



# **Considering Nursing Practices in Tennessee Schools**

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## Executive Summary

Over the past several years, the General Assembly has passed legislation intended to improve nursing and health services in Tennessee's schools. Yet individuals and organizations advocating to refine school health services raise questions about the quality of these services and allege that some schools are not following the law. On the other hand, some educators question the need to offer health services in a school setting.

This report examines the level of compliance with existing legal requirements by local education agencies (LEAs) and explores the components of, and best practices related to, a model school health program.

In 1988, the General Assembly established the public school nurse program within the state Department of Health, codified at *Tennessee Code Annotated* §68-1-1201, et. seq. The act provides for school nurses in the program to be assigned to county and district health departments or local education agencies. Funded with state and federal dollars, the program grew to 32 positions and a \$1.359 million budget by FY90-91. When the Education Improvement Act passed in 1992, however, the administration removed from the budget all funds supporting the Tennessee public school nurse program and abolished the school nurse positions in the Department of Health. Although the program is referred to in other statutes, the Department of Health no longer deems this statute to be effective.

In 1992, the General Assembly passed the Education Improvement Act (EIA) which included the Basic Education Program (BEP). The BEP, including both state and local dollars, is now the state's formula for funding schools. *T. C. A.* §49-3-359 (c) (1) stipulates that the BEP include dollars sufficient to fund one full-time public school nurse position for each 3,000 students or one position for each local education agency, whichever is greater. In 1992, the statute allowed the school system to directly hire a school nurse or to contract with the Tennessee public school health program.

In 1996, the General Assembly amended *T.C.A.* §49-3-359 (c) (1). The revised statute specifies that when the BEP becomes fully funded, the LEA must use those dollars to directly employ or contract for a public school nurse created by *T.C.A.* §68-1-1201 (a) or advise the Department of Education that it has decided to do neither and notify the Department of an alternative arrangement to meet the health needs of its students. The BEP became fully funded in FY97-98.

The report concludes:

**School superintendents in Tennessee express a wide variety of opinions on the subject of school nurses.** In a survey conducted by the Office of Education Accountability (OEA) some superintendents stated that it is totally unnecessary for school systems to be forced to hire or contract for nurses. They believe that, with the exception of health procedures for special education students, community resources suffice for their students' health needs. Others are "glad to have the services of an RN and the funding to pay for them." Still others believe that the nurses they have are overloaded and that each school should have its own nurse.

School nurses do more than administer medications and perform health procedures or check for head lice. Their focus is keeping children healthy so they can remain in school. School health services contribute to goals of the education system because behavioral and health problems of students often hinder their ability to learn. The extent of physical, psychological, and social problems in some student populations is great enough that the

primary mission of the school—education—is hindered if these issues are ignored. (See pages 6-9.)

**Neither the Department of Education nor the Department of Health collects sufficient data to determine how school health services are delivered throughout the state.** Although both departments collect some data which can relate to school nurses, neither department has instituted a formal process for collecting data *specific* to school nurses. Therefore, neither department knows for certain which school systems have school nurses or what types of licenses the nurses hold because of incomplete data collected by the departments. There are no statutes mandating that either department collect data specifically related to school nurses. (See pages 10-11.)

**The public school nurse program no longer exists within the Department of Health despite the presence of statute.** Although *T.C.A.* §49-3-359 (c) allows local education agencies to contract with the Tennessee public school nurse program created within the Department of Health at *T.C.A.* § 68-1-2101, the Department of Health has not implemented this program since it lost its funding in 1992. As a result, a school system cannot contract with that program. (See page 11.)

***T.C.A.* §49-3-359, addressing the use of BEP funds for school nurses, is unclear and open to various interpretations.** This statute states that an LEA must use BEP funds generated for school nurses to directly employ or contract for a public school nurse or to advise the Department of Education that it has decided to do neither and notify the Department of an alternative arrangement to meet the health needs of its students. In 1998, the Attorney General issued two opinions dealing with withholding BEP funds for noncompliance with the statute. The first opinion stated that the statute does not give authority to fund any alternative program with BEP dollars. However, the second opinion said that the Commissioner of Education’s interpretation of the statute allowing a school system to use the BEP funds for an alternative arrangement is defensible. (See pages 11-12.)

**School health and nursing services are inconsistently implemented across the state.** Several factors contribute to confusion about expectations of school nurses on the part of school superintendents and nurses alike:

- School nurses are addressed in two different titles (49 and 68) of *Tennessee Code Annotated*,
- There is no sponsoring agency to administer the program,
- Few policies exist to guide local education agencies in the establishment of school nursing services other than those dealing with the administration of medications and the performance of health procedures. (See page 12.)

**Tennessee statutes do not define qualifications for school nurses.** *T. C. A.* §49-3-359 requires school nurses to meet or exceed qualifications established in *T.C.A.* §68-1-1204(a). This statute does not list qualifications, but rather requires the Commissioner of Health to promulgate rules to implement the public school nurse program. In 1989 the Department of Health promulgated rules regulating the school nurse program, but maintains that the rules cannot be implemented either without staff or funding. These rules are applicable only to the implementation of the school program by the Department of Health. (See page 12.)

**Statutes do not clearly define duties to be performed by school nurses.** *T.C.A. §68-1-1202* delineates the duties and responsibilities of the executive director of the public school nurse program. However, *T.C.A. §49-3-359*, which passed at the time the Health Department's program lost its funding, gives these duties and responsibilities to the public school nurses. Some of these duties and responsibilities, however, are administrative functions and are more appropriate for the state Department of Education or the state Department of Health. (See page 17.)

**Tennessee's legislation dealing with administering medications and performing health care procedures is more restrictive than in many other states and than guidelines adopted by the National Council of State Boards of Nursing and the Tennessee Board of Nursing.** In 1996, the General Assembly passed legislation governing the administration of medications and the performance of health care procedures to students during the school day or at related events. The sponsors designed the bill, supported by the Tennessee Education Association, to halt the practice of teachers, teachers' aides, school secretaries, and other non-health care personnel giving medications to children and performing health care procedures. Such health care procedures include clean intermittent catheterization, tube feeding, tracheostomy care, naso-suctioning, routine intramuscular injection, routine subcutaneous injection, blood glucose monitoring, and nebulizer treatment. (See pages 17-18.)

**Tennessee has not developed standards for licensure, qualifications, or staffing for school nursing programs by either statute or agency rules.** All states have enacted legislation dealing with some aspect of school health expectations. Sometimes states customize standards set by national organizations. The credentials of licensure and certification for school health service personnel vary from state to state. A license is a legal credential establishing that a person has basic competencies for generalized practice in a discipline. A certificate is another form of credential that signifies individuals are prepared to function in a specialty role. Certification generally requires a license as well as meeting additional standards of education and experience. (See page 18.)

**National nursing organizations assert that school nurses should be registered nurses; however, Tennessee statutes do not specify this as a qualification.** Some school superintendents believe that they are allowed to hire only LPNs because the statute does not require them to hire RNs.

In Tennessee, all nurses must meet licensure requirements set by the State Board of Nursing to practice as registered nurses or as licensed practical nurses. Registered nurses practice under protocols approved by a physician or dentist. The State Board of Nursing Rules prohibit LPNs from practicing except under the supervision of a physician, registered nurse, or dentist. An LPN may perform only duties that have been delegated by such a professional. (See pages 18-19.)

**School nursing is a specialty with its own body of knowledge and differs from any other type of nursing practice.** The American Nurses Credentialing Center and the National Association of School Nurses both offer certification in the specialty of school nursing. Interviewees indicate some Tennessee school systems have hired nurses whose experience has been in fields other than school health, such as oncology or geriatrics. Such nurses may be unfamiliar with the functions characterizing the specialty of school nursing. These functions include health education, emergency care, illness and injury

prevention, and community relations, as well as faculty and administrative responsibilities. However, there are probably not enough nurses with experience in school health for school systems to do otherwise. (See page 19.)

**Tennessee’s statutory nurse to student ratio is significantly higher than that recommended by the American Nurses Association, the National Association of School Nurses, and the American School Health Association.** Tennessee first enacted its nurse to student ratio of 1:3,000 in 1988 when the General Assembly created the Tennessee public school nurse program.

The National Association of School Nurses, the American Nurses Association, and other professional organizations recommend the following ratios:

- 1:750 in the general student population;
  - 1:225 in the mainstreamed population;
  - 1:125 in severely chronically ill or developmentally disabled population;
  - A nurse to student ratio based on individual needs in the medically fragile population
- (See pages 20-21.)

**School nursing advocates believe that school nurses are an integral part of the education system and should be employees of the school system.** They assert that being an employee of the system makes them part of the school team and on a level playing field with teachers. (See pages 21-22.)

**No single model of school health services exists that will meet the needs of every community.** School health programs can provide a range of services that address health needs. School systems may have varying needs for health services depending on factors such as poverty and services available in the surrounding community. The following variations describe options for providing school health services:

1. A “core services only model” might be the appropriate choice when a majority of students in a school system have access to health care from community providers.
2. A core plus expanded school health services model might be appropriate when students are unable to access community-based services or if communities lack providers, schools sometimes provide services in addition to the core services.
3. School-based health centers provide primary care services on-site for a select group of the school population.
4. School-linked health centers are located off school property and serve one or more schools. These centers may also serve people from the area who are not students.

Many national and state organizations promote the establishment of “coordinated (sometimes called ‘comprehensive’) school health programs” (CSHP) as defined by the Centers for Disease Control and Prevention. The CDC also provides competitive funding to states for the design and implementation of these programs.

Staff within the Departments of Education and Health support the concept of coordinated school health programs and have held numerous awareness and training sessions on the subject for school administrators and nurses. The Department has thus far been unsuccessful in obtaining grant funding from the CDC.

A coordinated school health program is comprised of eight components:

1. Comprehensive school health education
2. Physical education
3. School health services

4. School nutrition services
  5. School counseling, psychological, and social services
  6. Healthy school environment
  7. School-site health promotion for staff
  8. Family and community involvement in schools
- (See pages 22-23.)

**States and school systems vary in their pursuit of financial support to maintain health services.** Historically, schools across the country have paid the cost with education dollars. However, some schools are now beginning to access other sources of funding, including insurance companies, HMOs, Medicaid, and other third-party sources, tobacco settlement monies, federal block grant dollars, and foundation grants. (See pages 26-27.)

## Alternatives

### Legislative

**The General Assembly may wish to amend Titles 49 and 68 relative to school nurses.**

Existing laws do not clearly establish expectations for local education agencies or the Departments of Education and Health. A new School Nurse Practice Act could improve consistency across the state by creating standards, either through statute or the delegation of rulemaking authority to the Departments of Health or Education.

**The General Assembly may wish to clarify its intent regarding the withholding of BEP funds to school systems not using such funds for school nurses.**

Because of inconsistent opinions issued by the Attorney General in 1998, there is no clear direction to the Department of Education as to when BEP funds should be withheld. A clarification should address whether it is acceptable for a school system to contract with an entity other than the public school nurse program as defined in the statute or whether a contract with another entity should be reported as an alternative arrangement.

### Administrative

**The Department of Education should consider whether central office staff resources are sufficient to administer the school nurse program.** Staff duties should include, but not be limited to, program design, consultation, data collection, evaluation, policy development and enforcement, and training.

**The Departments of Education and Health may wish to enter into an interagency agreement whereby the Department of Health provides medical expertise to the Department of Education.** Staff within the Department of Health have professional knowledge, training, and experience in the areas of medical protocols, supervision, and procedures, which are lacking within the Department of Education.

**The Departments of Education and Health should develop a strategic plan for the adoption of coordinated school health programs across the state.** The importance of school health programs has long been recognized in the medical community and is gaining credence in educational circles. The Department of Education should again pursue a grant from the CDC for infrastructure support.

(See pages 28 and 29. Also see pages 49-51 for a response from the Commissioner of Education.)

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# Introduction

Over the past several years, the General Assembly has passed legislation intended to improve nursing and health services in Tennessee's schools. Yet individuals and organizations advocating to refine school health services raise questions about the quality of these services and allege that some schools are not following the law. On the other hand, some educators question the need to offer health services in a school setting.

This report examines the level of compliance with existing legal requirements by local education agencies (LEAs) and explores the components of, and best practices related to, a model school health program.

## Methodology

The conclusions reached and recommendations made in this report are based on the following:

- Interviews with state officials, including the Departments of Education and Health; advocates, staff of national organizations supporting school nurses and school health services; and staff of education and health departments in other states
- Reviews of statutes, court decisions, and attorney general's opinions
- Reviews of professional journals, magazines, newspapers, and books
- A survey of superintendents regarding school nursing in their respective systems

## Background

### *Legislation*

*The Tennessee Public School Nurse Program within the Department of Health*—In 1988, the General Assembly established the public school nurse program within the state Department of Health, codified at *Tennessee Code Annotated* §68-1-1201, et. seq. (See Appendix A.) The act provides for school nurses in the program to be assigned to county and district health departments or local education agencies. The chief medical officer of the state, as the executive director of the program, is to supervise and direct the nurses. Another division within the Department of Health, the Board of Nursing, licenses nurses to practice in Tennessee.

The statute stipulates that until the program hires enough nurses to provide adequate services to all local education agencies, the executive director is to give assignment priority to those counties experiencing the most poverty, unemployment, and underemployment, and which are the most medically underserved. The statute defines adequate services as a ratio of at least one permanent, full-time school nurse per 3,000 students, but not less than one permanent, full-time nurse for each county-wide system. Additionally, the act instructs the commissioner of health and the executive director to promulgate rules and regulations to implement the program.

Funded with state and federal dollars, the program grew to 32 positions and a \$1.359 million budget by FY90-91. When the Education Improvement Act passed in 1992, however, the administration removed from the budget all funds supporting the Tennessee public school nurse program and abolished the school nurse positions in the

Department of Health.<sup>1</sup> Although the program is referred to in other statutes, the Department of Health no longer deems this statute to be effective.<sup>2</sup>

*The Education Improvement Act*—In FY91-92, the General Assembly passed the Education Improvement Act (EIA) which included the Basic Education Program (BEP). The BEP, including both state and local dollars, is now the state’s formula for funding schools. *T.C.A.* §49-3-359 (c) (1), found in Appendix B, stipulates that the BEP include dollars sufficient to fund one full-time public school nurse position for each 3,000 students or one position for each local education agency, whichever is greater. At that time, the statute allowed the school system to directly hire a school nurse or to contract with the Tennessee public school health program.

In 1996, the General Assembly amended *T.C.A.* §49-3-359 (c) (1). The revised statute specifies that when the BEP becomes fully funded, the LEA must use those dollars to directly employ or contract for a public school nurse created by *T.C.A.* §68-1-1201 (a) or advise the Department of Education that it has decided to do neither and notify the Department of an alternative arrangement to meet the health needs of its students. The BEP became fully funded in FY97-98.

*Statutory Duties and Responsibilities of Public School Nurses*—*T.C.A.* §68-1-1202 delineates the duties and responsibilities of the executive director of the public school nurse program. (See Appendix A.) However, *T.C.A.* §49-3-359, which passed at the time the Health Department’s program lost its funding, gives these duties and responsibilities to the public school nurses. Some of these duties and responsibilities, however, are administrative functions such as reporting to the Governor and General Assembly. They may be appropriate for the state Department of Education or the state Department of Health than for school nurses in local education agencies.

*Qualifications of Public School Nurses*—*T.C.A.* §49-3-359 requires school nurses to meet or exceed qualifications established in *T.C.A.* §68-1-1204(a). This statute, however, does not list qualifications, but rather requires the Commissioner of Health to promulgate rules to implement the public school nurse program. In 1989 the Department of Health promulgated rules regulating the school nurse program, but maintains that the rules cannot be implemented either without staff or funding. These rules are applicable only to the implementation of the school program by the Department of Health.

