

4473

2013-2014 Regular Sessions

I N S E N A T E

April 3, 2013

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and
when printed to be committed 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:

1 Section 1. The education law is amended by adding a new section 921 to
2 read as follows:
3 S 921. CARE FOR PUPILS WITH DIABETES. 1. EACH ELEMENTARY, MIDDLE OR
4 SECONDARY SCHOOL SHALL ENSURE THAT ALL PUPILS WHO HAVE BEEN DIAGNOSED BY
5 A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER WITH DIABETES
6 RECEIVE APPROPRIATE AND NEEDED DIABETES CARE AS SPECIFIED IN THE
7 DIABETES MEDICAL MANAGEMENT PLAN SUBMITTED BY THE PARENT OR GUARDIAN OF
8 SUCH PUPILS WITH DIABETES. FOR THE PURPOSES OF THIS ARTICLE, "DIABETES
9 MEDICAL MANAGEMENT PLAN" SHALL MEAN A DOCUMENT DEVELOPED BY A PUPIL'S
10 PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER THAT SETS OUT
11 THE HEALTH SERVICES NEEDED BY THE PUPIL WHILE AT SCHOOL AND IS SIGNED BY
12 THE PUPIL'S PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER AND
13 PARENT OR GUARDIAN.
14 2. UPON WRITTEN REQUEST OF THE PARENT OR GUARDIAN AND AUTHORIZATION BY
15 THE PUPIL'S DIABETES MEDICAL MANAGEMENT PLAN, EACH ELEMENTARY, MIDDLE OR
16 SECONDARY SCHOOL SHALL ALLOW PUPILS WITH DIABETES TO PERFORM BLOOD
17 GLUCOSE CHECKS, ADMINISTER INSULIN THROUGH AN INSULIN DELIVERY SYSTEM,
18 TREAT HYPOGLYCEMIA AND HYPERGLYCEMIA, AND OTHERWISE ATTEND TO THE CARE
19 AND MANAGEMENT OF HIS OR HER DIABETES IN THE CLASSROOM, IN ANY AREA OF
20 THE SCHOOL OR SCHOOL GROUNDS, AND AT ANY SCHOOL-RELATED ACTIVITY, AND TO
21 POSSESS AT ALL TIMES ALL NECESSARY SUPPLIES AND EQUIPMENT TO PERFORM
22 SUCH FUNCTIONS. PUPILS SHALL HAVE ACCESS TO A PRIVATE AREA FOR PERFORM-
23 ING DIABETES CARE TASKS IF THE PARENT OR PUPIL REQUESTS ONE.
24 3. UPON WRITTEN REQUEST OF THE PARENT OR GUARDIAN AND AUTHORIZATION BY
25 THE PUPIL'S DIABETES MEDICAL MANAGEMENT PLAN, TRAINED DIABETES CARE
26 PERSONNEL, AS DEFINED IN SUBDIVISION FOUR OF THIS SECTION, MAY PERFORM
27 DIABETES CARE FUNCTIONS INCLUDING, BUT NOT LIMITED TO: CHECKING AND
28 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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1 WITH SUCH CHECKING AND RECORDING SUCH LEVELS; RESPONDING TO BLOOD
2 GLUCOSE LEVELS THAT ARE OUTSIDE THE PUPIL'S TARGET RANGE; ADMINISTERING
3 GLUCAGON AND OTHER EMERGENCY TREATMENTS, AS PRESCRIBED; ADMINISTERING
4 INSULIN OR ASSISTING A PUPIL IN ADMINISTERING INSULIN THROUGH THE INSU-
5 LIN DELIVERY SYSTEM THE PUPIL USES; PROVIDING ORAL DIABETES MEDICATIONS;
6 AND FOLLOWING INSTRUCTIONS REGARDING MEALS, SNACKS, AND PHYSICAL ACTIV-
7 ITY.

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

22 5. NO LATER THAN ONE HUNDRED EIGHTY DAYS FROM THE EFFECTIVE DATE OF
23 THIS SECTION, THE COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF
24 HEALTH, SHALL PROMULGATE FINAL REGULATIONS WITH THE GUIDELINES FOR
25 TRAINING SCHOOL PERSONNEL IN THE CARE NEEDED FOR PUPILS WITH DIABETES.
26 THE GUIDELINES SHALL BE DEVELOPED IN CONSULTATION WITH STATE AND
27 NATIONALLY RECOGNIZED ORGANIZATIONS WITH EXPERTISE IN THE CARE OF PEOPLE
28 WITH DIABETES AND IN THE TRAINING THEREOF INCLUDING, BUT NOT LIMITED TO,
29 THE AMERICAN DIABETES ASSOCIATION, THE AMERICAN ASSOCIATION OF DIABETES
30 EDUCATORS, AND THE NEW YORK STATE ASSOCIATION OF SCHOOL NURSES. THE
31 TRAINING SHALL BE COORDINATED BY THE SCHOOL PRINCIPAL OR THE PRINCIPAL'S
32 DESIGNEE, AND SHALL BE PROVIDED BY A SCHOOL NURSE AND/OR ANOTHER
33 LICENSED HEALTH CARE PROFESSIONAL WITH EXPERTISE IN DIABETES. NOTWITH-
34 STANDING ANY OTHER PROVISION OF LAW, IT SHALL BE LAWFUL FOR A LICENSED
35 HEALTH CARE PROFESSIONAL TO PROVIDE TRAINING TO SCHOOL PERSONNEL IN THE
36 ACTIVITIES SET FORTH IN SUBDIVISION THREE OF THIS SECTION OR TO SUPER-
37 VISE SUCH SCHOOL PERSONNEL IN PERFORMING THESE TASKS.

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

46 7. AN ELEMENTARY, MIDDLE OR SECONDARY SCHOOL OR SCHOOL DISTRICT MAY
47 NOT RESTRICT A STUDENT WHO HAS DIABETES FROM ATTENDING ANY SCHOOL ON THE
48 BASIS THAT THE STUDENT HAS DIABETES, THAT THE SCHOOL DOES NOT HAVE A
49 FULL-TIME SCHOOL NURSE, OR THAT THE SCHOOL DOES NOT HAVE TRAINED
50 DIABETES CARE PERSONNEL.

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