



SUPERINTENDENT OF PUBLIC INSTRUCTION

DR. TERRY BERGESON OLD CAPITOL BUILDING • PO BOX 47200 • OLYMPIA WA 98504-7200 • <http://www.k12.wa.us>

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BULLETIN NO. 61-02 LEARNING AND TEACHING SUPPORT

TO: Educational Service District Superintendents
Chief School District Administrators
Private School Chief Administrators
School Nurse Supervisors
ESD School Nurse Corps Supervisors

FROM: Dr. Terry Bergeson, State Superintendent of Public Instruction

RE: Substitute House Bill (SHB) 2834—Children with Life-Threatening Conditions
Engrossed Substitute Senate Bill (ESSB) 6641—Schools—Diabetic Students

I. Introduction

Two new school health related laws were passed by the 2002 Legislature that place additional requirements on Washington State public schools. These statutes took effect prior to the start of the 2002–03 school year and will require changes in district policies, procedures, and practice. The purpose of this bulletin is to address the requirements of these two new statutes.

Substitute House Bill (SHB) 2834 Children with Life-Threatening Conditions requires a medication or treatment order as a prerequisite for children with life-threatening conditions to attend public school. This new law defines "life-threatening condition" as a health condition that will put the child in danger of death during the school day, if a medication or treatment order and a nursing plan are not in place.

Engrossed Substitute Senate Bill (ESSB) 6641—Schools—Diabetic Students requires school districts to adopt policies regarding protocols for students with diabetes. This new law requires schools to prepare an individual health plan for each diabetic student, update it annually, and establishes a process for policy and delivery of training for staff on symptoms, treatment, and monitoring of students with diabetes. Additionally, ESSB 6641 allows parents to designate an adult through proper legal procedures to assist the student in managing his or her diabetes. This parent-designated adult (PDA) volunteer, which may include school staff, must file a written letter showing their intent to act in that capacity. Parents, rather than the school, are responsible for the training of the PDA.

Immunity from liability is provided if the individual is acting in good faith and in compliance with school policies and the student's individual health plan.

Students come to school with health conditions needing varying accommodations. Requirements for Section 504 of the Rehabilitation Act of 1973 and/or the Individuals with Disabilities Education Act (IDEA) may or may not apply as determined by the local school district. It is recommended that districts integrate established district Section 504 and/or IDEA policies and procedures when implementing the requirements of the two new statutes.

This bulletin addresses the following:

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II. Children with Life-Threatening Conditions (Substitute House Bill 2834)

General Provisions

The statute (Attachment A) directs public school administrators to require the presentation of a medication or treatment order for a child's life-threatening health condition that may require medical services to be performed at the school. A life-threatening condition is defined as "a health condition that will put a child in danger of death during the school day if a medication or treatment order and a nursing plan are not in place". The medication or treatment order must be presented prior to the student's attendance or continued attendance if already in school. The State Board of Education (SBE) is directed to adopt rules to establish the procedural and substantive due process requirements governing the exclusion of students covered by the statute. The following is an outline of the new statutory conditions:

- A. The parent of every child who has a life-threatening condition that may require medical services to be performed at school is required to present a medication or treatment order to the public school on or before the child's first day of attendance at the school.

The order must be from a Licensed Health Care Provider (LHCP). This is defined in RCW 18.79.260(2) as "a licensed physician and surgeon, dentist, osteopathic physician and surgeon, naturopathic physician, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, or advanced registered nurse practitioner acting within the scope of his or her license."

- B. If a child is determined to have such a life-threatening condition, and the child is already attending school, it is the chief administrator's responsibility to prohibit the child's further presence at the school until the medication or treatment order has been provided. Additionally, the chief administrator of the school is required to exclude the student in accordance with the rules of the SBE.
- C. The exclusion procedures implemented by the local school district must be accomplished in accordance with the rules of the SBE. The SBE passed emergency rules in August 2002 in order to provide additional guidance for schools as the new school year begins (Attachment B). The SBE plans to adopt permanent rules at their October 2002 meeting. This meeting will be held at Educational Service District (ESD) 105 in Yakima. There will be a public hearing on the rules regarding this new law on October 23, 2002. In the interim, the Board will be seeking input from local school districts. School administrators, school nurses, and others may contact the SBE by calling 360/725-6025 or e-mail at <http://www.sbe.wa.gov/>. The permanent rules will be available, when adopted, as an attachment to this bulletin at the Office of Superintendent of Public Instruction (OSPI) Web site: <http://www.k12.wa.us/learnteachsupp/healthservices/>.

