

**2024 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS**

Section I: General

Chamber: Senate
Number: SB 85

Category: Bill
Type: Introduced

Date 01/19/2024

Sponsor(s): Harold Pope

Short Title: Seizure Safe Schools act

Reviewing Agency: Agency 665 – Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 24	FY 25		
\$0	\$0		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 24	FY 25	FY 26		
\$0	\$0	\$		

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 24	FY 25	FY 26	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$244,102.00	\$ 10,000.00	\$10,000.00	\$264,102.00	Recurring	General Fund

Pay Band 90 -\$51.25/hour X 2080 hours x 1.36 = \$138,580 + Office Setup \$5,522+ Rent \$54,000 = \$144,102+ initial curium and training development \$100,000.00 and reoccurring revision to training \$ 10,000.00/year.

Section III: Relationship to other legislation

Duplicates:

Conflicts with:

Companion to:

Relates to:

Duplicates/Relates to an Appropriation in the General Appropriation Act:

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

Senate Bill 85 proposes to amend the New Mexico Public School Code to require the New Mexico Public Education Department, in consultation with the New Mexico School Nurses Association and the New Mexico Department of Health, to promulgate rules to enact the “Seizure Safe Schools Act” by December 31, 2024. This act would require the governing body of each public school and private schools to provide seizure disorder management and care by school personnel and providing limited liability for school personnel.

Is this an amendment or substitution? Yes No

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

As of 2015 the CDC reports about 470,000 children and adolescents have epilepsy. It is estimated that 3,400 children between 0-17 have epilepsy in New Mexico, [Epilepsy Data and Statistics | CDC](#). The New Mexico Public Education Department reported through the New Mexico Annual School Health Services Report a total of 2, 227 students diagnosed with a seizure disorder in school year 2022-2023.

Difficulties in school are common in children and adolescents with a seizure disorder and often associated with cognitive, emotional-behavioral, motor, and academic difficulties. The disorder can have an impact on quality of life, school performance, and often go unrecognized and unsupported in the school setting contributing to increases in the economic cost of the condition.

A current systematic review of teacher knowledge and attitudes revealed that deficits in knowledge and negative attitudes were pervasive across all studies and reported lowest familiarity with seizure disorder and concerns about emergency procedures, apprehension in responding to seizures, and a lack of resources and knowledge, and a fear of liability. [Epilepsy in schools: Views on educational and therapeutic provision, understanding of epilepsy and seizure management - ScienceDirect](#).

Among all patients with epilepsy, 30% continue to have seizures, called cluster seizures or acute repetitive seizures and despite being on controller medication regimens. In the school aged population cluster seizures most commonly occur outside a healthcare setting and frequently while at school. Treatment is dependent on the presence of the school nurse or persons delegated by the school nurse, health aides assistants and unlicensed, and nonmedical personnel.

[Epilepsy in schools: Views on educational and therapeutic provision, understanding of epilepsy and seizure management - ScienceDirect](#)

Given that a large proportion of a child's waking day is spent in school, and that many types of seizures are more common while a person is awake, school personnel are likely to encounter a student having a seizure during the school day. Many school personnel can be frightened when a student has a convulsive seizure and are compelled to immediately call emergency medical services and may not require activation of Emergency Medical Services. [Epilepsy in schools: Views on educational and therapeutic provision, understanding of epilepsy and seizure management – ScienceDirect](#). School policies may require that a child be transported to the emergency department or that emergency medical services be called when students experience a convulsive seizure resulting in increased healthcare utilization, costs, and inconvenience.

Effective seizure management in the school setting is a critical issue for students with seizures and school personnel due to the unpredictable nature of seizures and the potential outcomes of experiencing a seizure in school and the ability to respond appropriately to a seizure is of concern to parents and school personnel. [Emergency Management of Seizures in the School Setting - Christine O'Dell, Kathryn O'Hara, Sarah Kiel, Kathleen McCullough, 2007 \(sagepub.com\)](#)

Both the National Association of School Nurses (NASN) and the American Academy of Pediatrics (AAP) have position statements regarding the dispensing of rectal medication in school. The NASN (2003) position states that "the administration of rectal gel or rectal suppository medication for the control of seizures in students at school and during school-related activities [is] the function of the registered school nurse. The delegation of such procedures, if legally allowed, should be determined by the school nurse and follow rules and regulations within the state Nurse Practice Act, other applicable state laws, and school district policy." [Emergency Management of Seizures in the School Setting - Christine O'Dell, Kathryn O'Hara, Sarah Kiel, Kathleen McCullough, 2007 \(sagepub.com\)](#)

The AAP (2003) recognizes that some emergency medications are not given orally and may require training to administer. The policy statement in the Guidelines for Administering Medications in School states that because these episodes may occur at times when a school nurse is not available, trained designated school personnel should be available. The AAP recommends that liability coverage for the administration of emergency medication be provided to all staff, including nurses, teachers, athletic staff, principals, superintendents, and members of the school board. [Emergency Management of Seizures in the School Setting - Christine O'Dell, Kathryn O'Hara, Sarah Kiel, Kathleen McCullough, 2007 \(sagepub.com\)](#)

However, in New Mexico it is not required of the school system to employ or contract a school nurse and due to New Mexico being a healthcare provider shortage state, school nurses may not always be immediately available to assist in the case of a seizure.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

Yes No

Would require subject matter expert time to assist New Mexico Department of Education to promulgate rules and develop training series.

- Is this proposal related to the NMDOH Strategic Plan? Yes No

Goal 1: We expand equitable access to services for all New Mexicans

Goal 2: We ensure safety in New Mexico healthcare environments

Goal 3: We improve health status for all New Mexicans

Goal 4: We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

SB58 has several administrative implications for the NMDOH. The estimated cost of assisting the New Mexico Public Education Department with promulgating rules for the training of school employees is detailed in the fiscal impact table above. SB58 would require existing staff to engage in the rulemaking process and to develop professional development training. The New Mexico Public Education Department does not have the medical expertise to develop training based upon national standards of practice for seizure management.

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

Definition of a seizure action plan includes the language of an individualized health care plan. The Individualized Health Care Plans can only be developed by a registered nurse.

Language change may be needed under Section 5.A.

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

1. administration or assisted self-administration of medication (students with need for emergency medications would not be cognitively or have motor skills to self-administer and are reliant on another person to administer the emergency medication) prescribed to treat seizure disorder symptom.

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules be written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
 - Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

Possible conflict with the New Mexico Pharmacy Act. Emergency medications used in emergency response for prolonged seizures are controlled substances and considered dangerous drugs.

8. DISPARITIES ISSUES

None

9. HEALTH IMPACT(S)

As per 2015 the CDC reports about 470,000 children and adolescents have epilepsy with New Mexico estimated at having 3,400 cases between ages of 0 to 17, Epilepsy Data and Statistics CDC. The New Mexico Public Education Department reported through the New Mexico Annual School Health Services Report a total of 2, 227 students diagnosed with a seizure disorder in school year 2022-2023.

10. ALTERNATIVES

None Identified

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

SB 85, the Seizure Safe Schools Act, would not be enacted and rules for training implementation, development of a reporting system and a requirement for a school nurse, or at least one seizure care personnel be present at school where a student attend impacting the safety of the student. Possible risk management issues include intersecting regulatory conflicts with Board of Pharmacy regulations for controlled substances and lack of knowledge and understanding on how to provide strict oversight of these substances.

12. AMENDMENTS

None