SUBJECT: Individualized health plans and self-care for students with diabetes

COMMITTEE: Public Education — committee substitute recommended

VOTE: 7 ayes — Grusendorf, Branch, Delisi, Dutton, Eissler, Hochberg, Mowery

0 nays

2 absent — Oliveira, B. Keffer

WITNESSES: For — Veronica De La Garza, Deborah Narendorf, American Diabetes Association; Lawrence B. Harkless, Texas Diabetes Council; Lenore Katz, Texas Diabetes Council and Diabetes Council of Texas; Rebecca K. McCleery, Juvenile Diabetes Research-Austin Chapter; Kevin McMahon, Diabetech, LP; Ronda Stewart, Juvenile Diabetes Research Foundation; Don Yarborough; Ben Yarborough

Against — Tim Bacon, Texas State Teachers Association; Patricia "Anne" De Lay, President, Houston Nursing Task Force, Houston Federation of Teachers; Judy Frederick, Texas Association of School Boards, Texas Association of School Administrators; Rene Lara, Texas Federation of Teachers; Starla Reicheck, Texas Federation of Teachers School Nurse Task Force

On — Gary Reeves, Texas School Alliance; Jo-Hannah Whitsett, Association of Texas Professional Educators

BACKGROUND: The federal Americans with Disabilities Act (ADA) prohibits discrimination against qualified people with disabilities. The Rehabilitation Act of 1973 similarly protects people with disabilities against discrimination. It covers all public schools and day-care centers and private institutions that receive federal funds. Under the Individuals with Disabilities Education Act (IDEA), the federal government provides financial assistance to educational agencies to help them provide free, appropriate public education to children with disabilities that adversely affect their educational performance.

DIGEST:

CSHB 984 would require a parent and a student's physician to develop and implement a diabetes management and treatment plan for each student seeking diabetes care while at school or participating in a school activity. The plan would have to identify the health-care services a student could receive at school and evaluate the student's ability to manage diabetes and level of understanding about the disease and would have to be signed by the parent or guardian and the student's physician and be reviewed by the school.

The school principal and school nurse would have to develop an individualized health plan for each student seeking care for diabetes while at school or participating in a school activity. The plan would have to be developed in collaboration with the student's parent or guardian and, to the extent practicable, the student's physician.

At each school in which a student with diabetes was enrolled, the principal would have to seek school employees who were not health care professionals to serve as unlicensed diabetes care assistants and care for students with diabetes. The principal would have to make efforts to ensure that there was at least one unlicensed diabetes care assistant if the school had a full-time nurse and at least three unlicensed diabetes care assistants if the school did not have a full-time nurse. An unlicensed diabetes care assistant would serve under the supervision of the principal, and a school employee would not be subject to any penalty or disciplinary action for refusing to serve as an unlicensed diabetes care assistant.

The Texas Diabetes Council would have to develop guidelines to train unlicensed diabetes care assistants in caring for students with diabetes and would designate seven educational and health care entities to assist the council in this task.

The school nurse would have to coordinate training, as specified by the bill, of school employees acting as unlicensed diabetes care assistants. Training would have to be provided by the school nurse or a health care professional with expertise in the care of persons with diabetes. The training would have to be conducted before the beginning of the school year or as soon as practicable after the enrollment of a student with diabetes. The school district would have to provide emergency care and contact information to each school employee who was responsible for transporting a diabetic student or supervising the student off campus.

If a school nurse was assigned to the campus and available, the nurse would be required to perform the tasks necessary to assist the student with diabetes in accordance with the student's individualized health plan. If a school nurse were not assigned to the campus or not available, an unlicensed diabetes care assistant could perform these tasks, provided that the parent or guardian signed a written agreement authorizing the unlicensed diabetes care assistant to assist the student and stating that the parent or guardian understood that the assistant was not liable for civil damages.

If a school nurse was not assigned to a campus, the principal would have to have access to the student's physician or an unlicensed diabetes care assistant would have to 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 dietician. Each school would have to adopt a policy to ensure that a school nurse or at least one unlicensed diabetes care assistant was present and available to provide the required care to a student with diabetes during the regular school day. A school district could not restrict the assignment of a diabetic student to a particular campus based on the availability of diabetes care assistants.

An unlicensed diabetes care assistant acting in compliance with the bill would not be considered to be practicing professional or vocational nursing. The assistant could exercise reasonable judgment in deciding whether to contact a health care provider in the event of a medical emergency involving a student with diabetes. A school employee could not be subject to any disciplinary action and would be immune from liability for civil damages relating to the care of the student with diabetes if the employee's actions were considered reasonable and prudent.

In accordance with the student's individual health care plan, a school would have to allow a student to manage his or her diabetes independently. Students could perform blood glucose level checks, administer insulin, possess the supplies or equipment necessary for self-care, and otherwise treat themselves on or off campus.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005, and would apply beginning with the 2005-06 school year.

