

## **BILL ANALYSIS**

Senate Research Center

H.B. 984  
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Health & Human Services  
5/18/2005  
Committee Report (Amended)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Diabetes mellitus is one of the common chronic conditions of school-aged children. Type I diabetes, a conditions where the pancreas does not produce insulin, affects one in 400-500 children of all ages. In Texas, Type I diabetes is the second most prevalent chronic disease in children, next to asthma. The number of youth developing Type II diabetes, which occurs when the insulin is not produced property, is not well known, but efforts are underway to help vulnerable youth reduce their risk. The safety and well being of children taking insulin for diabetes requires basic provisions to carry out routine care tasks.

H.B. 984 amends the Health and Safety Code to require school personnel to be trained on diabetes and its management to include hyperglycemia and hypoglycemia. It requires elementary and secondary students with diabetes seeking care at school to have a diabetes management and treatment plan furnished by the parent or guardian and signed by the student's medical care provides. H.B. 984 also requires the schools to develop individualized health plans as a result of those plans furnished by the parents.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle H, Title 2, Health and Safety Code, by adding Chapter 168, as follows:

#### **CHAPTER 168. CARE OF STUDENTS WITH DIABETES**

Sec. 168.001. DEFINITIONS. Defines "diabetes management and treatment plan," "individualized health plan," "principal," "school," "school employee," and "unlicensed diabetes care assistant."

Sec. 168.002. DIABETES MANAGEMENT AND TREATMENT PLAN. (a) Requires a diabetes management and treatment plan to be developed and implemented for each student with diabetes who seeks care for the student's diabetes while at school or while participating in a school activity. Requires the plan to be developed by the student's parent or guardian and the student's personal health care team.

(b) Requires a diabetes management and treatment plan to meet certain criteria.

(c) Requires the parent or guardian of a student with diabetes who seeks care for the student's diabetes while the student is at school to submit to the school a copy of the student's diabetes management and treatment plan. Requires the plan to be submitted to and reviewed by the school by a certain date or as soon as practicable following a diagnosis of diabetes for the student.

Sec. 168.003. INDIVIDUALIZED HEALTH PLAN. (a) Provides that 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) Requires an individualized health plan to be developed for each student with diabetes who will seek care for diabetes while at school or while participating in a school activity. Requires the school principal and the school nurse, if a school nurse is assigned to the school, to develop a student's individualized health plan in collaboration with the student's parent or guardian and, to the extent practicable, the student's personal health care team and one or more of the student's teachers.

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

Sec. 168.004. UNLICENSED DIABETES CARE ASSISTANT. Sets forth requirements for school principals at each school in which a student with diabetes is enrolled. Requires an unlicensed diabetes care assistant to serve under the supervision of the principal. Prohibits a school employee from being subject to any penalty or disciplinary action for refusing to serve as an unlicensed diabetes care assistant.

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

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

(c) Requires training under this section to be provided by a health care professional with expertise in the care of persons with diabetes or by the school nurse. Requires the training to be provided before the beginning of the school year or as soon as practicable following the enrollment of a student with diabetes at a campus that previously had no students with diabetes, or a diagnosis of diabetes for a student at a campus that previously had no students with diabetes.

(d) Requires the training to include instruction in certain subjects.

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

Sec. 168.006. REQUIRED INFORMATION FOR CERTAIN EMPLOYEES. Requires a school district to 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 contains certain information.

Sec. 168.007. REQUIRED CARE OF STUDENTS WITH DIABETES. (a) Requires the nurse, if a school nurse is assigned to a campus and the nurse is available, to perform the tasks necessary to assist a student with diabetes in accordance with the student's individualized health plan. Requires an unlicensed diabetes care assistant to 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, if a school nurse is not assigned to the campus or a school nurse is not available. Authorizes an unlicensed diabetes care assistant to perform the tasks provided by this subsection only if the parent or guardian of the student signs a specific agreement.

(b) Sets forth guidelines to follow if a school nurse is not assigned to a campus.

(c) Requires a school 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) Prohibits a school district from restricting 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) Provides that an unlicensed diabetes care assistant who performs an activity described by Subsection (a) in compliance with a student's individualized health plan is not considered to be engaging in the practice of professional or vocational nursing under state law and 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) Authorizes an unlicensed diabetes care assistant to exercise reasonable judgment in deciding whether to contact a health care provider in the event of a medical emergency involving a student with diabetes.

Sec. 168.008. INDEPENDENT MONITORING AND TREATMENT. Requires a school in accordance with the student's diabetes management and treatment plan, to permit the student to take certain actions in accordance with that student's individualized health plan.

Sec. 168.009. IMMUNITY FROM DISCIPLINARY ACTION OR LIABILITY. (a) Prohibits a school employee from being subject to any disciplinary action and is immune from liability for civil damages resulting from an action taken in compliance with this subchapter if the employee acted in the same manner as an ordinarily reasonable and prudent person would have acted under the same or similar circumstances.

(b) Provides that a school nurse is not responsible for and may not be subject to disciplinary action under Chapter 301 (Nurses), Occupations Code, for actions performed by an unlicensed diabetes care assistant.

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

SECTION 3. Effective date: upon passage or September 1, 2005.

### **SUMMARY OF COMMITTEE CHANGES**

#### COMMITTEE AMENDMENT NO. 1

Amends C.S.H.B. 984 by striking proposed Section 168.009, Health and Safety Code, on page 8, lines 16 through 22, and replacing with the following:

Sec. 168.009. IMMUNITY FROM DISCIPLINARY ACTION OR LIABILITY. (a) Prohibits a school employee from being subject to any disciplinary proceeding, as defined by Section 22.0512(b), Education Code, resulting from an action taken in compliance with this subchapter. Provides that 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(Immunity from Liability), Education Code. Provides that nothing in the subchapter shall be considered to limit the immunity from liability afforded under Section 22.0511, Education Code.

#### COMMITTEE AMENDMENT NO. 2

Amends C.S.H.B. 984 by striking "policy" and replacing with "procedure," on page 7, line 8.