

CONSIDERATION OF AN ORDER OF RULEMAKING TO ADOPT 5 CSR 20-200.300, TRAINING OF SCHOOL EMPLOYEES IN THE CARE NEEDED FOR STUDENTS WITH DIABETES

STATUTORY AUTHORITY:

Section 167.800 to 167.824, RSMo Supp. 2013

Consent Item Action Item Report Item

DEPARTMENT GOAL NO. 1:

All Missouri students will graduate college and career ready.

SUMMARY:

On September 17, 2013, the State Board of Education approved a notice of proposed rulemaking to adopt 5 CSR 20-200.300, relating to the training of school employees in the care needed for students with diabetes. This notice of proposed rulemaking was published in the *Missouri Register* on November 1, 2013 (38 MoReg 1762-1764). The State Board of Education received forty (40) comments from five (5) entities on the proposed rule.

The order of rulemaking is attached which includes a summary of comments and responses.

PRESENTER(S):

Sharon Helwig, Assistant Commissioner, Office of College and Career Readiness, will participate in the presentation and discussion of this item.

RECOMMENDATION:

The Department recommends that the State Board of Education authorize publication in the *Missouri Register* of an order of rulemaking to adopt Rule 5 CSR 20-200.300, relating to the Training of School Employees in the Care Needed for Students with Diabetes, with changes as noted in attached responses; and that the State Board finds this adoption necessary to carry out the purpose of Section 167.800 to 167.824, RSMo Supp. 2013

Title 5--DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 200 – Office of College and Career Readiness

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under sections 167.800 to 167.824, RSMo Supp. 2013, the board adopts a rule as follows:

5 CSR 20-200.300 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 1, 2013 (38 MoReg 1762-1764). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The State Board of Education (board) received forty (40) comments from five (5) entities on the proposed rule.

COMMENT #1: Denny Ward, School Nurse, expressed concern about the cost of implementing section 167.809.2 of the rule.

RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #2: Veronica DeLaGarza, Advocacy Director, American Diabetes Association; Harold Siebert, Business Manager, Missouri School for the Deaf; and Linda Evans, President, Missouri Association of School Nurses all suggested adding wording in the Purpose statement to ensure students with diabetes have a medically safe environment.

RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #3: Veronica DeLaGarza, Advocacy Director, American Diabetes Association suggested changes to wording in the rule's Purpose statement to replace the term "these materials" with "this rule."

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and determined to change the wording in the purpose statement as suggested as the rule does not include materials.

COMMENT #4: Veronica DeLaGarza, Advocacy Director, American Diabetes Association suggested wording in the Purpose statement include "students have access to appropriate care, supplies, medication and food at all times."

RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #5: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf both suggested wording in the Purpose statement that would add the School Nurse to the list of individuals who develop a student's comprehensive health plan.

RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #6: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf both suggested changes to wording in the Purpose statement to include that a student's Diabetes Medical Management Plan (DMMP) be completed by the student's physician.

RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #7: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf both suggested changes to the definition of DMMP.
RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #8: The Missouri Council of Administrators of Special Education; Missouri School Boards' Association; Missouri State High School Activities Association; Missouri Association of Secondary School Principals; Missouri Association of School Business Officials; and Missouri Unified School Insurance Council all suggested additional language to the definition of a DMMP that offers districts and schools the option of incorporating the DMMP, or referencing the DMMP, in a student's 504 Plan under Section 504 of the Rehabilitation Act or Individual Education Plan under the Individuals with Disabilities Education Act (IDEA) to assure coordination of services.
RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and accepted the recommended changes to subsection (1)(B) to assure coordination of services.

COMMENT #9: The Missouri Council of Administrators of Special Education; Missouri School Boards' Association; Missouri State High School Activities Association; Missouri Association of Secondary School Principals; Missouri Association of School Business Officials; and Missouri Unified School Insurance Council; Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf suggested adding a definition for the Personal Health Care Team and renumbering the remaining definitions.
RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and accepted the recommendation to add a definition of a Personal Health Care Team in subsection (1)(D) and to renumber the remaining definitions.

COMMENT #10: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf both suggested a new definition for diabetes.
RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #11: Veronica DeLaGarza, Advocacy Director, American Diabetes Association; Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf suggested the definition for school in subsection (1)(D) be revised to include charter schools to be consistent with the statute.
RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #12: The Missouri Council of Administrators of Special Education; Missouri School Boards' Association; Missouri State High School Activities Association; Missouri Association of Secondary School Principals; Missouri Association of School Business Officials; and Missouri Unified School Insurance Council; Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf suggested adding language to clarify that districts are not obligated to provide any or all diabetes care specified in a DMMP.
RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and determined to accept the suggestion to insert language directly from section 167.809, RSMo as section (2) and resequence section (2) of the rule into subsequent subsections (2)(A), (2)(B), and (2)(C).