*Assistance in Self-administration of Medications*—In 1996, the General Assembly passed legislation governing the administration of medications and the performance of health care procedures to students during the school day or at related events. The sponsors designed the bill, supported by the Tennessee Education Association,<sup>3</sup> to halt the practice of teachers, teachers’ aides, school secretaries, and other non-health care personnel giving medications to children and performing health care procedures. Such health care

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<sup>1</sup> Conversation with Ricky Frazier, Administrative Services Director, Tennessee Department of Health, Nov. 1998.

<sup>2</sup> Interview with Judy Womack, Director of Health Promotion/Disease Control, Tennessee Department of Health, Nov. 26, 1998.

<sup>3</sup> *Ibid.* Confirmed in conversation with Jerry Winters, Manager of Government Relations, Tennessee Education Association, Jan. 1999.

procedures include clean intermittent catheterization, tube feeding, tracheostomy care, naso-suctioning, routine intramuscular injection, routine subcutaneous injection, blood glucose monitoring, and nebulizer treatment.

The statute, codified at *T.C.A.* §49-5-415, requires that health care procedures, including administration of medications, be performed by 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. (See Appendix C.) This statute, however, allows non-licensed personnel to assist a student in self-administering medications under certain conditions:

- the student's competence to self-administer,
- the stability of the student's condition,
- the proper documentation of self-administration,
- the following of guidelines developed by the departments of health and education and approved by the board of nursing,
- written permission of the student's parent or guardian, and
- whether the assistance is primarily storage and timely distribution of medication.

### ***Attorney General Opinions***

The attorney general issued three opinions in 1998 that interpret *T.C.A.* §49-3-359.

1. In 1998, the attorney general was asked how many nurses *T.C.A.* §49-3-359 (c) (1), requires if an LEA decides to employ nurses. He was also asked whether the Department of Education has approval authority over the alternative arrangement allowed by the statute.

On July 9, 1998, the attorney general opined that the statute does not require LEAs to employ school nurses, but only addresses BEP funding for those positions. (See Appendix D.) He further opined that the Department of Education has no statutory duty to approve the alternative arrangement.

The analysis of the opinion stated that the statute authorizes LEAs to use BEP funds only as directed. LEAs must use the funds to employ or contract for public school nurses or notify the Department of Education that the LEA has affirmatively determined not to do so and of the alternative arrangement the LEA has made to meet the health needs of students.

The opinion further said, "*Tenn. Code Ann.* §49-3-359 provides that the amount of money included in the BEP is for school nurse positions. It is clear from the statute that the General Assembly was encouraging use of school nurses to address student health needs. There is no authority under *Tenn. Code Ann.* §49-3-359 to fund any alternative program with BEP funds."

2. Because of concern that some school systems were using the designated BEP funds for purposes other than to hire or contract for school nurses, the attorney general was then asked about the effect of an LEA failing to satisfy any of the options under the 1996 amendment. He was also asked who has the responsibility to withhold BEP funds if the LEA does not comply. An August 17, 1998, opinion states that if an LEA does not elect to hire or contract for school nurses and accepts BEP funds provided for in *T.C.A.* §49-3-359, the LEA has violated the statute. (See Appendix E.) The LEA would not be entitled

to receive BEP funds generated for school nurses if they would not be used as required by the statute. The commissioner of education has the responsibility to withhold BEP funds if the LEA is not in compliance with the statute.

3. The Department of Education had interpreted the statute to provide BEP funding for all three methods, including the use of these BEP dollars to fund alternative arrangements to meet student health needs. Seven LEAs have submitted such plans to the department. Other LEAs contract for services with individuals or with entities other than the public school nurse program in the Department of Health.<sup>4</sup> The Commissioner of Education asked the attorney general whether the Department's interpretation is legally defensible.

On November 6, 1998, the attorney general responded that indeed the department's interpretation is defensible because the language of the statute is not "patently clear." (See Appendix F.) To determine the legislative intent of the statute, the attorney general reviewed the legislative history of the statute and found testimony that explicitly supports the Department's interpretation. Thus, the November 6, 1998, opinion negated the aspect of the August 17, 1998, opinion regarding the circumstances under which the Commissioner of Education should withhold funds.

### ***Nursing Care for Special Education Students***

The federal Individuals with Disabilities Education Act (IDEA) mandates that all children must receive a free and appropriate education without cost to their parents regardless of severity and type of disability. The Act requires schools to provide various special education and related services. Related services are defined as "transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, including speech pathology and audiology; psychological services; physical and occupational therapy, including therapeutic recreation; early identification and assessment of disabilities in children; counseling services, including rehabilitation counseling; and medical services for diagnostic or evaluation purposes." The term also includes school health services, social work services in the school, and parent counseling and training.<sup>5</sup>

Federal district and circuit courts in different parts of the country have ruled differently in cases determining how much health care schools must provide to ensure a disabled child's right to a public education. Generally school districts are not required to provide services that are performed by a physician, but must provide services that are performed by other professionals under the supervision of a physician.

Because of the differences in lower court rulings, the United States Supreme Court agreed to hear the case of *Cedar Rapids Community School District v. Garret F.* The case involves an Iowa teenager, paralyzed from the neck down, who needs full-time care resulting from an accident when he was four years old. The young man needs continuous monitoring to ensure he keeps breathing as well as tracheotomy suctioning, catheterization, and daily living assistance.

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<sup>4</sup> The Department of Health notes that although the statute allows school systems to contract with the public school health program in the Department of Health, "there is no school nurse program at present because it was moved out of the Department."

<sup>5</sup> 20 U.S. Code §1400.

For most of his schooling, an insurance policy and the settlement from the accident paid for Garret's care by a licensed practical nurse. The boy's mother then asked the school district to pay thousands of dollars a year for an attendant to care for her son. The school district asserted that the one-on-one care needed by Garret is medical in nature and is exempt under the IDEA. The question before the Supreme Court was whether keeping a child alive is stretching the IDEA's definition of related services.

In March 1999, the Court ruled 7-2 in favor of Garret and his family. The decision determined that such continuous care is not medical treatment and must be publicly funded under the IDEA. Justice Stevens wrote: "This case is about whether meaningful access to the public schools will be assured, not the level of education that a school must finance once access is attained. Under the statute, our precedent and the purposes of the IDEA, the district must fund such related services to help guarantee that students like Garret are integrated into the public schools."<sup>6</sup>

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<sup>6</sup> Available at: [more.abcnews.go.com/sections/us/Daily News/disabled990303](http://more.abcnews.go.com/sections/us/Daily%20News/disabled990303). March 9, 1999.

# Analysis and Conclusions

## The Need for School Health Services

**School superintendents in Tennessee express a wide variety of opinions on the subject of school nurses.** In a survey conducted by the Office of Education Accountability (OEA) some superintendents stated that it is totally unnecessary for school systems to be forced to hire or contract for nurses. (See Appendix G.) They believe that, with the exception of health procedures for special education students, community resources suffice for their students' health needs. Others are "glad to have the services of a registered nurse and the funding to pay for them." Still others believe that the nurses they have are overloaded and that each school should have its own nurse.

A number of national organizations advocate for quality school health services. These organizations include the National Association of State Boards of Education, the American Medical Association, the American Academy of Pediatrics, the American Nurses Association, the Carnegie Foundation, the Robert Wood Johnson Foundation, the National Nursing Coalition for School Health, the National Association of School Nurses, and the American School Health Association.

Among Tennessee organizations advocating for this state to improve its school health services are the Tennessee Nurses Association, the Tennessee Association of School Nurses, the Tennessee School Health Coalition, the Tennessee Chapter of the American Academy of Pediatrics, and the Rural Health Association of Tennessee.

The subject of school nurses is controversial. Some school administrators do not believe that school nurses play a significant role in the educational system and see no need for them. Others believe that every school should have its own nurse. Nor do all school nurses perform the same duties in all schools. The paragraphs below explain some of the activities that distinguish school nursing from other nursing practices.

School nurses do more than administer medications and perform health procedures or check for head lice. Their focus is keeping children healthy so they can remain in school. School health services contribute to goals of the education system because behavioral and health problems of students often hinder their ability to learn. The extent of physical, psychological, and social problems in some student populations is great enough that the primary mission of the school—education—is hindered if these issues are ignored.

Like any workplace, school systems must be prepared to deal with health matters such as first aid, medical emergencies, and detection of contagious diseases. Unlike other workplaces, schools must also provide for routine administration of medications and services to students with chronic health problems such as asthma, diabetes, and seizures.

Additionally, federal law requires schools to provide health services that allow disabled children to attend school. To comply with the Individuals with Disabilities Education Act of 1990 and its predecessor, the Education for All Handicapped Children Act of 1973, schools have had to provide health care for qualifying students since 1974.<sup>7</sup> To attend school, some of these children require certain routine health procedures, such as catheterization, tracheostomy care, or tube feeding. Schools have little or no choice in providing or making arrangements for health services because they are mandated by statute or they are precautions against liability.

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<sup>7</sup> 20 U.S. Code §1400.

Moreover, some see schools as the logical site for preventive public health services since children spend a significant portion of their time there. While most students already have their own source of primary care, a growing number of students do not. These students are usually poor and are not likely to receive preventive health care. The parents of these children generally do not seek preventive care for their children because of cost, work responsibilities, or lack of insurance and transportation. This often results in the child missing school because of illness. Children who are poor are two to three times more likely to miss school because they are sick.<sup>8</sup>

Additionally, children with chronic health problems often miss valuable class time because of the office hours kept by their physicians or other providers treating them. Absenteeism among students is clearly associated with school failure. Students who miss more than 11 percent of the school days in a semester have trouble remaining at their grade level.<sup>9</sup>

Today's schools face far different challenges than the schools of yesterday. Not many years ago, the chief health problems among children and youth were disease-related. These illnesses, such as polio, tuberculosis, diphtheria, whooping cough, mumps, and measles, have generally been erased through immunizations. Today's major health concerns cannot be addressed by inoculations. Being behavior-related, they are generally preventable.

A review of the 1998 Kids Count Report, a national publication from the Annie E. Casey Foundation, and the 1997 Youth Risk Behavior Survey (YRBS), which is administered in Tennessee by the Department of Education for the Centers for Disease Control and Prevention, shows that Tennessee's students are not immune to today's adolescent health trends:

- *Tobacco use*  
Every day more than 3,000 young people take up smoking in our country.<sup>10</sup> Approximately 74 percent of Tennessee students completing the YRBS admitted to having tried cigarette smoking while 14 percent reported using chewing tobacco or snuff within 30 days of completing the survey.<sup>11</sup>
- *Poor eating habits*  
Seventy-five percent of young people in the U.S. do not eat the recommended number of daily servings of fruits and vegetables. In Tennessee, approximately 45 percent of surveyed students were trying to lose weight and seven percent had vomited or taken laxatives to lose weight within 30 days of the survey.
- *Behaviors that result in intentional or unintentional injury*  
Deaths from accident, homicide, and suicide accounted for 78 percent of teen deaths in the U.S. in 1995. While the nation is seeing a drop in teen deaths by accident, the homicide and suicide rates are rising. Ranking 44<sup>th</sup> in this category, Tennessee's rate

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<sup>8</sup> Institute of Medicine, "School Health Services," *Schools & Health*, Washington, D.C.: National Academy Press, 1947, p.160.

<sup>9</sup> Judith B. Igoe, "School Health," *Nursing Policy Forum*, May/June 1995, Vol. 1, No. 3.

<sup>10</sup> With noted exceptions, the national information in this section was taken from: Mandy Rafool, "Funding Coordinated School Health Programs," *NCSL State Legislative Report*, National Conference of State Legislatures, Sept. 1998, Vol.23, No. 16.

<sup>11</sup> With noted exceptions, all Tennessee data in this section was taken from: 1997 Tennessee State Department of Education Youth Risk Behavior Survey Report, Centers for Disease Control and Prevention.

has increased more dramatically than most other states.<sup>12</sup> Approximately 10 percent of Tennessee students had attempted suicide within 12 months of taking the YRBS and 24 percent carried a weapon within 30 days.

Violence frequently occurs in school hallways as well as on the streets. According to the YRBS, 11 percent of students reported they had carried a weapon on school property within 30 days and five percent reported they did not go to school on at least one of the past 30 days because they felt unsafe at school or on their way to school.

Moreover, 25 percent of students report that they rarely or never wear a seatbelt when riding in a car.

- *Physical inactivity*

Nationally, daily participation in high school physical education classes dropped from 42 percent in 1991 to 25 percent in 1995. In Tennessee, the opportunity for students to engage in physical activity in school declined after school year 1994-95 when the state board of education replaced physical education with the Lifetime Wellness course as a requirement to graduate. The YRBS shows that only 38 percent of high school students attended PE class at least once a week.

- *Sexual behaviors that result in sexually transmitted diseases or unintended pregnancy*

Nationally, 53 percent of all high school students have had sexual intercourse. Every year, more than one million girls become pregnant and more than three million adolescents become infected with a sexually transmitted disease.

Fifty-three percent of Tennessee teens report on the YRBS that they have had intercourse. Of the sexually active students, only 55 percent said they or their partners used a condom during their last encounter.

For females aged 15-17 giving birth, Tennessee ranks 38<sup>th</sup> among the states. Tennessee's rate of 42 per 1,000 females compares to the national average of 36 per 1,000.<sup>13</sup>

Alarming, AIDS is spreading more rapidly in Tennessee than in most other states, teens accounting for 3.2 percent of total cases.<sup>14</sup>

- *Alcohol and drug use*

Seventy-five percent of Tennessee students admit they have drunk alcohol, 46 percent report that they have used marijuana, and seven percent admit they have used cocaine.

Many people believe that schools are in a position to influence students' lifestyle choices and should educate them about health issues. The Lifetime Wellness curriculum, a one-unit course required for high school graduation in Tennessee, offers education on these subjects. School nurses, however, work with students on an ongoing basis and can identify individuals who need referral for treatment. Nurses can also track trends to determine overall school health concerns.

Not only do lifestyle choices influence a child's ability to learn, but mental and social problems are also found to interfere with the educational process. Students with such difficulties are more likely to fail or fall behind in school and eventually drop out

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<sup>12</sup>The Annie E. Casey Foundation, *1998 Kids Count Data Book*, pp. 19 - 20, 124 -125.

<sup>13</sup> *Ibid.*, pp. 124 -125.

<sup>14</sup> Infrastructure Grant Proposal from Tennessee Department of Education to Centers for Disease Control, 1997, p. 54.

altogether. In May 1998, staff of the health program at Fall-Hamilton Elementary School in Davidson County conducted a study of mental health needs of its students. Exhibit 1 illustrates students' concerns that compete for teachers' attention.<sup>15</sup> School nurses can help identify children with emotional concerns and make proper referrals for treatment.