- D. The statute requires that before excluding any student, the school must provide written notice to the parents, legal guardians, or the adults in loco parentis to the student. The notice must include:
- The requirements established by this section.
 - The fact that the student will be prohibited from further attendance at school unless the statute is complied with.
 - A copy of the procedural due process rights as established pursuant to this statute.
- E. When the medication or treatment order has been presented, the student shall then be allowed to attend school. School administrators are encouraged to work with the assigned school nurse to have a nursing plan in place as soon as possible thereafter.

Definitions

- A. According to the new law, "Life-threatening condition means a health condition that will put the child in danger of death during the school day if a medication or treatment order and a nursing plan are not in place." The life-threatening status is based on the danger of death for the child without a medication or treatment order for medical services to be performed at school. It is the LHCP's medical diagnosis, the related severity of such diagnosis, and the need for a nursing plan that establishes the need for a medication or treatment order at school.
- B. Medication or treatment order is defined as "the authority that a registered nurse (R.N.) obtains under a licensed physician and surgeon, dentist, osteopathic physician and surgeon, naturopathic physician, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, or advanced registered nurse practitioner acting within the scope of his or her license." (RCW 18.79.260 [2]). The "authority that a R.N. obtains" refers to the licensed nurse having the authority to perform nursing care for compensation. This includes executing a medical regimen ordered by the listed LHCPs. Medication or treatment orders are specific to the health condition. Attachment C includes a model treatment and medication order for a severe food allergy.

Nursing Plan

In the emergency rules adopted by the SBE, WAC 180-38-020(8), a nursing plan is defined as "a plan of care developed for the student consistent with the standards of nursing conduct or practice set out in Department of Health regulations, WAC 246-840-700 et. seq."

A partnership must be established between the child, the parent of the child with a life-threatening condition, the chief administrator of the school, the school nurse responsible for the care of the child, and the child's LHCP to accomplish this requirement. The *Staff Model for the Delivery of School Health Services* (April 2000), prepared by the Washington State Nursing Commission and OSPI, is one guide for districts in understanding the R.N.'s responsibility for developing and implementing the nursing care plan portion of the new life-threatening conditions statute. This manual is available at the OSPI Web site at: <http://www.k12.wa.us/learnteachsupp/healthservices/>. Nursing practice statutes that pertain to components of developing nursing plans and the implementation process are: RCW 18.79.040, RCW 18.79.260, WAC 246-840-010(10) and (11), and WACs 246-840-700 and 710 (Attachment D).

A nursing plan for the school day should also address school-sponsored field trips, extracurricular activities, transportation, and additional accommodations and interventions, dependent on the need of the individual child. Template nursing plans are available for many health conditions. The plan incorporated into the *Asthma Management in Educational Settings* (2001) manual is one example (Attachment E).

Notice to Parents

It is recommended that school districts annually inform parents of all incoming students about the statute. Notification of these new statutes may be accomplished in a manner similar to that used to notify parents of immunizations and other document requirements for school entry. A sample letter to notify all parents is included with this bulletin (Attachment F).

Additionally, it is recommended that school nurses review student health records of currently enrolled students to identify children with life-threatening conditions. Annually, upon identifying these students, it is recommended that school nurses send a letter to the parents addressing the need for a medication or treatment order and a nursing plan. See Attachment G for sample letters, and Attachment H for a sample letter to the LHCP.

As stated earlier in this bulletin, the statute requires that before excluding any student, the school must provide written notice to the parents, legal guardians, or the adults in loco parentis to the student.

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Applicable Laws

Districts will need to consider such existing laws as Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act (IDEA). It is recommended that district administrators consult district legal counsel, special education directors, and school nurses in preparing district procedures to implement this statute. The Washington State School Directors' Association (WSSDA) will write model district policies and procedures after the SBE adopts rules for this new law. WSSDA has given permission for their sample documents to be added to this bulletin, which, upon their development, will be posted on the OSPI Health Services Web site.

III. Diabetic Students (Engrossed Substitute Senate Bill 6641)

General Provisions

The statute (Attachment I) requires public school districts to address the medical needs of students with diabetes enrolled in the state's public schools. School districts are required to provide a safe learning environment and access to all other nonacademic school-sponsored activities for students with diabetes. As a part of the new statutory requirements, districts should provide **an individual health plan (IHP) for each child with diabetes**. As a part of an IHP, parents may choose to designate an unrelated adult, or PDA, to provide care such as blood sugar monitoring and/or insulin administration that would otherwise be performed by a health professional licensed under RCW 18.79. This new statute adds that the volunteer PDA may be a school district employee. Parents of students with diabetes, the students themselves, and their health care providers are pivotal partners with school district staff in responding to this mandate. Generally, this new law requires schools to include provisions for:

- Parental signed release form (release of health information and consent for treatment at school).
- Medical equipment and storage capacity.
- Exceptions from school policies.
- School schedule.
- Meals and eating.
- Disaster preparedness.
- Inservice training for staff.
- Legal documents for PDA who may provide care.
- Personnel guidelines describing who may assume responsibility for activities contained in the student's individual health plan.

