

POLICY SERVICES

ADVISORY

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CONTENTS

Advisory No. 203 JLCE – Medical Care Management (Diabetes Management)

Policy Advisory Discussion

Policy Advisory 203- JLCE Medical Care Management (Diabetes Management). Senate Bill 48 passed in the 2019 Legislative Session enacted a new Article of the Public School Code, Article 34, cited as the "Student Diabetes Management Act". The Act requires the School District to review and implement a diabetes medical management plan submitted by the parent or guardian of each student with diabetes who seeks diabetes care while at school. The Act also mandates training by specified persons for employees relative to the management of care for student's with diabetes and expressly requires annual training for all school personnel having primary responsibility for supervising or transporting a student with diabetes. Unfortunately, though allowing for volunteers to be trained for the functions, the law does not provide guidance for what happens if there are no volunteers to be trained. The Act simply requires compliance with implementation. Please see the entire "Student Diabetes Management Act" following the recommended policy JLCE as provide below.

The the Act, when compiled in statute, is about five (5) pages long and contains thirty-one (31) uses of the word "shall." This indicates mandatory actions on the part of those entities being directed. With such definitive requirements, Policy Services could add little to the mandatory language in the way of guidance to accomplish the purposes of the Act.

Instead of including the entire act and considering the thirty-one (31) requirements, Policy Services has provided a recommended policy giving direction to the Superintendent using the language of the statute. This was done by citing certain very important sections, rather than including them all in the policy. As Policy Services always provides cross referenced web links to the laws by numerical citation, it is expected that the Board, Superintendent and those being

directed by the Act or "the law" will use those links in the on line version to make themselves aware of the requirements for implementation. The recommended policy gives the information required by the Board for compliance with the law but leaves to the Superintendent the details of implementation.

Reports on implementation of the Act are mandated. The first report regarding diabetes data shall be on forms provided by the Public Education Department (PED) pursuant to 6.12.11.13 NMAC. The report is due by October 15, 2020 and annually thereafter.

Just as a reminder, *policies* are principles adopted by the Board to chart a course of action. They tell what is wanted and may include also why and how much. They are broad enough to indicate a line of action to be taken by the administration and they need to be narrow enough to give the administration clear guidance. This does not mean they must contain every word, definition or requirement of a statute or rule for which they are intended to provide compliance or to specify the actions for every problem for which they are intended as a remedy. A policy of the Board indicates a course of action to the Superintendent who must then review the relevant requirements and options available to implement that course of action.

Policy Services uses a version of the National Education Policy Network (NEPN) system modified for New Mexico to number, title and code policies. A few districts will have a current policy JLCE, moved to another unoccupied space in the numbering, title and coding system to accommodate the NEPN system.

Materials of a legal nature in support of this advisory may be found following the text of the policies or at the websites cited. If you have any questions, or requests call Policy Services at (505) 469-0193 or E-mail Dr. Donn Williams, Policy Services Director at [nmsbapolicy@cox.net].

This Material is written for information only and is not intended as legal advice. Please consult your attorney if legal explanations are needed.

Advisory 203

MEDICAL CARE MANAGEMENT**(Diabetes Management)**

The parent or guardian of each student with diabetes, who seeks diabetes care for that student while at school, shall submit a diabetes medical management plan approved by their personal health care provider to the school. Each school that receives a diabetes medical management plan shall review and implement the diabetes medical management plan. Parents shall also complete forms as required by the school for administering medications.

"Diabetes" means type one or type two diabetes mellitus, complications related to diabetes mellitus, or prediabetes as diagnosed by competent medical personnel.

Training as established pursuant to the 6.12.11.1 et seq. NMAC shall be provided to all school nurses and diabetes care personnel (a minimum of two school employees at each school attended by a student with diabetes). At a minimum, the training guidelines shall address:

- recognition and treatment of hypoglycemia and hyperglycemia;
- understanding the appropriate actions to take when blood glucose levels are outside of the target ranges indicated by a student's diabetes medical management plan;
- understanding health care practitioner instructions regarding diabetes medication drug dosage, frequency and manner of administration;
- the administration of glucagon and insulin and the recording of results;
- understanding how to administer glucagon and insulin through the insulin delivery system;
- recognizing diabetes-related complications that require emergency assistance; and
- as relates to students with diabetes, understanding recommended schedules and food intake for meals and snacks, the effect of physical activity upon blood glucose levels and actions to be implemented in the case of schedule disruption.

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. The notice shall inform staff of the following:

- that 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;
- the tasks to be performed by diabetes care personnel;
- that 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;
- that training will be provided to employees who volunteer to provide care; and
- the identity of the person whom staff should contact in order to volunteer to be diabetes care personnel.

The training required pursuant to 6.12.11.10 NMAC shall be provided by:

- a school nurse if the school has a school nurse; or
- a health care practitioner with expertise in diabetes.

The following training is to be provided on an annual basis to all school personnel who have primary responsibility for supervising a student with diabetes during some portion of the school day and to bus drivers responsible for the transportation of a student with diabetes:

- recognition of hypoglycemia;
- recognition of hyperglycemia; and
- actions to take in response to diabetes related emergency situations.

