

Introduced by Senator Huff
(Coauthor: Assembly Member Halderman)

February 2, 2011

An act to add and repeal Section 49414.7 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 161, as introduced, Huff. Schools: emergency medical assistance: administration of epilepsy medication.

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia.

This bill would authorize a school district to provide school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with performance standards developed by specified entities. The bill would authorize the State Department of Public Health to approve the performance standards for distribution and make the standards available upon request. The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed Diastat by the pupil's health care provider to request the pupil's school to have one or more of its employees receive voluntary training, as specified, in order to administer Diastat, as defined, in the event that the pupil suffers a seizure when a nurse is not available. The bill would require a school that decides to train school employees to distribute an electronic notice, as specified, to all staff regarding the request. The

bill would make various legislative findings and declarations and state the intent of the Legislature in enacting this measure. The bill would repeal these provisions on January 1, 2017.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares that all
2 individuals with exceptional needs have a right to participate in a
3 free appropriate public education, and that special instruction and
4 services for these individuals are needed in order to ensure they
5 have the right to an appropriate educational opportunity to meet
6 their unique needs in compliance with the federal Individuals with
7 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

8 (b) The Legislature finds and declares that there are specific
9 circumstances when it is necessary for nonmedical school staff,
10 who have volunteered and been trained, to administer medication
11 to pupils. The Legislature further finds and declares that the
12 circumstances necessitating nonmedical personnel to administer
13 medication to a pupil shall meet the following criteria:

14 (1) The pupil's health care provider states that the medication
15 must be administered within a timeframe that a licensed medical
16 person or a paramedic cannot reasonably be expected to respond
17 and be available.

18 (2) Failure to administer the medication in a timely manner can
19 reasonably be expected to result in death or permanent physical
20 injury to the pupil.

21 (3) The medication and the procedure for the administration of
22 the medication has been found to be safe from harmful side effects
23 by competent personnel.

24 (c) It is the intent of the Legislature that individuals with
25 exceptional needs and children with disabilities under the federal
26 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
27 et seq.) and Section 504 of the federal Rehabilitation Act of 1973
28 (29 U.S.C. Sec. 794) shall have a right to an appropriate
29 educational opportunity to meet their unique needs, and that
30 children suffering from seizures due to epilepsy have the right to
31 appropriate programs and services that are designed to meet their
32 unique needs. In order to meet that goal, it is the intent of the

1 Legislature to authorize nurses to train and supervise employees
2 of school districts and county offices of education to administer
3 Diastat to children with epilepsy in the public schools. The
4 American Academy of Pediatrics and the Epilepsy Foundation of
5 America support training of school employees to administer Diastat
6 and believe that Diastat may be safely and effectively administered
7 by trained school employees. The Legislature further finds and
8 declares that, in the absence of a credentialed school nurse or other
9 licensed nurse onsite at the school, it is in the best interest of the
10 health and safety of children to allow trained school employees to
11 administer Diastat to pupils in public schools.

12 SEC. 2. Section 49414.7 is added to the Education Code, to
13 read:

14 49414.7. (a) It is the intent of the Legislature that, whenever
15 possible, Diastat should be administered by a school nurse who
16 has been trained in its administration.

17 (b) Notwithstanding Sections 2052 and 2732 of the Business
18 and Professions Code, in the absence of a credentialed school nurse
19 or other licensed nurse onsite at the school, a school district may
20 provide school employees with voluntary emergency medical
21 training to provide emergency medical assistance to pupils with
22 epilepsy suffering from seizures. A school employee with voluntary
23 emergency medical training shall provide this emergency medical
24 assistance in accordance with the standards established pursuant
25 to subdivision (k), and the performance instructions set forth by
26 the licensed health care provider of the pupil. A school employee
27 who does not volunteer or who has not been trained pursuant to
28 subdivision (k) shall not be required to provide emergency medical
29 assistance pursuant to this section.

30 (c) If a pupil with epilepsy has been prescribed Diastat by his
31 or her health care provider, the pupil's parent or guardian may
32 request the pupil's school to have one or more of its employees
33 receive training pursuant to this section in the administration of
34 Diastat in the event that the pupil suffers a seizure when a nurse
35 is not available.

36 (d) Pursuant to Section 504 of the federal Rehabilitation Act of
37 1973, as amended, (29 U.S.C. Sec. 794), upon receipt of the
38 parent's or guardian's request, the school shall notify the parent
39 or guardian that his or her child may qualify for services or
40 accommodations, assist the parent or guardian with the exploration

1 of that option, and encourage the parent or guardian to adopt that
2 option if it is determined that the child is eligible for a Section 504
3 plan.

4 (e) The school may ask the parent or guardian to sign a notice
5 verifying that the parent or guardian was given information about
6 Section 504 of the federal Rehabilitation Act of 1973, and that the
7 parent or guardian understands that it is his or her right to request
8 a Section 504 plan at any time.

9 (f) If the parent or guardian does not choose to have the pupil
10 assessed for a Section 504 plan, the school may create an
11 individualized health plan, seizure action plan, or other appropriate
12 health plan designed to acknowledge and prepare for the child's
13 health care needs in school. The plan may include the involvement
14 of trained volunteer school employees.

