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

4987

2013-2014 Regular Sessions

I N A S S E M B L Y

February 14, 2013

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

AN ACT to amend the education law, in relation to care for pupils with diabetes

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

Section 1. The education law is amended by adding a new section 921 to read as follows:

S 921. CARE FOR PUPILS WITH DIABETES. 1. EACH ELEMENTARY, MIDDLE OR SECONDARY SCHOOL SHALL ENSURE THAT ALL PUPILS WHO HAVE BEEN DIAGNOSED BY A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER WITH DIABETES RECEIVE APPROPRIATE AND NEEDED DIABETES CARE AS SPECIFIED IN THE DIABETES MEDICAL MANAGEMENT PLAN SUBMITTED BY THE PARENT OR GUARDIAN OF SUCH PUPILS WITH DIABETES. FOR THE PURPOSES OF THIS ARTICLE, "DIABETES MEDICAL MANAGEMENT PLAN" SHALL MEAN A DOCUMENT DEVELOPED BY A PUPIL'S PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER THAT SETS OUT THE HEALTH SERVICES NEEDED BY THE PUPIL WHILE AT SCHOOL AND IS SIGNED BY THE PUPIL'S PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER AND PARENT OR GUARDIAN.

2. UPON WRITTEN REQUEST OF THE PARENT OR GUARDIAN AND AUTHORIZATION BY THE PUPIL'S DIABETES MEDICAL MANAGEMENT PLAN, EACH ELEMENTARY, MIDDLE OR SECONDARY SCHOOL SHALL ALLOW PUPILS WITH DIABETES TO PERFORM BLOOD GLUCOSE CHECKS, ADMINISTER INSULIN THROUGH AN INSULIN DELIVERY SYSTEM, TREAT HYPOGLYCEMIA AND HYPERGLYCEMIA, AND OTHERWISE ATTEND TO THE CARE AND MANAGEMENT OF HIS OR HER DIABETES IN THE CLASSROOM, IN ANY AREA OF THE SCHOOL OR SCHOOL GROUNDS, AND AT ANY SCHOOL-RELATED ACTIVITY, AND TO POSSESS AT ALL TIMES ALL NECESSARY SUPPLIES AND EQUIPMENT TO PERFORM SUCH FUNCTIONS. PUPILS SHALL HAVE ACCESS TO A PRIVATE AREA FOR PERFORMING DIABETES CARE TASKS IF THE PARENT OR PUPIL REQUESTS ONE.

3. UPON WRITTEN REQUEST OF THE PARENT OR GUARDIAN AND AUTHORIZATION BY THE PUPIL'S DIABETES MEDICAL MANAGEMENT PLAN, TRAINED DIABETES CARE PERSONNEL, AS DEFINED IN SUBDIVISION FOUR OF THIS SECTION, MAY PERFORM DIABETES CARE FUNCTIONS INCLUDING, BUT NOT LIMITED TO: CHECKING AND RECORDING BLOOD GLUCOSE LEVELS AND KETONE LEVELS OR ASSISTING A PUPIL

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

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WITH SUCH CHECKING AND RECORDING SUCH LEVELS; RESPONDING TO BLOOD GLUCOSE LEVELS THAT ARE OUTSIDE THE PUPIL'S TARGET RANGE; ADMINISTERING GLUCAGON AND OTHER EMERGENCY TREATMENTS, AS PRESCRIBED; ADMINISTERING INSULIN OR ASSISTING A PUPIL IN ADMINISTERING INSULIN THROUGH THE INSULIN DELIVERY SYSTEM THE PUPIL USES; PROVIDING ORAL DIABETES MEDICATIONS; AND FOLLOWING INSTRUCTIONS REGARDING MEALS, SNACKS, AND PHYSICAL ACTIVITY.

