

Board Opinion Regarding Training of and Delegation to School Employees

Legal Authority

This is a Board opinion issued pursuant to the Board's statute, KRS 311.602, to assist licensees in determining what actions would constitute unacceptable conduct under the provisions of KRS 311.595. The Board has decided to publish this opinion because it addresses issues of significant public and medical interest.

This opinion is not a statute or administrative regulation, and does not have the force of law.

The Board has determined that the following principles constitute the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky relating of a physician's training of and delegation to school employees the ability to provide certain health services. If the Board should receive a grievance alleging that a physician has departed from the acceptable and prevailing standards of medical practice, the Board and its Hearing Officers will consider the allegations in light of these standards, the actual patient records and expert testimony specific to the physician's practice.

Introduction

The Board has received a request from staff members of the Legislative Research Commission (LRC) to specifically address the question, "Would a physician be able to delegate carbohydrate counting, insulin dose calculations, and insulin administration (injection or pump bolus) to a UAP under KRS 156.502?" These LRC staff members later asked the following additional questions:

1. What are the general rules about what a physician may delegate to an unlicensed person and how that may be done?
2. Related to KRS 156.502 and KRS 158.830-838, what tasks can physicians delegate to unlicensed persons, and under what conditions in the school setting?
3. In the school setting, does that list of tasks include the following:
 - a. Administration of medication generally
 - b. Carbohydrate counting and insulin dose calculation using a predefined formula
 - c. Insulin injection or pump bolus
 - d. Blood glucose monitoring
 - e. Routine hyperglycemia intervention (providing water, access to restroom, limiting activity)
 - f. Ketone testing
 - g. Routine hypoglycemia intervention (providing glucose/sugar/carbohydrates in some form)
 - h. Glucagon injection
 - i. Asthma inhaler administration
 - j. Asthma medication administration via a nebulizer
 - k. Use of a peak flow meter
 - l. Epinephrine injection (EpiPen or similar device)
 - m. Rectal diazepam administration
 - n. Administration of nasal midazolam for seizures
 - o. Use of vagus nerve stimulation magnet
 - p. Routine seizure management (timing seizure, clearing space, following/guiding if student wanders)
4. In the school setting, may a student's physician—rather than a school physician—delegate the above tasks to an unlicensed school employee? If so, under what conditions?

The Board has also received a communication from the Kentucky School Boards Association indicating that it would be helpful for the Board to issue an opinion relating to the scope of the training and delegation to school employees by physicians.

Finally, the Board has been provided with a draft copy of a memo to the Program Review and Investigations Committee entitled, "School Health Services for Students with Chronic Health Conditions in Kentucky."

Applicable Statutes

The following statutes bear upon this issue:

KRS 156.502 provides,

(1) As used in this section:

- (a) "Health services" means the provision of direct health care, including the administration of medication; the operation, maintenance, or health care through the use of medical equipment; or the administration of clinical procedures. "Health services" does not include first aid or emergency procedures; and
- (b) "School employee" means an employee of the public schools of this Commonwealth.

(2) Health services shall be provided, within the health care professional's current scope of practice, in a school setting by:

- (a) A physician who is licensed under the provisions of KRS Chapter 311;
- (b) An advanced registered nurse practitioner, registered nurse, or licensed practical nurse who is licensed under the provisions of KRS Chapter 314; or
- (c) A school employee who is delegated responsibility to perform the health service by a physician, advanced registered nurse practitioner, or registered nurse; and

- 1. Has been trained by the delegating physician or delegating nurse for the specific health service, if that health service is one that could be delegated by the physician or nurse within his or her scope of practice; and
- 2. Has been approved in writing by the delegating physician or delegating nurse. The approval shall state that the school employee consents to perform the health service when the employee does not have the administration of health services in his or her contract or job description as a job responsibility, possesses sufficient training and skills, and has demonstrated competency to safely and effectively perform the health service. The school employee shall acknowledge receipt of training by signing the approval form. A copy of the approval form shall be maintained in the student's record and the personnel file of the school employee. A delegation to a school employee under this paragraph shall be valid only for the current school year.

(3) If no school employee has been trained and delegated responsibility to perform a health service, the school district shall make any necessary arrangement for the provision of the health service to the student in order to prevent a loss of a health service from affecting the student's attendance or program participation. The school district shall continue with this arrangement until appropriate school personnel are delegated the responsibility for health care in subsection (2) of this section.

(4) A school employee who has been properly delegated responsibility for performing a medical procedure under this section shall act as an agent of the

school and be granted liability protection under the Federal Paul P. Coverdell Teacher Liability Protection Act of 2001, Pub. L. No. 107-110, unless the claimant establishes by clear and convincing evidence that harm was proximately caused by an act or omission of the school employee that constitutes negligence, willful or criminal misconduct, or a conscious, flagrant indifference to the rights and safety of the individual harmed.

(5) Nothing in this section shall be construed to deny a student his or her right to attend public school and to receive public school services, or to deny, prohibit, or limit the administration of emergency first aid or emergency procedures.

KRS 311.550(10) defines “the practice of medicine” as “the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities.”

Opinion

It is the opinion of the Board that a duly licensed physician may provide any health service, in a school setting, which the physician is qualified to perform based upon their medical education, training and experience. Furthermore, it is the opinion of the Board that a duly licensed physician may train school employees to perform any health service (medical procedure) which the physician is qualified to perform based upon their medical education, training and experience, and, which the physician determines may be safely and effectively performed by an unlicensed school employee. Once the physician has determined that the school employee may provide the particular health service(s) in a safe and effective manner, the physician may delegate the authority to that school employee(s) to perform the health service(s) (medical procedures) in a school setting pursuant to their employment.

Adopted: December 17, 2009