

# **FAQs related to Implementing House Bill (HB) 984 and the Requirements in the Texas Health and Safety Code**

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## **Legislation/Bill analysis**

### **When do the schools have to implement the legislation?**

House Bill 984 went into effect on May 26, 2005.

### **What is the definition of “appropriate response” for bus drivers and school staff that transport students with diabetes?**

If bus drivers are trained as unlicensed diabetes care assistants (UDCAs), then they would be responsible for following the student’s individual health plan (IHP). However, if a bus driver is not trained to follow an IHP, then the bus driver or other person who was transporting the student with diabetes would follow the instructions on the one page information sheet required in Sec. 168.006, Texas Health and Safety Code, so that a contact person could be notified in the case of an emergency.

Many school districts require that bus drivers have access to cell phones in the event of an emergency.

An appropriate response would be the response that assures the safety of the student.

## **Training**

### **Who is required to conduct the training of the unlicensed diabetes care assistants?**

Sec. 168.005(c), Texas Health and Safety Code, requires that a health care professional with expertise in the care of persons with diabetes or a school nurse provide the training. The Texas Diabetes Council (TDC) is responsible for developing guidelines for training. [The Guidelines for Training School Employees who are not Licensed Healthcare Professionals to implement House Bill 984 \(79th Legislative Session\) related to the Care of Elementary and Secondary School Students with Diabetes \(Guidelines\)](#) includes training curricula and links to websites.

### **Who will administer the pre- and post-tests?**

The school nurse or the health care professional with expertise in caring for persons with diabetes will administer the pre- and post-tests. The pre- and post-tests are considered part of the training.

### **Who will oversee that competency is acceptable?**

The school nurse or the healthcare professional who conducts the training will determine if competence of clinical tasks is acceptable and safe. If not, further training will need to be conducted OR the school principal will need to select additional staff to be trained.

### **If there is no student with diabetes on a campus, do staff still have to be trained?**

Staff needs to be prepared to take care of a student with diabetes during the regular school day. It would be optimal to train staff regarding the law, and then be prepared to implement training upon notification that a student with diabetes is enrolling.

### **I work at the Education Service Center. I am trying to coordinate training. What shall I do if a local community agency or hospital or American Diabetes Association (ADA)-approved diabetes education facility does not respond to my requests for education?**

In this event, it would be advisable to notify the School Health Coordinator (HSC). That individual may wish to contact the hospital or local American Diabetes Association (ADA)-approved diabetes education program. If the HSC is not successful, he/she can inform the school superintendent and ask for assistance.

### **How are trainers located in the event that a school does not have a school nurse to conduct the training?**

The Guidelines include some helpful information that addresses options for locating health care professionals with expertise in the care of persons with diabetes. These professionals may be employed in local health departments, regional health departments, local and/or community hospitals, and ADA-approved diabetes education programs. Further, the American Association of Diabetes Educators (AADE) has local chapters that can provide lists of certified diabetes educators (CDEs).

**Are the UDCAs required to be sent for training to the above-mentioned facilities or are they required to be trained on the school campus?**

Chapter 168, Texas Health and Safety Code, does not address where the training should occur. UDCAs can be required by their school or district to attend training off-site if training cannot be provided at the school.

**What if a UDCA can perform some of the tasks but not all of the tasks?**

The UDCA is expected to pass a written test and perform a satisfactory skills test. If there is a passing score on the written test but the staff person fails to demonstrate competency in all of the skills required to care for a student with diabetes, then the skills demonstration would result in a “fail” score. Then that individual would not be permitted to care for a student with diabetes. If the written test does not result in a “pass” score, then the staff person would not be permitted to participate in the skills demonstration portion of the training.

**Upon completion of the training, will UDCAs be certified?**

The UDCA training is not a certification course. Chapter 168, Texas Health and Safety Code, does not require certification, nor do trainers issue a certification upon completion of UDCA training. Training documents are required to be maintained by the principal and/or school nurse. That documentation will demonstrate the score of the written test and completion of return demonstration of hands-on skills.

**What is to be covered at the annual (or more frequent) skill reviews?**

The review will vary from campus to campus, and the school nurse/qualified trainer will have to assess what topic areas/hands-on skills need to be reviewed. A review of didactic materials and hands-on skills can be done together or singly, depending on the need of the UDCAs. School nurses/qualified trainers can use any curricula that covers all the required areas of training.

