

1-1 By: Reyna, et al. (Senate Sponsor - Duncan) H.B. No. 984
1-2 (In the Senate - Received from the House May 11, 2005;
1-3 May 13, 2005, read first time and referred to Committee on Health
1-4 and Human Services; May 20, 2005, reported favorably, as amended,
1-5 by the following vote: Yeas 8, Nays 0; May 20, 2005, sent to
1-6 printer.)

1-7 COMMITTEE AMENDMENT NO. 1 By: Nelson

1-8 Amend C.S.H.B. 984 by striking proposed Section 168.009, Health an
1-9 Safety Code, on page 4, lines 28 through 34, and replacing with the
1-10 following:

1-11 Sec. 168.009. IMMUNITY FROM DISCIPLINARY ACTION OR
1-12 LIABILITY. (a) A school employee may not be subject to any
1-13 disciplinary proceeding, as defined by Section 22.0512(b),
1-14 Education Code, resulting from an action taken in compliance with
1-15 this subchapter. The requirements of this subchapter are
1-16 considered to involve the employee's judgment and discretion and
1-17 not considered ministerial acts for purposes of immunity from
1-18 liability under Section 22.0511, Education Code. Nothing in the
1-19 subchapter shall be considered to limit the immunity from liability
1-20 afforded under Section 22.0511, Education Code.

1-21 COMMITTEE AMENDMENT NO. 2 By: Nelson

1-22 Amend C.S.H.B. 984, on page 3, line 62, by striking "policy" and
1-23 replacing with "procedure".

1-24 A BILL TO BE ENTITLED
1-25 AN ACT

1-26 relating to the care of elementary and secondary school students
1-27 with diabetes.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 SECTION 1. Subtitle H, Title 2, Health and Safety Code, is
1-30 amended by adding Chapter 168 to read as follows:

1-31 CHAPTER 168. CARE OF STUDENTS WITH DIABETES

1-32 Sec. 168.001. DEFINITIONS. In this chapter:

1-33 (1) "Diabetes management and treatment plan" means the
1-34 document required by Section 168.002.

1-35 (2) "Individualized health plan" means the document
1-36 required by Section 168.003.

1-37 (3) "Principal" includes the principal's designee.

1-38 (4) "School" means a public elementary or secondary
1-39 school. The term does not include an open-enrollment charter
1-40 school established under Subchapter D, Chapter 12, Education Code.

1-41 (5) "School employee" means a person employed by:

1-42 (A) a school;

1-43 (B) a local health department that assists a
1-44 school under this chapter; or

1-45 (C) another entity with which a school has
1-46 contracted to perform its duties under this chapter.

1-47 (6) "Unlicensed diabetes care assistant" means a
1-48 school employee who has successfully completed the training
1-49 required by Section 168.005.

1-50 Sec. 168.002. DIABETES MANAGEMENT AND TREATMENT PLAN.

1-51 (a) A diabetes management and treatment plan must be developed and
1-52 implemented for each student with diabetes who will seek care for
1-53 the student's diabetes while at school or while participating in a
1-54 school activity. The plan shall be developed by:

1-55 (1) the student's parent or guardian; and

1-56 (2) the physician responsible for the student's
1-57 diabetes treatment.

1-58 (b) A diabetes management and treatment plan must:

1-59 (1) identify the health care services the student may
1-60 receive at school;

2-1 (2) evaluate the student's ability to manage and level
 2-2 of understanding of the student's diabetes; and

2-3 (3) be signed by the student's parent or guardian and
 2-4 the physician responsible for the student's diabetes treatment.

2-5 (c) The parent or guardian of a student with diabetes who
 2-6 seeks care for the student's diabetes while the student is at school
 2-7 shall submit to the school a copy of the student's diabetes
 2-8 management and treatment plan. The plan must be submitted to and
 2-9 reviewed by the school:

2-10 (1) before or at the beginning of the school year;

2-11 (2) on enrollment of the student, if the student
 2-12 enrolls in the school after the beginning of the school year; or

2-13 (3) as soon as practicable following a diagnosis of
 2-14 diabetes for the student.

2-15 Sec. 168.003. INDIVIDUALIZED HEALTH PLAN. (a) An
 2-16 individualized health plan is a coordinated plan of care designed
 2-17 to meet the unique health care needs of a student with diabetes in
 2-18 the school setting.

