

AN ACT

relating to the care of elementary and secondary school students with diabetes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 168 to read as follows:

CHAPTER 168. CARE OF STUDENTS WITH DIABETES

Sec. 168.001. DEFINITIONS. In this chapter:

(1) "Diabetes management and treatment plan" means the document required by Section 168.002.

(2) "Individualized health plan" means the document required by Section 168.003.

(3) "Principal" includes the principal's designee.

(4) "School" means a public elementary or secondary school. The term does not include an open-enrollment charter school established under Subchapter D, Chapter 12, Education Code.

(5) "School employee" means a person employed by:

(A) a school;

(B) a local health department that assists a school under this chapter; or

(C) another entity with which a school has contracted to perform its duties under this chapter.

(6) "Unlicensed diabetes care assistant" means a school employee who has successfully completed the training

1 required by Section 168.005.

2 Sec. 168.002. DIABETES MANAGEMENT AND TREATMENT PLAN. (a)

3 A diabetes management and treatment plan must be developed and
4 implemented for each student with diabetes who will seek care for
5 the student's diabetes while at school or while participating in a
6 school activity. The plan shall be developed by:

7 (1) the student's parent or guardian; and

8 (2) the physician responsible for the student's
9 diabetes treatment.

10 (b) A diabetes management and treatment plan must:

11 (1) identify the health care services the student may
12 receive at school;

13 (2) evaluate the student's ability to manage and level
14 of understanding of the student's diabetes; and

15 (3) be signed by the student's parent or guardian and
16 the physician responsible for the student's diabetes treatment.

17 (c) The parent or guardian of a student with diabetes who
18 seeks care for the student's diabetes while the student is at school
19 shall submit to the school a copy of the student's diabetes
20 management and treatment plan. The plan must be submitted to and
21 reviewed by the school:

22 (1) before or at the beginning of the school year;

23 (2) on enrollment of the student, if the student
24 enrolls in the school after the beginning of the school year; or

25 (3) as soon as practicable following a diagnosis of
26 diabetes for the student.

27 Sec. 168.003. INDIVIDUALIZED HEALTH PLAN. (a) An

1 individualized health plan is a coordinated plan of care designed
2 to meet the unique health care needs of a student with diabetes in
3 the school setting.

4 (b) An individualized health plan must be developed for each
5 student with diabetes who will seek care for diabetes while at
6 school or while participating in a school activity. The school
7 principal and the school nurse, if a school nurse is assigned to the
8 school, shall develop a student's individualized health plan in
9 collaboration with the student's parent or guardian and, to the
10 extent practicable, the physician responsible for the student's
11 diabetes treatment and one or more of the student's teachers.

12 (c) A student's individualized health plan must incorporate
13 components of the student's diabetes management and treatment plan,
14 including the information required under Section 168.002(b). A
15 school shall develop a student's individualized health plan on
16 receiving the student's diabetes management and treatment plan.

17 Sec. 168.004. UNLICENSED DIABETES CARE ASSISTANT. (a) At
18 each school in which a student with diabetes is enrolled, the school
19 principal shall:

20 (1) seek school employees who are not health care
21 professionals to serve as unlicensed diabetes care assistants and
22 care for students with diabetes; and

23 (2) make efforts to ensure that the school has:

24 (A) at least one unlicensed diabetes care
25 assistant if a full-time nurse is assigned to the school; and

26 (B) at least three unlicensed diabetes care
27 assistants if a full-time nurse is not assigned to the school.

1 (b) An unlicensed diabetes care assistant shall serve under
2 the supervision of the principal.

3 (c) A school employee may not be subject to any penalty or
4 disciplinary action for refusing to serve as an unlicensed diabetes
5 care assistant.

6 Sec. 168.005. TRAINING FOR UNLICENSED DIABETES CARE
7 ASSISTANT. (a) The Texas Diabetes Council shall develop
8 guidelines, with the assistance of the following entities, for the
9 training of unlicensed diabetes care assistants:

10 (1) the department's School Health Program;

11 (2) the American Diabetes Association;

12 (3) the Juvenile Diabetes Research Foundation
13 International;

14 (4) the American Association of Diabetes Educators;

15 (5) the Texas Nurses Association;

16 (6) the Texas School Nurse Organization; and

17 (7) the Texas Education Agency.

18 (b) If a school nurse is assigned to a campus, the school
19 nurse shall coordinate the training of school employees acting as
20 unlicensed diabetes care assistants.

21 (c) Training under this section must be provided by a health
22 care professional with expertise in the care of persons with
23 diabetes or by the school nurse. The training must be provided
24 before the beginning of the school year or as soon as practicable
25 following:

26 (1) the enrollment of a student with diabetes at a
27 campus that previously had no students with diabetes; or

1 (2) a diagnosis of diabetes for a student at a campus
2 that previously had no students with diabetes.