The Guidelines include four options for conducting training updates.

**If an individual at a school has diabetes and wishes to become an UDCA, does he/she have to attend UDCA training?**

Yes, as knowledge and skills would have to be assessed.

## **Supervision**

**Who will supervise the diabetes care assistants, who are not licensed healthcare professionals?**

School principals will supervise the unlicensed diabetes care assistants, as required in Section 168.004(b), Texas Health and Safety Code.

## **Staffing**

**How many diabetes care assistants are required to be in every school?**

The requirements vary, depending on whether or not there is a full-time nurse. The nurse may be either an RN or an LVN. If there is a full-time nurse, then one UDCA is required; if there is no full-time nurse, then three are required, as stated in Section 168.004(a)(2)(A) & (B), Texas Health and Safety Code.

**Does an alternative school, with fewer than 10 students, still need to have the same number of UDCA's?**

Chapter 168, Texas Health and Safety Code, does not address the numbers of students on a campus. The ratio of required UDCA's is based on whether a campus has a full time nurse rather than on the student population, as stated above.

**What happens when one of the staff leaves?**

The principal will be required to seek and train additional UDCA's to assure that the required numbers are in place at all times.

**What if an unlicensed diabetes care assistant is trained in one school or district and then is transferred to another district?**

Chapter 168, Texas Health and Safety Code, does not address this issue. District policies could address this situation.

**What happens if staff refuses the assignment to become an UDCA or there are no staff that volunteers for the role?**

Sec. 168.007(c), Texas Health and Safety Code, requires each school to adopt a procedure to ensure that a school nurse or at least one UDCA is present and

available to provide the required care to a student with diabetes during the regular school day. Sec. 168.004(a)(1), Texas Health and Safety Code, requires a school principal to seek school employees to serve as UDCAs. If the principal is unable to identify staff willing to be trained and assume these responsibilities, he/she may wish to use an incentive program so that the safety of students with diabetes will be a priority and so that the school complies with the legislation.

**If a school campus has more than one school nurse, is the school still required to have an unlicensed diabetes care assistant?**

While Chapter 168, Texas Health and Safety Code, does not address this circumstance, it is recommended that the school have the required number of UDCAs in the event that staffing changes during a school year; in that situation, the training would have been conducted and one full-time nurse would have the number of UDCAs required in the bill.

**What is the staffing required if the school campus has more than one building on the same grounds? Is that considered one school? or more than one school?**

A school campus on one property that has more than one building would be considered a single campus. Therefore, if there is a full-time nurse, then that school would be required to have one trained UDCA; if the school does not have a full-time nurse, then the school would be required to have three trained UDCAs.

**Medical Management & Treatment Plan (MMTP)**

**What if a school nurse thinks a student cannot self-manage portions of his/her care, even though the MMTP and the IHP indicates that a student can self-manage?**

If the school nurse's assessment is that the student cannot care for him/herself, even though the MMTP and IHP indicate otherwise, then a meeting should be scheduled to include the principal, parents, student, if applicable, and health care provider, if available, to alter/revise the IHP.

**What if a student is not testing appropriately or is falsifying blood glucose values?**

If this issue is identified, then these observations need to be documented. The IHP would need to be altered/revise. It would be advantageous to discuss the situation with the student, parent(s) and principal, and school nurse.

**What if the medical management and treatment plan indicates that a child can self-test but cannot administer insulin independently? Is it permissible**

**for the medical management and treatment plan to include some self-care but not all self-care?**

Yes, it is permissible for the MMTP to include some tasks that the student can do independently and other tasks that require assistance. The MMTP should indicate the level of self-care that the student can independently assume, as required in Sec. 168.002(b)(2), Texas Health and Safety Code. If a student can do some but not all tasks, then the staff would be required to adhere to the MMTP, allowing the student to do what he/she is capable of doing independently and assisting the student with those tasks with which he/she cannot perform independently.

**What party (i.e., parent/guardian, school, school nurse) is responsible for making sure students with diabetes have adequate equipment and supplies (e.g., test strips, lancets, syringes, alcohol wipes) while at school?**

Chapter 168, Texas Health and Safety Code, does not address the issue of supplies. However, typically it would be the family's responsibility to procure supplies and equipment for the student with diabetes and make available to the school nurse or school staff. This responsibility could be included in the MMTP and agreed upon when the plan is developed.

