B. 984
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Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Diabetes mellitus is one of the common chronic conditions of school-aged children. Type 1 diabetes, a condition where the pancreas does not produce insulin, affects one in 400-500 children of all ages. In Texas, Type 1 is the second most prevalent chronic disease of childhood, next to asthma. The number of youth developing type 2, which is when the insulin cannot do its job properly, is not well known, but efforts are underway to help vulnerable youth reduce their risk.

The safety and well being of students who take insulin for diabetes requires basic provisions to carry out routine care tasks.

CSHB 984 amends the Health and Safety Code to require school personnel to be trained on diabetes and its management to include hyperglycemia/hypoglycemia. CSHB 984 requires elementary and secondary students with diabetes seeking care at school to have a diabetes management and treatment plan furnished by the parent/guardian and signed by the student's medical care provider; the school is to develop individualized health plans as a result these plans.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHB 984 sets forth specific definitions for the caring of students with diabetes. A diabetes management and treatment plan is to be developed and implemented for each student seeking care for their diabetes while at school or while participating in a school activity. A plan is to be developed by the student's parent or guardian and the physician responsible for the student's diabetes treatment. A diabetes management and treatment plan must meet designated criteria. An individualized health plan is to be developed for student's seeking care for diabetes while at school or participating in school activities. The plan is to be developed in collaboration with designated school officials, the parent or guardian and physician if practicable. Each school in which a student with diabetes is enrolled, the principal is required to seek school employees to serve as unlicensed diabetes care assistants to care for diabetic students and make efforts to ensure proper staffing of unlicensed diabetes care assistants are present as set forth by this legislation. An unlicensed diabetes care assistant is to serve under the supervision of the principal. A school employee is not subject to disciplinary action for refusing to serve as an unlicensed diabetes care assistant. The Texas Diabetes Council is required to develop guidelines with the assistance of other listed entities in the training of unlicensed diabetes care assistants. If a nurse is assigned to a campus, the nurse is to coordinate the training of school employees acting as unlicensed diabetes care assistants. District employees responsible for transporting diabetic students shall be provided with designated information regarding the diabetic student.

If a school nurse is assigned to a campus and is available, the nurse is required to perform the tasks necessary to assist a diabetic student. If a school nurse is not assigned to the campus, then an unlicensed diabetes care assistant is to perform the tasks necessary to assist a diabetic student and may do so only if the parent or guardian of the student signs an agreement as designated by this legislation. Additionally, if a school nurse is not assigned to a campus, an unlicensed diabetes care assistant must have access to an individual with expertise in caring for people with diabetes or the principal must have access to the physician responsible for the student. Schools

are to adopt a policy ensuring that a school nurse or at least one unlicensed diabetes care assistant is available to provide care to a student with diabetes. A school district may not restrict the assignment of a student with diabetes to a particular campus due to their diabetes. An unlicensed diabetes care assistant assisting a student is not considered as engaging in the practice of professional or vocational nursing and is exempt from state law or rule that restricts activities that may be performed by a person who is not a health care professional. An unlicensed diabetes care assistant may use reasonable judgment in deciding to contact a health care provider in the event of a medical emergency involving a diabetic student. In accordance with a student's individualized health plan a school shall permit a student to attend to their diabetes in a manner as designated by this bill. Immunity from disciplinary action or liability is provided for a school employee if the employee acted in the same manner as an ordinary reasonable and prudent person would have acted under the same or similar circumstance. A school nurse is not responsible for and not subject to disciplinary action for actions performed by an unlicensed diabetes care assistant.

EFFECTIVE DATE

Chapter 168, Health and Safety Code, as added by this Act, applies beginning with the 2005 - 2006 school year.

This Act takes effect immediately if it receives a vote of two-thirds of all the members to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 984 changes language of a student's personal health care team to the physician responsible for the student's diabetes treatment. This substitute creates language requiring principals of schools with diabetic students to seek out school employees to serve as unlicensed diabetes care assistants and to make efforts to ensure the school has proper staffing for those individuals. The substitute also states that an unlicensed care assistant is to serve under the supervision of the principal. A school employee is not subject to disciplinary action for refusal to serve as an unlicensed diabetes care assistant. The substitute removes language that a school nurse is to supervise school employees acting as unlicensed diabetes care assistants.

Language is added to CSHB 984 stating if a school nurse is not assigned to the campus then an unlicensed diabetes care assistant is to perform tasks necessary to assist a diabetic student in accordance with the student's individualized health plan and may do so only if the parent or guardian of the student signs an agreement as designated by this legislation. If a school nurse is not assigned to a campus an unlicensed diabetes care assistant must have access to an individual with expertise in the care of individuals with diabetes or the principal must have access to the physician responsible for the student. The substitute mandates schools to adopt a policy ensuring that a school nurse or at minimum one unlicensed diabetes care assistant is available to provide care to a student with diabetes. Additionally, an unlicensed diabetes care assistant may use reasonable judgment in deciding to contact a health care provider in the event of a medical emergency involving a diabetic student. The substitute removes the written request by a parent or guardian for independent monitoring and treatment and creates language that a school shall permit the student to attend to the management and care of the student's diabetes in accordance with the student's individualized health plan. The substitute creates language for the immunity from disciplinary action or liability as set forth by this legislation.