COMMENT #13: The Missouri Council of Administrators of Special Education; Missouri School Boards' Association; Missouri State High School Activities Association; Missouri Association of Secondary School Principals; Missouri Association of School Business Officials; Missouri Unified

School Insurance Council; Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf all suggested deleting repetitive language.
RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #14: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf both suggested deleting repetitive definition of DMMP and include a description of activities requiring management for a student with diabetes throughout the school day.
RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #15: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf both suggested changing wording in section (2) so that students must submit instead of should submit, to the school an up-to-date DMMP which, upon receipt shall be reviewed by the school nurse.
RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #16: The Missouri Council of Administrators of Special Education, Missouri School Boards' Association, Missouri State High School Activities Association, Missouri Association of Secondary School Principals, Missouri Association of School Business Officials, and Missouri Unified School Insurance Council all suggested schools should receive rather than obtain written permission from the student's parent/guardian.
RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and determined that the burden of providing the school with a signature required to do an invasive procedure should rest with the parent/guardian. Subsection (2)(A) was revised and resequenced as subsection (2)(C).

COMMENT #17: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf both suggested changing the wording in subsection (2)(A) from allow monitoring to requesting management of the student's blood glucose and administration of insulin by injection or the delivery system used by the student.
RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #18: The Missouri Council of Administrators of Special Education; Missouri School Boards' Association; Missouri State High School Activities Association; Missouri Association of Secondary School Principals; Missouri Association of School Business Officials; Missouri Unified School Insurance Council; Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf suggested clarification of the school choice described in section (3) is for adopting or not adopting the training guidelines of section (3).
RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and changed section (3) to indicate schools have a choice to adopt these training guidelines.

COMMENT #19: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf added a definition for other health care professional and suggested that follow-up training and supervision be provided as required instead of as necessary.
RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #20: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf added suggested language to subsection (3)(B) to more accurately reflect the professional expectations related to management of diabetes.
RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #21: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf request deletion of subsection (3)(E) which recommends that all trained diabetes personnel and other school personnel be familiar with recommended resources available on the department's website. They also suggest a uniform competency evaluation tool be developed to facilitate training consistency.

RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #22: The Missouri Council of Administrators of Special Education; Missouri School Boards' Association; Missouri State High School Activities Association; Missouri Association of Secondary School Principals; Missouri Association of School Business Officials; Missouri Unified School Insurance Council has requested clarification that schools shall review and may implement the diabetes medical management plan provided rather than shall review and implement. This suggestion is intended to make it clear that the district is not required to implement the plan.

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and accepted the clarification for subsection (4) by adding the term may.

COMMENT #23: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf suggested that each school must review and implement the DMMP and specified the school nurse is the most appropriate person in the school setting to provide care management for a student with diabetes rather than stating generally the school nurse is the most appropriate person.

RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #24: Veronica DeLaGarza, Advocacy Director, American Diabetes Association suggested language stating that generally the school nurse is the most appropriate person in a school setting to care for a student with diabetes is unnecessary and should be deleted.

RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #25: The Missouri Council of Administrators of Special Education; Missouri School Boards' Association; Missouri State High School Activities Association; Missouri Association of Secondary School Principals; Missouri Association of School Business Officials; Missouri Unified School Insurance Council; Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf suggested trained diabetes personnel may, rather than shall, be on site at each school is consistent with the language of the statute.

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and changed the term shall to may in subsection (4)(A).

COMMENT #26: Veronica DeLaGarza, Advocacy Director, American Diabetes Association suggested wording related to parents of students with diabetes attending field trips is unnecessary and should be deleted.

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and agreed the additional statement related to field trips was unnecessary as field trips are already referenced in subsection (4)(A).

COMMENT #27: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf suggested adding language specifying each LEA that adopts these guidelines must provide training to all school personnel who have primary responsibility

for supervising a child with diabetes during some portion of the school day, including bus drivers, to assure if guidelines are adopted, training is provided.

RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #28: The Missouri Council of Administrators of Special Education; Missouri School Boards' Association; Missouri State High School Activities Association; Missouri Association of Secondary School Principals; Missouri Association of School Business Officials; Missouri Unified School Insurance Council suggested changing the term shall to may as related to performance of functions by trained diabetes personnel.

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and changed the term shall to may in subsection (4)(C).

COMMENT #29: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf suggested changing the term "shall" to "must" as related to performance of functions by trained diabetes personnel and to add that personnel would respond to symptoms as well as blood glucose levels that are outside of the student's target range.

