S T A T E O F N E W Y O R K

3739

2013-2014 Regular Sessions

I N A S S E M B L Y

January 29, 2013

Introduced by M. of A. BOYLAND -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to providing for the care of students with diabetes in elementary and secondary school and providing for the training of designated school personnel to assist in a student's diabetes care

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. The legislature finds that:

(1) Diabetes is a serious, chronic disease that impairs the body's ability to use food. Diabetes must be managed 24 hours a day in order to avoid the potentially life-threatening consequences of blood glucose levels that are either too high (hyperglycemia) or too low (hypoglycemia), and to avoid or delay the serious long-term complications of high blood glucose levels which include blindness, amputation, heart disease, and kidney failure;

(2) In order to manage their disease, students with diabetes must have access to the means to balance food, medications, and physical activity levels while at school and at school related activities;

(3) Diabetes is generally a self-managed disease, and many students with diabetes are able to perform most of their own diabetes care tasks. Such students should be permitted to do so in the school setting. However, some students, because of age, inexperience, or other factors, need help with some or all of diabetes care tasks, and all students will need help in the event of a diabetes emergency;

(4) The school nurse is the preferred person in the school setting to provide or facilitate care for a student with diabetes. However, a school nurse may not always be available on site and even when a nurse is assigned to a school full time, he or she may not always be available to provide direct care during the school day;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(5) Diabetes management is needed at all times. Additional school personnel, who have completed training coordinated by the school nurse or other health care professional and who provide care under the supervision of the school nurse or other health care professional, need to be prepared to perform diabetes care tasks at school when a school nurse or other health care professional is not available. Preparations are needed to ensure that students with diabetes will be medically safe and have the same access to educational opportunities as all students in New York; and

(6) Due to the significant number of students with diabetes, the effect of diabetes upon a student's ability to learn, and the risk for serious long-term and short-term medical complications, legislation in this state is necessary to address this issue.

S 2. The education law is amended by adding a new section 921 to read as follows:

S 921. DIABETES MANAGEMENT FOR PUPILS AFFLICTED WITH DIABETES. 1. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

A. "DIABETES MEDICAL MANAGEMENT PLAN" MEANS A DOCUMENT DEVELOPED BY THE STUDENT'S PHYSICIAN OR OTHER HEALTH CARE PROVIDER THAT SETS OUT THE HEALTH SERVICES, INCLUDING THE STUDENT'S TARGET RANGE FOR BLOOD GLUCOSE LEVELS, NEEDED BY THE STUDENT AT SCHOOL AND IS SIGNED BY THE STUDENT'S PARENT OR GUARDIAN.

B. "SCHOOL" MEANS ANY PRIMARY OR SECONDARY PUBLIC SCHOOL LOCATED WITHIN THIS STATE.

C. "SCHOOL EMPLOYEE" MEANS ANY PERSON EMPLOYED BY A LOCAL SCHOOL BOARD OR STATE CHARTERED SPECIAL SCHOOL OR ANY PERSON EMPLOYED BY A LOCAL HEALTH DEPARTMENT WHO IS ASSIGNED TO A PUBLIC SCHOOL.

D. "TRAINED DIABETES PERSONNEL" MEANS A SCHOOL EMPLOYEE WHO VOLUNTEERS TO BE TRAINED IN ACCORDANCE WITH THIS SECTION. SUCH EMPLOYEE SHALL NOT BE REQUIRED TO BE A HEALTH CARE PROFESSIONAL.