2-19 (b) An individualized health plan must be developed for each
 2-20 student with diabetes who will seek care for diabetes while at
 2-21 school or while participating in a school activity. The school
 2-22 principal and the school nurse, if a school nurse is assigned to the
 2-23 school, shall develop a student's individualized health plan in
 2-24 collaboration with the student's parent or guardian and, to the
 2-25 extent practicable, the physician responsible for the student's
 2-26 diabetes treatment and one or more of the student's teachers.

2-27 (c) A student's individualized health plan must incorporate
 2-28 components of the student's diabetes management and treatment plan,
 2-29 including the information required under Section 168.002(b). A
 2-30 school shall develop a student's individualized health plan on
 2-31 receiving the student's diabetes management and treatment plan.

2-32 Sec. 168.004. UNLICENSED DIABETES CARE ASSISTANT. (a) At
 2-33 each school in which a student with diabetes is enrolled, the school
 2-34 principal shall:

2-35 (1) seek school employees who are not health care
 2-36 professionals to serve as unlicensed diabetes care assistants and
 2-37 care for students with diabetes; and

2-38 (2) make efforts to ensure that the school has:

2-39 (A) at least one unlicensed diabetes care
 2-40 assistant if a full-time nurse is assigned to the school; and

2-41 (B) at least three unlicensed diabetes care
 2-42 assistants if a full-time nurse is not assigned to the school.

2-43 (b) An unlicensed diabetes care assistant shall serve under
 2-44 the supervision of the principal.

2-45 (c) A school employee may not be subject to any penalty or
 2-46 disciplinary action for refusing to serve as an unlicensed diabetes
 2-47 care assistant.

2-48 Sec. 168.005. TRAINING FOR UNLICENSED DIABETES CARE
 2-49 ASSISTANT. (a) The Texas Diabetes Council shall develop
 2-50 guidelines, with the assistance of the following entities, for the
 2-51 training of unlicensed diabetes care assistants:

2-52 (1) the department's School Health Program;

2-53 (2) the American Diabetes Association;

2-54 (3) the Juvenile Diabetes Research Foundation
 2-55 International;

2-56 (4) the American Association of Diabetes Educators;

2-57 (5) the Texas Nurses Association;

2-58 (6) the Texas School Nurse Organization; and

2-59 (7) the Texas Education Agency.

2-60 (b) If a school nurse is assigned to a campus, the school
 2-61 nurse shall coordinate the training of school employees acting as
 2-62 unlicensed diabetes care assistants.

2-63 (c) Training under this section must be provided by a health
 2-64 care professional with expertise in the care of persons with
 2-65 diabetes or by the school nurse. The training must be provided
 2-66 before the beginning of the school year or as soon as practicable
 2-67 following:

2-68 (1) the enrollment of a student with diabetes at a
 2-69 campus that previously had no students with diabetes; or

3-1 (2) a diagnosis of diabetes for a student at a campus
 3-2 that previously had no students with diabetes.

3-3 (d) The training must include instruction in:

3-4 (1) recognizing the symptoms of hypoglycemia and
 3-5 hyperglycemia;

3-6 (2) understanding the proper action to take if the
 3-7 blood glucose levels of a student with diabetes are outside the
 3-8 target ranges indicated by the student's diabetes management and
 3-9 treatment plan;

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

3-12 (4) performing finger-sticks to check blood glucose
 3-13 levels, checking urine ketone levels, and recording the results of
 3-14 those checks;

3-15 (5) properly administering glucagon and insulin and
 3-16 recording the results of the administration;

3-17 (6) recognizing complications that require seeking
 3-18 emergency assistance; and

3-19 (7) understanding the recommended schedules and food
 3-20 intake for meals and snacks for a student with diabetes, the effect
 3-21 of physical activity on blood glucose levels, and the proper
 3-22 actions to be taken if a student's schedule is disrupted.

3-23 (e) The school nurse or principal shall maintain a copy of
 3-24 the training guidelines and any records associated with the
 3-25 training.

3-26 Sec. 168.006. REQUIRED INFORMATION FOR CERTAIN EMPLOYEES.

3-27 A school district shall provide to each district employee who is
 3-28 responsible for providing transportation for a student with
 3-29 diabetes or supervising a student with diabetes during an
 3-30 off-campus activity a one-page information sheet that:

3-31 (1) identifies the student who has diabetes;

3-32 (2) identifies potential emergencies that may occur as
 3-33 a result of the student's diabetes and the appropriate responses to
 3-34 such emergencies; and

3-35 (3) provides the telephone number of a contact person
 3-36 in case of an emergency involving the student with diabetes.