3 (d) The training must include instruction in:

4 (1) recognizing the symptoms of hypoglycemia and
5 hyperglycemia;

6 (2) understanding the proper action to take if the
7 blood glucose levels of a student with diabetes are outside the
8 target ranges indicated by the student's diabetes management and
9 treatment plan;

10 (3) understanding the details of a student's
11 individualized health plan;

12 (4) performing finger-sticks to check blood glucose
13 levels, checking urine ketone levels, and recording the results of
14 those checks;

15 (5) properly administering glucagon and insulin and
16 recording the results of the administration;

17 (6) recognizing complications that require seeking
18 emergency assistance; and

19 (7) understanding the recommended schedules and food
20 intake for meals and snacks for a student with diabetes, the effect
21 of physical activity on blood glucose levels, and the proper
22 actions to be taken if a student's schedule is disrupted.

23 (e) The school nurse or principal shall maintain a copy of
24 the training guidelines and any records associated with the
25 training.

26 Sec. 168.006. REQUIRED INFORMATION FOR CERTAIN EMPLOYEES.
27 A school district shall provide to each district employee who is

1 responsible for providing transportation for a student with
2 diabetes or supervising a student with diabetes during an
3 off-campus activity a one-page information sheet that:

4 (1) identifies the student who has diabetes;

5 (2) identifies potential emergencies that may occur as
6 a result of the student's diabetes and the appropriate responses to
7 such emergencies; and

8 (3) provides the telephone number of a contact person
9 in case of an emergency involving the student with diabetes.

10 Sec. 168.007. REQUIRED CARE OF STUDENTS WITH DIABETES. (a)
11 If a school nurse is assigned to a campus and the nurse is
12 available, the nurse shall perform the tasks necessary to assist a
13 student with diabetes in accordance with the student's
14 individualized health plan. If a school nurse is not assigned to
15 the campus or a school nurse is not available, an unlicensed
16 diabetes care assistant shall perform the tasks necessary to assist
17 the student with diabetes in accordance with the student's
18 individualized health plan and in compliance with any guidelines
19 provided during training under Section 168.005. An unlicensed
20 diabetes care assistant may perform the tasks provided by this
21 subsection only if the parent or guardian of the student signs an
22 agreement that:

23 (1) authorizes an unlicensed diabetes care assistant
24 to assist the student; and

25 (2) states that the parent or guardian understands
26 that an unlicensed diabetes care assistant is not liable for civil
27 damages as provided by Section 168.009.

1 (b) If a school nurse is not assigned to a campus:

2 (1) an unlicensed diabetes care assistant must have
3 access to an individual with expertise in the care of persons with
4 diabetes, such as a physician, a registered nurse, a certified
5 diabetes educator, or a licensed dietitian; or

6 (2) the principal must have access to the physician
7 responsible for the student's diabetes treatment.

8 (c) Each school shall adopt a procedure to ensure that a
9 school nurse or at least one unlicensed diabetes care assistant is
10 present and available to provide the required care to a student with
11 diabetes during the regular school day.

12 (d) A school district may not restrict the assignment of a
13 student with diabetes to a particular campus on the basis that the
14 campus does not have the required unlicensed diabetes care
15 assistants.

16 (e) An unlicensed diabetes care assistant who assists a
17 student as provided by Subsection (a) in compliance with a
18 student's individualized health plan:

19 (1) is not considered to be engaging in the practice of
20 professional or vocational nursing under Chapter 301, Occupations
21 Code, or other state law; and

22 (2) is exempt from any applicable state law or rule
23 that restricts the activities that may be performed by a person who
24 is not a health care professional.

25 (f) An unlicensed diabetes care assistant may exercise
26 reasonable judgment in deciding whether to contact a health care
27 provider in the event of a medical emergency involving a student

1 with diabetes.

2 Sec. 168.008. INDEPENDENT MONITORING AND TREATMENT. In
3 accordance with the student's individualized health plan, a school
4 shall permit the student to attend to the management and care of the
5 student's diabetes, which may include:

6 (1) performing blood glucose level checks;

7 (2) administering insulin through the insulin
8 delivery system the student uses;

9 (3) treating hypoglycemia and hyperglycemia;

10 (4) possessing on the student's person at any time any
11 supplies or equipment necessary to monitor and care for the
12 student's diabetes; and

13 (5) otherwise attending to the management and care of
14 the student's diabetes in the classroom, in any area of the school
15 or school grounds, or at any school-related activity.

16 Sec. 168.009. IMMUNITY FROM DISCIPLINARY ACTION OR
17 LIABILITY. (a) A school employee may not be subject to any
18 disciplinary proceeding, as defined by Section 22.0512(b),
19 Education Code, resulting from an action taken in compliance with
20 this subchapter. The requirements of this subchapter are
21 considered to involve the employee's judgment and discretion and
22 are not considered ministerial acts for purposes of immunity from
23 liability under Section 22.0511, Education Code. Nothing in the
24 subchapter shall be considered to limit the immunity from liability
25 afforded under Section 22.0511, Education Code.

26 (b) A school nurse is not responsible for and may not be
27 subject to disciplinary action under Chapter 301, Occupations Code,

1 for actions performed by an unlicensed diabetes care assistant.

2 SECTION 2. Chapter 168, Health and Safety Code, as added by
3 this Act, applies beginning with the 2005-2006 school year.

4 SECTION 3. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 984 was passed by the House on May 10, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 984 on May 26, 2005, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 984 was passed by the Senate, with amendments, on May 23, 2005, by the following vote: Yeas 29, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor