

JAN 24 2013

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# A BILL FOR AN ACT

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RELATING TO DIABETES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. There is a rapidly growing population of  
2 students with life-threatening or chronic health conditions  
3 attending public schools in the State. These health conditions  
4 often prevent students from participating in school functions  
5 and events and have an adverse impact on their ability to  
6 perform routine tasks such as test-taking, often placing the  
7 students at risk of underperformance or failure. While many of  
8 the symptoms of these health conditions can be treated and  
9 mitigated with timely health management measures such as  
10 medication or food intake, current school policies and practices  
11 fail to accommodate those options in an effective manner.

12       Diabetes is a life-threatening and chronic health condition  
13 that impairs the body's ability to use food. Diabetes must be  
14 managed twenty-four hours a day to avoid the potentially life-  
15 threatening short-term consequences of blood glucose levels that  
16 are either too high (hyperglycemia) or too low (hypoglycemia),  
17 and to avoid or delay the serious, long-term complications of  
18 high blood glucose levels, which include blindness, amputation,



1 heart disease, and kidney failure. To manage their disease,  
2 students with diabetes require balanced food, medication, and a  
3 certain level of physical activity while attending school and  
4 school-related activities. Well-managed blood glucose levels  
5 enable students with diabetes to be more productive and  
6 successful at school.

7 Many students with diabetes are able to perform most of  
8 their own diabetes care tasks at school; however, because of  
9 age, inexperience, or other factors, some students need help  
10 with their diabetes care tasks. All students will need help in  
11 the event of a diabetes emergency.

12 A nurse can play a central role in providing or  
13 facilitating care for a student with diabetes in the school  
14 setting. Although all schools in Hawaii have a health aide, the  
15 schools do not have full-time nurses on site. In addition, even  
16 when a nurse is assigned to a school full-time for a specific  
17 student requiring nursing services throughout the school day,  
18 that nurse is not available to other students to provide direct  
19 care during the school day, during extracurricular activities,  
20 and on field trips.

21 The legislature finds that because diabetes management is  
22 needed throughout the school day, additional school personnel



1 who have completed training in diabetes care tasks are needed to  
2 perform diabetes care tasks at school and school-related  
3 activities so that students with diabetes can be medically safe  
4 and have the same access to educational opportunities as  
5 student's without diabetes.

6 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is  
7 amended by adding a new subpart to part III, to be appropriately  
8 designated and to read as follows:

9 " . STUDENTS WITH DIABETES

10 **§302A-A Definitions.** For purposes of this subpart:

11 "Diabetes medical management plan" means a plan that  
12 identifies the health needs of the student, sets forth a  
13 recommended course of action to address those needs at school,  
14 and is signed by the student's personal health care professional  
15 and parent or guardian.

16 "Nurse" means the same as defined in section 457-2.

17 "School employee" means any person employed by a school,  
18 any person employed by a local health department who is assigned  
19 to a public or charter school, or any subcontractor designated  
20 for this function.

21 "Trained diabetes care personnel" means any school employee  
22 or volunteer who is trained in accordance with this subpart.



1       **§302A-B Diabetes training guidelines.** (a) The department  
2 shall consult with the department of health and appropriate  
3 health advisory organizations to develop and adopt diabetes  
4 training guidelines to train school employees and volunteers in  
5 the care needed for students with diabetes.

6       (b) The diabetes training guidelines shall specify that  
7 the department shall provide annual diabetes training programs  
8 for all nurses, trained diabetes care personnel, and persons  
9 seeking to become trained diabetes care personnel in a public or  
10 charter school. The training guidelines shall include:

11       (1) Recognition and treatment of hypoglycemia and  
12       hyperglycemia;

13       (2) The appropriate actions to take when blood glucose  
14       levels are outside of the target ranges indicated by a  
15       student's medical management plan;

16       (3) Physician instructions concerning diabetes medication  
17       dosage, frequency, and the manner of administration;

18       (4) Performance of finger-stick blood glucose checking,  
19       ketone checking, and recording results;

20       (5) The administration of insulin and recording results;

21       (6) Performance of basic insulin pump functions;



(7) Recognizing complications that require emergency assistance;

(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;

(9) Any other appropriate medical procedures that may be developed from time to time for testing, treatment, or care of the student's diabetic condition; and

(10) Long-term complications of diabetes, and the importance of students with diabetes learning self-management skills that are reinforced in the school setting.