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and determined to accept the recommendation of the Missouri Council of Administrators of Special Education; Missouri School Boards' Association; Missouri State High School Athletics Association; Missouri Association of Secondary School Principals; Missouri Association of School Business Officials; Missouri Unified School Insurance Council and change only the term shall to may in subsection (4)(C).

COMMENT #30: Veronica DeLaGarza, Advocacy Director, American Diabetes Association requested adding a statement permitting, upon request by a parent/guardian or student, a private area for performing diabetes care tasks.

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and added a statement regarding access to a private area for performing diabetes care tasks when requested to subsection (4)(D).

COMMENT #31: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf suggested a change in the wording to require, not encourage, parents to provide backup supplies for each child to the school nurse in the event the student does not have them in possession when needed.

RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #32: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf requested that sample forms of DMMP be completed by the student's physician, reviewed by the school nurse, and be made available on the department website.

RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #33: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf suggested that the DMMP be signed by the student's physician rather than by a health care professional.

RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #34: The Missouri Council of Administrators of Special Education; Missouri School Boards' Association; Missouri State High School Activities Association; Missouri Association of

Secondary School Principals; Missouri Association of School Business Officials; Missouri Unified School Insurance Council suggested changing the term “shall” to “should” in subsection (5) (B).
RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and changed the term shall to should in subsection (5)(B).

COMMENT #35: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf suggested changing the term “shall” to “must” and to require ketone “assessment” rather than ketone “monitoring”.
RESPONSE: The board reviewed the comment and determined no change is needed.

COMMENT #36: The Missouri Council of Administrators of Special Education; Missouri School Boards’ Association; Missouri State High School Activities Association; Missouri Association of Secondary School Principals; Missouri Association of School Business Officials; Missouri Unified School Insurance Council suggested the DMMP is “proposed” as it is not legally required to be implemented as submitted and may be incorporated into a Section 504 Plan or IEP, as appropriate.
RESPONSE AND EXPLANATION OF CHANGE The board reviewed the comment and added the term proposed in reference to a student’s DMMP as identified in subsection (5)(C).

COMMENT #37: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf suggested adding wording specifying an “up-to-date” DMMP “must” be completed and submitted to the school at least annually.
RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and determined to accept the changes suggested by the Missouri Council of Administrators of Special Education; Missouri School Boards’ Association; Missouri State High School Activities Association; Missouri Association of Secondary School Principals; Missouri Association of School Business Officials; Missouri Unified School Insurance Council and add the term proposed in reference to the DMMP in section (5)(C).

COMMENT #38: Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf suggested changes in medical history or information in the DMMP plan be a separate subsection to this rule and specify that the school nurse assist in the updates.
RESPONSE: The board reviewed the comment and determined to accept the changes suggested by the Missouri Council of Administrators of Special Education; Missouri School Boards’ Association; Missouri State High School Activities Association; Missouri Association of Secondary School Principals; Missouri Association of School Business Officials; Missouri Unified School Insurance Council and add the term proposed in reference to the DMMP in subsection (5)(C).

COMMENT #39: The Missouri Council of Administrators of Special Education; Missouri School Boards’ Association; Missouri State High School Activities Association; Missouri Association of Secondary School Principals; Missouri Association of School Business Officials; Missouri Unified School Insurance Council; Linda Evans, President, Missouri Association of School Nurses; and Harold Siebert, Business Manager, Missouri School for the Deaf identified a numbering error in the rule.
RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and renumbered section (7) to (6).

COMMENT #40: Veronica DeLaGarza, Advocacy Director, American Diabetes Association requested the rule address the recruitment notice requirement identified in Section 167.803.2, RSMo.

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and added subsection (3)(F) to the rule to address recruitment of staff when fewer than three (3) school employees are available to be trained in the care of students with diabetes.

5 CSR 20-200.300 Training of School Employees in the Care Needed for Students with Diabetes

PURPOSE: The purpose for this rule is to enable schools to ensure a safe learning environment for students with diabetes. This rule is based on the belief that children with diabetes can participate in all academic and non-academic school-related activities. In order for children with diabetes to be successful in school, a comprehensive health plan must be collaboratively developed by families, students, school personnel, and licensed health care providers. The individualized health plan (IHP) implements the Diabetes Medical Management Plan (DMMP) provided by the healthcare provider, physician orders and provisions appropriate to each student's needs during the school day and for other school-related activities. The IHP must be based upon and consistent with the DMMP.