**Exhibit 1**  
**Summary of Responses to Mental Health Needs Assessment Pilot Survey**  
**Fall-Hamilton Elementary School**  
**Metropolitan Nashville-Davidson County Public Schools**  
**May 1998**

| Description of question                                     | Some of the time | A lot of the time |
|---|------------------|-------------------|
| Occupation with other thoughts during class                 | 50.5             | 16.5              |
| Trouble falling asleep because of worries                   | 44               | 15.4              |
| Concerns about overweight                                   | 22               | 14.3              |
| Worries over family finances                                | 22               | 11                |
| Poor appetite   | 37.4             | 14.3              |
| Witnessing adult fighting in neighborhood                   | 30.8             | 31.9              |
| Feelings of loneliness                                      | 42.9             | 20.9              |
| Social isolation  | 18.7             | 2.2               |
| Feelings of anger when bothered by others                   | 45.1             | 35.2              |
| Problems paying attention in class                          | 36.3             | 6.6               |
| Worries about excessive corporal punishment by adults       | 25.3             | 16.5              |
| Problems with self-esteem, peer comparison                  | 36.3             | 14.3              |
| Adult male household member has problem with alcohol        | 11               | 17.6              |
| Reluctance to go home                                       | 31.9             | 7.7               |
| Worries about peer aggression                               | 25.3             | 14.3              |
| Home is overcrowded - no personal space                     | 23.1             | 16.5              |
| Has felt life is not worth living                           | 19.8             | 3.3               |
| Concerns over peer rejection                                | 33               | 12.1              |
| Exposure to peer substance abuse                            | 12.5             | 5                 |
| Tendency to feel sick or feel pain in body                  | 62.6             | 25.3              |
| Nightmares  | 45.1             | 30.8              |
| Feelings that adult neglect kids' needs                     | 29.7             | 20.9              |
| Feelings of sadness   | 28.6             | 4.4               |
| Cigarette smoking by self                                   | 12.5             |                   |
| Feelings of anxiety   | 38.5             | 14.3              |
| Experience of adult fondling or other possible sexual abuse | 4.4              | 3.3               |
| Concerns over a parent's depression                         | 37.4             | 9.9               |
| Feelings of boredom   | 51.6             | 13.2              |
| Concerns over parental smoking                              | 27.5             | 22                |
| Clinginess to teachers                                      | 19.8             | 4.4               |
| Tendency to skip school without valid reason                | 23.1             | 4.4               |
| Fear for personal safety                                    | 41.8             | 6.6               |
| Witness to domestic violence                                | 29.7             | 7.7               |
| Anhedonia   | 35.2             | 11                |
| Concerns that female caregiver has problem with alcohol     | 4.4              | 4.4               |
| Feelings not loved at home/ feeling rejected                | 29.7             | 9.9               |
| Anger control   | 57.1             | 15.4              |
| Recklessness  | 19.8             | 12.1              |
| Concerns over drug use at home                              | 13.2             | 4.4               |

<sup>15</sup> Interview with Clare Sullivan, Family Nurse Practitioner, Nov. 23, 1998.

| Description of question      | Some of the time | A lot of the time |
|------------------------------|------------------|-------------------|
| Impulsivity                  | 27.5             | 6.6               |
| Generalized anxiety          | 49.5             | 11                |
| Safety concerns outside home | 29.7             | 23.1              |
| Parent in jail               | 25.3             | 14.3              |

## Level of Compliance with Existing Legal Requirements

**Neither the Department of Education nor the Department of Health collects sufficient data to determine how school health services are delivered throughout the state.** Although both departments collect some data that can relate to school nurses, neither has instituted a formal process for collecting data *specific* to school nurses. Therefore, neither department knows for certain which school systems have school nurses or what types of licenses the nurses hold because of incomplete data.

While there is no legislation mandating that either department collect data related to school nurses, both departments collect limited amounts of information. A description of data related to school health/nurses collected by the departments follows:

1. The *Medications and Health Care Procedures in Tennessee Schools Annual Report*, prepared jointly by the departments, is mandated by T.C.A. §49-5-415 and includes the following data items:
  - Self-administered medicines
    - a. type
    - b. number of students
    - c. number of doses
  - Administered medicines
    - a. type
    - b. number of students
    - c. number of doses
  - Health care procedures provided
    - a. procedures
    - b. number of students
    - c. number of procedures performed
  - Number of health care personnel in school systems
    - a. registered nurses employed by school systems
    - b. registered nurses contracted by school systems
    - c. licensed practical nurses employed by school systems
    - d. licensed practical nurses contracted by school systems

The Department of Education surveys the school systems to collect this data; however, some systems fail to respond to the department's request for information and those systems' data is excluded from the report. In the past, the report asked for the number and type (registered nurse or licensed practical nurse) of "health care personnel," not specifically "school nurses." Some school systems hire or contract for nurses to care for the special needs population only. Although the nurses do not care for regular education students as well, the schools call them school nurses.

Beginning with the 1998-99 school year, the report asks school systems to differentiate between school health nurses and special needs nurses as well as to disclose licensure and educational information on each nurse.

2. The Department of Health maintains a listing of nurses in schools, adding the names of nurses as it learns of them.<sup>16</sup> This listing does not indicate in all instances what type of license a nurse holds, nor does it always reflect which school system employs or contracts for the nurse, especially in those counties with multiple systems.

Because of questions raised by inconsistent/incomplete data from the departments, the Office of Education Accountability surveyed superintendents about the provision of health services in their school systems. All of the state's 138 school systems responded to the survey. Because of various interpretations of what the term "school nurse" means, some superintendents may have reported other health personnel as school nurses.

**The public school nurse program no longer exists within the Department of Health despite the presence of statute.** *T.C.A.* §49-3-359 (c) requires local education agencies to hire school nurses, to contract with the Tennessee public school nurse program created within the Department of Health at *T.C.A.* § 68-1-2101, or to submit to the Department of Education an alternative arrangement for meeting student health needs. The Department of Health has not implemented this program since it lost its funding in 1992. As a result, a school system cannot contract with that program. (See page 1.) However, nine school systems contract with or otherwise depend upon the services of county health departments to some degree.

***T.C.A.* §49-3-359, addressing the use of BEP funds for school nurses, is unclear and open to various interpretations.** This statute states that an LEA must use BEP funds generated for school nurses to directly employ or contract for a public school nurse or to advise the Department of Education that it has decided to do neither and notify the department of an alternative arrangement to meet the health needs of its students. In 1998, the attorney general issued two opinions dealing with withholding BEP funds for noncompliance with the statute. The first opinion stated that the statute does not give authority to fund any alternative program with BEP dollars. However, the second opinion said that the Commissioner of Education's interpretation of the statute allowing a school system to use the BEP funds for an alternative arrangement is defensible.

The statute also allows LEAs to employ school nurses or contract with the public school nurse program established by *T.C.A.* § 65-1-1201, which now has no nurses to furnish to school systems. Some school systems contract with other entities such as home health agencies, hospitals, or local health departments. It is unclear, given the wording of the statute, whether or not such contracts are permissible.

Moreover, the wording dealing with the submission of an alternative arrangement to meet the health needs of students in lieu of employing a school nurse or contracting with the public school nurse program could result in substandard services being delivered to children. Because an alternative arrangement does not require approval by the

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<sup>16</sup> Interview with Lynn Jackson, School Health Consultant, Tennessee Department of Health, Nov. 18, 1998.

Commissioner of Education, there is an increased risk of a costly judgment against the LEA if the plan is not adequate.

In FY98-99, the BEP generated a total of \$3.2 billion for public schools, of which \$10.1 million, or .31 percent, was generated to support 328 school nurses at the statutory nurse to student ratio of 1:3000. Results of the OEA survey indicate that 95 school systems employ nurses, 20 systems contract for nurses, and 12 systems report a combination of employed and contracted nurses. Altogether, schools employ 364.61 nurses and contract for 128.04, totaling 492.65. Of the 127 schools employing or contracting for nurses, 106, or 83 percent, meet or are better than the nurse to student ratio of 1:3000.

Another seven systems have submitted alternative arrangements to the Department of Education. Only four school systems neither employ nor contract for school nurses, nor have they submitted alternative arrangements to the Department of Education. One of these systems reports it has an emergency medical technician on staff and uses the hospital when needed for special education students. Another states that it has a cooperative agreement with the county health department and will submit this as an alternative arrangement to the Department; the third contracts with a hospital when needed for special education students; and the fourth has a contract with a registered nurse to tube feed one special education student.

Exhibit 2 starting on page 13 illustrates how each school system has chosen to use its BEP funds.

**School health and nursing services are inconsistently implemented across the state.**

Several factors contribute to confusion about expectations of school nurses on the part of school superintendents and nurses alike:

- School nurses are addressed in two different titles (49 and 68) of *Tennessee Code Annotated*.
- There is no sponsoring agency to administer the program.
- Few policies exist to guide local education agencies in the establishment of school nursing services other than those dealing with the administration of medications and the performance of health procedures.

Moreover, the lack of rules to provide guidance to LEAs results in uncertainty about how to implement a school nurse program. For example, some school systems have hired nurses to perform health procedures for medically needy children to meet requirements of special education laws, but the nurses do not serve the general population as intended in a school nurse program. Other school systems may hire licensed practical nurses (LPNs), but do not ensure proper supervision as required by the Board of Nursing. Interviewees indicate that some superintendents, lacking knowledge of the rules of nursing practice, have given orders to nurses that could endanger their licenses.

**Tennessee statutes do not define qualifications for school nurses.** *T.C.A.* §49-3-359 requires school nurses to meet or exceed qualifications established in *T.C.A.* §68-1-1204(a). This statute does not list qualifications, but rather requires the Commissioner of Health to promulgate rules to implement the public school nurse program. In 1989 the Department of Health promulgated rules regulating the school nurse program, but maintains that the rules cannot be implemented either without staff or funding. These rules are applicable only to the implementation of the school program by the Department of Health. See page 18 for more information about licensure qualifications.

**EXHIBIT 2**  
**EMPLOYED & CONTRACTED SCHOOL NURSES**  
**AND ALTERNATIVE ARRANGEMENTS FOR MEETING SCHOOL HEALTH NEEDS, 1998-99**

| System               | Total Students | Funded | Employed RNs | Employed LPNs | Contracted RNs | Contracted LPNs | Comments   |
|----------------------|----------------|--------|--------------|---------------|----------------|-----------------|--|
| Anderson             | 6,953          | 2.5    | 3.3          |               |                |                 |  |
| Clinton              | 1,006          | 1      | .5           |               |                |                 |  |
| Oak Ridge            | 4,763          | 1.5    | 1            |               |                |                 | Contracts by the hour with 3 additional part time individual RNs   |
| Bedford              | 5,966          | 2      | 2            |               |                |                 |  |
| Benton               | 2,554          | 1      | 1            |               |                |                 |  |
| Bledsoe              | 1,672          | 1      |              | 2             | .53            |                 | Contracts with individual RN   |
| Blount               | 10,549         | 3.5    | 4.5          | 1.5           |                |                 |  |
| Alcoa                | 1,346          | 1      |              |               | .5             |                 | Contracts with Blount Memorial Occupational Health Center  |
| Maryville            | 4,084          | 1.5    | 4            | 1             |                |                 | Survey noted that all nurses are special education nurses paid with special education funds with some BEP dollars; they spend limited amount of time with regular students |
| Bradley              | 8,871          | 3      | 3            | 2             |                |                 |  |
| Cleveland            | 4,430          | 1.5    | 2            | .5            |                |                 |  |
| Campbell             | 6,608          | 2      | 1            |               |                |                 | Also contracts for RNs & LPNs for health procedures  |
| Cannon               | 2,049          | 1      | 1            |               |                |                 |  |
| Carroll              | 13             | 1      |              |               | 1              |                 | Contracts with individual  |
| Hollow Rock-Bruceton | 836            | 1      |              |               | 1              |                 | Contracts with hospital  |
| Huntingdon           | 1,406          | 1      |              |               |                |                 | Contracts with hospital for one RN five times per week for 30 minutes per session  |
| McKenzie             | 1,381          | 1      |              |               | 1              |                 | Contracts with hospital  |
| South Carroll        | 411            | 1      |              | .8            |                |                 | Supervised by physician who does on-site visit once/year   |
| West Carroll         | 1,169          | 1      |              |               |                |                 | Alternative plan – contract with Trezevant Clinic  |
| Carter               | 6,303          | 2      | 3            | 1             |                |                 |  |
| Elizabethton         | 2,166          | 1      | 1            |               |                |                 |  |
| Cheatham             | 6,585          | 2      | 1.5          | .5            |                |                 |  |
| Chester              | 2,437          | 1      | 1            |               |                |                 |  |
| Claiborne            | 4,735          | 1.5    | 2            |               |                |                 |  |
| Clay                 | 1,241          | 1      | 1            |               |                |                 |  |
| Cocke                | 4,640          | 1.5    | 1.5          | 1             |                |                 |  |
| Newport              | 748            | 1      | 1            |               |                |                 |  |
| Coffee               | 4,121          | 1.5    | 2            |               |                |                 |  |
| Manchester           | 1,203          | 1      | .5           | 1             |                |                 |  |
| Tulahoma             | 3,420          | 1      | 1            | 2             |                |                 |  |
| Crockett             | 1,765          | 1      |              |               | .68            |                 | Bells & Crockett County contract with Alamo for the services of a shared nurse   |
| Alamo                | 538            | 1      | .16          |               |                |                 |  |
| Bells                | 323            | 1      |              |               | .16            |                 |  |
| Cumberland           | 6,533          | 2      | 1            | 5             |                |                 |  |
| Davidson             | 69,078         | 23     |              |               | 24             | 6               | Contracts with Metro Health Department;also has 4 school-based clinics   |

| System      | Total Students | Funded | Employed RNs | Employed LPNs | Contracted RNs | Contracted LPNs | Comments  |
|-------------|----------------|--------|--------------|---------------|----------------|-----------------|---|
| Decatur     | 1,844          | 1      |              |               | 1              |                 | Contracts with Decatur County General Hospital  |
| DeKalb      | 2,684          | 1      | 1            |               |                |                 | Also contracts with an agency for LPN to perform health procedures  |
| Dickson     | 7,924          | 2.5    | 8            |               |                |                 |   |
| Dyer        | 3,511          | 1      | 2            | 4             |                |                 |   |
| Dyersburg   | 3,314          | 1      | 2            | 1             |                |                 |   |
| Fayette     | 3,980          | 1.5    | 1            | 1             |                |                 |   |
| Fentress    | 2,353          | 1      | 1            | .5            |                |                 |   |
| Franklin    | 6,000          | 2      | 1            | 3             | 1              |                 | Contracts with Middle Tennessee Home Health for the RN  |
| Gibson      | 2,377          | 1      | 1            |               |                |                 |   |
| Humboldt    | 2,032          | 1      | .5           |               |                |                 | ½ time health occupations teacher, ½ time school nurse  |
| Milan       | 2,104          | 1      | 1            |               |                |                 |   |
| Trenton     | 1,496          | 1      | 1            |               |                |                 |   |
| Bradford    | 663            | 1      |              |               |                |                 | Alternate plan – relies on medical clinic   |
| Giles       | 4,806          | 1.5    | 3            |               |                |                 |   |
| Grainger    | 3,133          | 1      | 1            |               |                |                 |   |
| Greene      | 6,740          | 2      | 2            | 1             |                |                 |   |
| Greeneville | 2,572          | 1      |              |               | 1              |                 | Contracts with health department  |
| Grundy      | 2,393          | 1      | 1            | .5            |                |                 |   |
| Hamblen     | 8,975          | 3      | 2            |               |                | 1               | Contracts with Hamblen Health Care Systems and Lakeway Hospital   |
| Hamilton    | 42,224         | 14.5   | 6            |               | 15             | 1               | Contracts with 3 individual RNs & with Erlanger Health Systems for 12 RNs   |
| Hancock     | 1,178          | 1      |              |               |                |                 | Alternative plan – ETSU has school-based clinic at Hancock High School; in process of establishing clinic in elementary school          |
| Hardeman    | 4,686          | 1.5    | 2            |               |                |                 |   |
| Hardin      | 4,026          | 1.5    | 1            | .5            |                |                 |   |
| Hawkins     | 6,913          | 2.5    | 2            |               |                |                 |   |
| Rogersville | 632            | 1      | 1            |               |                |                 |   |
| Haywood     | 3,786          | 1.5    | 1            |               |                |                 |   |
| Henderson   | 3,399          | 1      | 1            | 2             |                |                 |   |
| Lexington   | 930            | 1      |              |               |                |                 | Has emergency medical technician on staff; uses Hospital when needed for special education students                                     |
| Henry       | 3,345          | 1      | 1            | 4             |                |                 |   |
| Paris       | 1,486          | 1      | 1            |               |                |                 |   |
| Hickman     | 3,520          | 1      | 2            |               |                |                 |   |
| Houston     | 1,388          | 1      |              |               |                |                 | Alternative Plan – RN in health occupations program consults with schools; hospital & health clinic are within 5 minutes of each school |
| Humphreys   | 3,102          | 1      | 1            |               |                |                 |   |
| Jackson     | 1,600          | 1      |              | 1             |                |                 |   |
| Jefferson   | 6,306          | 2      | 2            | 2             |                |                 |   |
| Johnson     | 2,369          | 1      | .25          | 4             |                |                 | RN is also .75 teacher at vocational school   |
| Knox        | 52,138         | 17.5   | 26           | 11            |                |                 | Also has 2 school-based clinics   |
| Lake        | 981            | 1      |              |               |                |                 | Alternative plan – county health department & Primary Care Clinic   |
| Lauderdale  | 4,889          | 1.5    | 3            |               |                |                 |   |

