

AMENDED IN SENATE MAY 17, 2011
AMENDED IN SENATE APRIL 25, 2011
AMENDED IN SENATE MARCH 9, 2011

SENATE BILL

No. 161

Introduced by Senator Huff
(Coauthor: Senator Rubio)
(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 amended, 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 guidelines developed by specified entities. The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed an emergency antiseizure medication 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 the emergency antiseizure medication, as defined, in the event that the pupil suffers a seizure when a nurse is not available. The bill would require a school that elects to train school employees to distribute an electronic notice, as specified, to all staff regarding the request. The bill would authorize the State Department of Education to include, on its Internet Web site, a clearinghouse of best practices in training nonmedical personnel in administering an emergency antiseizure medication pursuant to these provisions. 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 all of the
2 following:

3 (1) All individuals with exceptional needs have a right to
4 participate in a free appropriate public education, and that special
5 instruction and services for these individuals are needed in order
6 to ensure they have the right to an appropriate educational
7 opportunity to meet their unique needs in compliance with the
8 federal Individuals with Disabilities Education Act (20 U.S.C. Sec.
9 1400 et seq.).

10 (2) The safety and welfare of a pupil with epilepsy is
11 compromised without immediate access to an emergency
12 antiseizure medication and, therefore, clarification is needed to
13 ensure that nonmedical school staff, who have volunteered and
14 have been trained in its correct administration, may administer an
15 emergency antiseizure medication.

16 (3) As used in this section, “immediate access” means the time
17 period that the pupil’s health care provider states that an antiseizure
18 medication must be administered, provided that it is within the
19 timeframe that a licensed medical person or paramedic can
20 reasonably be expected to respond and be available.

21 (b) It is the intent of the Legislature that individuals with
22 exceptional needs and children with disabilities under the federal
23 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
24 et seq.) and Section 504 of the federal Rehabilitation Act of 1973

1 (29 U.S.C. Sec. 794) shall have a right to an appropriate
2 educational opportunity to meet their unique needs, and that
3 children suffering from seizures due to epilepsy have the right to
4 appropriate programs and services that are designed to meet their
5 unique needs. In order to meet that goal, it is the intent of the
6 Legislature to authorize nurses to train and supervise employees
7 of school districts and county offices of education to administer
8 an emergency antiseizure medication to children with epilepsy in
9 the public schools. The American Academy of Pediatrics and the
10 Epilepsy Foundation of America support training of school
11 employees to administer an emergency antiseizure medication and
12 believe that an emergency antiseizure medication may be safely
13 and effectively administered by trained school employees. The
14 Legislature further finds and declares that, in the absence of a
15 credentialed school nurse or other licensed nurse onsite at the
16 school, it is in the best interest of the health and safety of children
17 to allow trained school employees to administer an emergency
18 antiseizure medication to pupils in public schools.

19 SEC. 2. Section 49414.7 is added to the Education Code, to
20 read:

21 49414.7. (a) It is the intent of the Legislature that, whenever
22 possible, an emergency antiseizure medication should be
23 administered by a school nurse or licensed vocational nurse who
24 has been trained in its administration.

25 (b) Notwithstanding Sections 2052 and 2732 of the Business
26 and Professions Code, in the absence of a credentialed school nurse
27 or other licensed nurse onsite at the school, a school district may
28 provide school employees with voluntary emergency medical
29 training to provide emergency medical assistance to pupils with
30 epilepsy suffering from seizures. A school employee with voluntary
31 emergency medical training shall provide this emergency medical
32 assistance using a training plan approved on the department's
33 Internet Web site pursuant to subdivision (m), and the performance
34 instructions set forth by the licensed health care provider of the
35 pupil. A school employee who does not volunteer or who has not
36 been trained pursuant to subdivision (m) shall not be required to
37 provide emergency medical assistance pursuant to this section.

38 (c) If a pupil with epilepsy has been prescribed an emergency
39 antiseizure medication by his or her health care provider, the
40 pupil's parent or guardian may request the pupil's school to have

1 one or more of its employees receive training pursuant to this
2 section in the administration of an emergency antiseizure
3 medication in the event that the pupil suffers a seizure when a
4 nurse is not available.

