

Health & Safety Code Amendment to Chapter 168, Related to Unlicensed Diabetes Care Assistants

Summary of Request:

HB 984 (79th Regular Session, 2005) amended the Health & Safety Code, by adding Chapter 168, which now mandates that public schools provide and train unlicensed diabetes care assistants (UDCAs). The Board is requested to review the "Quick Cards Review" and "Frequently Asked Questions" (FAQs) in 6.8 attachment 1 and 6.8 attachment 2.

Historical Perspective:

In the 79th Regular Legislative Session, 2005, HB 984 was enacted requiring public school districts to provide unlicensed diabetes care assistants (UDCAs) to assist students with diabetes during the school day, in the event a school nurse was not available or not employed by a school district. If a school nurse is employed full-time on a campus, the school is required to provide and train one UDCA. If a school nurse is not assigned to a campus, the school must provide and train 3 UDCAs. If a school nurse is assigned to a campus, s/he shall coordinate the training of the UDCA. The school nurse may have varying degrees of involvement with the UDCA, depending on his/her job description. In an effort to address the numerous phone calls and emails from school nurses and school districts the BNE staff have developed a "Frequently Asked Questions" and a "Quick Cards Review" to assist school nurses in determining their role in the implementation of HB 984 from a licensure standpoint. These two documents are located on our website, under the "Nursing Practice Information" section, then under "Practice Setting/Specialty Area Specific".

Pros & Cons:

Pros: The "Quick Cards" and "FAQs" identify the regulatory requirements a nurse has depending on the different roles s/he may have while working with UDCAs.

Cons: None noted.

Recommendations:

No Board action needed, for informational purposes only.

Texas Board of Nurse Examiners

Quick Card Review HB984 (79th Regular Session; 2005) School Nurse's Role with Unlicensed Diabetes Care Assistants (UDCAs)

Introduction

HB984 (79th Regular Session; 2005) established requirements for public schools to provide trained staff, who are not licensed healthcare providers, but who have basic knowledge and skills in the care of children with diabetes. These trained but unlicensed people will be referred to as "Unlicensed Diabetes Care Assistants" or UDCAs.

The Board recognizes nurses practicing in school settings may have varying degrees of involvement with UDCA's. The Board has developed the following interpretation of requirements in HB984 to clarify roles of the nurse in relation to UDCAs and the subsequent responsibilities of the nurse in relation to regulatory requirements.

(1) Role of the School Nurse as UDCA Trainer:

The nurse whose role is to provide training to, but who does not have administrative authority over the UDCA(s):

- ✓ Is responsible for coordinating training of the UDCAs as authorized in HB984;
- ✓ Is responsible for notifying the Principal if any of the staff assigned to be trained as UDCAs are not capable or are not willing to implement the role safely;
- ✓ Is responsible for providing written documentation (completed written test and skills check-off) to the principal for maintenance in each of the UDCAs file;
- ✓ May be responsible for periodic re-training and or periodic assessment of competency of the UDCAs if part of job responsibilities and/or contracted services;
- ✓ Is not responsible for tasks performed by the UDCAs.

(2) Role of the School Nurse In a Consultative Relationship With the UDCA:

- ✓ May or may not be responsible for coordinating training of the UDCA's assigned by the principal as authorized in HB984;
- ✓ Is responsible for assuring written documentation of "reportable conditions" is available to the UDCA's, and for maintaining an accurate nursing care plan [individualized health plan (IHP)], incorporating components of the [diabetes management and treatment plan (DMTP)] for each child with diabetes;
- ✓ Is responsible for reporting to the principal if the nurse becomes aware that a UDCA is unwilling or unable to fulfill the duties required;
- ✓ Is not responsible for unforeseen changes in a student's diabetic condition that are not reported to the nurse by the UDCA, student, or responsible adult;
- ✓ Is not responsible for providing oversight or supervision of tasks performed by UDCA's.