| System       | Total Students | Funded | Employed RNs | Employed LPNs | Contracted RNs | Contracted LPNs | Comments   |
|--------------|----------------|--------|--------------|---------------|----------------|-----------------|--|
| Lawrence     | 6,847          | 2.5    | 1            | 2             |                |                 |  |
| Lewis        | 1,923          | 1      | 1            |               |                |                 |  |
| Lincoln      | 4,219          | 1.5    | 1            |               |                |                 |  |
| Fayetteville | 1,108          | 1      | 1            |               |                |                 |  |
| Loudon       | 4,582          | 1.5    |              | 1             | .5             |                 | Did not address who supervises the LPN   |
| Lenoir City  | 1,852          | 1      | 2            |               |                |                 | Also has 2 school-based clinics  |
| McMinn       | 5,581          | 2      |              |               |                | 1               | Contract with Woods Memorial Hospital for LPN & supervision  |
| Athens       | 1,737          | 1      | 1            |               |                |                 |  |
| Etowah       | 377            | 1      |              |               |                | .5              | Contract with Woods Memorial Home Health; LPN supervised by RN   |
| McNairy      | 4,107          | 1.5    | 1.5          |               |                |                 |  |
| Macon        | 3,443          | 1      |              |               | 1              | 2               | Contracts with hospital  |
| Madison      | 13,754         | 4.5    |              | 1             | 6              |                 | Contracts with W TN Public Health Department   |
| Marion       | 4,331          | 1.5    | 1            | 1             |                |                 |  |
| Richard City | 289            | 1      |              |               |                |                 | Has cooperative agreement with health department, will submit alternative plan to DOE                              |
| Marshall     | 4,763          | 1.5    | 2            | 3             |                |                 |  |
| Maurry       | 11,758         | 4      | 3            | 1             |                |                 |  |
| Meigs        | 1,716          | 1      | 1            | 2             |                |                 |  |
| Monroe       | 4,873          | 1.5    | 1            |               |                |                 |  |
| Sweetwater   | 1,303          | 1      | 1            |               |                |                 |  |
| Montgomery   | 22,770         | 7.5    | 4            | 26            |                |                 |  |
| Moore        | 994            | 1      | 1            |               |                |                 |  |
| Morgan       | 3,328          | 1      | 1            |               |                |                 | Also contracts with RN for health procedures   |
| Obion        | 4,105          | 1.5    | 4            |               |                |                 |  |
| Union City   | 1,446          | 1      | 1            |               |                |                 |  |
| Overton      | 3,133          | 1      |              |               |                | 1               | Contracts with individual; Supervised by teacher/RN  |
| Perry        | 1,217          | 1      |              | 1             | .38            |                 | Contracts with individual RN to supervise LPN 15 hrs/week  |
| Pickett      | 791            | 1      |              |               |                |                 | Alternative plan – contracts on an as-needed basis with the local health department and local physician            |
| Polk         | 2,318          | 1      |              |               |                | 1               | Contract with individual; supervised by physician who make contact 5 times/week                                    |
| Putnam       | 9,467          | 3      | 3            | 10            |                |                 |  |
| Rhea         | 3,779          | 1.5    | 4            |               |                |                 |  |
| Dayton       | 775            | 1      |              |               | 1              |                 | Contracts with Rhea Medical Center   |
| Roane        | 5,907          | 2      | 1            | 3             |                |                 |  |
| Harriman     | 1,538          | 1      | 1            |               |                |                 |  |
| Robertson    | 9,766          | 3.5    | 5            | 5.8           |                |                 |  |
| Rutherford   | 23,740         | 8      | 11           |               |                |                 |  |
| Murfreesboro | 5,550          | 2      |              |               | .5             |                 | 2 teachers are also registered nurses and are on call; contract with individual part-time RN for health procedures |
| Scott        | 2,864          | 1      | 1            | 1             |                |                 |  |
| Oneida       | 1,175          | 1      |              | 1             | 1              |                 | Contracts with individual family nurse practitioner who also supervises the LPN                                    |

| System        | Total Students | Funded | Employed RNs | Employed LPNs | Contracted RNs | Contracted LPNs | Comments  |
|---------------|----------------|--------|--------------|---------------|----------------|-----------------|---|
| Sequatchie    | 1,776          | 1      | 1            |               |                |                 |   |
| Sevier        | 11,600         | 4      | 7            |               |                |                 |   |
| Shelby        | 47,225         | 15.5   |              |               | 20.1           |                 | Contract with Memphis/Shelby County Health Dept.; the number of nurses at any given time varies because of turnover   |
| Memphis       | 11,457         | 37     | 1            | 8             | 21             | 6               | Contracts with LeBonheur Children's Medical Center, county health department, Methodist Alliance; contract with LeBonheur is alternative plan to implement comprehensive school health program; also has 2 school-based clinics |
| Smith         | 3,095          | 1      | 1            |               |                |                 |   |
| Stewart       | 1,984          | 1      | 2            | 1             |                |                 |   |
| Sullivan      | 13,410         | 4.5    | 1            |               | 2              |                 | Planning to contract for 2 additional part-time RNs   |
| Bristol       | 3,626          | 1      |              |               | .5             |                 | Contract with Wellmont Health Care ; contractor provides specific medical services to special education students  |
| Kingsport     | 6,319          | 2      | 9.3          | 2             |                |                 |   |
| Sumner        | 21,956         | 7.5    | 3            | 6             |                |                 |   |
| Tipton        | 9,435          | 3      |              |               | 1              | 4               | Contract with hospital  |
| Covington     | 969            | 1      |              |               |                | 1               | Contract with Baptist Hospital which furnishes RN supervision   |
| Trousdale     | 1,221          | 1      |              | 1             |                |                 | Contracts with RN for 50 hrs/9 months to supervise LPN  |
| Unicoi        | 2,586          | 1      |              | 2             |                |                 | Supervised by supervisor of health & safety who is RN   |
| Union         | 2,983          | 1      |              |               |                |                 | Has personal contract with an RN to tube feed one special education student; has not submitted alternative plan to Department of Education  |
| Van Buren     | 799            | 1      |              |               |                |                 | Alternative plan – school personnel assist with medications; have contract with county health department for RN when the need arises  |
| Warren        | 6,334          | 2      | 2            |               |                |                 | Also has 4 part-time RNs  |
| Washington    | 8,386          | 3      | 4            | 2             |                |                 |   |
| Johnson City  | 6,685          | 2      | 2            | 7.5           |                |                 | Also has 2 school-based clinics   |
| Wayne         | 2,701          | 1      | 1            | 1             |                |                 |   |
| Weakley       | 5,191          | 1.5    | .5           | .5            |                |                 | Also has alternative plan for director of nursing to train on the self-administration of medications  |
| White         | 3,852          | 1.5    | 1            | 1             |                |                 |   |
| Williamson    | 17,288         | 6      | 2            |               | 4.85           | .87             | Contracts with individuals (1 x.5 RN); (5 x.875 RNs)(1 x .875 LPN)  |
| Franklin City | 3,791          | 1.5    | 1            |               |                |                 |   |
| Wilson        | 11,587         | 4      | 3            | 1             |                |                 |   |
| Lebanon       | 2,743          | 1      | 2            | 1             |                |                 |   |
|               | 893,152        | 328    | 218.01       | 146.6         | 102.67         | 25.37           | Grand Total = 492.65  |

Sources: BEP Model, 1998-99  
and Office of Education Accountability Survey, November 1998.

**Statutes do not clearly define duties to be performed by school nurses.** *T.C.A. §68-1-1202* delineates the duties and responsibilities of the executive director of the public school nurse program. However, *T.C.A. §49-3-359*, which passed at the time the Health Department's program lost its funding, gives these duties and responsibilities to the public school nurses. Some of these duties and responsibilities, however, are administrative functions such as reporting to the Governor and General Assembly and may be more appropriate for the state Department of Education or the state Department of Health than for school nurses in LEAs.

The OEA survey asked superintendents for their opinions on the role of school nurses. The ten most frequent answers were:

1. administer medications (31)
2. provide health education (30)
3. perform health procedures (26)
4. handle emergencies (24)
5. conduct screenings (19)
6. provide training for staff (18)
7. check/monitor/maintain records (15)
8. oversee administration of medications (14)
9. consultation with parents (11)
10. first aid (10)

Superintendents also gave more than 55 other answers to this question indicating a wide array of activities and reinforcing the need for responsibilities to be clearly defined in statute, rules, or policy.

**Tennessee's legislation dealing with administering medications and performing health care procedures is more restrictive than in many other states and than guidelines adopted by the National Council of State Boards of Nursing and the Tennessee Board of Nursing.**

In 1996, the General Assembly passed legislation governing the administration of medications and the performance of health care procedures to students during the school day or at related events. The sponsors designed the bill, supported by the Tennessee Education Association, to halt the practice of teachers, teachers' aides, school secretaries, and other non-health care personnel giving medications to children and performing health care procedures. Such health care procedures include clean intermittent catheterization, tube feeding, tracheostomy care, naso-suctioning, routine intramuscular injection, routine subcutaneous injection, blood glucose monitoring, and nebulizer treatment.

The statute, codified at *T.C.A. §49-5-415*, requires that health care procedures, including administration of medications, be performed by 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 nonpublic schools. (See Appendix C.) This statute, however, allows non-licensed personnel to assist a student in self-administering medications under certain conditions:

- the student's competence to self-administer,
- the stability of the student's condition,
- the proper documentation of self-administration,
- the following of guidelines developed by the Departments of Health and Education and approved by the board of nursing,

- written permission of the student's parent or guardian, and
- whether the assistance is primarily storage and timely distribution of medication.

In settings other than schools, such as hospitals and nursing homes, trained personnel other than licensed health care professionals may administer medications and perform some health procedures. Laypersons can learn to perform the procedures easily and in little time. Some teachers, however, were concerned that they spent an inordinate amount of time tending to the medical needs of students in their classes, taking valuable time away from teaching.

## **Best Practices of Model School Health Services**

**Tennessee has not developed standards for licensure, qualifications, or staffing for school nursing programs by either statute or agency rules.** All states have enacted legislation dealing with some aspect of school health expectations. Some legislation is directive (Kentucky, New Jersey, Minnesota, and West Virginia), while others offer recommendations. Some have broad mandates that establish expectations, yet allow local flexibility. Others are very detailed.

Sometimes states customize standards set by national organizations. The credentials of licensure and certification for school health service personnel vary from state to state. A license is a legal credential establishing that a person has basic competencies for generalized practice in a discipline. A certificate is another form of credential that signifies individuals are prepared to function in a specialty role. Certification generally requires a license as well as meeting additional standards of education and experience.

**National nursing organizations assert that school nurses should be registered nurses; however, Tennessee statutes do not specify this as a qualification.** Some school superintendents believe that they are allowed to hire only LPNs because the statute does not require them to hire RNs.

In Tennessee, all nurses must meet licensure requirements set by the State Board of Nursing to practice as registered nurses or as licensed practical nurses. Registered nurses practice under protocols approved by a physician or dentist. The State Board of Nursing Rules prohibit LPNs from practicing except under the supervision of a physician, registered nurse, or dentist. An LPN may perform only duties that have been delegated by such a professional.

Eight Tennessee school systems have hired or contracted with only LPNs. Off-site personnel supervise these LPNs. The professional supervising the LPN must be assured that the LPN is competent to perform delegated duties. It is questionable whether a licensed practical nurse can be adequately supervised as required unless a physician, dentist, or registered nurse is also on the school staff to provide frequent observation. The Board of Nursing investigates when it receives complaints concerning nursing practice.

Another argument in favor of hiring RNs is that LPNs are trained only as technical nurses, meaning they can perform delegated health procedures, but do not have the educational background and training to perform as school nurses.<sup>17</sup>

Advocates, including the American Academy of Pediatrics, insist that school nurses should not only be RNs rather than LPNs, but that they should have baccalaureate

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<sup>17</sup> Interview with Louise Browning, Executive Director, and Carolyn Whitaker, Mary Kornguth, and Patti Scott, Members, Tennessee Nurses Association, November 30, 1998.

degrees as well. They state that associate-degreed RNs, like LPNs, do not have the background in management, assessment, and treatment necessary to manage health problems now being handled in schools.<sup>18</sup>

Louisiana, North Carolina, Oklahoma, and West Virginia are among states requiring either by statute or regulation that school nurses be RNs. Additionally, West Virginia, Nevada, Wisconsin, and North Carolina require school nurses to have baccalaureate degrees.<sup>19</sup>

The University of Colorado Office of School Health offers graduate coursework for school nurse practitioners and school health administrators, providing both clinical and management skills for school health programming. The school also provides technical assistance, training, and evaluation for Colorado's programs.<sup>20</sup> Tennessee has no formal equivalent, but instructors at the School of Nursing at Tennessee Technological University facilitate frequent meetings of school nurses at which they provide technical assistance and training.

**School nursing is a specialty with its own body of knowledge and differs from any other type of nursing practice.** The American Nurses Credentialing Center, a subsidiary of the American Nurses Association, and the National Association of School Nurses offer certification in the specialty of school nursing. Certification requirements of the American Nurses Credentialing Center are found in Appendix H.

Both national organizations and state agencies can award certification. North Carolina requires school nurses to be certified by the American Nurses Association or the National Association of School Nurses.<sup>21</sup> Nevada requires further education through post-graduate courses or certification by the National Association of Nurses. Oregon requires school nurses to be certified through the state's Teacher Standards and Practices Commission.<sup>22</sup> California offers certification to registered nurses who have baccalaureate degrees, complete an approved program equivalent to 24 semester units of graduate study, and have two years of school nursing practice.<sup>23</sup> Florida has no minimum standard for education or experience to practice as a school nurse, but offers a three-day training program.<sup>24</sup>

Interviewees indicate some Tennessee school systems have hired nurses whose experience has been in fields other than school health, such as oncology or geriatrics. Such nurses may not be familiar with the functions characterizing the specialty of school nursing. These functions, as described by the American Nurses Credentialing Center, include health education, emergency care, illness and injury prevention, and community relations, as well as faculty and administrative responsibilities. However, there are probably not enough nurses with experience in school health for school systems to do otherwise.

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<sup>18</sup> Policy Statement taken from: [www.aap.org/policy/01584](http://www.aap.org/policy/01584), Oct. 12, 1998.

