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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 state-
3 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 any individual employed
15 by a school, any person employed by the department of health
16 or a local health department or by the public education
17 department who is assigned to a school or any contractor
18 designated to provide services at a school pursuant to the
19 Student Diabetes Management Act; and

20 H. "school nurse" means an individual 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, 2017 and in consultation with
6 the American diabetes association, the department of health,
7 the New Mexico school nurses 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 members a written notice
21 stating that the school is seeking volunteers to serve as
22 diabetes care personnel. The notice shall inform staff of
23 the following:

24 (1) the school must provide diabetes care to
25 one or more students with diabetes and is seeking personnel

1 willing to be trained to provide that care;

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

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

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

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

13 D. School employees shall not be subject to any
14 penalty or disciplinary action for refusing to serve as
15 diabetes care personnel. A school or governing body shall
16 not discourage employees from volunteering for training. No
17 health care practitioner, school employee, school nurse,
18 school or governing body shall be subject to disciplinary
19 action under professional licensing regulations or school
20 disciplinary policies as a result of the activities
21 authorized by the Student Diabetes Management Act when these
22 acts are committed as an ordinarily reasonably prudent person
23 would have acted under the same or similar circumstances.

24 E. The training required pursuant to Subsection A
25 of this section shall be provided by:

1 (1) a school nurse if the school has a
2 school nurse; or

3 (2) a health care practitioner with
4 expertise in diabetes.

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

11 (1) recognition of hypoglycemia;

12 (2) recognition of hyperglycemia; and

13 (3) actions to take in response to diabetes-
14 related emergency situations.

15 **SECTION 4. DIABETES MEDICAL MANAGEMENT PLAN.--**

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

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

22 **SECTION 5. SCHOOL DIABETES CARE.--**

23 A. A governing body shall ensure that all students
24 with diabetes receive appropriate and needed diabetes care as
25 specified in students' diabetes medical management plans. In

1 accordance with the request of a parent or guardian of a
2 student with diabetes and the student's diabetes medical
3 management plan, a school nurse or, in the absence of a
4 school nurse, diabetes care personnel shall perform diabetes
5 care functions that shall include, at a minimum:

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

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

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

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

16 (5) providing oral diabetes medications; and

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

19 B. A school nurse or at least one diabetes care
20 personnel member shall be at each school where a student with
21 diabetes is attending and shall be available to provide care
22 to each student with diabetes as provided pursuant to
23 Subsection A of this section during regular school hours and
24 during all school-sponsored activities in which a student
25 with diabetes is a participant, trips, extended off-site

1 excursions and extracurricular activities and on buses where
2 the bus driver is not a diabetes care personnel member and a
3 student with diabetes is a passenger.

4 **SECTION 6. APPLICATION OF OTHER LAWS.--**

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

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

17 **SECTION 7. SCHOOL ASSIGNMENT--DIABETES CARE**
18 **PROVISION.--**

19 A. Students with diabetes shall attend the school
20 they would otherwise attend if they did not have diabetes,
21 and the diabetes care specified in Subsection A of Section 5
22 of the Student Diabetes Management Act shall be provided at
23 the student's school. A governing body shall not restrict a
24 student who has diabetes from attending any school on the
25 basis that the student has diabetes, that the school does not

1 have a full-time school nurse or that the school does not
2 have trained diabetes care personnel.

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

6 SECTION 8. DIABETES SELF-MANAGEMENT.--Upon the written
7 request of a parent or guardian of a student with diabetes
8 and authorization by the student's diabetes medical
9 management plan, a student with diabetes shall be permitted
10 to perform blood glucose checks, administer insulin through
11 the insulin delivery system that the student uses, treat
12 hypoglycemia and hyperglycemia and otherwise attend to the
13 care and management of the student's diabetes in the
14 classroom, in any area of the school or school grounds and at
15 any school-related activity. A student with diabetes shall
16 be permitted to possess on the student's person at all times
17 all necessary supplies and equipment to perform these
18 monitoring and treatment functions. If the student's parent
19 or guardian or the student requests, the student shall have
20 access to a private area for performing diabetes care tasks.

21 SECTION 9. ENFORCEMENT.--

22 A. Governing bodies shall provide a report to the
23 public education department by October 15, 2018 and by each
24 October 15 thereafter. The report shall:

25 (1) state how many students with diabetes

1 are attending schools in each school district; and

2 (2) provide documentation regarding the
3 compliance of the school district with the provisions of the
4 Student Diabetes Management Act.

5 B. By December 31, 2017, the secretary of public
6 education shall establish by rule the format of the report
7 required pursuant to Subsection A of this section and the
8 criteria for documentation.

9 C. The public education department shall publish
10 each report required pursuant to Subsection A of this section
11 on its website by November 15, 2018 and by each November 15
12 thereafter.

13 D. Students with diabetes and their parents or
14 guardians may bring an administrative complaint with the
15 public education department against any school or governing
16 body that fails to meet its obligations to train school
17 personnel to provide diabetes care as provided in Section 3 of
18 the Student Diabetes Management Act, to provide the diabetes
19 care described in Section 5 of the Student Diabetes Management
20 Act or to permit self-management of diabetes as outlined in
21 Section 8 of the Student Diabetes Management Act. This right
22 of action shall not alter or limit the remedies available
23 under any other state or federal law, including Section 504 of
24 the federal Rehabilitation Act, the federal Americans with
25 Disabilities Act and the federal Individuals with Disabilities

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