(3) Role of the School Nurse Who is Administratively Responsible for the UDCA(s):

- ✓ May delegate tasks related to the UDCA's functions as permitted under Rule 225.11 (b) (and Rule 224.6 (4) for emergency situations);
- ✓ Is responsible for assuring written documentation of "reportable conditions" is available to the UDCA's, and for maintaining an accurate nursing care plan [individualized health plan (IHP)], incorporating components of the [diabetes management and treatment plan (DMTP)] for each child with diabetes;
- ✓ Is responsible for coordinating training of the UDCA's. May or may not be responsible for directly training;
- ✓ Responsible for choosing the UDCA's, if not already determined through job description of the UDCA's who report to the school nurse;
- ✓ Responsible for assuring training and competency documentation is maintained in personnel file. Responsible for monitoring and assuring ongoing training and competency skill checks for the UDCA's are accomplished on a periodic and as needed basis;
- ✓ Responsible for taking appropriate action to remediate a UDCA who is unable to complete the didactic and/or clinical skills successfully to become and/or to maintain UDCA status. If remedial efforts fail, or if the UDCA is unwilling to become or continue UDCA status, the nurse is responsible for removing the UDCA and assigning/training a replacement as soon as feasible. Report actions to the principal.

Board of Nurse Examiners

FAQs on HB984 and the Role of the School Nurse With Unlicensed Diabetes Care Assistants (UDCAs)

1. BNE Position Statement 15.13, Role of LVNs and RNs as School Nurses, recommends that the school nurse be a RN, but does not absolutely preclude a LVN with appropriate experience and supervision from fulfilling this role. The Texas Diabetes Council training guide for UDCAs, however, defines a school nurse in accordance with 19 Texas Administrative Code (TAC) (Texas Education Agency), 153.1021 (a) (17), as:

(17) School nurse--An educator employed to provide full-time nursing and health care services and who meets all the requirements to practice as a registered nurse (RN) pursuant to the Nursing Practice Act and the rules and regulations relating to professional nurse education, licensure, and practice, and who has been issued a license to practice professional nursing in Texas.

Can a LVN be a school nurse? Can a LVN train UDCAs or serve in other roles (consultative relationship, administratively responsible)?

Answer: As you have already noted, the BNE does not preclude LVNs from being employed in school settings; however, the BNE has no jurisdiction over employment practices or facility policies. If you primarily utilize one or more LVNs in a specific school or school district, BNE Staff recommends you contact the Texas Diabetes Council/Program at www.texasdiabetescouncil.org or 512-458-7111.

2. **Who is responsible for determining which school employees will be trained as UDCAs?**

Answer: Neither the training of Unlicensed Diabetes Care Assistants in Texas public schools or the implementation of HB 984 is within the BNE's jurisdiction. According to the language in HB984, the school principal determines which school personnel are appropriate to be trained to assist students with diabetes if/when a nurse is not available. In schools that do not have a registered nurse, the principal assures that training is provided by a health care professional with expertise in diabetes care. Questions regarding training of UDCAs should be directed to the Texas Diabetes Council/Program.

3. **As the school nurse assigned to one school, must I be responsible for training the UDCAs in my own school? Can a healthcare provider with expertise in diabetic care be contracted to do all of the training for an individual school or a school district?**

Answer: This is not within the jurisdiction of the BNE to determine. The training guide developed by the Texas Diabetes Council defines who can be a healthcare provider for purposes of training UDCAs. The training guide is located on the Department of State Health Services web page at <http://www.dshs.state.tx.us/diabetes/pdf/hb984.pdf>.

The language in HB984 states that the school nurse will "coordinate" training. The decision of who provides the training and what the school nurse's role(s) is/are may be negotiated between the nurse and principal and may be incorporated into job descriptions/functions.

4. a) **As a school nurse assigned to 3 different elementary schools within one district, I rotate between the schools. The principals at my schools assign who will be trained as UDCAs. The principals also assume administrative responsibility for these staff whether they are functioning within their job descriptions or in the "extra" role of UDCA. Working with the principals at all 3 schools, I have coordinated training of all UDCAs through another RN with expertise in all aspects of the care of children with diabetes.**

Given my situation (as described), what is my role with the UDCAs from a BNE standpoint?

Answer: Based on your description above, you have a "consultative" relationship with the UDCAs at each of your schools.

- b) **Since I will have only a consultative relationship with the UDCAs at each campus, I am concerned about how to provide adequate communication and information to the UDCAs at each school related to the diabetic care needs of each child.**

Congruent with the Diabetes Management and Treatment Plan (DMTP) and the Individualized Health Plan (IHP) for each child with diabetes, I have developed information sheets with emergency contact numbers, reportable conditions, and how to intervene in a number of possible emergency situations that could occur with each child. I know that HB984 and school policy mandate that this information be given to any school employee transporting a child or supervising a child during an off-campus activity. My question is--Can I provide this same information to the UDCAs for students at their respective schools? Is this a violation of HIPAA or FERPA to share this information with the UDCAs?