<sup>19</sup> Taken from surveys conducted by NCSL, SREB, and other organizations.

<sup>20</sup> Available at: [www.uchsc.edu/sn/osh](http://www.uchsc.edu/sn/osh).

<sup>21</sup> Survey conducted by Southern Regional Education Board, Feb. 1998.

<sup>22</sup> Oregon Revised Statutes § 342.475.

<sup>23</sup> Available at: [www.csno.org/definSN](http://www.csno.org/definSN), Oct. 12, 1998.

<sup>24</sup> Florida Department of Education and the Department of Health, *Living and Learning Healthy: Florida's Coordinated School Health Program*, p.8.

**Tennessee's statutory nurse-to-student ratio is significantly higher than that recommended by the American Nurses Association, the National Association of School Nurses, and the American School Health Association.** Tennessee first enacted its nurse to student ratio of 1:3,000 in 1988 when the General Assembly created the Tennessee public school nurse program. The sponsor of the 1992 school nurse legislation did not seek to increase the number of nurses because it might be cost prohibitive.

The National Association of School Nurses, the American Nurses Association, and other professional organizations recommend the following ratio:

- 1:750 in the general student population;
- 1:225 in the mainstreamed population;
- 1:125 in severely chronically ill or developmentally disabled population;
- A nurse to student ratio based on individual needs in the medically fragile population

In FY98-99, the BEP generated a total of \$10.1 million to fund 328 nurses. To meet a ratio of 1:750 (inclusive of both regular and special education students), the BEP would have to generate an additional \$30.3 million for 984 more nurses. If Tennessee were to even halve its ratio to 1:1,500, an additional \$10.1 million would be needed for 328 more nurses. Over 2,100 total nurses would be needed to meet all the nationally recommended standards in Tennessee, costing in excess of \$66.5 million.

Of the 127 school systems reporting to the Office of Education Accountability that they employ or contract for nurses, 106, or 83 percent, meet nurse-to-student ratio of 1:3,000, or have a lower ratio.

Not all states mandate a nurse to student ratio and the ratio varies among those that do. Many jurisdictions find the recommended ratios to be too expensive. Some states have legislation mandating a ratio, but do not fund it. In general, one or a combination of the following criteria determine staffing decisions:<sup>25</sup>

- Number of students in an area of responsibility
- Population density
- Number of handicapped students
- Health services and education to be provided to all students or a portion of students
- Federal, state, and local funding
- Federal, state, and local regulations
- Identified health care delivery personnel
- Poverty

Nevada passed a bill in 1995 requiring each school district to develop a plan to achieve and maintain a ratio of one nurse for every 1,000 students.<sup>26</sup> Alabama has provided for a 12-year phase-in of school nurses. Beginning in FY 1999-2000, each school system must employ at least one nurse. By FY2010-11, school systems must have at least one nurse for every 2,000 students.<sup>27</sup> Missouri schools are not required to have a school nurse on the premises, but each school district must develop a health services plan

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<sup>25</sup> American Nurses Association, *Standards of School Nursing Practice*, 1983, p. 18.

<sup>26</sup> NCSL Report on School Health/School-based Services, 1995, p. 24.

<sup>27</sup> Available at: [www.edweek.org/context/states](http://www.edweek.org/context/states), Nov.3, 1998.

under the supervision of a health professional as part of state accreditation for the schools.<sup>28</sup>

Exhibit 3 illustrates advantages and disadvantages of several variables in staffing arrangements.

**Exhibit 3—Nurse Staffing in Schools**

| <b>Category</b>                      | <b>Advantages</b>  | <b>Disadvantages</b>   |
|--------------------------------------|--|--|
| Licensed Practical Nurse (LPN) Alone | Usually costs less than registered nurse. Might be able to meet some basic needs (e.g., immunization records or first aid).  | Requires additional resources for supervision. (Cannot practice without supervision by a physician, registered nurse, or dentist.)<br>LPN is technical nurse and lacks base of knowledge and skills of registered nurse.                                     |
| LPN with Registered Nurse            | Frees the registered nurse for more urgent duties.<br>Can decrease costs, depending on nurse:student ratio.  | Can increase costs, depending on nurse:student ratio.  |
| Nurse Teacher/Health Educator        | Has potential for integrating health services and health education.  | Half of job is usually sacrificed.   |
| Registered School Nurse              | Is readily available for children, teachers, and parents.<br>Focuses on improving attendance and learning by reducing or removing health-related barriers to education.<br>Has specialized base of knowledge and training for managing a school health program.<br>As a staff member, is familiar with education matters and is part of school "team." | Costs (however, lowers potential for liability).<br>Difficulty in locating qualified nurse to accept position for salary offered.  |
| Public Health Nurse                  | Costs to school district may be lower than district-employed school nurse.   | Services to schools may be diluted by other tasks.<br>May not be familiar with education matters and is not member of school "team."<br>May not be the same person at each school visit, reducing familiarity with students, staff, and school health needs. |

**School nursing advocates believe that school nurses are an integral part of the education system and should be employees of the school system.** They assert that being an employee of the system makes them part of the school team and on a level playing field with teachers.

*T.C.A. §49-3-359 (c)* requires local education agencies to hire school nurses, to contract with the Tennessee public school nurse program created within the Department

<sup>28</sup> Correspondence from Rebecca DeNeve, Research Analyst, Missouri House of Representatives, Nov. 2, 1998.

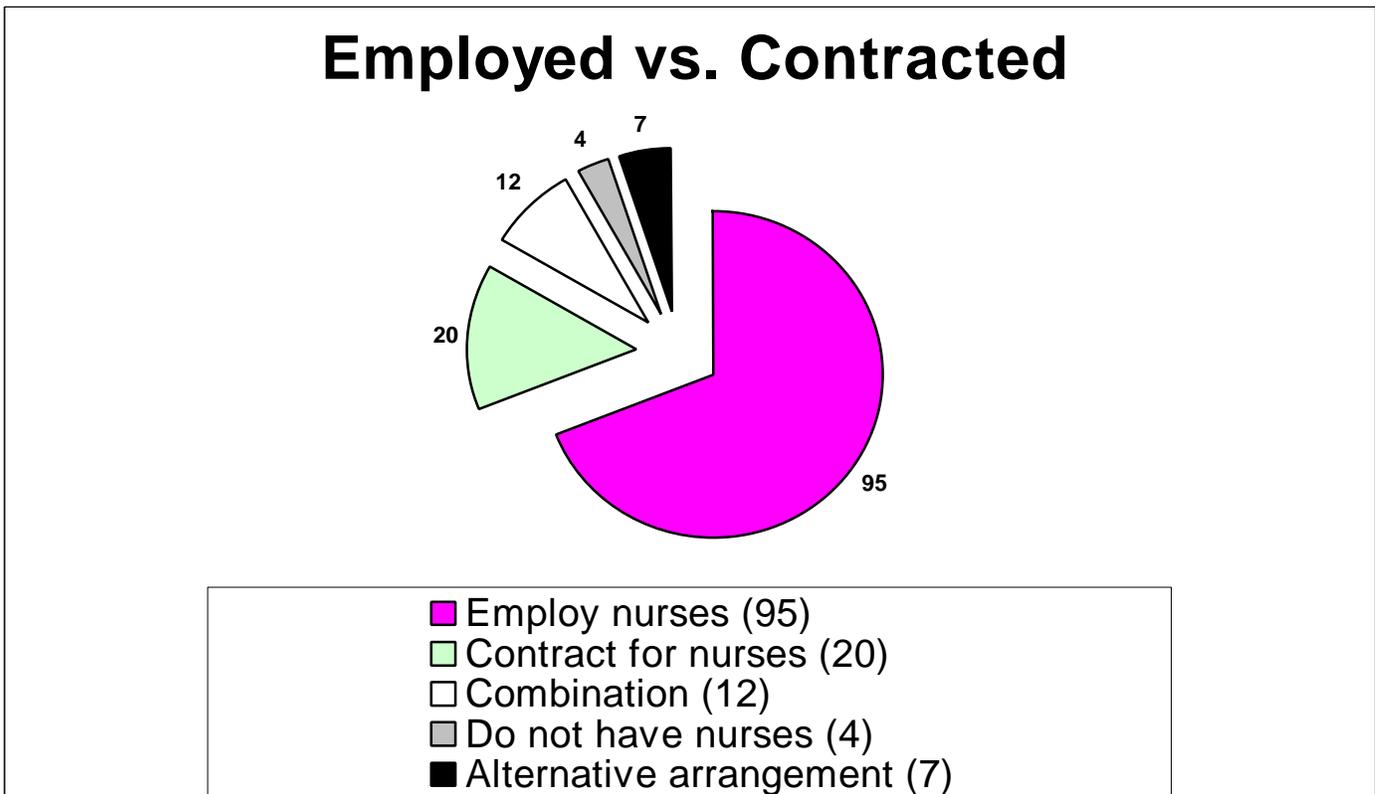
of Health at T.C.A. §68-1-2101, or to submit to the Department an alternative arrangement for meeting student health needs.

Ninety-five out of 138 school systems in Tennessee directly employ school nurses. Another 20 school systems report that they contract for nurses. (See Exhibit 4.) Four of these systems indicate they contract with the local health department; the rest contract directly with individual nurses or with other agencies to provide nurses. Seven school systems report that they have an alternative arrangement for meeting the health needs of their students.

Three of these plans involve a contract with another agency or individual for school nurses as suggested above.

Although contracting appeals to some superintendents, they may have less control over the program, resulting in poorer quality of service.

**Exhibit 4**  
**School Systems' Use of BEP Funds for School Health Services<sup>29</sup>**



### School Health Services Models

**No single model of school health services exists that will meet the needs of every community.** School health programs can provide a range of services that address health needs. The descriptions below illustrate various community needs and may help a school system determine what its program should offer.

<sup>29</sup> OEA Survey of School Superintendents.

All school systems should offer, at a minimum, the “core services only” model. Characteristics of individual communities, such as the level of poverty, access to health care providers, and transportation should be considerations to determine whether school systems implement the more inclusive models.

1. A “core services only model” might be the appropriate choice when a majority of students in a school system have access to health care from community providers. In this model, a school system has a nurse and provides special health services such as speech or physical therapy for students entitled to them through IDEA. School counselors and psychologists tend to devote their time to academic advising and testing, although some provide personal counseling. For other needs, schools refer students to community resources. The core services only model is the most frequently seen.

The core services every school should provide are:

- Screening, diagnostic, treatment, and health counseling services
  - Emergency care
  - Identification of and intervention for health problems
  - Assistance with medication
  - Health services for children with special needs
  - Health promotion, prevention education, and preventive services
  - Referrals to other community providers
2. Core plus expanded school health services model  
When students are unable to access community-based services or if communities lack providers, schools sometimes provide services in addition to the core services. The most common additional services provided are assistance for students’ behavioral, mental health, and substance abuse treatment needs. Schools either employ professionals to provide the services or contract with agencies or individuals.
  3. School-based health centers  
More than 900 schools in the U.S. have school-based health centers to provide primary care services for a select group of the school population. A school-based health center is located in a school or on school grounds and provides, at a minimum, on-site primary and preventive health care, mental health counseling, health promotion, referral and follow-up services. Some school-based health centers are components of larger organizational units such as family resource centers and others use personnel from other community resources to come to the school. Six Tennessee school systems report they have 13 school-based health centers.
  4. School-linked health centers  
A school-linked health center is located off school property and serves one or more schools. The center may also serve people from the area who are not students. Services include, but are not limited to, primary health care, screening and treatment, mental health counseling, health promotion, referral, and follow-up. A formal letter of agreement may or may not exist between the school and the health center.<sup>30</sup>

Any of these four service models can be incorporated into the health services component of a coordinated school health program as described next.

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<sup>30</sup> Paula Duncan and Judith B. Igoe, “School Health Services,” *Health is Academic: A Guide to Coordinated School Health Programs*, New York: Teachers College Press, 1998, pp. 182-3.

## Coordinated School Health Programs

Many national and state organizations promote the establishment of “coordinated (sometimes called ‘comprehensive’) school health programs” (CSHP) as defined by the Centers for Disease Control and Prevention.

A coordinated school health program is distinguished from Tennessee’s Lifetime Wellness curriculum in that the curriculum is episodic, being a one-unit course required for graduation. A coordinated school health program is an ongoing process affecting the total school environment, including students, staff, the physical plant, and indeed the entire community.

This program is comprised of eight components outlined below:

1. Comprehensive school health education—Classroom instruction, provided by qualified teachers, motivates and helps students obtain health-related knowledge, attitudes, skills, and practices. The curriculum includes topics such as personal health, family health, community health, consumer health, environmental health, sexuality education, mental and emotional health, injury prevention and safety, nutrition, disease prevention and control, and substance abuse.  
The comprehensive school health education component may include the Lifetime Wellness curriculum.
2. Physical education—A curriculum, provided by teachers, includes a variety of activities such as basic movement skills, physical fitness, rhythms and dance, games, sports, aquatics, and tumbling and gymnastics. Quality physical education promotes a variety of physical activities and sports that students enjoy and can pursue throughout their lives.
3. School health services—Services, provided by professionals such as doctors, nurses, dentists, and other health personnel, ensure access/referral to primary health care services, prevent and control communicable diseases, provide emergency care for illness or injury, and perform health procedures. The school nurse is generally the provider of the health services component and is recommended to be the team leader of the coordinated school health program structure.
4. School nutrition services—These services involve access to a variety of nutritious and appealing meals that meet the health and nutrition needs of all students. School nutrition programs reflect the US Dietary Guidelines for Americans and other criteria to achieve nutritional integrity. School nutrition services offer students a learning laboratory for classroom nutrition and health education. Qualified child nutrition professionals provide these services.
5. School counseling, psychological, and social services—These services to improve students’ mental, emotional, and social health include individual and group assessments, interventions, and referrals. Professionals such as certified school counselors, psychologists, and social workers provide these services.
6. Healthy school environment—The physical environment includes the school building and the area surrounding it. Physical influences include conditions such as temperature, noise, and lighting as well as biological or chemical agents that are detrimental to health. The psychological environment includes the physical, emotional, and social conditions that affect the well-being of students and staff.

7. School-site health promotion for staff—School staff should have opportunities to improve their health status through activities such as health assessments, health education, and health-related fitness activities. This creates positive role modeling for students. According to the CDC, health promotion activities have improved productivity, decreased absenteeism, and reduced health insurance costs as well as improved health, improved morale, and resulted in a greater personal commitment to the school's overall comprehensive health program.
8. Family and community involvement in schools—School health advisory councils or coalitions for school health can build support for school health program efforts. Schools should actively solicit parental involvement and encourage community resources and services to respond more effectively to the health-related needs of students.

Staff within the Departments of Education and Health support the concept of coordinated school health programs and have held numerous awareness and training sessions on the subject for school administrators and nurses. Within the last two and one-half years, the departments have conducted 40 to 50 in-service training sessions. In addition, they have jointly sponsored a school health conference with plans for another conference this year. However, these staff members have neither the specified responsibility nor authority to create any programs or enforce any requirements. The Department of Health employs a school health consultant who is also the director of population-based services within the health promotion/disease control section of the department. The primary responsibility to school nurses is to serve as a resource when they have questions about their practice. In the Department of Education, the school leadership and personnel development consultant also serves as the school health program consultant.

In several states the Centers for Disease Control and Prevention supports the salaries of staff in their education and health departments to develop and maintain an infrastructure for coordinated school health programs. In 1997, the Department of Education submitted an unsuccessful proposal to the CDC for such support. The Department would have used the funding to enhance its coordination with the Department of Health in an effort to establish, strengthen, or expand programs in Tennessee schools.