5 (d) Pursuant to Section 504 of the federal Rehabilitation Act of
6 1973, as amended, (29 U.S.C. Sec. 794), upon receipt of the
7 parent's or guardian's request pursuant to subdivision (c), the
8 school shall notify the parent or guardian that his or her child may
9 qualify for services or accommodations under the Section 504
10 plan, assist the parent or guardian with the exploration of that
11 option, and encourage the parent or guardian to adopt that option
12 if it is determined that the child is eligible for a Section 504 plan.

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

18 (f) If the parent or guardian does not choose to have the pupil
19 assessed for a Section 504 plan, the school may create an
20 individualized health plan, seizure action plan, or other appropriate
21 health plan designed to acknowledge and prepare for the child's
22 health care needs in school. The plan may include the involvement
23 of trained volunteer school employees or a licensed vocational
24 nurse.

25 (g) If a school elects to train employees pursuant to this section,
26 the school shall ensure the following:

27 (1) A volunteer receives training from a licensed health care
28 professional regarding the administration of an emergency
29 antiseizure medication. A staff member who has completed training
30 shall, if he or she has not administered an emergency antiseizure
31 medication within the prior two years and there is a pupil enrolled
32 in the school who may need the administration of an antiseizure
33 medication, attend a new training program to retain the ability to
34 administer an emergency antiseizure medication.

35 (2) Any agreement by an employee to administer an emergency
36 antiseizure medication is voluntary, and ~~no~~ *an* employee of the
37 school or school district shall *not* directly or indirectly use or
38 attempt to use his or her authority or influence for the purpose of
39 intimidating, threatening, coercing, or attempting to intimidate,
40 threaten, or coerce any staff member who does not choose to

1 volunteer, including, but not limited to, direct contact with the
2 employee.

3 (3) Any employee who volunteers pursuant to this section may
4 rescind his or her offer to administer an emergency antiseizure
5 medication up to three days after the completion of the training.
6 After that time, a volunteer may rescind his or her offer to
7 administer an emergency antiseizure medication with a two-week
8 notice, or until a new individual health plan or Section 504 plan
9 has been developed for an affected pupil, whichever is less.

10 (4) The school shall distribute an electronic notice to all staff
11 that states the following information in bold print:

12 (A) A description of the volunteer request, stating that the
13 request is for volunteers to administer an emergency antiseizure
14 medication to a pupil experiencing a severe epileptic seizure, in
15 the absence of a school nurse, and that this emergency antiseizure
16 medication is an FDA-approved, predosed, rectally administered
17 gel that reduces the severity of epileptic seizures.

18 (B) A description of the training that the volunteer will receive
19 pursuant to paragraph (1).

20 (C) A description of the voluntary nature of the volunteer
21 program, which includes the information described in paragraph
22 (2).

23 (D) The volunteer ~~recission~~ *recission* timelines described in
24 paragraph (3).

25 (h) An employee who volunteers pursuant to this section shall
26 not be required to administer an emergency antiseizure medication
27 until completion of the training program adopted by the school
28 and documentation of completion is recorded in his or her
29 personnel file.

30 (i) If a school elects to participate pursuant to this section, the
31 school shall ensure that each volunteer will be provided defense
32 and indemnification by the school, in accordance with Division
33 3.6 (commencing with Section 810) of Title 1 of the Government
34 Code. This information shall be reduced to writing, provided to
35 the volunteer, and retained in the volunteer's personnel file.

36 (j) If there are no volunteers, then the school shall renotify the
37 pupil's parent or guardian of the option to be assessed for services
38 and accommodations guaranteed under Section 504 of the federal
39 Rehabilitation Act of 1973.

