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TENNESSEE CODE ANNOTATED
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*** CURRENT THROUGH THE 2004 SESSION ***
*** ANNOTATIONS CURRENT THROUGH January 10, 2005 ***

TITLE 49. EDUCATION
CHAPTER 5. PERSONNEL
PART 4. EMPLOYMENT AND ASSIGNMENT OF PERSONNEL

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

Tenn. Code Ann. § 49-5-415 (2004)

STATUS: CONSULT SLIP LAWS CITED BELOW FOR RECENT CHANGES TO THIS DOCUMENT
LEXSEE 2005 Tn. HB 863 -- See section 1.

49-5-415. Assistance in self-administration of medications -- Administration of glucagons by volunteers -- Possession and self-administration of asthma-reliever inhalers -- Diabetes care

(a) Notwithstanding the provisions of any law, policy, or guideline to the contrary, a local board of education or a governing board for a non-public school may permit an employee or a person under contract to the board to assist in self-administration of medications, under the following conditions:

(1) (A) The student must be competent to self-administer non-prescription or prescription medication with assistance;

(B) The student's condition, for which the medication is authorized and/or prescribed, must be stable;

(C) The self-administration of the medication must be properly documented;

(D) Guidelines, not inconsistent with this section, for the assistance in self-administration of non-prescription and/or prescription medications by personnel in the school setting, developed by the departments of health and education and approved by the board of nursing, must be followed;

(E) The student's parent or guardian must give permission in writing for school personnel to assist with self-administration of medications. Such written permission shall be kept in the student's school records; and

(F) Assistance with self-administration shall primarily include storage and timely distribution of medication.

(2) Health care procedures including administration of medications to students during the school day or at related events shall be performed by appropriately licensed health care professionals in accordance with applicable guidelines of their respective regulatory boards and in conformity with policies and rules of local boards of education or governing boards of non-public schools. The student's parent or guardian must give permission in writing for appropriately licensed health care professionals to perform health care procedures and administer medications. Such written permission shall be kept in the student's school records.

(3) Any person assisting in self-administration of medication or performing health care procedures including administration of medications under this section and any local board of education or governing board for a non-public school authorizing the same shall not be liable in any court of law for injury resulting from the reasonable and prudent assistance in the self-administration of such medication or the reasonable performance of the health care procedures

including administration of medications, if performed pursuant to the policies and guidelines developed by the departments of health and education and approved by applicable regulatory and/or governing boards or agencies.

(4) The departments of education and health shall jointly compile an annual report of self-administered medications and health care procedures including administration of medications as provided for in this part, to students served in all public and non-public accredited schools in this state. This report shall be provided to the governor and the general assembly by October 31 of each year, and shall include recommendations for meeting the needs for comprehensive school health.

(b) In addition to the assistance with self-administration of medications provided for in subsection (a), school personnel who volunteer under no duress or pressure and who have been properly trained by a registered nurse employed or contracted by the LEA may administer glucagon in emergency situations to a student based on that student's individual health plan (IHP). However, if a public school nurse is available and on site, the nurse shall provide this service to the student. The public school nurse employed or contracted by the LEA shall be responsible for updating and maintaining each IHP. The department of health and the department of education shall jointly amend current "Guidelines for Use of Health Care Professionals and Health Procedures in a School Setting" to reflect the appropriate procedures for use by registered nurses in training volunteer school personnel to administer glucagon. The board of nursing must be afforded the opportunity to review and comment on the guidelines before they take effect and any training begins. The guidelines developed must be used uniformly by all LEAs which choose to allow volunteer school personnel to administer glucagon. Training to administer glucagon shall be repeated annually and competencies shall be documented in the employee's personnel file. The provisions of subdivision (a)(3) regarding protection from liability shall apply also to the volunteers who provide services pursuant to this subsection (b) and the registered nurses who provide their training.

(c) Notwithstanding any provision of this title or any other law or rule to the contrary:

(1) An LEA must permit possession and self-administration of a prescribed, metered dosage, asthma-reliever inhaler by any asthmatic student if the student's parent or guardian:

(A) Provides to the school written authorization for student possession and self-administration of the inhaler; and

(B) Provides a written statement from the prescribing health care practitioner that the student suffers from asthma and has been instructed in self-administration of the prescribed, metered dosage, asthma-reliever inhaler. The statement must also contain the following information:

(i) The name and purpose of the medication;

(ii) The prescribed dosage;

(iii) The time or times the prescribed inhaler is to be regularly administered as well as any additional special circumstances under which the inhaler is to be administered; and

(iv) The length of time for which the inhaler is prescribed;

(2) The statements required in subdivision (c)(1) above shall be kept on file in the office of the school nurse or school administrator;

(3) The LEA shall inform the student's parent or guardian that the school and its employees and agents shall incur no liability as a result of any injury sustained by the student or any other person from possession or self-administration of the inhaler. The student's parent or guardian shall sign a statement acknowledging that the school shall incur no liability and the parent or guardian shall indemnify and hold harmless the school and its employees against any claims relating to the possession or self-administration of the inhaler. Nothing in this subsection (c) shall be construed to relieve liability of the school or its employees for negligence;

(4) The permission for self-administration of the prescribed, metered dosage, asthma-reliever inhaler shall be effective for the school year in which it is granted and must be renewed each following school year upon fulfilling the requirements of subdivisions (c)(1) and (c)(3). The LEA may suspend or revoke the student's possession and self-administration privileges if the student misuses the inhaler or makes the inhaler available for usage by any other person; and

(5) Upon fulfilling the requirements of subdivision (c)(1), an asthmatic student may possess and use the prescribed, metered dose asthma-reliever inhaler when at school, at a school-sponsored activity, or before or after normal school activities while on school properties, including school-sponsored child care or after-school programs.