SUPPORTERS SAY:

The purpose of CSHB 984 is to support diabetic students' management of their disease while at school. It would allow students to follow their physicians' orders at school, free students to focus on educational goals rather than having to leave the classroom to manage their glucose levels, and allow them to care for themselves during school hours as they did at home. It would enable diabetic students to be as productive as possible while in school without their health becoming a hindrance or being jeopardized because of the school's inability to deal with it effectively.

Schools increasingly must address the health care needs of diabetic students. Juvenile-onset diabetes is the second most common chronic disease in children, and Type II diabetes rates are rising among children and adolescents, even in those as young as four years of age. A child can manage the disease but needs a good support network. Diabetes affects each person uniquely. CSSB 984 properly would require the development of individual health care plans appropriate for each student.

Currently, schools have no training standards to support diabetic children who practice self-care, nor are they uniformly supportive of children's efforts to do so. Students often must leave the classroom to check their blood sugar levels in the nurse's office, disrupting the learning environment for all students in the classroom. In most elementary schools, students may not administer their own insulin injections. A parent or nurse must give the injection, even though at many schools the nurse is not on campus every day. In some districts, secondary students may administer their own injections if they demonstrate proficiency in doing so.

Although self-care is practiced primarily by adolescents, chronological age cannot dictate a person's ability to manage his or her disease. The Children's Hospital Diabetic Education Team recommends that students administer their own injections for diabetes by age seven or eight, if they are ready to do so. Some children may be able to provide self-care at age eight and others not until age 15 or later. Thus, while school policies that restrict self-care based on the student's age may benefit school personnel, they do not benefit diabetic children.

It is vital that diabetic children be able to self-administer blood glucose tests and insulin at school. Consistent monitoring is crucial to avoid emergency situations that can create heart, kidney, and nerve disorders. The ADA, the Rehabilitation Act, and IDEA have established diabetic children's rights to require the school to make reasonable changes in its

practices to avoid discrimination. Some students and parents who have pursued their rights under this federal legislation have achieved successful accommodation of the student's needs. However, these gains are not universal, and many families do not know to pursue them.

Carrying needles, eating in class, and self-medicating run counter to school policies in almost all instances. However, diabetes is a medical condition that requires special treatment. Under CSHB 984, only students who had insulin injections prescribed by their physicians and approved by the schools in their individual health care plans would be authorized to carry needles, thus minimizing the risk of needle misuse. Many students probably would prefer to store their supplies in the nurse's office or at another available location for routine injections.

Implementing this bill would not be a significant burden for schools. Multiple doctors and diabetes educators already have expressed their willingness to donate their time, and existing training resources on the topic are available free of charge through distance learning, video, and teleconferencing. Some school officials would welcome the opportunity to become trained in diabetes care and would volunteer for designation as unlicensed diabetes care assistants. Training should take no more than four hours and could be performed on the volunteer's own time, rather than during school hours.

Currently, schools have no trained diabetes care assistants on campus. CSHB 984 would take the first step by allowing the principal on each campus with a diabetic student to make efforts to ensure that the school has at least one diabetic care assistant if the school has a full-time nurse or three diabetes care assistants if the school does not have a nurse. The bill would not require that the school provide this level of care, but doing so would better protect these students and would be a significant improvement over the status quo. CSHB 984 effectively would balance student health needs with school districts' abilities to absorb new initiatives.

OPPONENTS SAY:

CSHB 984 would impose an unfunded mandate on Texas public schools, which would have to pay training costs, substitute staff, training materials, and, in some cases, compensatory time to implement its requirements. Public schools cannot absorb any new unfunded mandates. School funding already is stretched to its limit in many districts.

The bill would increase school districts' noninstructional duties and take resources away from instruction, although the Legislature has signaled a desire to move in the opposite direction. Also, the bill could set a precedent of requiring individual health plans for treatment of other diseases, such as asthma and behavioral disorders, which would place another layer of burden on school personnel.

Children often are unpredictable in their behavior, and allowing those with diabetes to carry needles for insulin injections at school could be risky. A normally responsible child could err in judgment or, through innocent play, accidentally hurt himself or others. Also, another child could steal a needle and use it as a weapon. CSHB 984 would make classroom management more difficult as teachers sought to protect the welfare of all students and personnel from misuse of needles and other diabetes care supplies. Teachers already have enough disciplinary challenges and should not have to monitor the use of needles and drugs in the classroom.

OTHER OPPONENTS SAY:

CSHB 984 should be expanded to address other chronic health conditions that require attention during the school day. Students should be given more freedom to manage these diseases themselves, with the support of school officials, so that they do not have to disrupt their schedules to go to the school nurse's office, if some of this care can be self-administered.

NOTES:

The committee substitute added provisions requiring school nurses to provide diabetes care if the school had a nurse and requiring principals to select unlicensed diabetes care assistants and to ensure that campuses on which there was a student with diabetes had at least one unlicensed diabetes care assistant if there was a school nurse and three assistants if there was no school nurse. The committee substitute added provisions regarding immunity from liability or disciplinary action for school employees.

The companion bill, SB 1070 by Duncan, currently is pending in the Senate Health and Human Services Committee.

During the 2003 regular session, a similar bill, SB 1662 by Duncan, et. al., passed the Senate but died on the General State Calendar late in the session.