Answer: While you are *not* responsible for training or assessing ongoing competency of each UDCA in the situation you describe (above), you are responsible to assure the safety of each student attending school at your assigned campuses. Though HB984 designates certain staff who must receive written information for each child, your duty as a nurse falls within the BNE's jurisdiction, and in particular Rule 217.11, Standards of Nursing Practice.

Nothing in HB984 or in the BNE's NPA or rules precludes a school nurse from sharing this written information with UDCAs. BNE staff would, in fact, encourage this type of communication and discussion with the UDCAs as being in the best interest of each child [§217.11(1)(B) and (1)(P)].

Under the training guidelines established by the Texas Diabetes Council and the School Health Division of the Texas Department of State Health Services, basic information about the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Family Educational Rights and Privacy Acts (FERPA) is included along with other federal laws [Americans With Disabilities Act (ADA), Individuals with Disabilities Education Act (IDEA), and Section 504 of the Rehabilitation Act] in the initial UDCA training. However, you may want to check school policy and procedures regarding compliance with HIPAA and

FERPA and other local, state, or federal laws applicable to UDCA duties. Additional information may be available from the Texas Diabetes Council at www.texasdiabetescouncil.org.

5. **I understand that HB984 (Section 168.008) mandates schools to permit and encourage students' abilities to engage in self-care. However, we have had issues on our campus in the past where used supplies, such as insulin syringes or blood-stained gauze, were not disposed of properly, exposing other children to potentially hazardous bodily fluids/blood that could carry HIV or Hepatitis. One of our school employees felt that HB984 mandated that a child always be permitted to engage in the self-management of diabetes anywhere on the campus, regardless of the health threat posed on other students if a given student isn't capable of disposing of used supplies and cleaning the testing area in a responsible manner.**

Must we allow a student who is not capable, either by age, maturity or both, of appropriately maintaining supplies and equipment (not losing his/her glucometer, leaving used supplies where others could be exposed to blood, used sharps, etc) to self-manage?

Answer: The Standards of Nursing Practice (Rule 217.11) require all nurses to prevent exposure of clients (students) to infectious pathogens and communicable conditions. The language in HB984 (Section 168.008) prefaces the mandate to permit/encourage self-management with the phrase "in accordance with the student's individualized health plan...".

Based on maturity, intellectual understanding, or other factors, if a student with diabetes is unable to safely accomplish self-management, then the nurse should assure that this issue is addressed in discussions with the principal, parents, physician and teacher(s) in revising the IHP as necessary to protect both the child with diabetes as well as other children in the school setting. The IHP may require multiple revisions as the child's ability to engage in responsible self-management increases. You may also wish to consult the School Health Program at the Department of State Health Services.

6. **Does the LVN have to report signs and symptoms or changes in the student's health status to the school nurse (RN)?**

Answer: First, LVNs are licensed nurses, so do not confuse RN "delegation" to an unlicensed person with a RN who may be supervising assignments being carried out by LVNs. LVNs and RNs are responsible for the assignments that they make or accept, and for complying with the NPA and Rules as outlined in Rule 217.11, Standards of Nursing Practice.

There is nothing to preclude a LVN from carrying out appropriate nursing measures to assess and treat a children with diabetes within the LVN's scope of practice. The RN should be at least telephonically available for consultation as the LVN's supervisor.

See Rule 217.11 and the Board's Guideline on LVN Scope of Practice at www.bne.state.tx.us/gen-practice.htm and www.bne.state.tx.us/lvn-guide.pdf for additional information.

7. **Can the LVN develop the Individualized Health Plan (IHP)?**

Answer: No. This would be in violation of HB984, Health and Safety Code §168.003 that defines the IHP as a "coordinated plan of care" developed by the principal and the school nurse (RN) in collaboration with the student's parent/guardian and the student's physician, if possible. Developing or initiating a student's IHP would also be beyond the LVN's scope of practice as defined by the BNE in Rule 217.11(2)(A).

8. What if the principal refuses to act on a school nurse's report that the UDCA is unable or unwilling to carry out applicable duties?

