

PROPOSED AMENDMENT – STRIKETHROUGH

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Underline represents language the Department is proposing to add.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 12 PUBLIC SCHOOL ADMINISTRATION - HEALTH AND SAFETY
PART 11 STUDENT DIABETES MANAGEMENT

6.12.11.1 ISSUING AGENCY: Public Education Department herein after the department.

[6.12.11.1 NMAC – N, 11/26/2019]

6.12.11.2 SCOPE: This rule applies to school districts, local school boards, state-chartered charter schools and governing bodies, and private schools.

[6.12.11.2 NMAC – N, 11/26/2019]

6.12.11.3 STATUTORY AUTHORITY: This rule is promulgated by the secretary of public education and the public education department under the authority of Sections 9-24-8, 22-2-1, 22-2-2, and 22-34-1 through 22-34-9 NMSA 1978.

[6.12.11.3 NMAC – N, 11/26/2019]

6.12.11.4 DURATION: Permanent.

[6.12.11.4 NMAC – N, 11/26/2019]

6.12.11.5 EFFECTIVE DATE: November 26, 2019, unless a later date is cited at the end of a section.

[6.12.11.5 NMAC – N, 11/26/2019]

6.12.11.6 OBJECTIVE: The objective of this rule is to provide parameters for diabetes care personnel training and diabetes care management of students with diabetes in public schools.

[6.12.11.6 NMAC – N, 11/26/2019]

6.12.11.7 DEFINITIONS:

A. “Diabetes” means a metabolic disorder of 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 the provisions of this rule.

C. “Diabetes medical management plan” means a document developed and signed by a student's personal health care practitioner and parent or guardian that describes the health services a student needs at school.

D. “Governing body” means:

(1) the school board of a school district;

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

(3) the entity that governs a private school.

E. “Hyperglycemia” means blood glucose levels higher than normal medically established parameters.

F. “Hypoglycemia” means blood glucose levels lower than normal medically established parameters.

G. “School” means a public school, including a charter school, or private school that students attend in person.

H. “School employee” means a person employed by a school, a person employed by the department of health or a local health department or by the public education department who is assigned to a school or a contractor designated to provide diabetes management services at a school pursuant to the provisions of this rule.

I. “Self-administration” means a student's own use of prescribed diabetes medication pursuant to a prescription from a health care practitioner.

J. “Self-management” means a student’s monitoring of blood glucose levels and for the presence of ketones.

[6.12.11.7 NMAC – N, 11/26/2019]

6.12.11.8 DIABETES CARE PERSONNEL TRAINING:

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A. Each governing body shall ensure annual diabetes training programs are provided to all school nurses and diabetes care personnel. Training content for the annual diabetes training program, at a minimum, shall include:

- (1) identification and treatment of hyperglycemia and hypoglycemia;
- (2) appropriate actions to take when blood glucose levels are outside the target ranges indicated by a student’s diabetes medical management plan;
- (3) understanding interpretation of health care practitioner instructions regarding diabetes medication drug dosage, frequency, and manner of administration;
- (4) performance of finger stick blood glucose testing, [~~and~~] scanning of continuous glucose monitors, ketone testing, and recording of results;
- (5) administration of glucagon and insulin and recording of results;
- (6) administration of glucagon and insulin through the insulin delivery system;
- (7) recognizing diabetes-related complications that require emergency assistance; and
- (8) recommended schedules for food intake, the effect of physical activity upon blood glucose levels, and appropriate actions to be implemented in the case of a schedule disruption.

B. Each governing body shall ensure a minimum of two school employees, at each school attended by a student with diabetes, receive the training outlined in this rule.

