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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

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|------------------------|--|----------------------------|-----------------|
| Bill Number | <u>SB48/aSJC/aSFL1</u> | Sponsor | <u>Stewart</u> |
| Tracking Number | <u>.211819.1</u> | Committee Referrals | <u>SJC/HHHC</u> |
| Short Title | <u>Student Diabetes Management Act</u> | | |
| Analyst | <u>Force</u> | Original Date | <u>1/18/19</u> |
| | | Last Updated | <u>1/20/19</u> |

BILL SUMMARY

Synopsis of Senate Floor Amendment 1

Senate Floor Amendment 1 to SB48 (SB48/aSJC/aSFL1) strikes entirely the subsection that waived school personnel from being subject to disciplinary action for refusing to serve as diabetes care personnel. The subsection also waived healthcare practitioners, school employees and nurses, schools, and governing bodies from disciplinary action under licensing rules or school disciplinary policies as a result of activities authorized by the Student Diabetes Management Act when committed as an ordinarily prudent person would under similar circumstances.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendments to SB48 (SB48/aSJC) makes a number of clarifying changes to the bill. “Diabetes care personnel are now defined as being trained in accordance with the Student Diabetes Management Act, rather than in “diabetes management.” “JDRF” is spelled out to name the Juvenile Diabetes Research Foundation. The secretary of public education, rather than the secretary of health, is directed to promulgate rules for the implementation of the Student Diabetes Management Act. Governing bodies are directed to provide a report only to the Public Education Department (PED), and not the Department of Health (DOH). The reports are to include the number of students with diabetes in each school district, and document the compliance of each school district – not each school – with the act. Finally, the amendment indicates administrative complaints may be brought with PED, only, against schools or governing bodies that fail to meet their obligations under the act.

Synopsis of Bill

Senate Bill 48 (SB48) would create the Student Diabetes Management Act to train certain school personnel to help children with Types 1 and 2 diabetes and pre-diabetes, and provide for self-care by students with diabetes. The bill requires the Department of Health (DOH) to work with the New Mexico School Nurses Association, the American Diabetes Association and the Juvenile Diabetes Research Foundation to create a school personnel training program for diabetes care. At

least two employees from every school attended by a student with diabetes must be trained in diabetes care and management.

Every student with diabetes would be required to have a diabetes medical management plan, to be provided by the student's parent, and implemented by school nurses and trained school employees, at least one of whom must be available to assist and care for the student during the school day, on school transportation, and on all field trips and offsite excursions.

School districts are not permitted to assign a student with diabetes to a different school on the basis of lack of trained personnel, nor are they permitted to pressure families to provide diabetes care for students while at school.

SB48 relieves health care practitioners, schools, governing bodies, school nurses, and other school employees of liability for civil damages or disciplinary action under professional licensing regulations or school discipline policies resulting from activities authorized by the bill so long as they act with reasonable prudence; however the bill explicitly retains school district obligations and student rights and remedies under federal law, including the Individuals with Disabilities Education Act, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act.

The bill provides for students and their families to bring administrative complaints against the Public Education Department (PED), for public schools, and DOH, for private schools, for failure to meet their obligations under the act.

Finally, the bill provides for student self-care upon the written request of a parent or guardian, and establishes reporting requirements for schools and PED and defines terms including "diabetes," "diabetes care personnel," "diabetes medical management plan," "governing body," "health care practitioner," "school," "school employee," and "school nurse."

FISCAL IMPACT

SB48/aSJC/aSFL1 does not contain an appropriation. Any costs associated with the requirements of the act, such as policy development, training, and materials, would be borne by the school district, charter school, PED, or DOH.

SUBSTANTIVE ISSUES

As noted by DOH in its analysis of an identical bill from the 2017 legislative session (House Bill 148), Type 1 and Type 2 diabetes are among the diseases most commonly affecting school-aged children, and both are increasing in American children and adolescents. Diabetes can have lifelong effects, and serious complications, such as kidney disease, nerve damage and retina damage, increasing from a baseline of 3 percent to 37 percent 11 years after diagnosis. Supporting students in the management of the disease can help minimize associated complications.