The specific goals in the proposal were to:

- strengthen or expand education intended to prevent or reduce tobacco use
- strengthen or expand education intended to prevent or reduce the risk factors associated with a sedentary lifestyle
- positively influence dietary patterns to prevent or reduce disease
- prevent or reduce sexual behaviors that can result in HIV infection, STDs, and unintended pregnancies

The department asked the CDC for \$205,281 in funding for the project. Personnel consisted of a program director and secretary. Other budget items included travel, supplies, equipment, contract for evaluation, a training consultant, training, duplicating, printing, phone, and postage.

In 1998, the Department of Health submitted a proposal to the administration, which would create six pilot sites at a cost of \$100,000 each. At the time of this report, the outcome of the proposal is unknown.

## Funding of School Health Programs

**States and school systems vary in their pursuit of financial support to maintain health services.** Historically, schools across the country have paid the cost with education dollars. However, some schools are now beginning to access other sources of funding. For example, some school districts pay for services that directly affect learning and public health agencies pay for health promotion, disease control, and prevention services. Sometimes insurance companies, HMOs, Medicaid, or other third-party sources provide some financial support.

Some states will use dollars from the tobacco settlement for additional funding for school health. Mississippi, for example, will use part of its tobacco settlement monies to award \$50,000 to 50 schools this year. The main purpose of these grants is to determine whether school nurses can make a difference in the extent of youth tobacco use and exposure to environmental tobacco smoke.<sup>31</sup> The Tennessee School Health Coalition believes that Tennessee should also appropriate some tobacco settlement funds for additional school nurse dollars.

Some states use discretionary federal block grant funding such as the Maternal and Child Health Block Grant, the Preventive Health Services Block Grant, and the Social Services Block Grant. Additionally, the Health Resources and Services Administration provides funding through the Healthy Schools, Healthy Communities grant program to demonstration sites providing preventive health services for students. The Universal Access to Immunizations program, administered by the Centers for Disease Control, provides immunizations at a nominal cost to children not covered by private insurance.

Title I of the Improving America's Schools Act of 1995 provides flexible formula grant funding from the U.S. Department of Education to help disadvantaged students meet high standards. Schools may use Title I funds to provide student health services that address the social, emotional, and physical health and safety of students. Title IV of the same act provides funds to state education agencies, governors' offices, and local education agencies for drug and violence prevention programs that may include drug prevention education, rehabilitation, or service delivery integration. Other revenue sources administered by the U.S. Dept. of Education include Education for Homeless Children and Youth as well as Prevention and Intervention Services for Youth Who Are Neglected and Delinquent or at Risk of Dropping Out. Schools may use these funds to support counseling, social work, and psychological services.

In other states, support available through Medicaid reimbursement is an increasing source of funding for school health services. The IDEA allows use of federal Medicaid funding for children with special education needs. A school health program can also bill Medicaid if it is an eligible provider and serves children under the Early Periodic Screening Diagnostic and Treatment (EPSDT) program. EPSDT funds a broad range of medically necessary health care services including physical and mental health assessments, immunizations, laboratory tests, and dental and vision services.<sup>32</sup>

Some school health providers perceive Tennessee's Medicaid Waiver Program, TennCare, to be burdensome to a school's ability to bill eligible services to Medicaid. The TennCare program operates through private managed care organizations (MCOs),

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<sup>31</sup> News Release from Mississippi Department of Health, August 26, 1998.

<sup>32</sup> Duncan and Igoe, pp. 185-6.

which require their enrolled patients to visit only health care providers who have qualified to become part of each MCO's network of providers. Some providers believe that the processes of documenting qualifications to join a network and seeking reimbursement for services are particularly lengthy, costly, and cumbersome. Considering the rate of reimbursement and the number of MCOs with which a school health program would need to affiliate, some program administrators do not believe it is worth the effort.

Two of Tennessee's school-based health centers, one in Hancock County and the other in Davidson, receive TennCare reimbursement for eligible children via affiliations with community clinics that are network providers for MCOs serving their respective areas. Both centers also receive grant funding.

Project TEACH, a cooperative effort between the Departments of Health and Education begun in January 1995 is intended to increase coordination of services to children with special health care needs and to improve the capability of local school systems to access third party payors, including TennCare, for services. Project TEACH is in place in about 32 school systems. The nurses attend multidisciplinary team (M-team) meetings in each school system and arrange for needed therapy services on TennCare eligible children to be provided through the appropriate MCO rather than funded by the school system.

Several states, like Tennessee, use state dollars to fund school health services. In FY 98-99, the BEP generated a total of \$3.2 billion for public schools, of which \$10.1 million, or .31 percent of the BEP, was generated to support 328 school nurses. Other main sources of funding in Tennessee are federal grants, foundations, and donations or in-kind services from hospitals and universities.

# Alternatives

## Legislative

### **The General Assembly may wish to amend Titles 49 and 68 relative to school nurses.**

Existing laws provide little direction because they do not clearly establish expectations for local education agencies or the Departments of Education and Health. A new School Nurse Practice Act could improve consistency across the state by creating standards, either through statute or the delegation of rulemaking authority to the Departments of Health or Education.

A new act could also clarify the General Assembly's intent regarding the roles of the Departments of Health and Education in the school nurse program as well as the program's "sponsorship." Any such clarification could also define the sponsoring agency's duties and enforcement powers to ensure that LEAs meet legal requirements related to school nurses, to establish criteria for the level of service needed, to develop and implement rules or policies to guide local education agencies in the delivery of school health and nursing services, and to develop a mechanism to collect relevant data to determine the level of compliance with laws and rules or policies.

**The General Assembly may wish to clarify its intent regarding the withholding of BEP funds to school systems not using such funds for school nurses.** Because of inconsistent opinions issued by the Attorney General in 1998, there is no clear direction to the Department of Education as to when BEP funds should be withheld.

A clarification should address the following issues:

- Whether it is acceptable for a school system to contract with an entity other than the public school nurse program as defined in the statute or whether a contract with another entity should be reported as an alternative arrangement;
- Whether the Commissioner of Education should have authority to approve alternative arrangements submitted by school systems and withhold BEP funds from school systems not hiring or contracting for school nurses and not submitting an *approved* arrangement.

## Administrative

**The Department of Education should consider whether central office staff resources are sufficient to administer the school nurse program.** Staff duties should include, but not be limited to, program design, consultation, data collection, evaluation, policy development and enforcement, and training. Absent legislation requiring otherwise, these responsibilities appear to be most appropriate with the Department of Education because of its administrative responsibilities to local education agencies, which have no accountability responsibilities to the Department of Health.

**The Departments of Education and Health may wish to enter into an interagency agreement whereby the Department of Health provides medical expertise to the Department of Education.** Staff within the Department of Health have professional knowledge, training, and experience in the areas of medical protocols, supervision, and procedures, which are lacking within the Department of Education.

**The Departments of Education and Health should develop a strategic plan for the adoption of coordinated school health programs across the state.** The importance of school health programs has long been recognized in the medical community and is gaining credence in educational circles. The Department of Education should again pursue a grant from the CDC for infrastructure support. The strategic plan should address administrative and programmatic funding, design, an implementation schedule, and recommendations for legislation.

*See Appendix I on page 49 for a copy of the Department of Education's responses to the report and alternatives.*

# Appendix A

## Tennessee Code Annotated 68-1-1201, et seq.

### 68-1-1201. Creation.

- (a) There is created within the department of health the Tennessee public school nurse program.
- (b) The chief medical officer for the state, appointed pursuant to § 68-1-102(c), shall serve as executive director of the program.
- (c) In order to attain the highest level of school attendance, to promote excellence of academic performance and achievement, and to significantly reduce school dropout rates, the executive director, acting through the program, shall strive to improve and safeguard the physical and mental health and well-being of the student population of Tennessee's public schools.

[Acts 1988, ch. 988, § 1.]

Cross-References. Parental consent for abortions by minors, title 37, ch. 10, part 3.

School nutrition standards, title 49, ch. 6, part 23.

Sex education, § 49-6-1005.

Sexually transmitted diseases, ch. 10 of this title.

Section to Section References. This section is referred to in §§ 49-3-359, 68-1-1202.

### 68-1-1202. Duties of executive director.

It is the duty and responsibility of the executive director of the program to:

- (1) Assist local education agencies in the development, implementation and coordination of student health policies with regard to first aid emergencies, medications, acute illnesses and infection control;
- (2) Provide local education agencies with information, advice and technical assistance pertaining to student and parental instruction on topics related to health and wellness, including, but not necessarily limited to:
  - (A) Family life education;
  - (B) Sexually transmitted diseases;
  - (C) Substance abuse;
  - (D) Nutrition;
  - (E) Infection control; and
  - (F) Depression;
- (3) Assist local education agencies in the provision of student health services, including, but not necessarily limited to:
  - (A) Medical screenings;
  - (B) Acute care;
  - (C) Health opinions for teacher referrals;
  - (D) Child abuse assessments;
  - (E) Counseling for students with chronic diseases; and
  - (F) Counseling for students who are engaging in, or who may be at risk of engaging in, behavioral patterns which jeopardize physical or mental health and well-being;
- (4) Assist and encourage local education agencies in developing and implementing efficient and effective policies and procedures to ensure parental notification, knowledge and endorsement of school health services and programs, including, but not limited to, efficient and effective policies and procedures to require and obtain prior parental consent

for student participation in the health services and programs offered by each local education agency; to fully encourage and maximize parental interest and involvement in all matters pertaining to the physical and mental health and well-being of students; and to ensure full parental access to the school health records of their children;

(5) Promote the exchange of information and referrals between local education agencies and physicians, health care professionals and sources of health care financial assistance;

(6) Assist the department of education in planning, developing and implementing the program of family life education technical support and assistance, as required by § 49-1-205;

(7) Aid the department of education in planning, developing and implementing technical support and consultative services to local education agencies, as required by § 49-1-302(f) (deleted);

(8) Assist the department of mental health and mental retardation in providing suitable programs of alcohol and drug education and prevention for local education agencies, as required by § 68-24-103;

(9) Report, on or before December 31 each year, to the governor, to each member of the general assembly, and to each member of the state board of education concerning implementation of the provisions of this subdivision and also concerning issues and recommendations relating to the physical and mental health and well-being of the state's public school students;

(10) Promote and encourage awareness and involvement of parents, civic groups, community organizations, private businesses and religious institutions on matters pertaining to the physical and mental health and well-being of the state's public school students;

(11) Engage in such other activities to improve and safeguard physical and mental health and well-being as may be necessary in order to attain the highest level of school attendance, to promote excellence of academic performance and achievement, and to significantly reduce school dropout rates; and

(12) (A) (i) Encourage and support public and nonprofit agencies in the development of model rural and urban comprehensive school health programs through a system of competitive, state administered grants.

(ii) The availability of such grants during any fiscal year shall be subject to the ability of the executive director to raise sufficient funds from other than state sources, including, but not limited to, federal sources and private foundations. To qualify for receipt of any such competitive, state administered grant, each model comprehensive school health program must provide preventive and primary health care services designed to attain the goals set forth in § 68-1-1201(c), and must also conform to the policies set forth in § 68-1-1205. The staff of each model program must also include, at a minimum, a certified pediatric or family nurse practitioner with adequate physician backup, and, when possible, should also include a certified health education specialist and a master social worker with adequate psychiatric backup. Each model program must also form a local advisory committee that includes, but is not necessarily limited to, representatives of the local education agency and the local offices of the departments of health and children's services. Each advisory committee shall strongly encourage active participation of parents and community-based providers of children and adolescent services. Each advisory committee shall undertake appropriate activities to encourage coordination of services and continued support for the model program. Each model program shall adopt and implement policies and procedures to assure parental consent, confidentiality, quality assurance and program evaluation.

- (B) (i) Organize and convene, acting jointly with the commission on children and youth, an interdepartmental committee to:
- (a) Develop policies, procedures, and criteria to govern selection of model comprehensive school health programs;
  - (b) Undertake appropriate activities to solicit grant applications from qualified public and nonprofit agencies;
  - (c) Develop policies, procedures and criteria for ensuring that grant recipients fully utilize all available sources of federal, state and local financial assistance and assistance from private foundations; and
  - (d) Design and implement policies to assure collection and analysis of data needed to evaluate the efficiency and effectiveness of individual model programs as well as the efficiency and effectiveness of the grant program.
- (ii) The interdepartmental committee shall include representation by the departments of mental health and mental retardation, education, children's services and labor, the black health care commission, the governor's council on physical fitness and health, the governor's drug-free task force, and the division of health access within the department of health, and shall also include one (1) citizen member who shall be a parent of a school-aged child, such citizen member to be appointed by the executive director of the public school nurse program who, prior to making such appointment, shall receive recommendations pertaining to such appointment from interested persons and groups.

[Acts 1988, ch. 988, § 1; 1989, ch. 373, § 1; 1991, ch. 508, § 1; 1996, ch. 1079, § 147.]

Compiler's Notes. Former § 49-1-302(f), referred to in this section, was deleted from that section by amendment in 1988.

Cross-References. Parental consent for abortion by minor, title 37, ch. 10, part 3.

Reporting requirement satisfied by notice to general assembly members of publication of report, § 3-6-114.

Sex education, § 49-6-1005.

Sexually transmitted diseases, ch. 10 of this title.

Section to Section References. This section is referred to in § 49-3-359.

### **68-1-1203. Transfer of personnel, etc. - New positions.**

- (a) (1) All personnel, positions, equipment and other resources of the department of health used or allocated exclusively or primarily for any school nurse program administered by the department, during the twelve-month period preceding July 1, 1988, shall be transferred to the program.
- (2) During future fiscal years, as additional funding is made available for such purpose within the general appropriation acts, new school nurse positions may be created within the program. However, in order to ensure orderly, efficient, and effective development, expansion of the program shall occur incrementally and shall not, in any given year, exceed the level at which quality of service or standards of supervisory control may be lowered.
- (b) (1) Nurses within the program shall be administratively attached and assigned to the various county and district health departments or local education agencies across the state; however, such nurses shall remain under the supervisory control and direction of the executive director of the school nurse program.
- (2) Until such time as the program shall employ school nurses in sufficient numbers to adequately provide services, (i.e., a ratio of at least one (1) permanent, full time, school nurse per three thousand (3,000) students, but in no case, less than one (1) permanent, full

time, school nurse for each county-wide system), to all local education agencies, the executive director shall give priority in the assignment of school nurses to those health departments or local education agencies which serve counties that are plagued by problems of poverty, unemployment and underemployment and are medically underserved to the greatest degree.

- (c) (1) In order to supplement the personnel resources otherwise available to the program, the executive director is authorized to enter into internship or residency agreements with any nursing school, accredited by the board of nursing, which offers a program of education and training for students preparing to become school nurses.
- (2) In the event of any such agreement, the executive director shall formulate guidelines to ensure that the activities of such student nurses are appropriately supervised and reviewed by departmental personnel.

[Acts 1988, ch. 988, § 1.]

Section to Section References. This section is referred to in § 68-1-1205.

#### **68-1-1204. Rules and regulations - Public school nurse advisory council.**

- (a) The commissioner of health, acting in consultation with the executive director of the program, is authorized to promulgate such rules and regulations as may be necessary to efficiently and effectively implement the provisions of this part.
- (b) (1) The rules and regulations shall include, but shall not necessarily be limited to, policies and procedures whereby a public school nurse advisory council may be created by a local education agency with one (1) or more full-time school nurses.
- (2) The primary purpose of the advisory council shall be to develop and submit recommendations to the executive director of the school nurse program and to the governing board of the local education agency concerning the effective and efficient utilization and coordination of state and local school nurse personnel and resources.
- (3) The membership of the advisory council shall include both locally employed school nurses and state employed school nurses.
- (4) All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

[Acts 1988, ch. 988, § 1; 1989, ch. 356, § 1.]