**§302A-C Employee training.** The department shall train a minimum of three school employees or volunteers at each school attended by a student with diabetes. If fewer than three school employees or volunteers are available for training at a school, the principal at that school shall distribute to all employees and volunteers written notice stating that the school is seeking people to serve as diabetes care personnel. The notice shall inform the employees and volunteers of the following:



- 1 (1) The school must provide diabetes care to one or more
- 2 students with diabetes and is seeking personnel
- 3 willing to be trained to provide that care;
- 4 (2) The tasks to be performed;
- 5 (3) Participation is voluntary;
- 6 (4) Training will be provided at no cost to the
- 7 prospective trained diabetes care personnel;
- 8 (5) Persons volunteering for the training are protected
- 9 from civil liability pursuant to section 302A-K;
- 10 (6) Diabetes care personnel are not limited to school
- 11 employees; and
- 12 (7) The identity of the individual who should be contacted
- 13 to volunteer for the training.

14 **§302A-D No penalty for employees declining training.** No

15 school shall discourage an employee from volunteering for

16 diabetes care personnel training or subject employees who have

17 declined to serve as trained diabetes care personnel to any

18 penalty or disciplinary action.

19 **§302A-E Diabetes care personnel training; coordination.**

20 (a) The diabetes care personnel training shall be coordinated

21 by a public health nurse or another health care professional

22 with expertise in diabetes. The training shall take place prior



1 to the commencement of each school year, or as needed when a  
2 student with diabetes is newly enrolled at a school or a student  
3 is newly diagnosed with diabetes, but in no event more than  
4 thirty days following the enrollment or diagnosis. The public  
5 health nurse or another health care professional with expertise  
6 in diabetes shall promptly provide follow-up training and  
7 supervision as needed.

8 (b) The department shall provide training in the  
9 recognition of hypoglycemia and hyperglycemia and actions to  
10 take in response to emergency situations to all school personnel  
11 who have primary responsibility for supervising a child with  
12 diabetes during the school day and to bus drivers responsible  
13 for transporting students with diabetes.

14 **§302A-F Diabetes medical management plan.** The parent or  
15 guardian of each student with diabetes, who seeks diabetes care  
16 for that student while at school, shall submit the student's  
17 diabetes medical management plan to the student's school.  
18 Diabetes medical management plans shall be implemented by each  
19 school upon receipt.

20 **§302A-G Required care.** (a) Each school that has enrolled  
21 a student with diabetes, who has submitted a diabetes medical  
22 management plan, shall ensure that the student receives



1 appropriate diabetes care as specified in the student's diabetes  
2 medical management plan.

3 (b) In accordance with the request of the parent or  
4 guardian of a student with diabetes and the student's diabetes  
5 medical management plan, the nurse or, in the absence of a  
6 nurse, a trained diabetes care personnel, shall perform diabetes  
7 care functions including:

8 (1) Checking and recording blood glucose levels and ketone  
9 levels or assisting a student with the checking and  
10 recording;

11 (2) Responding to blood glucose levels that are outside  
12 the student's target range;

13 (3) Administering insulin or assisting a student in  
14 administering insulin through the insulin delivery  
15 system the student uses;

16 (4) Providing oral diabetes medications; and

17 (5) Facilitating compliance with recommendations regarding  
18 meals, snacks, and physical activity.

19 (c) A nurse or trained diabetes care personnel shall be  
20 on-site and available to provide care to each student with  
21 diabetes as set forth in subsections (a) and (b) during regular  
22 school hours and during all school-sponsored activities,





1 including school-sponsored events, before and after school care  
2 programs, field trips, extended off-site excursions,  
3 extracurricular activities, and on buses when the bus driver has  
4 not completed the necessary training.

5 (d) This section shall not be applicable to any school  
6 event or program that is not attended by a student with diabetes  
7 who has submitted a diabetes medical management plan.

8 **§302A-H Application of other laws.** (a) Notwithstanding  
9 any other law, the diabetes care activities set forth in section  
10 302A-G shall not constitute the practice of nursing and shall be  
11 exempted from all applicable statutory and regulatory provisions  
12 that restrict the activities that can be delegated to or  
13 performed by a person who is not a licensed health care  
14 professional.