All students with diabetes shall receive appropriate and needed diabetes care as specified in students' diabetes medical management plans. 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 shall include, at a minimum those indicated in 22-34-5 NMSA and 6.12.11.10 NMSA:

- checking and recording the student's blood glucose levels and ketone levels or assisting the student with checking and recording these levels;
- responding to blood glucose levels that are outside of the student's target range;
- administering glucagon and other emergency treatments as prescribed;
- administering insulin or assisting a student in administering insulin through the insulin delivery system that the student uses;

- providing oral diabetes medications; and
- following instructions regarding meals, snacks and physical activity.

Medication administered by any school personnel, shall be in compliance with JLCD and JLCD-R. Insulin will be kept in accord with policy JLCD in an original container in a locked medicine cabinet at a temperature between 36 and 86 degrees Fahrenheit for daily use unless other arrangements are approved by the administration.

A school nurse or at least one diabetes care person shall be at each school where a student with diabetes is attending and shall be available to provide care to each student with diabetes as provided pursuant to 22-34-5 NMSA during regular school hours and during all school-sponsored activities, trips, extended off-site excursions and extracurricular activities in which 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.

Students with diabetes shall attend the school they would otherwise attend if they did not have diabetes, and the diabetes care specified in 22-34-5 NMSA of the Student Diabetes Management Act, shall be provided at the student's school. A student who has diabetes shall not be restricted from attending any school on the basis that the student has diabetes, that the school does not have a full-time school nurse or that the school does not have trained diabetes care personnel.

A school shall not require or pressure parents or guardians to provide diabetes care for a student with diabetes at school or school-related activities nor require that diabetes care personnel be health care practitioners.

Diabetes self-management.

Upon the written request of a parent or guardian of a student with diabetes and authorization by the student's diabetes medical management plan, a student with diabetes shall be permitted to:

- perform self-management blood glucose monitoring to check blood glucose and ketones;
- 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;
- treat hyperglycemia as determined in the student's medical management plan;
- treat hypoglycemia as determined in the student's diabetes medical management plan;
- self-manage in any area of the school or school grounds so long as it does not disrupt the education environment of other students; and

- possess on the student's person at all times all necessary supplies and equipment to perform these monitoring and treatment functions.

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.

Enforcement and Reporting

Effectuated parties may submit complaints in writing via e-mail or via mail, to the secretary of public education. Reports as required by the public education department shall be provided by the district on October 15 each year pursuant to 6.12.11.13 NMAC.

Adopted: date of manual adoption

LEGAL REF.: 22-10A-3 NMSA
22-34-1 NMSA *et seq.*
6.12.11.1 NMAC *et seq.*
6.41.4.9 NMAC

CROSS REF.: AC - Nondiscrimination/Equal Opportunity
EBC-RC - Emergencies (First Aid)
EEAB - Special Education Student Transportation
(Students with Special Transportation Needs)
JLCD - Administering Medicines to Students
KE - Public Concerns and Complaints

RELEVANT STATUTES, RULES AND CITATIONS

The referenced Statute can be found below.

ARTICLE 34

Student Diabetes Management

22-34-1. Short title.

This act [22-34-1 through [22-34-9](#) NMSA 1978] may be cited as the "Student Diabetes Management Act".

History: [Laws 2019, ch. 22, § 1.](#)

ANNOTATIONS

Effective dates. — Laws 2019, ch. 22 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective June 14, 2019, 90 days after the adjournment of the legislature.

22-34-2. 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) 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. "health care practitioner" means a person licensed to provide health care in the ordinary course of business;
- F. "school" means an elementary, secondary, middle, junior high or high school or any combination of those, including a public school, state-chartered or locally chartered charter school or private school that students attend in person;

G. "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 Student Diabetes Management Act; and

H. "school nurse" means a person who:

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

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

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

History: [Laws 2019, ch. 22, § 2.](#)

ANNOTATIONS

Effective dates. — Laws 2019, ch. 22 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective June 14, 2019, 90 days after the adjournment of the legislature.

22-34-3. Diabetes care; diabetes care personnel; training; immunity.

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

(1) recognition and treatment of hypoglycemia and hyperglycemia;

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

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

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

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

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

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

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

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

C. Each governing body shall ensure that the training established pursuant to Subsection A of this section is provided to a minimum of two school employees at each school attended by a student with diabetes. 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. The 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) that 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) that training will be provided to employees who volunteer to provide care; and
- (5) the identity of the person whom staff should contact in order to volunteer to be diabetes care personnel.

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

- (1) a school nurse if the school has a school nurse; or
- (2) a health care practitioner with expertise in diabetes.

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

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

History: [Laws 2019, ch. 22, § 3.](#)

ANNOTATIONS

Effective dates. — Laws 2019, ch. 22 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective June 14, 2019, 90 days after the adjournment of the legislature.

22-34-4. Diabetes medical management plan.