A school district, school district employee, agent, or PDA is not liable in any criminal action or for civil damages as a result of services provided that are consistent with the requirements of this new statute.

These general provisions and the specifics of the statute are aligned with the *Guidelines for Care of Students with Diabetes* (September 2001) manual. The Guidelines were developed by the Washington State Task Force for Students with Diabetes. The September 2001 edition is currently available at the OSPI Health Services Web site. Revisions are being made to the manual to incorporate the new statute. The revised Guidelines will be available in early 2003 at the OSPI Health Services Web site: <http://www.k12.wa.us/learnteachsupp/healthservices/>.

Successful implementation of the statute will be dependent on thoughtful planning and on-going partnership between families, the student's LHCP, and school staff.

School District Responsibilities

Most students with diabetes currently attending school have an IHP in place. The new statute adds the requirement that schools are responsible for ensuring there is an IHP for every student with diabetes. The statute instructs the school district board of directors to adopt policies as a prerequisite condition to providing IHPs for students with diabetes. Districts are directed to seek the advice from one or more licensed physicians or nurses or diabetes educators who are nationally certified in the course of developing the policies.

A. The policies must address:

- The acquisition of orders from a LHCP prescribing within the scope of their prescriptive authority for monitoring and treatment at school. You may refer to Appendix C of the *Guidelines for Care of Students with Diabetes*, September 2001 for a sample form.
- The provision for storage of medical equipment and medication provided by the parent.
- The provision for students to perform blood glucose tests, administer insulin, treat hypoglycemia and hyperglycemia, and have easy access to necessary supplies and equipment to perform monitoring and treatment functions as specified in the IHP.
- The option for students to carry on their persons the necessary supplies and equipment.
- The option to perform monitoring and treatment functions anywhere on school grounds including the students' classrooms, and at school-sponsored events (as explained in the *Guidelines for Care of Students with Diabetes*).
- The exceptions to school policy necessary to accommodate the students' needs to:
 - (1) Eat whenever and wherever necessary.
 - (2) Have easy, unrestricted access to water and bathroom use.
 - (3) Participate in parties at school when food is served.
 - (4) Eat meals and snacks on time.
 - (5) Other necessary exceptions as described in the IHP.
- The assurance that school meals will not be withheld because of nonpayment of fees or disciplinary action.
- The inclusion of a description in the IHP of the students' school day schedules for timing of meals, snacks, blood sugar testing, insulin injections, and related activities.
- The development of individual emergency plans.
- The distribution of the IHP to appropriate staff based on the students' needs and staff level of contact with the students.

- The district's possession of legal documents for the PDA to provide care, if needed.
- The updating of the IHP at least annually or more frequently, as needed.

WSSDA is in the process of developing model school district policies that will be available in early fall 2002. Additionally, it is suggested that school district administrators consult with their attorney when developing district policy.

- B. If a PDA is a school employee, the district must keep on file a voluntarily written, current, and unexpired letter of intent from the employee to act as a PDA. This letter must be filed without coercion from the employer. Additionally, the letter must state the employee's willingness to be a volunteer PDA. Attachment J is a recommended letter to meet this requirement. School district employees may not be subject to any reprisal or disciplinary action for refusing to file a letter. Furthermore, school districts should keep on file documentation of the required additional training that **all** PDAs must receive for the additional care the PDA may provide as authorized by the parent, such as insulin or glucagon injections and blood glucose monitoring procedures.
- C. To ensure a safe, therapeutic learning environment, the school district board of directors is required to designate a professional person licensed under RCW 18.71 (medical doctors), RCW 18.57 (doctors of osteopathy), or RCW 18.79 as it applies to R.N.s and advanced registered nurse practitioners (A.R.N.P.s) to:
- Consult and coordinate with the student's parents and health care provider.
 - Train and supervise the appropriate school district personnel in proper procedures for care of students with diabetes.

A diabetes educator who is nationally certified may also provide the training. However, only the licensed health professional may be designated to consult and coordinate with the student's parents and health care provider, and to supervise the appropriate school district personnel. R.N.s and A.R.N.P.s may not delegate procedures such as blood glucose monitoring and insulin injections to unlicensed staff. Thus, the new law provides that the designated licensed professional is not responsible for the supervision of the PDA for those procedures that cannot be delegated and are authorized by the parent for the PDA to provide.

