

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 287

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

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  
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

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1 Act;

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

7 D. "governing body" means:

8 (1) the school board of a school district;

9 (2) the entity that governs a state-chartered  
10 or locally chartered charter school; or

11 (3) the entity that governs a private school;

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

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

20 G. "school employee" means any individual employed  
21 by a school, any person employed by the department of health or  
22 a local health department or by the public education department  
23 who is assigned to a school or any contractor designated to  
24 provide services at a school pursuant to the Student Diabetes  
25 Management Act; and

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1 H. "school nurse" means an individual who:

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

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

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

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

11 A. By December 31, 2017 and in consultation with  
12 the American diabetes association, the department of health,  
13 the New Mexico school nurses association and the juvenile  
14 diabetes research foundation, the secretary of public education  
15 shall adopt and promulgate rules for the training of school  
16 employees for the care of students with diabetes. These rules  
17 shall require each governing body to ensure that annual  
18 diabetes training programs are provided for all school nurses  
19 and diabetes care personnel. At a minimum, the training  
20 guidelines shall address:

21 (1) recognition and treatment of hypoglycemia  
22 and hyperglycemia;

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

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

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

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

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

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

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

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

19 C. Each governing body shall ensure that the  
20 training established pursuant to Subsection A of this section  
21 is provided to a minimum of two school employees at each school  
22 attended by a student with diabetes. If at any time fewer than  
23 two school employees are available to be trained at a school,  
24 the principal or other school administrator shall distribute to  
25 all staff members a written notice stating that the school is

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1 seeking volunteers to serve as diabetes care personnel. The  
2 notice shall inform staff of the following:

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

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

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

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

14 (5) the identity of the individual whom staff  
15 should contact in order to volunteer to be diabetes care  
16 personnel.

17 D. School employees shall not be subject to any  
18 penalty or disciplinary action for refusing to serve as  
19 diabetes care personnel. A school or governing body shall not  
20 discourage employees from volunteering for training. No health  
21 care practitioner, school employee, school nurse, school or  
22 governing body shall be subject to disciplinary action under  
23 professional licensing regulations or school disciplinary  
24 policies as a result of the activities authorized by the  
25 Student Diabetes Management Act when these acts are committed

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1 as an ordinarily reasonably prudent person would have acted  
2 under the same or similar circumstances.

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

5 (1) a school nurse if the school has a school  
6 nurse; or

7 (2) a health care practitioner with expertise  
8 in diabetes.

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

15 (1) recognition of hypoglycemia;

16 (2) recognition of hyperglycemia; and

17 (3) actions to take in response to diabetes-  
18 related emergency situations.

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

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

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

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1 management plan.

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

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

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

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

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

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

21 (5) providing oral diabetes medications; and

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

24 B. A school nurse or at least one diabetes care  
25 personnel member shall be at each school where a student with

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1 diabetes is attending and shall be available to provide care to  
2 each student with diabetes as provided pursuant to Subsection A  
3 of this section during regular school hours and during all  
4 school-sponsored activities in which a student with diabetes is  
5 a participant, trips, extended off-site excursions and  
6 extracurricular activities and on buses where the bus driver is  
7 not a diabetes care personnel member and a student with  
8 diabetes is a passenger.

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

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

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

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

24 A. Students with diabetes shall attend the school  
25 they would otherwise attend if they did not have diabetes, and

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1 the diabetes care specified in Subsection A of Section 5 of the  
2 Student Diabetes Management Act shall be provided at the  
3 student's school. A governing body shall not restrict a  
4 student who has diabetes from attending any school on the basis  
5 that the student has diabetes, that the school does not have a  
6 full-time school nurse or that the school does not have trained  
7 diabetes care personnel.

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

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

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1           SECTION 9.   ~~[NEW MATERIAL]~~ ENFORCEMENT.--

2           A.   Governing bodies shall provide a report to the  
3 public education department by October 15, 2018 and by each  
4 October 15 thereafter.   The report shall:

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

7                       (2)   provide documentation regarding the  
8 compliance of the school district with the provisions of the  
9 Student Diabetes Management Act.

10          B.   By December 31, 2017, the secretary of public  
11 education shall establish by rule the format of the report  
12 required pursuant to Subsection A of this section and the  
13 criteria for documentation.

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

18          D.   Students with diabetes and their parents or  
19 guardians may bring an administrative complaint with the public  
20 education department against any school or governing body that  
21 fails to meet its obligations to train school personnel to  
22 provide diabetes care as provided in Section 3 of the Student  
23 Diabetes Management Act, to provide the diabetes care described  
24 in Section 5 of the Student Diabetes Management Act or to  
25 permit self-management of diabetes as outlined in Section 8 of

1 the Student Diabetes Management Act. This right of action  
2 shall not alter or limit the remedies available under any other  
3 state or federal law, including Section 504 of the federal  
4 Rehabilitation Act, the federal Americans with Disabilities Act  
5 and the federal Individuals with Disabilities Education Act.

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