Section to Section References. This section is referred to in § 49-3-359.

#### **68-1-1205. Compliance with certain laws, etc., required of employees.**

Each employee of the program, including each intern resident employed pursuant to § 68-1-1203(c), shall at all times remain in compliance with, and shall fully abide by, all applicable federal, state and local statutes, rules, regulations, ordinances and policies pertaining to abortion. Furthermore, each employee of the program, including each intern or resident employed pursuant to § 68-1-1203(c), shall at all times remain in compliance with and shall fully abide by all applicable federal, state and local statutes, rules, regulations, ordinances and policies pertaining to birth control devices and contraceptives. While present on the property or premises of any local education agency or while otherwise engaged in the activities of the program, no such employee shall at

any time make abortion referrals or otherwise advocate or encourage abortion nor prescribe any form of birth control device or contraceptive. It shall be the policy of the program, and of each employee engaged in the activities of the program, including each intern or resident employed pursuant to § 68-1-1203(c), to vigorously encourage and urge students to abstain from entering into any sexual relationship or activity.

[Acts 1988, ch. 988, § 1.]

Cross-References. Parental consent for abortion by minor, title 37, ch. 10, part 3.  
Section to Section References. This section is referred to in § 68-1-1202.

**68-1-1206. Local agencies not preempted.**

The provisions of this part shall not be construed to terminate the ability of a local education agency to locally employ and supervise school nurses who are not employees of the program.

[Acts 1988, ch. 988, §§ 2, 3.]

## Appendix B

### Tennessee Code Annotated 49-3-359

#### **49-3-359. Basic education program funding for teacher's supplies, duty-free lunch periods, school nurses.**

- (a) There is included in the Tennessee basic education program an amount of money sufficient to pay two hundred dollars (\$200) for every teacher in kindergarten (K) through grade twelve (12). This money shall be used by the teachers for instructional supplies. One hundred dollars (\$100) shall be spent for such purpose as determined by each such teacher. The second one hundred dollars (\$100) shall be pooled with all such teachers in a school and spent as determined by a committee of such teachers for such purpose. The purpose of this pool is to permit purchase of items or equipment that may exceed an individual teacher's allocation, for the benefit of all such teachers at the school and the enhancement of the instructional program, and shall not be used for basic building needs such as HVAC, carpets, furniture, items or equipment for the teachers' lounge, or the like.
- (b) Each local education agency shall be entitled to receive funding of no less than two dollars (\$2.00) per ADM in kindergarten (K) through grade twelve (12) to be used for the purpose of providing a duty-free lunch period for each teacher.
- (c) There is included in the Tennessee basic education program an amount of money sufficient to fund one (1) full-time, public school nurse position for each three thousand (3,000) students or one (1) full-time position for each local education agency, whichever is greater. A local education agency may use such funds to directly employ a public school nurse or to contract with the Tennessee public school nurse program, created by § 68-1-1201(a), for provision of school health services; provided, that after the BEP is fully funded, a local education agency must use such funds to directly employ or contract for a public school nurse as provided for in this subsection or must advise the department of education that the local education agency has affirmatively determined not to do so, in which case the local education agency shall notify the department of the election against providing such service and the alternative arrangement which the local education agency has made to meet the health needs of its students.
  - (1) (2) Each public school nurse employed by or provided to a local education agency, pursuant to subsection (a), shall meet or exceed the minimum qualifications and standards established pursuant to § 68-1-1204(a), and shall perform the duties and responsibilities enumerated within § 68-1-1202.
- (d) The amounts provided in this section may be reduced pro rata by the commissioner of education during any year in which the basic education program appropriation is insufficient to fully fund the program.

## Appendix C

### Tennessee Code Annotated 49-5-415

#### **49-5-415. Assistance in self-administration of medications.**

- (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) The student must be competent to self-administer non-prescription or prescription medication with assistance;
  - (2) The student's condition, for which the medication is authorized and/or prescribed, must be stable;
  - (3) The self-administration of the medication must be properly documented;
  - (4) 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;
  - (5) 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
  - (6) Assistance with self-administration shall primarily include storage and timely distribution of medication.
- (e) 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.
- (f) 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.
- (g) 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.

# Appendix D

## Attorney General's Opinion No. 98-120 - 1998

July 9, 1998

Basic Education Program Funds, School Nurses

### QUESTION

1. If a local education agency ("LEA") elects to employ public school nurses, how many nurses are required by Tenn. Code Ann. § 49-3-359?
2. If an LEA elects to acquire nursing services other than by contract or employment, does the Department of Education have approval authority over the alternative allowed by Tenn. Code Ann. § 49-3-359(c)(1) to insure that an adequate plan exists to meet the health needs of the students?

### OPINIONS

1. Tenn. Code Ann. § 49-3-359 does not require LEA(s) to employ school nurses by contract or otherwise but only addresses state funding of those positions.
2. No. In the event an LEA elects to employ an alternative then the LEA must notify the State but the Department of Education has no statutory duty to approve the alternative.

### ANALYSIS

1. As a preliminary matter, it should be noted that Tenn. Code Ann. § 49-3-359 does not require LEA(s) to provide a minimum or maximum number of nurses. Tenn. Code Ann. § 49-3-359(c) provides as follows:

There is included in the Tennessee basic education program ["BEP"] an amount of money sufficient to fund one (1) full-time, public school nurse position for each three thousand (3,000) students or one (1) full-time position for each local education agency, whichever is greater. A local education agency may use such funds to directly employ a public school nurse or to contract with the Tennessee public school nurse program, created by § 68-1-1201(a), for provision of school health services; provided, that after the BEP is fully funded, a local education agency must use such funds to directly employ or contract for a public school nurse as provided for in this subsection or must advise the department of education that the local education agency has affirmatively determined not to do so, in which case the local education agency shall notify the department of the election against providing such service and the alternative arrangement which the local education agency has made to meet the health needs of its students.

(2) Each public school nurse employed by or provided to a local education agency, pursuant to subsection (a), shall meet or exceed the minimum qualifications and standards established pursuant to § 68-1-1204(a), and shall perform the duties and responsibilities enumerated within § 68-1-1202.

Therefore, while the statute does not mandate the use of school nurses, there is included in the BEP an amount sufficient to fund one full-time, public school nurse position for every 3,000 students or one full-time position, whichever is greater.<sup>1</sup> To use the examples you cited, for less than 3,000 students, the BEP would fund one full-time position and for 7,000 students, the BEP would fund two full-time positions.

2. Your second question involves interpretation of Tenn. Code Ann. § 49-3-359(c)(1) and whether the Department of Education must approve the alternative allowed. Before the BEP is fully funded, LEA(s) may use these funds to either employ or contract with the Tennessee public school nurse program. After the BEP is fully funded, the LEA(s) must do either of the following:
  - a) use the funds to employ or contract for public school nurses; or,
  - b) notify the Department of Education both that the LEA has affirmatively determined not to do so and of the alternative arrangement the LEA has made to meet the health needs of students.

The LEAs are authorized to use BEP funds only as directed. Tenn. Code Ann. § 49-3-359

provides that the amount of money included in the BEP is for school nurse positions. It is clear from the statute that the General Assembly was encouraging use of school nurses to address student health needs. There is no authority under Tenn. Code Ann. § 49-3-359 to fund any alternative program with BEP funds. Pursuant to Tenn. Code Ann. § 49-3-359(c), an LEA must notify the Department that it has affirmatively determined not to provide the services by the method provided by statute. The LEA(s) are also required to notify the Department of any "alternative arrangement." The statute requires that the LEA(s) report this information to the Department but places no corresponding approval authority on the Department.<sup>2</sup> If an LEA makes an affirmative determination not to employ or contract for nurses as provided in Tenn. Code Ann. § 49-3-359, then the alternative must be reported to the Department and the LEA is not entitled to nursing BEP funds.

JOHN KNOX WALKUP, Attorney General and Reporter; MICHAEL E. MOORE, Solicitor General; SARA L. ROSSON, Deputy Attorney General

#### **OPINION FOOTNOTES**

n1 It should be noted that implementation of this program is dependent upon appropriations. Tenn. Code Ann. § 49-3-359(d) authorizes the Commissioner of Education to reduce the funding if the BEP appropriation is not sufficient to fund the program.

n2 It should be noted that Tenn. Code Ann. § 49-5-415(b) requires generally that only appropriately licensed health care professionals may perform health care procedures during the school day or at related events.

# Appendix E

## Attorney General's Opinion No. 98-157 - 1998

August 17, 1998

Basic Education Program Funds, School Nurses

### QUESTION

1. What is the effect if a local education agency ("LEA") fails to satisfy either option under Tenn. Code Ann. § 49-3-359(c) concerning public school nursing services?
2. Who has the responsibility to withhold Basic Education Program ("BEP") funds if the LEA does not comply with Tenn. Code Ann. § 49-3-359(c).

### OPINIONS

1. The LEA would be in violation of Tenn. Code Ann. § 49-3-359(c) and would not be entitled to receive BEP funds for school nurses.
2. The Commissioner of Education has the responsibility to withhold BEP funds if the LEA does not comply with Tenn. Code Ann. § 49-3-359(c).

### ANALYSIS

In Op. Tenn. Atty. Gen 98-120 (July 9, 1998), this Office stated that if the BEP is fully funded, then an LEA must use the funds provided pursuant to Tenn. Code Ann. § 49-3-359(c) to employ or contract for nurses, or must notify the Department of Education that the LEA has affirmatively determined not to do so. The opinion further stated that, if an LEA affirmatively determines not to employ or contract for nurses, as provided under the statute, then the LEA is not entitled to BEP funds provided for under Tenn. Code Ann. § 49-3-359(c).

Your first question asks what happens if the LEA does not employ or contract for nurses and does not make an affirmative determination with notice to the Department. If an LEA does not elect either option and accepts BEP funds provided for in Tenn. Code Ann. § 49-3-359, then the LEA has violated the statute. Furthermore, as discussed in our prior opinion, it would not be entitled to receive these BEP funds since the funds would not be used as required by the statute.

The Commissioner of Education is responsible for the distribution of BEP funds according to a schedule established by the Commissioners of Education and Finance and Administration.<sup>1</sup> In order for an LEA to receive BEP funds, the requirements of Title 49, Section 3 must be met.<sup>2</sup> The Commissioner is empowered to withhold BEP funds to enforce the requirements of Title 49, Section 3.3 Therefore, the Commissioner of Education has the responsibility to withhold BEP funds under Tenn. Code Ann. § 49-3-359 if an LEA has not complied therewith.

JOHN KNOX WALKUP, Attorney General and Reporter; MICHAEL E. MOORE, Solicitor General; SARA L. ROSSON, Deputy Attorney General

### OPINION FOOTNOTES

n1 Tenn. Code Ann. § 49-3-354(a).

n2 Tenn. Code Ann. § 49-3-353.

n3 Tenn. Code Ann. § 49-3-353.

# Appendix F

## Attorney General's Opinion 98-207 – 1998

November 6, 1998

Basic Education Program Funds, Tenn. Code Ann. § 49-3-359 (c) (1): Student Health Care

### QUESTION

In Op. Tenn. Atty. Gen. 98-120 (July 9, 1998) and Op. Tenn. Atty. Gen. 98-157 (August 17, 1998), this Office interpreted Tenn. Code Ann. § 49-3-359 (c) as requiring a local education agency (“LEA”) to use basic education program (“BEP”) public school nursing funds to directly employ or contract for a public school nurse and as prohibiting the use of such monies to fund an alternative arrangement to meet student health needs. This Office is now informed that its interpretation of that statute conflicts with an interpretation previously adopted by the Department of Education that would permit such funds to be used for valid alternative student health care programs.

Is the Department’s interpretation of Tenn. Code Ann. § 49-3-359 (c) legally defensible?

### OPINION

The Department of Education’s interpretation of Tenn. Code Ann. §49-3-359 (c) (1) is defensible.

### ANALYSIS

The courts’ objective in construing a statute is to determine and, if possible, give effect to the legislature’s intent or purpose expressed in the statute. *Worrall v. Kroger*, 545 S.W.2d 736, 738 (Tenn. 1977). If a court finds that the language of the statute is plain and unambiguous and the court can determine the legislative intent from the face of the statute, then the court has no need to use interpretative aids and applies the statute as written. *Carson Creek Vacation Resorts, Inc. v. State*, 865 S.W.2d 1, 2 (Tenn. 1993). If, however, the court finds that the statute is ambiguous or susceptible to more than one construction, then the court may turn to extrinsic interpretative aids, such as the legislative history of the statute and the interpretation of the statute by the state administering agency. *See Universal Computing Co. v. Olsen*, 677 S.W. 2d 445, 447 (Tenn. 1984) (legislative history may be considered when legislative intent is not clear); *Chapman v. Sullivan County*, 608 S.W. 2d 580, 582 (Tenn. 1980) (if court concludes interpretation is open to dispute, it is appropriate to turn to legislative history); *Riggs v. Burson*, 941 S.W. 2d 44, 51 (Tenn. 1997) (interpretations of statutes by administrative agencies customarily given respect and accorded deference). Through these means, the court may find or clarify the legislative intent and construe the statute in a way that is consistent with that intent.

Tenn. Code Ann. § 49-3-359(c) (1) reads as follows:

- (b) (1) There is included in the Tennessee basic education program an amount of money sufficient to fund one (1) full-time, public school nurse position for each three thousand (3,000) students or one (1) full-time position for each local education agency, whichever is greater. A local education agency may use such funds to directly employ a public school nurse or to contract with the Tennessee public school nurse program, created by § 68-1-1201 (a), for provision of school health services; **provided that after the BEP is fully funded, a local education agency must use such funds to directly employ or contract for a public school nurse as provided for in this subsection or must advise the department of education that the local education agency has affirmatively determined not to**

**do so, in which case the local education agency shall notify the department of the election against providing such service and the alternative arrangement which the local education agency has made to meet the health needs of its students.**

This Office has recently issued two opinions related to this statute.<sup>1</sup> In these opinions, the Office interpreted this statutory provision as providing BEP funding for school nurse positions or for contracting with the Tennessee public school nurse program but not for the alternative arrangement referened in the last clause. The statute is susceptible to this interpretation. The language of the statute is not patently clear, however, and the statute could also be construed to provide funding for all three methods of providing for student health care needs. See *In re the Conservatorship of Clayton*, 914 S.W. 2d 84, 90 (Tenn. App. 1996) (statute ambiguous if capable of conveying more than one meaning).

We are informed that the Department of Education has interpreted Tenn. Code Ann. § 49-3-359 (c) (1) to provide BEP funding for all three methods.

Assuming that a court had this statute before it for interpretation, the court could turn to legislative history and to the administrative interpretation of the statute for assistance in determining the legislative intent and clarifying the construction of the statute. In reviewing the legislative history of this statute, this Office has found comments that explicitly support the Department of Education's interpretations.<sup>2</sup>

The Department of Education has administrative responsibilities under Tenn. Code Ann. § 49-3-359. It is to the Department that LEAs report if they choose to implement an alternative arrangement under paragraph (c) (1), and under paragraph (d), it is the Commissioner of Education who must apply a *pro rata* reduction if the BEP appropriation is not sufficient to fund the programs set out in Tenn. Code Ann. § 49-3-359. The Department of Education has interpreted this statute as allowing BEP funds to be used for any of the three methods of providing for student health care.

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<sup>1</sup> Op Tenn. Atty. Gen. No. 98-120 (July 9, 1998) and Op. Tenn. Atty. Gen. No. 98-157 (August 17, 1998).

