

SENATE BILL 48

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Mimi Stewart

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO HEALTH; ENACTING THE STUDENT DIABETES MANAGEMENT ACT TO PROVIDE FOR DIABETES MANAGEMENT BY STUDENTS AND SCHOOL PERSONNEL; PROVIDING FOR RULEMAKING, ENFORCEMENT AND PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Student Diabetes Management Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Student Diabetes Management Act:

A. "diabetes" means type one or type two diabetes

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mellitus; complications related to diabetes mellitus; or prediabetes;

B. "diabetes care personnel" means a school employee who volunteers to be trained and is trained in SJC→~~diabetes management~~;←SJC SJC→accordance with Section 3 of the Student Diabetes Management Act;←SJC

C. "diabetes medical management plan" means a document that a student's personal health care practitioner and parent or guardian develops that sets out the health services that the student needs at school and that is signed by the student's health care practitioner and parent or guardian;

D. "governing body" means:

- (1) the school board of a school district;
- (2) the entity that governs a state-chartered or locally chartered charter school; or
- (3) the entity that governs a private school;

E. "health care practitioner" means a person licensed to provide health care in the ordinary course of business;

F. "school" means an elementary, secondary, middle, junior high or high school or any combination of those, including a public school, state-chartered or locally chartered charter school or private school that students attend in person;

G. "school employee" means a person employed by a

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school, a person employed by the department of health or a local health department or by the public education department who is assigned to a school or a contractor designated to provide diabetes management services at a school pursuant to the SJC→Student←SJC Diabetes Management Act; and

H. "school nurse" means a person who:

(1) is a nurse who is authorized pursuant to the Nursing Practice Act to practice as a professional registered nurse;

(2) is licensed by the public education department and the board of nursing as a school nurse; and

(3) provides services as a school nurse at a school.

SECTION 3. [NEW MATERIAL] DIABETES CARE--DIABETES CARE PERSONNEL--TRAINING--IMMUNITY.--

A. By December 31, 2019 and in consultation with the American diabetes association, the department of health, the New Mexico school nurse's association and the SJC→JDRE←SJC SJC→juvenile diabetes research foundation←SJC, the secretary of SJC→health←SJC SJC→public education←SJC shall adopt and promulgate rules for the training of school employees for the care of students with diabetes. These rules shall require each governing body to ensure that annual diabetes training programs are provided for all school nurses and diabetes care personnel. At a minimum, the training guidelines shall address:

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(1) recognition and treatment of hypoglycemia and hyperglycemia;

(2) understanding the appropriate actions to take when blood glucose levels are outside of the target ranges indicated by a student's diabetes medical management plan;

(3) understanding health care practitioner instructions regarding diabetes medication drug dosage, frequency and manner of administration;

(4) performance of finger stick blood glucose testing and ketone testing and recording of results;

(5) the administration of glucagon and insulin and the recording of results;

(6) understanding how to administer glucagon and insulin through the insulin delivery system;

(7) recognizing diabetes-related complications that require emergency assistance; and

(8) as relates to students with diabetes, understanding recommended schedules and food intake for meals and snacks, the effect of physical activity upon blood glucose levels and actions to be implemented in the case of schedule disruption.

B. A governing body shall not require that diabetes care personnel be health care practitioners.

C. Each governing body shall ensure that the training established pursuant to Subsection A of this section

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is provided to a minimum of two school employees at each school attended by a student with diabetes. If at any time fewer than two school employees are available to be trained at a school, the principal or other school administrator shall distribute to all staff a written notice stating that the school is seeking volunteers to serve as diabetes care personnel. The notice shall inform staff of the following:

(1) the school is required to provide diabetes care to one or more students with diabetes and is seeking personnel willing to be trained to provide that care;

(2) the tasks to be performed by diabetes care personnel;

(3) that participation is voluntary and no school, school district or governing body will take action against any staff member who does not volunteer to be designated;

(4) that training will be provided to employees who volunteer to provide care; and

(5) the identity of the person whom staff should contact in order to volunteer to be diabetes care personnel.

Sf1 → ~~D. School employees shall not be subject to any penalty or disciplinary action for refusing to serve as diabetes care personnel. A school or governing body shall not discourage employees from volunteering for training. No health~~

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~~care practitioner, school employee, school nurse, school or governing body shall be subject to disciplinary action under professional licensing rules or school disciplinary policies as a result of the activities authorized by the Student Diabetes Management Act when these acts are committed as an ordinarily reasonable prudent person would have acted under the same or similar circumstances.~~←Sf1

Sf1→E D←Sf1. The training required pursuant to Subsection A of this section shall be provided by:

- (1) a school nurse if the school has a school nurse; or
- (2) a health care practitioner with expertise in diabetes.

Sf1→F E←Sf1. Each governing body shall ensure that the following training is provided on an annual basis to all school personnel who have primary responsibility for supervising a student with diabetes during some portion of the school day and to bus drivers responsible for the transportation of a student with diabetes:

- (1) recognition of hypoglycemia;
- (2) recognition of hyperglycemia; and
- (3) actions to take in response to diabetes related emergency situations.