15 (g) If a school decides to train school employees pursuant to
16 this section, the school shall distribute an electronic notice to all
17 staff that states all of the following:

18 (1) The notice is a request for volunteers to administer Diastat
19 to a pupil experiencing a severe epileptic seizure, in the absence
20 of a school nurse.

21 (2) Diastat is an FDA-approved, predosed, rectally administered
22 gel that reduces the severity of epileptic seizures.

23 (3) A volunteer will receive training from a licensed health
24 professional regarding the administration of Diastat.

25 (4) Any agreement by an employee to administer Diastat is
26 voluntary, and no employee of the school or district shall directly
27 or indirectly use or attempt to use his or her authority or influence
28 for the purpose of intimidating, threatening, coercing, or attempting
29 to intimidate, threaten, or coerce, any staff member who does not
30 choose to volunteer.

31 (h) If there are no volunteers, then the school shall renotify the
32 pupil's parent or guardian of the option to be assessed for services
33 and accommodations guaranteed under Section 504 of the federal
34 Rehabilitation Act of 1973.

35 (i) A school that chooses to participate pursuant to this section
36 shall have in place a school plan that shall include, but not be
37 limited to, all of the following:

38 (1) Identification of existing licensed staff within the district or
39 region who could be trained in the administration of Diastat and
40 could be available to respond to an emergency need to administer

1 Diastat. The school shall consult with the school district or county
2 office of education to obtain this information.

3 (2) Identification of pupils who may require the administration
4 of Diastat.

5 (3) Written authorization from the parent or guardian for a
6 nonmedical school employee to administer Diastat.

7 (4) The requirement that the parent or guardian notify the school
8 if the pupil has had Diastat administered within the past four hours
9 on a schoolday.

10 (5) Notification of the parent or guardian that Diastat has been
11 administered.

12 (6) A written statement from the pupil's health care practitioner
13 that shall include, but not be limited to, all the following:

14 (A) The pupil's name.

15 (B) The name and purpose of the medication.

16 (C) The prescribed dosage.

17 (D) The length of time the seizure may continue before the
18 administration of Diastat becomes necessary.

19 (E) The method of administration.

20 (F) The frequency with which the medication may be
21 administered.

22 (G) The circumstances under which the medication may be
23 administered.

24 (H) Any potential adverse responses by the pupil and
25 recommended mitigation actions, including when to call emergency
26 services.

27 (I) A protocol for observing the pupil after a seizure, including,
28 but not limited to, whether the pupil should rest in the school office,
29 whether the pupil may return to class, and the length of time the
30 pupil should be under direct observation.

31 (j) A school that chooses to allow volunteers to administer
32 Diastat shall compensate a volunteer when the administration of
33 Diastat and subsequent monitoring of a pupil requires a volunteer
34 to work beyond his or her normally scheduled hours.

35 (k) (1) The Legislature encourages the Epilepsy Foundation of
36 America to develop performance standards for the training and
37 supervision of school employees in providing emergency medical
38 assistance to pupils with epilepsy suffering from seizures. The
39 performance standards may be developed in cooperation with the
40 State Department of Education, the California School Nurses

1 Organization, the California Medical Association, and the
2 American Academy of Pediatrics. Upon development of the
3 performance standards, the State Department of Public Health may
4 approve the performance standards for distribution and make those
5 standards available upon request.

6 (2) Training established pursuant to this subdivision shall
7 include, but not be limited to, all of the following:

8 (A) Recognition and treatment of different types of seizures.

9 (B) Administration of Diastat.

10 (C) Basic emergency followup procedures including, but not
11 limited to, calling the emergency 911 telephone number and
12 contacting the pupil's parent or guardian.

13 (D) Techniques and procedures to ensure pupil privacy.

14 (3) Training established pursuant to this subdivision shall be
15 conducted by one or more of the following:

16 (A) A physician and surgeon.

17 (B) A credentialed school nurse.

18 (C) A registered nurse.

19 (D) A certificated public health nurse.

20 (4) Training provided in accordance with the performance
21 standards established pursuant to this section shall be deemed
22 adequate training for purposes of this section.

23 (5) (A) A school employee shall notify the credentialed school
24 nurse assigned to the school district if he or she administers Diastat
25 pursuant to this section.

26 (B) If a credentialed school nurse is not assigned to the school
27 district, the school employee shall notify the superintendent of the
28 school district, or his or her designee, if he or she administers
29 Diastat pursuant to this section.

30 (C) A school shall retain all records relating to the administration
31 of Diastat while a pupil is under the supervision of school staff.

32 (6) The pupil's parent or guardian shall provide all materials
33 necessary to administer Diastat, including the information described
34 in paragraph (6) of subdivision (i). A school shall not be
35 responsible for providing any of the necessary materials.

36 (l) For purposes of this section, "Diastat" means diazepam rectal
37 gel, marketed as Diastat AcuDial, approved by the federal Food
38 and Drug Administration for patients with epilepsy for the
39 management of seizures.

1 (m) This section shall remain in effect only until January 1,
2 2017, and as of that date is repealed, unless a later enacted statute,
3 that is enacted before January 1, 2017, deletes or extends that date.

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