<sup>2</sup> Excerptps from legislative history of H.B. 177/ S.B. 317. S.B. 317, Senate Education Committee (April 10, 1996) (Tape No. 1).

**Senator Wallace:** ...Rep. Givens brought me this bill. The proposed amendment requires the LEAs to use BEP funds to directly employ or contract for a public school nurse for the provision of health care services once the BEP is fully funded in 97-98 or must advise the Department of Education that the LEA has affirmatively determined not to do so, in which case the LEA shall notify the Department of the election against providing such a service, the alternate arrangement which the LEA has made to meet the health needs of its students, and the manner in which the school nurse funding has or will be used.

**Rep. Givens:** The amendment simply requires LEAs to employ school nurses at a ratio of 1 to 3000, the way we had asked it be done when the BEP was first approved some 3 or 4 years ago. [It] simply would require them to do that or if they're not going to do it – it doesn't mandate that they do it, but requires them to notify the State Department of Education that it is not in their plans and it also asks them to tell how those funds were utilized that have been earned in the name of the school nurse program.

.....  
**Senator Elsea:** Did I understand you to say it's in the BEP now that the funds could either be used for nuses, guidance counselors, or another one?

**Senator Womack:** Safety officers, whatever... We left in the original BEP, we tried to establish a parameter, a formula for generating dollars, but we left the discretion of the specific numbers to the local school board. What they desire.

As noted above, the legislative history of the statute supports the Department of Education's interpretation. Based upon principles of statutory construction and a review of the legislative history of this statute, this Office concludes that the Department's interpretation is defensible.<sup>3</sup>

JOHN KNOX WALKUP, Attorney General and Reporter; MICHAEL E. MOORE, Solicitor General; KATE EYLER, Deputy Attorney General

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<sup>3</sup> Op. Tenn. Atty. Gen. No. 98-120 and Op. Tenn. Atty. Gen. No. 98-157 are withdrawn to the extent that those opinions conflict with this opinion.

## Appendix G Sample Letter and Survey



STATE OF TENNESSEE  
COMPTROLLER OF THE TREASURY  
OFFICE OF EDUCATION ACCOUNTABILITY  
505 Deaderick Street, Suite 500  
Nashville, Tennessee 37243-0268  
Phone 615/532-1111  
Fax 615/532-9237

November 25, 1998

Dear Superintendent of Schools:

As you are probably aware, in recent years the General Assembly has passed several pieces of legislation related to school nurses and school health matters. The Office of Education Accountability is conducting a study on these issues and is collecting information to determine how health-related services are delivered to students in the school setting.

I would appreciate your assistance. Please complete the attached survey and return it to our office in the pre-addressed, postage-paid envelope by December 15, 1998. If you have any questions about the survey, please feel free to call me at 615 532-1111, ext. 501, or Margaret Rose at ext. 509.

With kind regards,

Ethel Detch  
Director

Survey of School Superintendents for School Health Project  
All Information Requested is for the 98-99 School Year

Name of School System \_\_\_\_\_

Superintendent \_\_\_\_\_

Phone Number \_\_\_\_\_ e-mail \_\_\_\_\_

Section A (To be completed by all school systems)

1. Does your school system:

- |  |       |   |
|--|-------|---|
| Employ school nurses                   | _____ | (Please complete Section B)   |
| Contract for school nurses             | _____ | (Please complete Section C)   |
| Have an alternative plan               | _____ | (Please complete Section D)   |
| Have a combination of any of the above | _____ | (Please describe below and complete Sections B, C, and D as applicable) |

2. Do any schools in your district have a school-based health clinic providing primary care?

Yes \_\_\_\_\_ No \_\_\_\_\_

If "Yes", please describe the program, including which schools are involved, any contracts with providers, and funding sources.

3. What do you believe should be the role of the school nurse?

4. General comments about school nursing or school health programs:

Section B – School system-administered health services (Please complete this section only if your school system directly employs health care professionals)

1. Does your school system employ an administrator to oversee school health services in your school system?  
Yes\_\_\_\_ No\_\_\_\_

If "Yes", please give name and phone number:

\_\_\_\_\_

2. Please complete the following items relating to nurses employed by your school district as of October 1, 1998:

# FTE RN Positions Established \_\_\_\_\_  
# FTE RNs Employed \_\_\_\_\_  
# FTE LPN Positions Established \_\_\_\_\_  
# FTE LPNs Employed \_\_\_\_\_  
# FTE Physical Therapists Employed \_\_\_\_\_  
# Other Health Care Professionals Employed \_\_\_\_\_

3. Of the above:

- (a) How many are paid with special education funds?\_\_\_\_  
(b) Do the special education nurses also serve regular students? Yes\_\_\_\_ No\_\_\_\_

4. If your school system employs only an LPN(s), who supervises the LPN(s) and how often do on-site visits by that supervisor occur?

Person supervising the LPN\_\_\_\_\_ Title\_\_\_\_\_

Frequency of on-site contacts:

# Per week\_\_\_\_ # Per Month \_\_\_\_\_ Other\_\_\_\_\_

*(Please define other)*

5. Does each school in the system have access to school nurses?

Yes\_\_\_\_ No\_\_\_\_

If "No", please describe the arrangements for health care needs to be met in those schools without access to nurses.

6. Please describe how health care supplies are furnished for school health services.

Section C – Contracted Health Services (Please complete this section only if your school system contracts with another entity for health services)

1. Name of organization under contract\_\_\_\_\_

Contact Person\_\_\_\_\_

Telephone\_\_\_\_\_

2. Please indicate the number of nurses assigned by the contractor to your school system as follows:

FTE RN\_\_\_\_ FTE LPN\_\_\_\_ FTE Other Health Care Professionals\_\_\_\_

3. If the contractor employs only an LPN(s), who supervises the LPN(s) and how often do on-site visits by that supervisor occur?

Person supervising the LPN\_\_\_\_\_ Title\_\_\_\_\_

Frequency of on-site contacts:

# Per Week\_\_\_\_ # Per Month\_\_\_\_ Other\_\_\_\_\_

(Please define other)

4. Does the contractor provide access to school nurses for all schools in the system?

Yes\_\_\_\_

No\_\_\_\_

If "No", please describe the arrangements for health care needs to be met in those schools without access to nurses.

5. Please describe funding sources for these services.

Section D – Alternative Plan (*Please complete this section only if you neither directly employ nor contract for school health services*)

1. Have you submitted an alternative plan for meeting the health care needs of students to the State Department of Education?

Yes\_\_\_\_ No\_\_\_\_

2. Please describe the alternative plan.

Please return this survey in the enclosed envelope to the Offices of Research and Education Accountability, Suite 500, 505 Deaderick St., Nashville, TN 37243-0268 by December 15, 1998. If you have any questions, please contact Margaret Rose, Senior Research Analyst at 615 532-1111 ext. 509 or Ethel Detch, Director, at ext. 501.

# Appendix H

## Certification Requirements for School Nursing

### American Nurses Credentialing Center

#### School Nurse

- Currently hold an active RN license in the US or territories
- Hold a bachelors or higher degree in nursing
- Have completed a practice requirement in school nursing as follows:
  - a. successful completion of a minimum 200-hour supervised college/university sponsored internship or practicum in school nursing; or
  - b. completion of a minimum of 1500 hours (with an active US license) in school nursing practice, education supervision or direction of other persons engaged in school nursing with the past three years; or
  - c. a combination of practicum hours and school nursing experience that totals a minimum of 1500 hours.

#### Examination Topics

Professional issues in school nursing

School and community health

Health assessment

Growth and development

Children with special needs

Special health conditions

Safety, injury prevention, and emergency care

Health counseling, education, and promotion

#### **Advanced Certification – School Nurse Practitioner**

##### Eligibility requirements

- currently hold an active RN license in the US or territories, AND
- hold a masters or higher degree in nursing, AND
- have been prepared as a school nurse practitioner in:
  - a. a school nurse practitioner nursing degree program; or
  - b. a formal post-graduate SNP track or program within a school of nursing granting graduate-level academic credit.

##### Examination topics are

Nursing process

Health education

School and community health systems

Professional issues/role development

Sources: 1998 Catalogs for generalist Board Certification and Advanced practice Board Certification, American Nurses Credentialing Center

# Appendix I

## Department of Education's Response



DON SUNDQUIST  
GOVERNOR

TENNESSEE  
STATE DEPARTMENT OF EDUCATION  
6TH FLOOR, GATEWAY PLAZA  
710 JAMES ROBERTSON PARKWAY  
NASHVILLE, TN 37243-0375

JANE WALTERS, Ph.D.  
COMMISSIONER

March 19, 1999

Ethel Detch, Director  
Office of Education Accountability  
Suite 500  
James K. Polk Office Building  
Nashville, Tennessee 37243-0268

Dear Ms. Detch:

This is to provide the Department of Education's response to the draft report on nursing and health services in Tennessee schools. The report does an excellent job of presenting the major issues related to school health services, and the Department appreciates the opportunity to respond. While the Department may not agree with every point in the report, the Department concurs that student health is vitally important to student success and achievement.

**1. The Department of Education should consider whether central office staff resources are sufficient to administer the school nurse program.**

The Department of Education currently does not have the statutory authority to administer a school nurse program. According to the wording of Tennessee Code Annotated, Section 68-1-1201 and Section 49-3-359, statutory authority for a school nurse program rests with the Department of Health or with nurses employed by local school districts. Based on the wording of Section 49-3-359, in which Section 68-1-1201 (the authorizing statute for the "Public School Nurse Program") is specifically cited, it appears it was the intent of the legislature that the Public School Nurse Program continue to exist after the Basic Education Program was implemented. In fact, contracting with this program is one of the alternatives given to LEAs for providing school health services. Thus, this recommendation, as currently written, does not appear to be applicable to the Department of Education.

This technical point aside, the Department of Education acknowledges that it has an important role to play in improving student health. In fact, this is an objective in the Department's Strategic Plan (Goal 1; Objective 1.6). In the event of legislative changes, the Department will certainly reassess the allocation of resources to this area and will try to ensure an appropriate level of resources are available to meet the requirements of state law. For example, a bill is currently under consideration by the state legislature to require the Department to develop guidelines and standards for the implementation of a coordinated school health program. It is anticipated that the Department will need to add a position to manage this new initiative if the bill is enacted.

**2. The Departments of Education and Health may wish to enter into an interagency agreement whereby the Department of Health provides medical expertise to the Department of Education.**

Sections 68-1-1201(b) and 49-5-415 of Tennessee Code Annotated are very prescriptive in describing the types of assistance the Department of Health is required to provide to the Department of Education and in describing the joint responsibilities of the departments. The Department has complied with the requirements of Section 49-5-415 by working jointly with the Department of Health to compile an annual report on the administration of medications and health care procedures in Tennessee schools. Also, both departments have collaborated to prepare the "Guidelines for Use of Health Care Professionals and Health Procedures in a School Setting" dated September 1996. In addition, the Department's Division of Special Education is currently drafting two interagency agreements that detail the Department's responsibilities regarding school health services for Special Education students. The departments involved in these interagency agreements include the Department of Health, the Department of Mental Health and Mental Retardation, the Department of Children's Services, and the Division of Vocational Rehabilitation within the Department of Human Services.

The Department of Education is always willing to work with other state agencies to clarify duties and responsibilities involving cross-cutting programs and functions, and the Department is willing to take steps to initiate another interagency agreement that would clarify the Department's duties and responsibilities regarding other areas of school health services. However, the Department of Education strongly disagrees with the implication in the recommendation that the Department of Education is or should be responsible for overseeing medical protocols and supervising medical services and procedures in local schools. The medical profession has its own accountability processes. These are not and should not be the responsibility of the Department of Education.

**3. The Departments of Education and Health should develop a strategic plan for the adoption of coordinated school health programs across the state.**

As noted above, the Department of Education has included the promotion of healthy schools as an objective in its Strategic Plan. One of the strategies for this objective is the promotion of the use of the coordinated school health program model in schools (Strategy 1.6.7). During the past year, the Department has provided information to local school districts in regard to the coordinated school health program model through the annual report process, informational materials, discussion sessions held around the state, and conference presentations. The Department has also collected from local school systems recommendations for improving school health programs. As funding becomes available, through an act of the legislature, tobacco settlement funds, a CDC grant award, or other sources, the Department, in cooperation with the Department of Health and other agencies, will continue to promote and assist in implementing the model. If the proposed coordinated school health program legislation cited above is enacted, the Department will initiate a planning process to implement the law.

In summary, the Department reiterates, that to the best of its knowledge, it is complying with all the current requirements of state law as they relate to school health services. The Department is meeting or exceeding the statutory requirements for collecting data on these services as required by state and federal mandates as they relate to BEP reporting, TCA Section 49-5-415, and Special Education. With regard to school districts that are not reporting on health services as required by law, the Department acknowledges that we should take the same action with these school districts

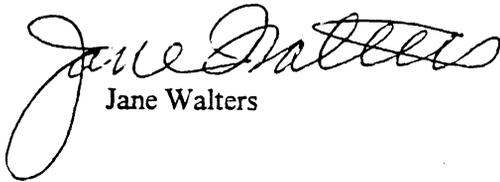
*Ethel Detch*

*Page 3*

as we do with school districts that do not comply with other requirements of state laws and the rules and regulations. The Department believes that we must continue to allow local flexibility in providing health services. Tennessee has many different types of communities and community needs, from very rural to densely populated urban centers and from socio-economically disadvantaged areas to relatively wealthy areas. These conditions have an impact on the types of health needs students have as well as the availability of qualified health professionals. For many school districts, contracting for health services is a very viable and reasonable way in which to provide health services for students.

Thank you again for this opportunity to respond to the report. If there are questions, or if additional information is needed, please do not hesitate to let us know.

Sincerely,

A handwritten signature in cursive script that reads "Jane Walters". The signature is written in black ink and is positioned above the printed name.

Jane Walters

# Appendix J

## Persons Interviewed

Louise Bauer  
Program Principal  
National Conference of State Legislatures

Louise Browning  
Executive Director  
Tennessee Nurses Association

Charlotte Burt  
School Nurse Consultant  
Iowa Department of Education

Sylvia Byrd  
Executive Director, School Health Program  
Florida Department of Health

Ann Duncan  
Deputy Commissioner  
Tennessee Department of Health

Ken Nye  
School Leadership, Personnel Development,  
& School Health Programs Consultant  
Tennessee Department of Education

J.V. Sailors  
Executive Director  
Tennessee Board of Education

Patti Scott and Clare Sullivan, Nurse  
Practitioners  
Fall-Hamilton and Stratton Elementary Schools  
Nashville, TN

Jerry Swaim  
Health Consultant and HIV/AIDS  
Prevention Education Director  
Tennessee Department of Education

Sue Standifer  
President  
Tennessee School Health Coalition

Gale Gaines  
Associate Director for State Services  
Southern Regional Education Board

Connie Givens  
President, Tennessee Association of  
School Nurses  
School Nurse, Hawkins County Schools

The Honorable Ken Givens  
Tennessee General Assembly

Lynn D. Jackson  
School Health Consultant and Director  
of Population Based Services  
Tennessee Department of Health

Mary Kornguth  
Professor, School of Nursing  
Tennessee Technological University

Carolyn Whitaker  
Professor, School of Nursing  
Tennessee Technological University

Russ Whitesel  
Legislative Council Staff  
Wisconsin Department of Education

Judy Womack  
Director, Health Promotion/Disease  
Control Section  
Tennessee Department of Health

Susan Wooley  
Executive Director  
American School Health Association

Lenore Zedowski  
Executive Director, Office of Healthy Schools  
West Virginia Department of Education