

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE H. PUBLIC HEALTH PROVISIONS

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 required by Section 168.005.

Added by Acts 2005, 79th Leg., Ch. 1022, Sec. 1, eff. June 18, 2005.

Sec. 168.002. DIABETES MANAGEMENT AND TREATMENT PLAN.

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

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

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

(b) A diabetes management and treatment plan must:

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

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

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

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

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

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

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

Added by Acts 2005, 79th Leg., Ch. 1022, Sec. 1, eff. June 18, 2005.

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

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

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

Added by Acts 2005, 79th Leg., Ch. 1022, Sec. 1, eff. June 18, 2005.

Sec. 168.004. UNLICENSED DIABETES CARE ASSISTANT. (a) At each school in which a student with diabetes is enrolled, the school

principal shall:

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

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

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

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

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

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

Added by Acts 2005, 79th Leg., Ch. 1022, Sec. 1, eff. June 18, 2005.

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

(1) the department's School Health Program;

(2) the American Diabetes Association;

(3) the Juvenile Diabetes Research Foundation International;

(4) the American Association of Diabetes Educators;

(5) the Texas Nurses Association;

(6) the Texas School Nurse Organization; and

(7) the Texas Education Agency.

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

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

(1) the enrollment of a student with diabetes at a

campus that previously had no students with diabetes; or

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

(d) The training must include instruction in:

(1) recognizing the symptoms of hypoglycemia and hyperglycemia;

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

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

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

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

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

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

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

Added by Acts 2005, 79th Leg., Ch. 1022, Sec. 1, eff. June 18, 2005.

Sec. 168.006. REQUIRED INFORMATION FOR CERTAIN EMPLOYEES.

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

(1) identifies the student who has diabetes;

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

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

Added by Acts 2005, 79th Leg., Ch. 1022, Sec. 1, eff. June 18, 2005.

Sec. 168.007. REQUIRED CARE OF STUDENTS WITH DIABETES.

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

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

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

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

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

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

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

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

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

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

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

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

Added by Acts 2005, 79th Leg., Ch. 1022, Sec. 1, eff. June 18, 2005.

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

(1) performing blood glucose level checks;

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

(3) treating hypoglycemia and hyperglycemia;

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

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

Added by Acts 2005, 79th Leg., Ch. 1022, Sec. 1, eff. June 18, 2005.

Sec. 168.009. IMMUNITY FROM DISCIPLINARY ACTION OR LIABILITY. (a) A school employee may not be subject to any disciplinary proceeding, as defined by Section 22.0512(b), Education Code, resulting from an action taken in compliance with this subchapter. The requirements of this subchapter are considered to involve the employee's judgment and discretion and

are not considered ministerial acts for purposes of immunity from liability under Section 22.0511, Education Code. Nothing in the subchapter shall be considered to limit the immunity from liability afforded under Section 22.0511, Education Code.

(b) A school nurse is not responsible for and may not be subject to disciplinary action under Chapter 301, Occupations Code, for actions performed by an unlicensed diabetes care assistant. Added by Acts 2005, 79th Leg., Ch. 1022, Sec. 1, eff. June 18, 2005.

Sec. 168.010. DIABETES INTERVENTION PILOT PROGRAM FOR SCHOOL DISTRICTS LOCATED ON THE TEXAS-MEXICO BORDER. (a) This section applies only to a school district located in a county that:

- (1) has a population of less than 600,000; and
- (2) is located on the international border.

(b) The department, in consultation with the Texas Education Agency, shall adopt criteria for the development of a pilot program that is designed to prevent and detect Type 2 diabetes for a school district described by Subsection (a) that has a student population identified by the commissioner as at risk for Type 2 diabetes and that takes into account the needs of the school district. A pilot program developed under this subsection must provide that:

(1) for each student in kindergarten through grade eight, each school in the school district must:

(A) measure the height, weight, and blood glucose levels of the student at the beginning of the school year and at another appropriate time during the implementation of the program; and

(B) track the measurements of the student and the progress of the student under the program through a data entry system provided over the Internet; and

(2) the pilot program components consist of bilingual materials.

(c) A school district to which Subsection (a) applies may choose to participate in a pilot program under this section. In the first year a school district implements a program under this section, the district shall report the measurements of student

height, weight, and blood glucose levels and the progress of a student under the program to the entity that administers the program. The administering entity, in cooperation with the department, shall evaluate and analyze the measurements to determine the effectiveness of the program in the first year.

(d) The department shall, from money appropriated for that purpose, distribute money to each school district that chooses to implement a pilot program under this section to cover the costs associated with the program.

Added by Acts 2007, 80th Leg., R.S., Ch. 1111, Sec. 1, eff. June 15, 2007.

Sec. 168.011. GRANT-WRITING COORDINATION PROGRAM. (a) The department shall employ one person as a grant writer to assist and coordinate with school districts located in the Texas-Mexico border region in obtaining grants and other funds for school-based health centers.

(b) A grant writer employed under this section may secure a grant or other funds on behalf of the state for a school-based health center.

(c) Funds obtained by the use of a grant writer employed under this section may be used only to:

(1) acquire, construct, or improve facilities for a school-based health center;

(2) purchase or lease equipment or materials for a school-based health center; or

(3) pay the salary or employment benefits of a person who is employed to work exclusively in a school-based health center.

Added by Acts 2007, 80th Leg., R.S., Ch. 1111, Sec. 1, eff. June 15, 2007.