C. Each governing body shall not require that diabetes care personnel be health care practitioners.

D. If at any time fewer than two school employees are available to be trained at a school, the principal or other school administrator shall distribute to all staff a written notice stating that the school is seeking volunteers to serve as diabetes care personnel. This notice shall inform staff of the following:

- (1) the school is required to provide diabetes care to one or more students with diabetes and is seeking personnel willing to be trained to provide that care;
- (2) the tasks to be performed by diabetes care personnel;
- (3) participation is voluntary and no school, school district or governing body will take action against any staff member who does not volunteer to be designated;
- (4) training will be provided to employees who volunteer to provide care; and
- (5) the contact information of the person whom staff should contact in order to volunteer to be diabetes care personnel.

E. Annual diabetes training programs shall be provided by the school nurse if the school has a licensed school nurse or by a licensed health care practitioner with expertise in diabetes.

F. Each governing body shall also ensure annual training is provided to all school personnel with a primary responsibility for supervising a student with diabetes during some portion of the school day that includes bus drivers responsible for transporting a student with diabetes. Training for these individuals must include:

- (1) recognition of hyperglycemia;
- (2) recognition of hypoglycemia; and
- (3) actions to take in response to diabetes-related emergency situations.

[6.12.11.8 NMAC – N, 11/26/2019; A, 10/10/2023]

6.12.11.9 DIABETES MEDICAL MANAGEMENT PLAN:

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

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

[6.12.11.9 NMAC – N, 11/26/2019]

6.12.11.10 SCHOOL DIABETES CARE:

A. Each governing body shall ensure that all students diagnosed with diabetes receive appropriate and necessary diabetes care as specified in the student’s diabetes medical management plan.

B. In accordance with [~~§~~] the request of a parent or guardian of a student with diabetes and the student’s diabetes medical management plan, a school nurse, or in the absence of a school nurse, diabetes care personnel shall perform diabetes care functions that may include:

- (1) checking and recording the student’s blood glucose or ketone levels and assisting the student with recording these levels;
- (2) responding to blood glucose levels that are outside of the student’s target range;

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- (3) administering glucagon and other emergency treatments as prescribed;
- (4) administering insulin or assisting a student in administering insulin;
- (5) providing oral diabetes medications as prescribed; and
- (6) following instructions regarding meals, snacks and physical activity.

C. A school nurse or at least one diabetes care personnel shall be at each school where a student with diabetes is attending and shall be available to provide care to each student with diabetes pursuant to this rule during regular school hours, all school-sponsored activities, trips, extended offsite school-sponsored excursions, extracurricular activities where a student with diabetes is a participant, and on buses where the bus driver has not been trained in diabetes care and a student with diabetes is a passenger.

[6.12.11.10 NMAC – N, 11/26/2019; A, 10/10/2023]

6.12.11.11 SCHOOL ASSIGNMENT: DIABETES CARE PROVISION:

A. Students diagnosed with diabetes shall attend the school they would otherwise attend if they were not diagnosed with diabetes, and the diabetes care specified in the student’s diabetes medical management plan shall be provided at the student’s school.

B. Each governing body shall not restrict a student diagnosed with diabetes from attending any school on the basis that;

- (1) the student is diagnosed with diabetes;
- (2) the school does not have a full-time school nurse; or
- (3) the school does not have trained diabetes care personnel.

C. A school shall not require nor compel parents or guardians to provide diabetes care for a student with diabetes at school or school-related activities.

D. Each governing body may allow a parent or guardian to volunteer to assume the official responsibility of diabetes care for a student diagnosed with diabetes should the parent or guardian be attending a school sponsored activity, trip, extended offsite excursion, or extracurricular activity in which the student with diabetes is participating.

[6.12.11.11 NMAC – N, 11/26/2019]

6.12.11.12 DIABETES SELF-MANAGEMENT:

A. Upon written request of a parent or guardian of a student with diabetes and authorization by the student’s diabetes medical management plan, and upon demonstrated proficiency, a student shall be permitted to:

- (1) perform self-management blood glucose monitoring to check blood glucose and ketones;
- (2) administer prescribed medication for the treatment of diabetes including the self-administration of insulin through the insulin delivery system that the student uses as determined in the student’s diabetes medical management plan;
- (3) treat hyperglycemia as determined in the student’s diabetes medical management plan;

and

- (4) treat hypoglycemia as determined in the student’s diabetes medical management plan.

