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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. SHORT TITLE.--This act may be cited as the "Student Diabetes Management Act".

SECTION 2. DEFINITIONS.--As used in the Student Diabetes Management Act:

A. "diabetes" means type one or type two diabetes 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 accordance with Section 3 of the Student Diabetes Management Act;

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

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

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

14 G. "school employee" means a person employed by a
15 school, a person employed by the department of health or a
16 local health department or by the public education department
17 who is assigned to a school or a contractor designated to
18 provide diabetes management services at a school pursuant to
19 the Student Diabetes Management Act; and

20 H. "school nurse" means a person who:

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

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

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

3 SECTION 3. DIABETES CARE--DIABETES CARE PERSONNEL--
4 TRAINING--IMMUNITY.--

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

15 (1) recognition and treatment of
16 hypoglycemia and hyperglycemia;

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

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

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

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

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

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

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

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

14 C. Each governing body shall ensure that the
15 training established pursuant to Subsection A of this section
16 is provided to a minimum of two school employees at each
17 school attended by a student with diabetes. If at any time
18 fewer than two school employees are available to be trained
19 at a school, the principal or other school administrator
20 shall distribute to all staff a written notice stating that
21 the school is seeking volunteers to serve as diabetes care
22 personnel. The notice shall inform staff of the following:

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

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

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

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

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

12 D. The training required pursuant to Subsection A
13 of this section shall be provided by:

14 (1) a school nurse if the school has a
15 school nurse; or

16 (2) a health care practitioner with
17 expertise in diabetes.

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

24 (1) recognition of hypoglycemia;

25 (2) recognition of hyperglycemia; and

1 (3) actions to take in response to
2 diabetes related emergency situations.

3 SECTION 4. DIABETES MEDICAL MANAGEMENT PLAN.--

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

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

10 SECTION 5. SCHOOL DIABETES CARE.--

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

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

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

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

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

4 (5) providing oral diabetes medications; and

5 (6) following instructions regarding meals,
6 snacks and physical activity.

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

17 SECTION 6. APPLICATION OF OTHER LAWS.--

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

24 B. Nothing in the Student Diabetes Management Act
25 shall diminish the rights of eligible students or the

1 obligations of school districts under the federal Individuals
2 with Disabilities Education Act, Section 504 of the federal
3 Rehabilitation Act or the federal Americans with Disabilities
4 Act of 1990.

5 SECTION 7. SCHOOL ASSIGNMENT--DIABETES CARE
6 PROVISION.--

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

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

19 SECTION 8. DIABETES SELF-MANAGEMENT.--Upon the written
20 request of a parent or guardian of a student with diabetes
21 and authorization by the student's diabetes medical
22 management plan, a student with diabetes shall be permitted
23 to perform blood glucose checks, administer insulin through
24 the insulin delivery system that the student uses, treat
25 hypoglycemia and hyperglycemia and otherwise attend to the

1 care and management of the student's diabetes in the
2 classroom, in any area of the school or school grounds and at
3 any school-related activity. A student with diabetes shall
4 be permitted to possess on the student's person at all times
5 all necessary supplies and equipment to perform these
6 monitoring and treatment functions. If the student's parent
7 or guardian or the student requests, the student shall have
8 access to a private area for performing diabetes care tasks.

9 SECTION 9. ENFORCEMENT.--

10 A. Governing bodies shall provide a report to the
11 public education department by October 15, 2020 and by each
12 October 15 thereafter. The report shall:

13 (1) state how many students with diabetes
14 are attending schools in each school district; and

15 (2) provide documentation regarding the
16 compliance of the school district with the provisions of the
17 Student Diabetes Management Act.

18 B. By December 31, 2019, the secretary of public
19 education shall establish by rule the format of the report
20 required pursuant to Subsection A of this section and the
21 criteria for documentation.

22 C. The public education department shall publish
23 each report required pursuant to Subsection A of this section
24 on its website by November 15, 2020 and by each November 15
25 thereafter.

1 D. Students with diabetes and their parents or
2 guardians may bring an administrative complaint with the
3 public education department against any school or governing
4 body that fails to meet its obligations to train school
5 personnel to provide diabetes care as provided in Section 3 of
6 the Student Diabetes Management Act, to provide the diabetes
7 care described in Section 5 of the Student Diabetes Management
8 Act or to permit self-management of diabetes as outlined in
9 Section 8 of the Student Diabetes Management Act. This right
10 of action shall not alter or limit the remedies available
11 under any other state or federal law, including Section 504 of
12 the federal Rehabilitation Act, the federal Americans with
13 Disabilities Act of 1990 and the federal Individuals with
14 Disabilities Education Act. _____