

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 12 PUBLIC SCHOOL ADMINISTRATION - HEALTH AND SAFETY
PART 8 DIABETES SELF-MANAGEMENT BY STUDENTS IN THE SCHOOL SETTING

6.12.8.1 ISSUING AGENCY: New Mexico Department of Health.
[6.12.8.1 NMAC - N, 02/01/2009]

6.12.8.2 SCOPE: This rule applies to students enrolled in public, private, home or parochial schools in New Mexico unless otherwise expressly limited.
[6.12.8.2 NMAC - N, 02/01/2009]

6.12.8.3 STATUTORY AUTHORITY: This rule is adopted pursuant to the Department of Health Act, Section 9-7-6(E) and the Public Health Act, Sections 24-1-3(B), 24-1-3(G), and 24-1-3(O) NMSA 1978.
[6.12.8.3 NMAC - N, 02/01/2009]

6.12.8.4 DURATION: Permanent.
[6.12.8.4 NMAC - N, 02/01/2009]

6.12.8.5 EFFECTIVE DATE: February 1, 2009 unless a later date is cited in the history at the end of a section.
[6.12.8.5 NMAC - N, 02/01/2009]

6.12.8.6 OBJECTIVE: The purpose of this rule is to grant students who are authorized pursuant to this rule the right to self-manage their diabetes care in the school setting and to develop mechanisms that support safe diabetes self-management in the school environment.
[6.12.8.6 NMAC - N, 02/01/2009]

6.12.8.7 DEFINITIONS:

A. "Developmental level" means the appropriate age-specific stage of emotional, mental and physical growth as determined by the school nurse or other designated registered nurse or clinician.

B. "Equipment and supplies" means those materials required to store or dispose of sharps, to perform self-assessment procedures, or to self-administer medication.

C. "Health care practitioner" means a person authorized under law in New Mexico to prescribe drugs for the treatment of diabetes and associated medical conditions.

D. "Individualized healthcare plan" means a written plan that identifies the student's health care needs and is developed by the school nurse or designated registered nurse or clinician cooperatively with the student and parent or guardian based on the orders provided by the student's health care practitioner.

E. "Medication" means a drug as that term is defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) and includes oral and non-oral drugs in a pharmacy-labeled container.

F. "Other designated registered nurse or clinician" means a registered nurse or clinician designated by the school district to act in the capacity of a school nurse.

G. "School nurse" means a registered nurse (RN), clinical nurse specialist (CNS) or certified nurse practitioner (CNP) licensed by the New Mexico public education department to provide nursing services in the school setting.

H. "Self-administration" means a student's own use of prescribed diabetes medication pursuant to a prescription from a health care practitioner.

I. "Self-assessment" means a student's monitoring of his/her blood glucose levels and for the presence of ketones.

J. "Sharps" means a device with a keen edge or sharp point used to puncture the skin for the purpose of self-assessment or a needle used to inject medication.

[6.12.8.7 NMAC - N, 02/01/2009]

6.12.8.8 REQUIREMENTS:

A. General rights: Schools (whether public or nonpublic) are required to grant to any student in grades kindergarten through 12 authorization to carry and use equipment and supplies, for storage and disposal of

sharps, for self-assessment and for self-administration of diabetes treatment medications prescribed by a health care practitioner if all of the following conditions are met.

(1) A health care practitioner has prescribed the medication, directed the instruction of the student in the correct and responsible use of the medication, and approved the student's ability to perform self-assessment and medication self-administration, pursuant to Subsection B of 6.12.8.8 NMAC.

(2) The student has demonstrated to the school nurse or other designated registered nurse or clinician the skill level and developmental level necessary to correctly store and use any equipment and supplies required to perform self-assessment and self-administration of such medication as prescribed by the health care practitioner (or the practitioner's designee).

(3) The school nurse or other designated registered nurse or clinician, with input from the parent or guardian and based on the student's health care practitioner's medical orders, has formulated a written individualized healthcare plan for management of diabetes care for the student that includes but is not limited to the correct storage and disposal of sharps by the student, the performance of self-assessment procedures and the self-administration of medication.

(4) The school has informed the parent or guardian of the student in writing that the school, including its employees and agents, is to incur no liability as a result of any injury arising from the performance of self-assessment procedures and the self-administration of medication nor from any injury arising from the student carrying and disposing of equipment and supplies to perform these procedures.

(5) The student's parent or guardian has completed and submitted to the school:

(a) all written documentation required by school policy; and

(b) the required treatment plan/medical orders; and

(c) a signed statement from the parent or guardian of the student acknowledging that the school, including its employees and agents, is to incur no liability as a result of any injury arising from the performance of self-assessment procedures and the self-administration of medication nor from any injury arising from the student carrying and disposing of equipment and supplies to perform these procedures, and the parent or guardian will indemnify and hold harmless the school, including its employees and agents, against any claim arising out of the performance of these procedures or storing and disposing of equipment and supplies to perform them.

B. Terms and limits of the student's rights: A student granted authorization under Subsection A of 6.12.8.8 NMAC shall:

(1) retain these rights not to exceed the duration of the current school year, but may lose these rights if, as determined by the school nurse and the school administrator, endangerment to the student's person or other persons occurs through the misuse of equipment, supplies, or medication or if the student's self-administration of medication is inconsistent with the prescribed dosage; and

(2) be responsible for storing and disposing of all sharps as agreed upon with the school nurse or other designated registered nurse or clinician; and

(3) be allowed to possess equipment and to perform routine self-assessment and self-treatment at locations identified in Subsection C of 6.12.8.8 NMAC but away from major traffic pathways as agreed upon with the school nurse or other designated registered nurse or clinician.

C. Extent of authorization: An authorization granted under Subsection A of 6.12.8.8 NMAC must allow the student granted authorization to store and dispose of equipment and supplies necessary for self-treatment and self-assessment in the school setting including:

(1) while at any location on school property, including the classroom, but away from major traffic pathways as agreed upon with the school nurse or other designated registered nurse or clinician;

(2) while at a school-sponsored activity;

(3) during regular before-school and after-school activities; and

(4) in transit to or from school or school-sponsored activities.

D. Duration of authorization: An authorization granted under Subsection A of 6.12.8.8 NMAC is effective only for the duration of the school year for which it is granted and must be renewed each subsequent school year in accordance with this subsection. It may be revoked at any time for failure to comply with Subsection B of 6.12.8.8 NMAC.

E. Back-up medication: The school must ensure that in the event of a diabetes emergency any back-up medication and equipment and supplies provided by the parent or guardian are kept at an easily accessible location agreed upon by the student and authorized individuals. The school must develop policies and procedures to address the safekeeping of these materials. Authorized school personnel who in case of an emergency and in good faith provide a person with back-up medication, equipment, or supplies are to incur no liability as a result of providing the materials and medication to an authorized student or individual.

F. Maintenance of information: Information described in Paragraphs (3) and (5) of Subsection A of 6.12.8.8 NMAC shall be kept on file at the student's school of enrollment in a location easily accessible by authorized individuals who have a legitimate need to know. Each school district must have in place policies and procedures that are in compliance with the Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and Health Insurance Portability and Accountability Act of 1996 (HIPAA) to address the safekeeping and confidentiality of the described information.
[6.12.8.8 NMAC - N, 02/01/2009]

HISTORY of 6.12.8 NMAC: [RESERVED]