Answer: The BNE has no jurisdiction over employment issues; however, the nurse should consider reporting up the chain of command, or if necessary, reporting to the Texas Association of School Boards (TASB), <http://www.tasb.org>. The nurse always has a duty to provide a safe environment for the client, which may include advocating for the client through other channels to prevent harm. (Position Statement 15.14, Duty of Nurse in Any Practice Setting <http://www.bne.state.tx.us/position.htm#15.14>. Failure to do so may result in the reporting of the nurse to the BNE with a subsequent investigation and possible sanctions on the nurse's license for failing to intervene in the client's best interest. The BNE staff would encourage nurses to utilize the chain of command within their employment setting. If unable to reach a resolution, then ultimately the nurse may have to choose between changing employment settings or risking action on his/her nursing license.

9. Is it within the RN's scope of practice to train the UDCA?

Answer: Though all RNs receive both knowledge and skills training in care of clients with diabetes across the life span, this does not necessarily mean that every RN is capable of effectively training a UDCA. What is within the scope of practice for one RN may not be within the scope of practice for another. See articles on the BNE web page under "Scope of Practice" for specific guidance on how each RN can determine what is within his/her individual scope of practice <http://www.bne.state.tx.us/gen-practice.htm>.

10. If I only train the UDCA, am I responsible if they make a mistake?

Answer: No; "Training" is *not* "delegation."

11. How do I know my role(s) in relation to UDCAs?

Answer: Read through the bullet points in the "Quick Cards." If you are still not certain, try collaborating with other school nurses through relationships or through professional nursing organizations such as the Texas School Nurse Organization at <http://www.texaschoolnurses.org/>.

12. How often should the nurse that trained the UDCAs do a re-check on their knowledge and skills?

Answer: This is a school policy question; the BNE has no jurisdiction over the UDCAs or school policies.

13. Can a nurse train UDCAs, teachers and other school personnel in the administration of glucagon?

Answer: While the BNE has no jurisdiction over school district policies, nurses do have the obligation to promote a safe environment for students and staff [Rule 217.11(1) (B)] and to institute appropriate nursing interventions to stabilize a client's condition and prevent complications [Rule 217.11 (1) (M)]. Glucagon is prescribed to thousands of students with diabetes. Both students and their parents or guardians are instructed by providers and pharmacists on administration of glucagon should a hypoglycemic reaction occur.

Rule 224.6 [delegation criteria] would permit a RN to train and delegate the administration of glucagon to unlicensed personnel in the school setting. Though the rule precludes the nurse from delegating tasks that require professional nursing judgment, it does permit the unlicensed person to "take any action that a reasonable, prudent non-health care professional would take in an emergency situation." Thus, UDCAs, teachers and other school personnel could take reasonable and prudent action in an emergency situation after appropriate instructions from the school nurse.

Other Resources :

Board of Nurse Examiners, Six-Step Decision Making Model <ftp://www.bne.state.tx.us/dectree.pdf>.

Board of Nurse Examiners, Position Statements, <http://www.bne.state.tx.us/position.htm>.

Board of Nurse Examiners, Administration of Glucagon, [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=22&pt=11&ch=224&rl=6](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=22&pt=11&ch=224&rl=6)

Board of Nurse Examiners, Interpretive Guideline for LVN Scope of Practice, <ftp://www.bne.state.tx.us/lvn-guide.pdf>

Family Educational Rights and Privacy Acts (FERPA), <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

Health Insurance Portability and Accountability Act of 1996, HIPAA: <http://www.cms.hhs.gov/hipaa/>. (Confidentiality).

National Association of School Nurses, <http://www.nasn.org/>.

Occupational Safety and Health Administration, <http://www.osha.gov/> (Bloodborne Pathogen).

Texas Association of School Boards, <http://www.tasb.org/>.

Texas Department of State Health Services, School Health Program, <http://www.dshs.state.tx.us/schoolhealth/default.shtm> .

Texas Diabetes Council, <http://www.dshs.state.tx.us/diabetes/default.shtm>

Texas Education Code 22.052 (a), <http://www.capitol.state.tx.us/statutes/ed.toc.htm> (Administration of Medication).

Texas Education Code 21.003, <http://www.capitol.state.tx.us/statutes/ed.toc.htm> (Licensed Nurse as School Nurse).

Texas Education Code, <http://www.tea.state.tx.us/rules/tac/chapter153/ch153cc.html> (School Nurse is Professional RN).

Texas' Educational Service Centers, <http://www.tea.state.tx.us/ESC/>.

Texas School Nurse Organization, <http://www.texaschoolnurses.org/>.

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