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) 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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 6. APPLICATION OF OTHER LAWS.--

A. The provisions of Subsection A of Section 5 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.

SECTION 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 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.

SECTION 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.

SECTION 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 of the Student Diabetes Management Act, to provide the diabetes care described in Section 5 of the Student Diabetes Management Act or to permit self-management of diabetes as outlined in Section 8 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.