- 1 (k) A school that elects to participate pursuant to this section
2 shall have in place a school plan that shall include, but not be
3 limited to, all of the following:
- 4 (1) Identification of existing licensed staff within the district or
5 region who could be trained in the administration of an emergency
6 antiseizure medication and could be available to respond to an
7 emergency need to administer an emergency antiseizure
8 medication. The school shall consult with the school district or
9 county office of education to obtain this information.
- 10 (2) Identification of pupils who may require the administration
11 of an emergency antiseizure medication.
- 12 (3) Written authorization from the parent or guardian for a
13 nonmedical school employee to administer an emergency
14 antiseizure medication.
- 15 (4) The requirement that the parent or guardian notify the school
16 if the pupil has had an emergency antiseizure medication
17 administered within the past four hours on a schoolday.
- 18 (5) Notification of the parent or guardian that an emergency
19 antiseizure medication has been administered.
- 20 (6) A written statement from the pupil's health care practitioner
21 that shall include, but not be limited to, all of the following:
- 22 (A) The pupil's name.
- 23 (B) The name and purpose of the medication.
- 24 (C) The prescribed dosage.
- 25 (D) Detailed seizure symptoms, including frequency, type, or
26 length of seizures that identify when the administration of an
27 emergency antiseizure medication becomes necessary.
- 28 (E) The method of administration.
- 29 (F) The frequency with which the medication may be
30 administered.
- 31 (G) The circumstances under which the medication may be
32 administered.
- 33 (H) Any potential adverse responses by the pupil and
34 recommended mitigation actions, including when to call emergency
35 services.
- 36 (I) A protocol for observing the pupil after a seizure, including,
37 but not limited to, whether the pupil should rest in the school office,
38 whether the pupil may return to class, and the length of time the
39 pupil should be under direct observation.

1 (J) Following a seizure, the pupil's parent and guardian and the
2 school nurse shall be contacted to continue the observation plan
3 as established in subparagraph (I).

4 (I) A school that elects to allow volunteers to administer an
5 emergency antiseizure medication shall compensate a volunteer
6 when the administration of an emergency antiseizure medication
7 and subsequent monitoring of a pupil requires a volunteer to work
8 beyond his or her normally scheduled hours.

9 (m) (1) The Legislature encourages the Epilepsy Foundation
10 of America to develop guidelines for the training and supervision
11 of school employees in providing emergency medical assistance
12 to pupils with epilepsy suffering from seizures. The guidelines
13 may be developed in cooperation with the State Department of
14 Education, the California School Nurses Organization, the
15 California Medical Association, and the American Academy of
16 Pediatrics. Upon development of the guidelines, the department
17 may approve the guidelines for distribution and make those
18 guidelines available upon request.

19 (2) The department may include, on its Internet Web site, a
20 clearinghouse for best practices in training nonmedical personnel
21 to administer an emergency antiseizure medication to pupils.
22 Before a training program is placed on the best practices
23 clearinghouse, it shall be approved by the Professional Advisory
24 Board of the Epilepsy Foundations of Greater Los Angeles, San
25 Diego County, and Northern California, in consultation with the
26 department.

27 (3) Training established pursuant to this subdivision shall
28 include, but not be limited to, all of the following:

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

30 (B) Administration of an emergency antiseizure medication.

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

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

35 (4) Any written materials used in the training shall be retained
36 by the school.

37 (5) Training established pursuant to this subdivision shall be
38 conducted by one or more of the following:

39 (A) A physician and surgeon.

40 (B) A ~~physician's~~ *physician* assistant.

1 (C) A credentialed school nurse.

2 (D) A registered nurse.

3 (E) A certificated public health nurse.

4 (6) Training provided in accordance with the manufacturer’s
5 instructions, the pupil’s health care provider’s instructions, and
6 guidelines established pursuant to this section shall be deemed
7 adequate training for purposes of this section.

8 (n) (1) A school employee shall notify the credentialed school
9 nurse assigned to the school district if he or she administers an
10 emergency antiseizure medication pursuant to this section.

11 (2) If a credentialed school nurse is not assigned to the school
12 district, the school employee shall notify the superintendent of the
13 school district, or his or her designee, if he or she administers an
14 emergency antiseizure medication pursuant to this section.

15 (3) A school shall retain all records relating to the administration
16 of an emergency antiseizure medication while a pupil is under the
17 supervision of school staff.

18 (o) The pupil’s parent or guardian shall provide all materials
19 necessary to administer an emergency antiseizure medication,
20 including the information described in paragraph (6) of subdivision
21 (k). A school shall not be responsible for providing any of the
22 necessary materials.

23 (p) For purposes of this section, the following definitions apply:

24 (1) An “emergency antiseizure medication” means diazepam
25 rectal gel and emergency medications approved by the federal
26 Food and Drug Administration for patients with epilepsy for the
27 management of seizures by persons without the medical credentials
28 listed in paragraph (5) of subdivision (m).

29 (2) “Emergency medical assistance” means the administration
30 of an emergency antiseizure medication to a pupil suffering from
31 an epileptic seizure.

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

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