3-37 Sec. 168.007. REQUIRED CARE OF STUDENTS WITH DIABETES.

3-38 (a) If a school nurse is assigned to a campus and the nurse is
 3-39 available, the nurse shall perform the tasks necessary to assist a
 3-40 student with diabetes in accordance with the student's
 3-41 individualized health plan. If a school nurse is not assigned to
 3-42 the campus or a school nurse is not available, an unlicensed
 3-43 diabetes care assistant shall perform the tasks necessary to assist
 3-44 the student with diabetes in accordance with the student's
 3-45 individualized health plan and in compliance with any guidelines
 3-46 provided during training under Section 168.005. An unlicensed
 3-47 diabetes care assistant may perform the tasks provided by this
 3-48 subsection only if the parent or guardian of the student signs an
 3-49 agreement that:

3-50 (1) authorizes an unlicensed diabetes care assistant
 3-51 to assist the student; and

3-52 (2) states that the parent or guardian understands
 3-53 that an unlicensed diabetes care assistant is not liable for civil
 3-54 damages as provided by Section 168.009.

3-55 (b) If a school nurse is not assigned to a campus:

3-56 (1) an unlicensed diabetes care assistant must have
 3-57 access to an individual with expertise in the care of persons with
 3-58 diabetes, such as a physician, a registered nurse, a certified
 3-59 diabetes educator, or a licensed dietitian; or

3-60 (2) the principal must have access to the physician
 3-61 responsible for the student's diabetes treatment.

3-62 (c) Each school shall adopt a policy to ensure that a school
 3-63 nurse or at least one unlicensed diabetes care assistant is present
 3-64 and available to provide the required care to a student with
 3-65 diabetes during the regular school day.

3-66 (d) A school district may not restrict the assignment of a
 3-67 student with diabetes to a particular campus on the basis that the
 3-68 campus does not have the required unlicensed diabetes care
 3-69 assistants.

4-1 (e) An unlicensed diabetes care assistant who assists a
4-2 student as provided by Subsection (a) in compliance with a
4-3 student's individualized health plan:

4-4 (1) is not considered to be engaging in the practice of
4-5 professional or vocational nursing under Chapter 301, Occupations
4-6 Code, or other state law; and

4-7 (2) is exempt from any applicable state law or rule
4-8 that restricts the activities that may be performed by a person who
4-9 is not a health care professional.

4-10 (f) An unlicensed diabetes care assistant may exercise
4-11 reasonable judgment in deciding whether to contact a health care
4-12 provider in the event of a medical emergency involving a student
4-13 with diabetes.

4-14 Sec. 168.008. INDEPENDENT MONITORING AND TREATMENT. In
4-15 accordance with the student's individualized health plan, a school
4-16 shall permit the student to attend to the management and care of the
4-17 student's diabetes, which may include:

4-18 (1) performing blood glucose level checks;

4-19 (2) administering insulin through the insulin
4-20 delivery system the student uses;

4-21 (3) treating hypoglycemia and hyperglycemia;

4-22 (4) possessing on the student's person at any time any
4-23 supplies or equipment necessary to monitor and care for the
4-24 student's diabetes; and

4-25 (5) otherwise attending to the management and care of
4-26 the student's diabetes in the classroom, in any area of the school
4-27 or school grounds, or at any school-related activity.

4-28 Sec. 168.009. IMMUNITY FROM DISCIPLINARY ACTION OR
4-29 LIABILITY. (a) A school employee may not be subject to any
4-30 disciplinary action and is immune from liability for civil damages
4-31 resulting from an action taken in compliance with this subchapter
4-32 if the employee acted in the same manner as an ordinarily reasonable
4-33 and prudent person would have acted under the same or similar
4-34 circumstances.

4-35 (b) A school nurse is not responsible for and may not be
4-36 subject to disciplinary action under Chapter 301, Occupations Code,
4-37 for actions performed by an unlicensed diabetes care assistant.

4-38 SECTION 2. Chapter 168, Health and Safety Code, as added by
4-39 this Act, applies beginning with the 2005-2006 school year.

4-40 SECTION 3. This Act takes effect immediately if it receives
4-41 a vote of two-thirds of all the members elected to each house, as
4-42 provided by Section 39, Article III, Texas Constitution. If this
4-43 Act does not receive the vote necessary for immediate effect, this
4-44 Act takes effect September 1, 2005.

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