- D. School districts are to provide for the inservice training for school staff following the uniform policy developed jointly by OSPI and the Department of Health (DOH) (Attachment K). The uniform policy directs school districts to refer to the most current version of the *Guidelines for Care of Students with Diabetes*. The September 2001 edition of the Guidelines may be accessed at the OSPI Health

Services Web site: <http://www.k12.wa.us/learn/teachsupp/healthservices/>. As previously mentioned in the bulletin, revised Guidelines will be available early in 2003.

Parent Responsibilities

Parents are key partners in providing for the safety and health of their children during the school day. In order to fully implement the statute, parents should:

- Participate in development of the IHP.
- Coordinate and consult with the district designated Medical Doctor (M.D.), Doctor of Osteopathy (D.O.), R.N., or A.R.N.P.
- Provide a current signed consent to exchange information with the child's health care provider (Attachment L).
- Provide written requests and instructions to the district.
- Provide orders from a LHCP prescribing within the scope of their prescriptive authority for monitoring and treatment at school.
- Provide written authorization for a PDA to provide additional care, specifying the additional care so authorized. This may include blood glucose testing and injections (Attachment M).
- Coordinate with the district-designated licensed professional to ensure that the additional care authorized for the PDA to provide is consistent with the child's IHP.
- Arrange for a health care professional or an expert in diabetes to provide training for the additional care that the parent authorizes the PDA to provide. A health professional licensed under RCW 18.79 would otherwise perform this care.
- Provide supplies, snacks, and equipment per the Guidelines.

Attachment N provides a resource for parents on how to contact the American Diabetes Association if they have questions or are seeking advocacy information.

Parent-Designated Adult Responsibilities

The statute defines a PDA as "a volunteer, who may be a school employee, who receives additional training from a health care professional or expert in diabetic care selected by the parents, and who provides care for the child consistent with the individual health plan". The following is expected of a PDA:

- Voluntarily submit to the school district a written, current, and unexpired letter of intent. This letter must state the employee's willingness to be a volunteer **PDA** and must be submitted at least annually (Attachment J).
- Schedule appointment with school staff.
- Attend school district training offered for staff directly involved in care of student with diabetes. The PDA, if not a district employee, may provide documentation of comparable training in lieu of attending district offered training.
- Complete and provide documentation of training for **additional** care authorized by the parents.
- Deliver care consistent with the IHP.

Liability

A school district, school district employee, agent, or PDA is not liable in any criminal action or for civil damages in his or her individual or marital or governmental or corporate or other capacities as a result of the services provided if he or she:

- Acts in good faith.
- Acts in substantial compliance with the student's individual health plan, and the instructions of the student's licensed health care professional.
- Provides assistance or services as outlined in this new law.

IV. Attachments

SHB 2834—Life-Threatening Conditions Attachments. (Pages 13–46)

- A. SHB 2834—Children with Life-Threatening Conditions (page 13).
- B. WAC180-38, Emergency Rules (page 17).
- C. Sample Medication Order Form and Sample Treatment Order Form (page 21).
- D. Related Nurse Practice Act RCWs and WACs (page 24).
- E. Sample Nursing Plan/Emergency Care Plan (page 36).
- F. Sample Notification Letter to All Parents (page 40).
- G. Sample Letters to Parents Requesting Medication or Treatment Order (page 42).
- H. Sample Letter to Licensed Health Care Provider (page 45).

ESSB 6641—Schools—Diabetic Students Attachments. (Pages 47–64)

- I. ESSB 6641 Schools—Diabetic Students (page 47).
- J. Model Voluntary Parent-Designated Adult Notice of Intent (page 53).
- K. Uniform Staff Training Policy: Students with Diabetes (page 55).
- L. Sample Authorization for Exchange of Medical Information Form (page 59).
- M. Model Designation of a Parent-Designated Adult (page 61).
- N. Washington ADA Advocacy Page (page 63).

The information in this bulletin has been reviewed for accuracy by the Washington State Nursing Care Quality Assurance Commission and the Office of the Attorney General. If you have any questions, please contact Gayle Thronson, Program Supervisor, Health Services, at (360) 725-6040 or TTY (360) 664-3631. This bulletin is available on the OSPI Web site at the following URL: <http://www.k12.wa.us/bulletinsmemos/default.asp>. Some bulletin attachments are available in hard copy only. To receive electronic copies of attachments, please contact the Health Services office at (360) 725-6040.

STUDENT SUPPORT AND OPERATIONS

Marcia L. Riggers
Assistant Superintendent

Gayle Thronson, R.N., M.Ed.
Program Supervisor
Health Services

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