2. A. NO LATER THAN AUGUST FIRST, TWO THOUSAND THIRTEEN, THE DEPARTMENT, IN CONJUNCTION WITH THE NEW YORK STATE ASSOCIATION OF SCHOOL NURSES, SHALL DEVELOP GUIDELINES FOR THE TRAINING OF SCHOOL EMPLOYEES IN THE CARE NEEDED FOR STUDENTS WITH DIABETES. THE TRAINING GUIDELINES SHALL INCLUDE INSTRUCTION IN:

(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 PHYSICIAN INSTRUCTIONS CONCERNING DIABETES MEDICATION DOSAGE, FREQUENCY, AND THE MANNER OF ADMINISTRATION;

(4) PERFORMANCE OF FINGER-STICK BLOOD GLUCOSE CHECKING, KETONE CHECKING, AND RECORDING THE RESULTS;

(5) ADMINISTRATION OF INSULIN AND GLUCAGON, AN INJECTABLE USED TO RAISE BLOOD GLUCOSE LEVELS IMMEDIATELY FOR SEVERE HYPOGLYCEMIA, AND THE RECORDING OF RESULTS;

(6) PERFORMANCE OF BASIC INSULIN PUMP FUNCTIONS;

(7) RECOGNIZING COMPLICATIONS THAT REQUIRE EMERGENCY ASSISTANCE; AND

(8) 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. EACH LOCAL SCHOOL BOARD AND STATE CHARTERED SPECIAL SCHOOL SHALL INSURE THAT THE TRAINING OUTLINED IN PARAGRAPH A OF THIS SUBDIVISION IS PROVIDED TO A MINIMUM OF TWO SCHOOL EMPLOYEES AT EACH SCHOOL ATTENDED BY A STUDENT WITH DIABETES.

C. A SCHOOL EMPLOYEE SHALL NOT BE SUBJECT TO ANY PENALTY OR DISCIPLINARY ACTION FOR REFUSING TO SERVE AS TRAINED DIABETES PERSONNEL.

D. THE TRAINING OUTLINED IN PARAGRAPH A OF THIS SUBDIVISION SHALL BE COORDINATED AND PROVIDED BY A SCHOOL NURSE OR MAY BE CONTRACTED OUT TO BE PROVIDED BY ANOTHER HEALTH CARE PROFESSIONAL WITH EXPERTISE IN DIABETES. SUCH TRAINING SHALL TAKE PLACE PRIOR TO THE COMMENCEMENT OF EACH SCHOOL YEAR, OR AS NEEDED WHEN A STUDENT WITH DIABETES IS NEWLY ENROLLED AT A SCHOOL OR A STUDENT IS NEWLY DIAGNOSED WITH DIABETES. THE SCHOOL NURSE OR OTHER CONTRACTED HEALTH CARE PROFESSIONAL SHALL PROVIDE FOLLOW-UP TRAINING AND SUPERVISION.

E. EACH LOCAL SCHOOL BOARD AND STATE CHARTERED SPECIAL SCHOOL SHALL PROVIDE INFORMATION IN THE RECOGNITION OF DIABETES RELATED EMERGENCY SITUATIONS TO ALL BUS DRIVERS RESPONSIBLE FOR THE TRANSPORTATION OF A STUDENT WITH DIABETES.

3. 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 WHICH UPON RECEIPT SHALL BE REVIEWED AND IMPLEMENTED BY THE SCHOOL.

4. A. IN ACCORDANCE WITH THE REQUEST OF A PARENT OR GUARDIAN OF A STUDENT WITH DIABETES AND THE STUDENT'S DIABETES MEDICAL MANAGEMENT PLAN, THE SCHOOL NURSE OR, IN THE ABSENCE OF THE SCHOOL NURSE, TRAINED DIABETES PERSONNEL SHALL PERFORM FUNCTIONS INCLUDING, BUT NOT LIMITED TO, RESPONDING TO BLOOD GLUCOSE LEVELS THAT ARE OUTSIDE OF THE STUDENT'S TARGET RANGE; ADMINISTERING GLUCAGON; ADMINISTERING INSULIN, OR ASSISTING A STUDENT IN ADMINISTERING INSULIN THROUGH THE INSULIN DELIVERY SYSTEM THE STUDENT USES; PROVIDING ORAL DIABETES MEDICATIONS; CHECKING AND RECORDING BLOOD GLUCOSE LEVELS AND KETONE LEVELS, OR ASSISTING A STUDENT WITH SUCH CHECKING AND RECORDING; AND FOLLOWING INSTRUCTIONS REGARDING MEALS, SNACKS, AND PHYSICAL ACTIVITY.