If a student and his/her family is having difficulty obtaining equipment and supplies, school staff, perhaps a school counselor, could assist a family in obtaining supplies. Texas Diabetes Council Toolkit has a list of resources to assist persons/families with equipment, supplies, medications and services. To access the Toolkit, go to [www.texasdiabetescouncil.org](http://www.texasdiabetescouncil.org).

## **After School Care**

**What are the school's responsibilities during extra-curricular activities and after-hours events, such as field trips?**

Section 168.007(c), Texas Health and Safety Code, states that the care of students with diabetes, either by a school nurse or by an UDCA, is required during the regular school day. Further, Sec. 168.003(b), Texas Health and Safety Code requires an IHP for each student "while at school or while participating in a school activity." Sec. 168.008(5), Texas Health and Safety Code, requires the school to allow a student to attend to his/her management "in any area of the school or school grounds, or at any school-related activity."

Many school activities are held after the regular school day as well as off-campus. The school's responsibilities then extend beyond the regular school day. The IHP should address those circumstances for the student that participates in school activities after the regular school day and/or activities off-campus.

**What are the responsibilities of the school when a student is off-campus during the school day but is at a school-related function?**

Sec. 168.003(b), Texas Health and Safety Code, requires an IHP for each student “while at school or while participating in a school activity.” Many school activities are held after the regular school day as well as off-campus. The school’s responsibilities extend, then, beyond the regular school day. The IHP should address those circumstances for the student that participates in school activities after the regular school day and/or activities off-campus.

**What if the after-school program is on the school grounds but is not managed by the school but rather by another organization? Can the student continue with self-care as he/she does during the school day?**

Chapter 168, Texas Health and Safety Code, does not address after-school programs operated by an outside organization. A student should be permitted to self-manage anywhere on a campus. The responsibilities of the outside organization poses a legal question. This legal question can be directed to the American Diabetes Association, and an Advocate can investigate a particular situation.

**Who is responsible for a student who attends an after-school program that is operated and staffed by personnel who are not school personnel? If the after-school program is on the school campus, does HB 984 apply, or does the entity refer to its own policies and procedures?**

Chapter 168, Texas Health and Safety Code, does not address this issue. This legal question can be directed to the American Diabetes Association, and an Advocate can investigate a particular situation.

## **Nursing**

**How would school nurses go about learning about diabetes and diabetes care?**

Chapter 168, Texas Health and Safety Code, does not address this issue. School nurses can access a number of resources to learn about diabetes care. The National Association of School Nurses (NASN) has developed a curriculum, “Helping Administer to the Needs of the Student with Diabetes in School,” H.A.N.D.S. This training equips the school nurse with current diabetes knowledge, tools, and resources to facilitate the care of students with diabetes while at school. Trainers in the curriculum have been chosen by NASN.

If there are community resources, those can be accessed as well. Examples would be a community hospital diabetes education program, a children’s hospital

diabetes education program, a local or regional health department, or an ADA-approved diabetes education program.

### **What if principals are using LVNs as school nurses?**

Chapter 153.1021(a)(17), Texas Administrative Code, defines a school nurse as a registered nurse (RN). Licensed vocational nurses (LVNs) may be assigned to schools and have the title “school nurse.” The Board of Nursing (BON), the licensing agency for both RNs and LVNs, does not preclude an LVN from working in a school setting and instructing students and staff on health-related issues, provided they are qualified. They must be supervised by an RN and practice within their scope of practice.

The BON has position statements on Registered Nurses in the School Setting and on Vocational Nurses in the School Setting. The BON also addresses practice issues, i.e., issues related to nursing functions, licensure, educational preparation, and delegation. To access more information, please visit the website at [www.bne.state.tx.us](http://www.bne.state.tx.us).

### **In the absence of a school nurse, who is responsible for writing the individual health plan (IHP) for the student with diabetes? If that person is the principal, is that not the practice of nursing?**

Section 168.003(b), Texas Health and Safety Code, requires the principal to develop the IHP in the absence of a school nurse. The IHP is to be developed with the parent(s), and to the extent possible, the student’s health care provider and one or more teachers. Since the IHP is not a nursing care plan and does not require a nursing assessment, developing the IHP would not be considered the practice of nursing.