(1) For purposes of this rule, the following terms shall mean:

(B) Diabetes medical management plan (DMMP)—a document developed by the student's personal health care team that sets out the health services needed by the student at school and is signed by the student's personal health care team and parent/guardian. For a student determined eligible under Section 504 of the Rehabilitation Act of the Individuals with Disabilities Education Act (IDEA), the DMMP may be incorporated or referenced, as appropriate, into the health services provisions of the student's 504 plan or individualized education program (IEP);

(D) Personal Health Care Team—a team that includes the student's health care provider, parent/guardian, and as appropriate, school nurse and/or the student. For a student determined eligible under Section 504 of the Rehabilitation Act or the Individuals with Disabilities Education Act (IDEA) the team of individuals required to develop the Section 504 Plan or the individualized education program (IEP) may constitute the personal health care team inclusive of the student's health care provider or input from that provider.

(E) School—shall include any public school located within the state of Missouri;

(F) School employee—shall include any person employed by a Local Education Agency (LEA), any person employed by a local health department who is assigned to an LEA, or any subcontractor designated for this function; and

(G) Trained diabetes personnel—a school employee who volunteers to be trained in accordance with this rule. Such employee need not be a health care professional.

(2) The school board of each school district and the governing body of each charter school may provide all students with diabetes in the school or district appropriate and needed diabetes care as specified in their diabetes medical management plan.

(A) The parent or guardian of each student with diabetes who seeks diabetes care while at school should submit to the school a Diabetes Medical Management Plan (DMMP), which upon receipt shall be reviewed by the school.

(B) The DMMP is developed by the student's personal health care team and sets out the health services needed by the student at school and is signed by the student's personal health care team and parent/guardian. The plan covers how, when, and under what circumstances the student should receive blood glucose monitoring and injections of insulin as well as steps to take in case of an emergency.

(C) Schools must receive written permission from the student's parent/guardian to allow monitoring of the student's blood glucose and to administer insulin by injection or the delivery system used by the student. This written permission should be included in the DMMP.

(3) Section 167.803, RSMo, requires schools choosing to adopt these training guidelines of this section to train at least three (3) school employees at each school attended by a student with diabetes. A school employee shall not be subject to any penalty or disciplinary action for refusing to serve as trained diabetes personnel.

(F) If at any time fewer than three (3) school employees are available to be trained at a school, the principal, or other school administrator shall distribute to all staff members a written notice seeking volunteers to serve as diabetes care personnel. The notice shall inform staff of the following:

1. The school shall provide diabetes care to one (1) or more students with diabetes and is seeking personnel willing to be trained to provide that care;
2. The tasks to be performed;
3. Participation is voluntary and the school district or school shall take no action against any staff member who does not volunteer to be designated;
4. Training shall be provided to employees who volunteer to provide care;
5. Trained personnel are protected from liability under section 167.831, RSMo; and
6. The identity and contact information of the individual who should be contacted to volunteer.

(4) Each school shall review and may implement the DMMP provided by the parent/guardian of a student with diabetes who seeks diabetes care while at school. Generally, the school nurse is the most appropriate person in the school setting to provide care management for a student with diabetes. Other trained diabetes personnel shall be available as necessary.

(A) The school nurse or at least one (1) trained diabetes personnel may be on site at each school and available during regular school hours and during all school sponsored activities, including school-sponsored before school and after school care programs, field trips, extended off-site excursions, extracurricular activities, and on buses when the bus driver has not completed the necessary training, to provide care to each student with a DMMP being implemented by the school.

(C) In accordance with the request of a parent/guardian of a student with diabetes and the

student's DMMP, the school nurse or, in the absence of the school nurse, trained diabetes personnel may 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.

(D) Upon written request of a student's parent/guardian and if authorized by the student's DMMP, 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/her diabetes in the classroom, in any area of the school or school grounds, and at any school-related activity, and he/she shall be permitted to possess on his/her person at all times all necessary supplies and equipment to perform such monitoring and treatment functions. If the parent/guardian or student so requests, the student shall have access to a private area for performing diabetes care tasks. Schools should encourage parents to provide backup supplies for each child to the school nurse in the event the student does not have them in possession when needed.

(5) Sample forms of Diabetes Medical Management Plans (DMMPs) are available on the department website.

(B) A DMMP should:

1. Outline the dosage, delivery system, and schedule for blood glucose monitoring, insulin/medication administration, glucagon administration, ketone monitoring, meals and snacks, physical activity and include the student's usual symptoms of hypoglycemia and hyperglycemia, and their recognition and treatment;
2. Include emergency contact information;
3. Address the student's level of self-care and management.

(C) A proposed DMMP should be completed and submitted to the school at least annually.

(6) No physician, nurse, school employee, charter school, or school district 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 by sections 167.800 to 167.824, RSMo, when such acts are committed as an ordinarily reasonably prudent person would have acted under the same or similar circumstances.