SECTION 4. [NEW MATERIAL] DIABETES MEDICAL MANAGEMENT PLAN.--

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A. The parent or guardian of each student with diabetes who seeks diabetes care while at school shall submit to the school a diabetes medical management plan.

B. Each school that receives a diabetes medical management plan shall review and implement the diabetes medical management plan.

**SECTION 5. [NEW MATERIAL] SCHOOL DIABETES CARE.--**

A. A governing body shall ensure that all students with diabetes receive appropriate and needed diabetes care as specified in students' diabetes medical management plans. In accordance with the request of a parent or guardian of a student with diabetes and the student's diabetes medical management plan, a school nurse or, in the absence of a school nurse, diabetes care personnel shall perform diabetes care functions that shall include, at a minimum:

(1) checking and recording the student's blood glucose levels and ketone levels or assisting the student with checking and recording these levels;

(2) responding to blood glucose levels that are outside of the student's target range;

(3) administering glucagon and other emergency treatments as prescribed;

(4) administering insulin or assisting a student in administering insulin through the insulin delivery system that the student uses;

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(5) providing oral diabetes medications; and  
(6) following instructions regarding meals, snacks and physical activity.

B. A school nurse or at least one diabetes care personnel shall be at each school where a student with diabetes is attending and shall be available to provide care to each student with diabetes as provided pursuant to Subsection A of this section during regular school hours and during all school-sponsored activities, trips, extended offsite excursions and extracurricular activities in which a student with diabetes is a participant and on buses where the bus driver has not been trained in diabetes care and a student with diabetes is a passenger.

**SECTION 6. [NEW MATERIAL] APPLICATION OF OTHER LAWS.--**

A. The provisions of Subsection A of Section 5 of the Student Diabetes Management Act shall not constitute the practice of nursing and shall be exempted from all applicable statutory or regulatory provisions that restrict what activities can be delegated to or performed by a person who is not a health care practitioner.

B. Nothing in the Student Diabetes Management Act shall diminish the rights of eligible students or the obligations of school districts under the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act or the federal Americans with Disabilities

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Act of 1990.

**SECTION 7. [NEW MATERIAL] SCHOOL ASSIGNMENT--DIABETES CARE PROVISION.--**

A. Students with diabetes shall attend the school they would otherwise attend if they did not have diabetes, and the diabetes care specified in Subsection A of Section 5 of the Student Diabetes Management Act shall be provided at the student's school. A governing body shall not restrict a student who has diabetes from attending any school on the basis that the student has diabetes, that the school does not have a full-time school nurse or that the school does not have trained diabetes care personnel.

B. A school shall not require or pressure parents or guardians to provide diabetes care for a student with diabetes at school or school-related activities.

**SECTION 8. [NEW MATERIAL] DIABETES SELF-MANAGEMENT.--**Upon the written request of a parent or guardian of a student with diabetes and authorization by the student's diabetes medical management plan, a student with diabetes shall be permitted to perform blood glucose checks, administer insulin through the insulin delivery system that the student uses, treat hypoglycemia and hyperglycemia and otherwise attend to the care and management of the student's diabetes in the classroom, in any area of the school or school grounds and at any school-related activity. A student with diabetes shall be

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permitted to possess on the student's person at all times all necessary supplies and equipment to perform these monitoring and treatment functions. If the student's parent or guardian or the student requests, the student shall have access to a private area for performing diabetes care tasks.

SECTION 9. [NEW MATERIAL] ENFORCEMENT.--

A. Governing bodies shall provide a report to the SJC→~~department of health and the~~←SJC public education department by October 15, 2020 and by each October 15 thereafter. The report shall:

(1) state how many students with diabetes are attending SJC→~~the governing body's~~←SJC schools SJC→in each school district←SJC; and

(2) provide documentation regarding the compliance of the school SJC→district←SJC with the provisions of the Student Diabetes Management Act.

B. By December 31, 2019, the secretary of SJC→~~health, in consultation with the~~←SJC public education SJC→~~department,~~←SJC shall establish by rule the format of the report required pursuant to Subsection A of this section and the criteria for documentation.

C. The SJC→~~department of health~~←SJC SJC→public education department←SJC shall publish each report required pursuant to Subsection A of this section on its website by November 15, 2020 and by each November 15 thereafter.

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D. Students with diabetes and their parents or guardians may bring an administrative complaint with the public education department SJC→~~for public schools or the department of health for private schools~~←SJC against any school or governing body that fails to meet its obligations to train school personnel to provide diabetes care as provided in Section 3 of the Student Diabetes Management Act, to provide the diabetes care described in Section 5 of the Student Diabetes Management Act or to permit self-management of diabetes as outlined in Section 8 of the Student Diabetes Management Act. This right of action shall not alter or limit the remedies available under any other state or federal law, including Section 504 of the federal Rehabilitation Act, the federal Americans with Disabilities Act of 1990 and the federal Individuals with Disabilities Education Act.