## **Medication Administration**

### **Does DSHS require that another person check insulin doses?**

Chapter 168, Texas Health and Safety Code, does not require that two individuals check insulin doses. If a school district has a policy that addresses this issue, then the policy would need to be followed.

## **Legal**

### **Can a school refuse to disclose the names of the identified unlicensed diabetes care assistants to parents/and/or guardians?**

A parent may request the names of the individuals who have been identified as unlicensed diabetes care assistants through an open records request. Open records laws apply to state agencies, and there may be special provisions for



open records requests in schools. A school would have to respond to any written request for open records.

**If a parent refuses to give permission for an UDCA to care for his/her child, what are the nurses' responsibilities?**

The nurse's responsibility would be the safety and well-being of the child. The nurse would adhere to the IHP and would not be able to rely on any assistance from a UDCA. Should the student need urgent or emergent care, activating 911 would be the most prudent thing to do.

**Is there a formal waiver that a parent could sign if he/she refuses to bring the school the required MMTP?**

Chapter 168, Texas Health and Safety Code, does not address the issue of refusing care. However, parental consent is required to implement an MMTP and to utilize UDCA's, as stated in Sec. 168.007(a)(1), Texas Health and Safety Code. In the event that parental consent cannot be obtained, documentation of that refusal is recommended. At all times, the nurse would be required to provide a safe environment for that student, so that in the event the student needed urgent or emergent care, activating 911 would be the most prudent thing to do.

This does not mean that in the presence of a school nurse, that school nurse would be required to act according to his/her practice act and assure the safety of the student.

## **Testing**

**Are students permitted to self-manage during TAKS tests?**

TAKS (Texas Assessment of Knowledge and Skills) tests are considered school-related functions and are administered during the regular school day; therefore, a student should be permitted to self-manage his/her diabetes during the test. This may include blood glucose testing, having a snack, and/or administering insulin.

**Are students permitted to self-manage during SAT exams?**

SAT (scholastic aptitude test) exams are not administered by independent school districts. The SAT is administered by the private [College Board](#), and is developed, published, and scored by the [Educational Testing Service](#) (ETS). Even if the test is held on a school campus, the College Board would not have to comply with the Health and Safety Code and allow students to self-manage, as the tests are not "during the regular school day" and are not considered a "school-related activity." However, the SAT website does encourage students to bring snacks on test day for break time.

## **Special Circumstances**

### **If a student with diabetes becomes pregnant, what steps should be taken by the school staff?**

If a student with diabetes becomes pregnant, the individual health plan should be revised to reflect the following considerations: 1) increased caloric needs; 2) additional monitoring; 3) the need for additional insulin, if needed, and 4) arrangements for prenatal care and the need for excused absences.

Further, the physician or provider who is caring for the pregnancy should be involved in revising the individual health plan.

## **Other**

### **If a student is on a free- or reduced-meal program, does the school have to provide the snacks that may be required as part of the IHP?**

No, the school is not responsible for providing snacks for students whose IHP requires snacks during the day or snacks as a result of hypoglycemia.

### **If a student from Louisiana or Mississippi enrolls in a Texas school as a result of a natural disaster (e.g., Hurricane Katrina), what is the nurse's role in administering medication and preparing an individual health plan?**

Representatives from the BNE consulted with legal counsel, and they advised that in such a situation, which would be considered an emergency situation, the school nurse would do what a "prudent nurse" would do, and that would be to administer medication. If the medication is not labeled, then it is recommended that the parent/guardian attest to what that medication is.

The next step would be for the student to see a health care provider in that community so that orders could be prepared and an MMTP be developed.

### **Do state schools, such as those classrooms run by the Texas Youth Commission, have to comply with HB 984?**

Residential facilities that act as schools are in fact schools are therefore accountable to the same laws and rules as any school.

### **Does a school have to have UDCAs available during summer school?**

Chapter 168, Texas Health and Safety Code, does not address summer school sessions. However, summer school would be considered the same as school during the regular school year, i.e., "in session," so all the requirements of Chapter 168, Texas Health and Safety Code, would apply.