A person's likelihood to get diabetes is influenced by lifestyle factors, particularly with regard to diet and exercise, with obesity carrying an increased risk for diabetes. Obesity continues to be a challenge for American students. The National Center for Health Statistics at the Centers for Disease Control and Prevention indicates that the childhood obesity rate in the United States is 13.9 percent, for children aged 2 - 5 years; 18.4 percent, for children aged 6 - 11 years; from 15.4 percent in 2005 to 17.2 percent in 2015. The table below compares the percentage of New Mexico high school students engaging in potentially diabetes-related behaviors with the percentage of

students from the country as a whole, according to the 2017 New Mexico Youth Risk and Resiliency Survey.

| Indicator | NM% | US% |
|---|------------|------------|
| Was not physically active on any of the last seven days | 14.1 | 15.4 |
| Physically active on fewer than five of the last seven days | 51.2 | 46.5 |
| Did not get daily physical activity | 69.2 | 73.9 |
| Did not attend PE classes (in average school week) | 50.9 | 48.3 |
| Did not attend daily PE classes | 74.3 | 70.1 |
| Did not eat vegetables 3 times per day | 82.2 | 76.1 |
| Drank at least one soda in the last seven days | 76.5 | 73.8 |
| Daily soda consumption | 20.2 | 18.7 |
| Did not eat breakfast in the last seven days | 16.1 | 14.1 |
| Did not eat a daily breakfast | 68.3 | 64.7 |
| Obese | 15.3 | 14.8 |
| Overweight | 16.4 | 15.6 |
| Fewer than eight hours sleep per night | 70.2 | 74.6 |

According to the PED’s 2016-2017 Annual School Health Services Summary Report, 25 percent of visits to the Student Health Office are related to chronic diseases, such as diabetes. The number of New Mexico public school students diagnosed with diabetes was 993, and supporting those students represented 23 percent of medically complex procedures performed by school nurses. Diabetes medications represented 4.9 percent of prescription medications for public school students.

As PED noted in its analysis of the identical bill from 2017, New Mexico students with diabetes are required to have an Individualized Healthcare Plan, Individualized Education Program, or Section 504 plan, all of which include student, parent, and health services staff engagement to support the student in their management of the disease.

PED and the Medical Board took different positions on the previous bill’s provision that diabetes care personnel cannot be required to be healthcare practitioners. The training involves specialized knowledge, such as recognizing hyper- and hypoglycemia, performing blood tests, administering medication, recognizing diabetes-related emergencies, and the interactions of diet and exercise on blood glucose levels. The Institute for Safe Medication Practices identifies diabetes medications such as insulin as “High-Alert” medications, which bear a heightened risk of causing significant patient harm if used in error. In fact, the Joint Commission recommends establishing a system where one nurse prepares a dose of insulin, while another reviews it. For these reasons, PED urged caution in the use of non-practitioners as diabetes care personnel. The Medical Board took a different stance, however, noting that the training program outlined in the bill is excellent; protocols for evaluation and treatment of students with diabetes are carefully taught, and include the parents, primary care practitioners, and school nurses.

As noted by DOH, 32 of New Mexico’s 33 counties are designated, in whole or in part, as areas experiencing shortages in the number of healthcare professionals engaged in practice. The bill attempts to address the need for nurses and other healthcare professionals to help students with diabetes management by training other school employees to act as diabetes care personnel.

ADMINISTRATIVE IMPLICATIONS

With regard to the 2017 bill, DOH noted the likelihood of increased burden on schools with higher numbers of poor, Hispanic, Native American and African-American students, as these populations experience greater prevalence of diabetes than white and more affluent students, exacerbated by the fact that Hispanics and African-Americans are less likely than white students to receive recommended services for diabetes management.

TECHNICAL ISSUES

The definition of “diabetes” includes pre-diabetes, which DOH indicates is inappropriate, suggesting the definition be amended to exclude pre-diabetes. Glucagon is not administered via an insulin delivery system, as is suggested on page 4, lines 6 and 7.

SOURCES OF INFORMATION

- LESC Files
- Department of Health
- Public Education Department
- Medical Board

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