(d) (1) Notwithstanding the provisions of any law, policy, or guideline to the contrary, a local board of education or a governing board for a non-public school may permit school personnel to volunteer to assist with the care of students with diabetes, excluding insulin administration, under the following conditions:

(A) The student's parent or guardian and the student's personal health care team must have developed a medical management plan that lists the health services needed by the student at school and is signed by the student's physician, nurse practitioner, or physician assistant;

(B) The student's parent or guardian must have given permission for the school personnel to volunteer to participate in the care of the student with diabetes, and such written permission must be kept in the student's school records;

(C) Assistance in the care of students with diabetes must be documented in accordance with this subsection (d); and

(D) The department of education and the department of health shall, after considering recommendations from national organizations involved with diabetes care, jointly amend current "Guidelines for Use of Health Care Professionals and Health Care Procedures in a School Setting" to reflect the appropriate procedures for use by the school registered nurse (RN) in training school personnel who volunteer to assist with the care of students with diabetes. The guidelines may not take effect and no training under the guidelines may take place until the board of nursing has been afforded an opportunity to review and comment on the guidelines. The guidelines must be used uniformly by all LEAs that choose to allow school personnel to volunteer to assist with the care of students with diabetes.

(2) The guidelines for assistance with the care of students with diabetes must include the following:

(A) Guidelines for recognition and management of hypoglycemia and hyperglycemia, excluding insulin administration;

(B) Guidelines for understanding the individual health plan (IHP) for a student with diabetes with regard to blood glucose level target ranges, schedules for meals and snacks and actions to be taken in the case of schedule disruption; and

(C) Guidelines for performing blood glucose monitoring, ketone checking, and recording the results.

(3) All school nurses must be educated in diabetes care and must have knowledge of the guidelines. School personnel, who volunteer under no duress to assist with the care of students with diabetes, must receive training pursuant to the guidelines from a school RN. The school RN may use certified diabetes educators and licensed nutritionists to assist with the training. All training must be renewed on an annual basis and competency must be noted in the personnel file. No school personnel shall be required to volunteer for the training. School personnel may not be reprimanded, subject to any adverse employment action or punished in any manner for refusing to volunteer.

(4) If a school nurse is on-site and available to assist, the school nurse must provide any needed diabetes assistance rather than other trained school personnel volunteering to assist the student. In addition, a school RN has primary responsibility for maintaining all student health records.

(5) The following persons shall not be liable in any court of law for injury resulting from reasonable assistance with the care of students with diabetes if performed pursuant to the guidelines developed by the departments of health and education:

(A) Any school RN who provides the training;

(B) Any person who is trained and whose competency is indicated in such person's personnel file as required in subdivision (d)(3); and

(C) Any local board of education or governing board for a non-public school that authorized school personnel to volunteer to assist with the care of students with diabetes.

(6) The activities set forth in this subsection (d) shall not constitute the practice of professional nursing unless performed by an individual licensed by the board of nursing.

(7) Upon written request of the parent or guardian, and if included in the student's medical management plan and in the IHP, a student with diabetes may perform blood glucose checks, administer insulin, treat hypoglycemia and hyperglycemia, and otherwise attend to the care and management of the student's diabetes in any area of the school or school grounds and at any school-related activity, and may possess on such student's person at all times all necessary diabetes monitoring and treatment supplies. Any sharps involved in diabetes care and management for a student shall be stored in a secure, but accessible location, until use of such sharps is appropriate. Use and disposal of sharps shall be in compliance with the guidelines set forth by the Tennessee occupational safety and health administration (TOSHA);

(8) An LEA shall not assign a student with diabetes to a school other than the school for which the student is zoned or would otherwise regularly attend because the student has diabetes.

(9) School RNs who provide training to volunteers under this subsection (d) shall not be subject to any disciplinary or other adverse licensing action by the board of nursing for injury resulting from assistance with the care of students with diabetes if performed pursuant to the guidelines developed by the departments of health and education.

HISTORY: Acts 1996, ch. 979, § § 1, 2; 2002, ch. 808, § 1; 2004, ch. 493, § 1; 2004, ch. 734, § 1.

NOTES:

AMENDMENTS. The 2002 amendment redesignated former (a)(1) through (a)(6), (b), (c) and (d) as present (a)(1)(A) through (a)(1)(F), (a)(2) (a)(3) and (a)(4), respectively; and added present (b).

The 2004 amendment by ch. 493 added (c).

The 2004 amendment by ch. 734 added (d).

EFFECTIVE DATES. Acts 2002, ch. 808, § 2. June 11, 2002.

Acts 2004, ch. 493, § 2. July 1, 2004.

Acts 2004, ch. 734, § 2. July 1, 2004.

SECTION TO SECTION REFERENCES. This section is referred to in § 49-1-1003.

NOTES TO DECISIONS

ATTORNEY GENERAL OPINIONS. Licensed health care professionals to perform health care procedures, OAG 96-111 (8/30/96).

Licensed health care professionals to perform health care procedures, OAG 96-112 (8/30/96).