B. THE SCHOOL NURSE OR AT LEAST ONE TRAINED DIABETES PERSONNEL SHALL BE ON SITE AT EACH SCHOOL AND AVAILABLE DURING REGULAR SCHOOL HOURS TO PROVIDE CARE TO EACH STUDENT WITH DIABETES AS IDENTIFIED PURSUANT TO SUBDIVISION THREE OF THIS SECTION. FOR PURPOSES OF FIELD TRIPS, THE PARENT OR GUARDIAN, OR DESIGNEE OF SUCH PARENT OR GUARDIAN, OF A STUDENT WITH DIABETES MAY ACCOMPANY SUCH STUDENT ON A FIELD TRIP.

C. THERE SHALL BE TRAINED DIABETES PERSONNEL AT EACH SCHOOL WHERE A STUDENT WITH DIABETES IS ENROLLED, AND A STUDENT'S SCHOOL CHOICE SHALL IN NO WAY BE RESTRICTED BECAUSE THE STUDENT HAS DIABETES.

D. THE ACTIVITIES SET FORTH IN PARAGRAPH A OF THIS SUBDIVISION SHALL NOT CONSTITUTE THE PRACTICE OF NURSING AND SHALL BE EXEMPTED FROM ALL APPLICABLE STATUTORY AND REGULATORY PROVISIONS THAT RESTRICT WHAT ACTIVITIES CAN BE DELEGATED TO OR PERFORMED BY A PERSON WHO IS NOT A LICENSED HEALTH CARE PROFESSIONAL.

5. UPON WRITTEN REQUEST OF A STUDENT'S PARENT OR GUARDIAN AND IF AUTHORIZED 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 THE STUDENT USES, TREAT HYPOGLYCEMIA AND HYPERGLYCEMIA, AND OTHERWISE ATTEND TO THE MONITORING AND TREATMENT OF HIS OR HER DIABETES IN THE CLASSROOM, IN ANY AREA OF THE SCHOOL OR SCHOOL GROUNDS, AND AT ANY SCHOOL RELATED ACTIVITY, AND HE OR SHE SHALL BE PERMITTED TO POSSESS ON HIS OR HER PERSON AT ALL TIMES ALL NECESSARY SUPPLIES AND EQUIPMENT TO PERFORM SUCH MONITORING AND TREATMENT FUNCTIONS.

6. NO PHYSICIAN, NURSE, SCHOOL EMPLOYEE, LOCAL SCHOOL BOARD, OR STATE CHARTERED SPECIAL SCHOOL SHALL BE LIABLE FOR CIVIL DAMAGES OR SUBJECT TO DISCIPLINARY ACTION UNDER PROFESSIONAL LICENSING REGULATIONS OR SCHOOL

DISCIPLINARY POLICIES AS A RESULT OF THE ACTIVITIES AUTHORIZED OR REQUIRED BY THIS SECTION WHEN SUCH ACTS ARE COMMITTED AS AN ORDINARILY REASONABLY PRUDENT PHYSICIAN, NURSE, SCHOOL EMPLOYEE, LOCAL SCHOOL BOARD, OR STATE CHARTERED SPECIAL SCHOOL WOULD HAVE ACTED UNDER THE SAME OR SIMILAR CIRCUMSTANCES.

7. A PRIVATE SCHOOL WHICH COMPLIES WITH THE REQUIREMENTS OF THIS SECTION SHALL HAVE THE SAME LIMITED LIABILITY FOR SUCH SCHOOL AND ITS EMPLOYEES IN THE SAME MANNER AS FOR PUBLIC SCHOOLS AS PROVIDED FOR IN SUBDIVISION SIX OF THIS SECTION.

S 3. This act shall take effect immediately.