15 (b) Notwithstanding any other law, it shall not be  
16 unlawful for a licensed health care professional to provide  
17 training to school employees and volunteers in the diabetes care  
18 personnel activities set forth in section 302A-G or to supervise  
19 the trained diabetes care personnel.

20 (c) Nothing in this subpart shall diminish the rights of  
21 eligible students or the obligations of schools under the  
22 Individuals with Disabilities Education Act, 20 U.S.C. 1400 et



1 seq., Section 504 of the Rehabilitation Act, 29 U.S.C. 794, or  
2 the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.

3       **§302A-I School assignment.** (a) No school shall deny  
4 admission to any student on the basis that the student has  
5 diabetes.

6       (b) No school shall require a parent or guardian to be a  
7 trained diabetes care personnel.

8       **§302A-J Independent monitoring and treatment.** (a) Upon  
9 written request of the parent or guardian of a student with  
10 diabetes and pursuant to the student's diabetes medical  
11 management plan, a student with diabetes shall be permitted to  
12 perform blood glucose checks, administer insulin through the  
13 student's insulin delivery system, treat hypoglycemia and  
14 hyperglycemia, and otherwise attend to the care and management  
15 of the student's diabetes in the classroom, in any area of the  
16 school or school grounds, and at any school-related activity,  
17 and to possess on the student's person at all times all  
18 necessary supplies and equipment to perform diabetes monitoring  
19 and treatment functions.

20       (b) Diabetes monitoring and treatment functions shall be  
21 allowed at any time that the student with diabetes, teacher,  
22 nurse, or trained diabetes care personnel determines that the



1 functions are reasonably warranted due to the student's  
2 condition at that time.

3 (c) Upon the request of a student with diabetes or the  
4 student's parent or guardian, a student with diabetes shall be  
5 provided access to a private area for performing diabetes care  
6 activities.

7 **§302A-K Civil immunity.** No physician, nurse, trained  
8 diabetes care personnel, school employee, volunteer, or school  
9 shall be liable for civil damages or subject to disciplinary  
10 action under professional licensing laws or school disciplinary  
11 policies as a result of the diabetes care activities authorized  
12 by this subpart when the acts are committed as a reasonably  
13 prudent person would have acted under the same or similar  
14 circumstances.

15 **§302A-L Reporting.** Each school shall provide a report to  
16 the department annually before October 15 of each year, stating  
17 the number of students with diabetes in attendance and providing  
18 documentation regarding the school's compliance with this  
19 subpart. The department shall determine the format of the  
20 report and the criteria for documentation, and publish each  
21 report on its web site by November 15 of each year.



**§302A-M Private cause of action authorized.** (a) A parent

or guardian of a student with diabetes may bring an administrative complaint with the department, or a lawsuit for declaratory, injunctive, or monetary relief against any school that fails to meet its obligations to train school personnel to provide diabetes care as provided in section 302A-C, to provide the diabetes care described in section 302A-G, or to permit self-management of diabetes as outlined in section 302A-J.

(b) A student or parent or guardian who is a prevailing party in a lawsuit or administrative action brought under this section shall be entitled to reasonable attorneys' fees and costs.

(c) The right of action pursuant to this section shall not alter or limit the remedies available under any other state or federal law, including Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Individuals with Disabilities Education Act."

SECTION 3. Within one hundred eighty days of the effective date of this Act, the department of education shall implement diabetes guidelines as required by section 302A-B in section 2 of this Act.



1       SECTION 4. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$                   or so  
3 much thereof as may be necessary for fiscal year 2013-2014 and  
4 the same sum or so much thereof as may be necessary for fiscal  
5 year 2014-2015 for the establishment and operation of a program  
6 to provide care to students with diabetes in schools.

7       The sums appropriated shall be expended by the department  
8 of education for the purposes of this Act.

9       SECTION 5. In codifying the new sections added by section  
10 2 of this Act, the revisor of statutes shall substitute  
11 appropriate section numbers for the letters used in designating  
12 the new sections in this Act.

13       SECTION 6. This Act shall take effect on July 1, 2013.

14  
INTRODUCED BY:

*Amie Mercedes King*

**By Request**



# S.B. NO. 1378

**Report Title:**

Department of Education; Diabetes; Students; Appropriation

**Description:**

Requires the DOE to implement diabetes training for schools with students with diabetes. Appropriates funds.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