4. FOR THE PURPOSES OF THIS SECTION, "TRAINED DIABETES CARE PERSONNEL" SHALL MEAN SCHOOL PERSONNEL WHO VOLUNTEER TO BE TRAINED IN THE CARE NEEDED FOR PUPILS WITH DIABETES AND WHO COMPLETE TRAINING PURSUANT TO SUBDIVISION FIVE OF THIS SECTION. TRAINED DIABETES CARE PERSONNEL NEED NOT BE LICENSED HEALTH CARE PROVIDERS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE ACTIVITIES OF TRAINED DIABETES CARE PERSONNEL SET FORTH IN SUBDIVISION THREE OF THIS SECTION SHALL NOT CONSTITUTE THE PRACTICE OF NURSING AND SHALL BE EXEMPTED FROM ALL APPLICABLE STATUTORY AND/OR REGULATORY PROVISIONS THAT RESTRICT THE ACTIVITIES THAT CAN BE PERFORMED BY A PERSON WHO IS NOT A LICENSED HEALTH CARE PROFESSIONAL. SCHOOL PERSONNEL SHALL NOT BE SUBJECT TO ANY PENALTY OR DISCIPLINARY ACTION FOR REFUSING TO SERVE AS TRAINED DIABETES CARE PERSONNEL, NOR SHALL A SCHOOL OR SCHOOL DISTRICT DISCOURAGE SCHOOL PERSONNEL FROM VOLUNTEERING FOR TRAINING.

5. NO LATER THAN ONE HUNDRED EIGHTY DAYS FROM THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF HEALTH, SHALL PROMULGATE FINAL REGULATIONS WITH THE GUIDELINES FOR TRAINING SCHOOL PERSONNEL IN THE CARE NEEDED FOR PUPILS WITH DIABETES. THE GUIDELINES SHALL BE DEVELOPED IN CONSULTATION WITH STATE AND NATIONALLY RECOGNIZED ORGANIZATIONS WITH EXPERTISE IN THE CARE OF PEOPLE WITH DIABETES AND IN THE TRAINING THEREOF INCLUDING, BUT NOT LIMITED TO, THE AMERICAN DIABETES ASSOCIATION, THE AMERICAN ASSOCIATION OF DIABETES EDUCATORS, AND THE NEW YORK STATE ASSOCIATION OF SCHOOL NURSES. THE TRAINING SHALL BE COORDINATED BY THE SCHOOL PRINCIPAL OR THE PRINCIPAL'S DESIGNEE, AND SHALL BE PROVIDED BY A SCHOOL NURSE AND/OR ANOTHER LICENSED HEALTH CARE PROFESSIONAL WITH EXPERTISE IN DIABETES. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IT SHALL BE LAWFUL FOR A LICENSED HEALTH CARE PROFESSIONAL TO PROVIDE TRAINING TO SCHOOL PERSONNEL IN THE ACTIVITIES SET FORTH IN SUBDIVISION THREE OF THIS SECTION OR TO SUPERVISE SUCH SCHOOL PERSONNEL IN PERFORMING THESE TASKS.

6. NO LICENSED HEALTH CARE PROFESSIONAL OR SCHOOL PERSONNEL SHALL BE SUBJECT TO DISCIPLINARY ACTION UNDER PROFESSIONAL LICENSING REGULATIONS OR SCHOOL DISCIPLINARY POLICIES AS A RESULT OF TRAINING AND PERFORMANCE OF DIABETES CARE TASKS BY TRAINED DIABETES PERSONNEL AUTHORIZED BY THIS LEGISLATION. A LICENSED HEALTH CARE PROFESSIONAL, SCHOOL PERSONNEL OR ELEMENTARY, MIDDLE OR SECONDARY SCHOOL SHALL BE PROTECTED FROM LIABILITY FOR CIVIL DAMAGES AS PROVIDED IN SECTION THREE THOUSAND-A OF THE PUBLIC HEALTH LAW WHEN PERFORMING THE ACTIVITIES DESCRIBED BY THIS SECTION.

7. AN ELEMENTARY, MIDDLE OR SECONDARY SCHOOL OR SCHOOL DISTRICT MAY 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.

S 2. This act shall take effect on the three hundred sixty-fifth day after it shall have become a law; provided, however, that effective immediately, the commissioner of education may promulgate any rules or regulations necessary for the timely implementation of this act on or after such effective date.