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

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

History: [Laws 2019, ch. 22, § 4.](#)

ANNOTATIONS

Effective dates. — Laws 2019, ch. 22 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective June 14, 2019, 90 days after the adjournment of the legislature.

22-34-5. School diabetes care.

A. A governing body shall ensure that all students with diabetes receive appropriate and needed diabetes care as specified in students' diabetes medical management plans. 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 shall include, at a minimum:

- (1) checking and recording the student's blood glucose levels and ketone levels or assisting the student with checking and recording these levels;
- (2) responding to blood glucose levels that are outside of the student's target range;
- (3) administering glucagon and other emergency treatments as prescribed;
- (4) administering insulin or assisting a student in administering insulin through the insulin delivery system that the student uses;
- (5) providing oral diabetes medications; and
- (6) following instructions regarding meals, snacks and physical activity.

B. 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 as provided pursuant to Subsection A of this section during regular school hours and during all school-sponsored activities, trips, extended offsite excursions and extracurricular activities in which 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.

History: [Laws 2019, ch. 22, § 5](#).

ANNOTATIONS

Effective dates. — Laws 2019, ch. 22 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective June 14, 2019, 90 days after the adjournment of the legislature.

22-34-6. Application of other laws.

A. The provisions of Subsection A of Section 5 [[22-34-5](#) NMSA 1978] of the Student Diabetes Management Act shall not constitute the practice of nursing and 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 health care practitioner.

B. Nothing in the Student Diabetes Management Act shall diminish the rights of eligible students or the obligations of school districts under the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act or the federal Americans with Disabilities Act of 1990.

History: [Laws 2019, ch. 22, § 6.](#)

ANNOTATIONS

Cross references. — For the federal Individuals with Disabilities Education Act, *see* 20 U.S.C. § 1400 et seq.

For the federal Rehabilitation Act, *see* 29 U.S.C. § 701 et seq.

For the federal Americans with Disabilities Act of 1990, *see* Titles 29, 42 and 47 of the U.S.C.

Effective dates. — Laws 2019, ch. 22 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective June 14, 2019, 90 days after the adjournment of the legislature.

22-34-7. School assignment; diabetes care provision.

A. Students with diabetes shall attend the school they would otherwise attend if they did not have diabetes, and the diabetes care specified in Subsection A of Section 5 [[22-34-5](#) NMSA 1978] of the Student Diabetes Management Act shall be provided at the student's school. A governing body shall not restrict a student who has diabetes from attending any school on the basis that the student has diabetes, that the school does not have a full-time school nurse or that the school does not have trained diabetes care personnel.

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

History: [Laws 2019, ch. 22, § 7.](#)

ANNOTATIONS

Effective dates. — Laws 2019, ch. 22 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective June 14, 2019, 90 days after the adjournment of the legislature.

22-34-8. Diabetes self-management.

Upon the written request of a parent or guardian of a student with diabetes and authorization by the student's diabetes medical management plan, a student with diabetes shall be permitted to perform blood glucose checks, administer insulin through the insulin delivery system that the student uses, treat hypoglycemia and hyperglycemia and otherwise attend to the care and management of the student's diabetes in the classroom, in any area of the school or school grounds and at any school-related activity. 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. If the student's parent or guardian or the student requests, the student shall have access to a private area for performing diabetes care tasks.

History: [Laws 2019, ch. 22, § 8.](#)

ANNOTATIONS

Effective dates. — Laws 2019, ch. 22 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective June 14, 2019, 90 days after the adjournment of the legislature.

22-34-9. Enforcement.

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

- (1) state how many students with diabetes are attending schools in each school district; and
- (2) provide documentation regarding the compliance of the school district with the provisions of the Student Diabetes Management Act.

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

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

D. Students with diabetes and their parents or guardians may bring an administrative complaint with the public education department against any school or governing body that fails to meet its obligations to train school personnel to provide diabetes care as provided in Section 3 [22-34-3 NMSA 1978] of the Student Diabetes Management Act, to provide the diabetes care described in Section 5 [22-34-5 NMSA 1978] of the Student Diabetes Management Act or to permit self-management of diabetes as outlined in Section 8 [22-34-8 NMSA 1978] of the Student Diabetes Management Act. This right of action shall not alter or limit the remedies 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.

History: [Laws 2019, ch. 22, § 9.](#)

ANNOTATIONS

Cross references. — For the federal Individuals with Disabilities Education Act, *see* 20 U.S.C. § 1400 et seq.

For the federal Rehabilitation Act, *see* 29 U.S.C. § 701 et seq.

For the federal Americans with Disabilities Act of 1990, *see* Titles 29, 42 and 47 of the U.S.C.

Effective dates. — Laws 2019, ch. 22 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective June 14, 2019, 90 days after the adjournment of the legislature.

PUBLIC EDUCATION DEPARTMENT RULE 6.12.11 NMAC, STUDENT DIABETES MANAGEMENT

Copies of the new rule may be accessed on the web at <http://164.64.111.134/parts/title06/06.012.0010.html> upon being posted, or may be obtained from the PED Policy Division at (505) 827-7889 during regular business hours.