B. A student with diabetes shall be permitted to self-manage in any area of the school or school grounds, and at any school-related activity.

C. A student with diabetes shall be permitted to possess on the student’s person at all times all necessary supplies and equipment to perform these monitoring and treatment functions.

D. If a student’s parent or guardian or the student requests, the student shall have access to a private area for performing diabetes care tasks.

E. Each governing body shall develop written policies or procedures to address safe storage of medical supplies and for the safe and appropriate storage of diabetes medication.

[6.12.11.12 NMAC – N, 11/26/2019; A, 10/10/2023]

6.12.11.13 ENFORCEMENT AND REPORTING:

A. A student with diabetes and the student’s parent or guardian may submit a written administrative complaint, via e-mail or via mail, to the secretary or secretary’s designee containing a statement of the facts on which the complaint is based specific to any school or governing body that fails to meet its obligations to train school personnel to provide diabetes care, or to permit self-management of diabetes per the Student Diabetes Management Act. The secretary or secretary’s designee may require additional documentation to be provided by the parent or guardian, school district or charter school before responding to the complaint. Such additional

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documentation, if requested, shall be due within 10 days of the request. The secretary or secretary’s designee, at the secretary’s discretion, may require a hearing to be conducted within 60 days of receipt of the complaint or additional documentation, whichever is later, and to include a representative of the school district or charter school, before the secretary or secretary’s designee. The secretary or the secretary’s designee shall provide a written response with a final decision within 30 days of receipt of the complaint or within 30 days of the hearing’s conclusion, whichever is later.

B. Governing bodies shall ~~[submit]~~ report the following data to the department ~~[by October 15, 2020, and] annually~~, no later than October 15 ~~[every year thereafter]~~, in a format required by the department for the preceding school year:

- (1) the number of students within the school district or state charter school with a diagnosis of diabetes;
 - ~~[(2) the date(s) of the diabetes care training(s) provided to diabetes care personnel;~~
 - ~~(3) the name(s) of the licensed school nurse or licensed health care practitioner who provided the diabetes care training(s);~~
 - ~~(4) a copy of the agenda for the diabetes care training(s);~~
 - ~~(5) the name(s) and title(s) of each staff person identified as a diabetes care personnel;~~
 - ~~(6) the name(s) and title(s) of any other personnel who received the diabetes care training(s);~~
- and
- ~~(7) the school(s) in which each identified diabetes care personnel provides services.]~~
 - (2) the number of school sites attended by students with diabetes;
 - (3) the number of designated diabetes care personnel trained in diabetes management; and
 - (4) the number of additional staff members trained in diabetes management, not including assigned diabetes care personnel.

C. The department ~~[will]~~ shall post each district,~~[and state]~~ state-chartered charter school, and locally chartered charter school report on the department’s website annually by November 15. ~~[, 2020, and by November 15 every year thereafter.]~~
[6.12.11.13 NMAC – N, 11/26/2019; A, 10/10/2023]

6.12.11.14 APPLICATION OF OTHER LAWS:

A. The provisions in this rule shall not constitute the practice of nursing and school districts and governing bodies shall be exempted from all applicable statutory or regulatory provisions that restrict what activities can be delegated to or performed by a person who is not a licensed health care practitioner in the provision of diabetes care as provided within this rule.

B. The provisions in this rule shall not alter, diminish or limit the rights and remedies of eligible students and parents or guardians as made available under any other state or federal law, including Section 504 of the Federal Rehabilitation Act, the Federal Americans with Disabilities Act of 1990 and the Federal Individuals with Disabilities Education Act.
[6.12.11.14 NMAC – N, 11/26/2019]

HISTORY OF 6.12.11 NMAC: [RESERVED]