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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, *county office of education, or charter school* to participate in a program to provide nonmedical 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 *or charter school*, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with guidelines developed by the State Department of Education in consultation with the State Department of Public Health. The bill would require the State Department of Education to post these guidelines on its Internet Web site by July 1, 2012. 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 district, *county office of education, or charter school* that elects to train school employees to ensure that the school *or charter school* distributes 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

1 have been trained in its correct administration, may administer an
2 emergency antiseizure medication.

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

8 (b) It is the intent of the Legislature that individuals with
9 exceptional needs and children with disabilities under the federal
10 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
11 et seq.), the federal Individuals with Disabilities Education Act
12 (20 U.S.C. Sec. 1400 et seq.), and Section 504 of the federal
13 Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) shall have a right
14 to an appropriate educational opportunity to meet their unique
15 needs, and that children suffering from seizures due to epilepsy
16 have the right to appropriate programs and services that are
17 designed to meet their unique needs. In order to meet that goal, it
18 is the intent of the Legislature that licensed health care
19 professionals train and supervise employees of school districts ~~and~~
20 ~~county offices of education~~, *county offices of education*, and
21 *charter schools* to administer an emergency antiseizure medication
22 to children with epilepsy in the public schools. The American
23 Academy of Pediatrics and the Epilepsy Foundation of America
24 support training of school employees to administer an emergency
25 antiseizure medication and believe that an emergency antiseizure
26 medication may be safely and effectively administered by trained
27 school employees. The Legislature further finds and declares that,
28 in the absence of a credentialed school nurse or other licensed
29 nurse onsite at the school, it is in the best interest of the health and
30 safety of children to allow trained school employees to administer
31 an emergency antiseizure medication to pupils in public schools.

32 SEC. 2. Section 49414.7 is added to the Education Code, to
33 read:

34 49414.7. (a) It is the intent of the Legislature that, whenever
35 possible, an emergency antiseizure medication should be
36 administered by a school nurse or licensed vocational nurse who
37 has been trained in its administration.

38 (b) Notwithstanding Sections 2052 and 2732 of the Business
39 and Professions Code, in the absence of a credentialed school nurse
40 or other licensed nurse onsite at the school, ~~a school district or~~

1 *charter school, a school district, county office of education, or*
2 *charter school* may elect to participate in a program, pursuant to
3 this section, to allow nonmedical employees to volunteer to provide
4 medical assistance to pupils with epilepsy suffering from seizures,
5 upon request by a parent or guardian pursuant to subdivision (c).
6 If the school district, *county office of education, or charter school*
7 elects to participate in a program pursuant to this section, the school
8 district, *county office of education, or charter school* shall provide
9 school employees; who volunteer pursuant to this section; with
10 voluntary emergency medical training, that is consistent with the
11 training guidelines established pursuant to subdivision (m), to
12 provide emergency medical assistance to pupils with epilepsy
13 suffering from seizures. A school employee with voluntary
14 emergency medical training shall provide this emergency medical
15 assistance using ~~a training plan~~ *guidelines* approved on the
16 department's Internet Web site pursuant to subdivision (m), and
17 the performance instructions set forth by the licensed health care
18 provider of the pupil. A school employee who does not volunteer
19 or who has not been trained pursuant to subdivision (m) shall not
20 be required to provide emergency medical assistance pursuant to
21 this section.

22 (c) If a pupil with epilepsy has been prescribed an emergency
23 antiseizure medication by his or her health care provider, the
24 pupil's parent or guardian may request the pupil's school to have
25 one or more of its employees receive training pursuant to this
26 section in the administration of an emergency antiseizure
27 medication in the event that the pupil suffers a seizure when a
28 nurse is not available.

29 (d) Pursuant to Section 504 of the federal Rehabilitation Act of
30 1973, as amended, (29 U.S.C. Sec. 794), and the federal Individuals
31 with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), upon
32 receipt of the parent's or guardian's request pursuant to subdivision
33 (c), the school *or charter school* shall notify the parent or guardian
34 that his or her child may qualify for services or accommodations
35 under the Section 504 plan or an individualized education program,
36 assist the parent or guardian with the exploration of that option,
37 and encourage the parent or guardian to adopt that option if it is
38 determined that the child is eligible for a Section 504 plan or an
39 individualized education program.

1 (e) The school *or charter school* may ask the parent or guardian
2 to sign a notice verifying that the parent or guardian was given
3 information about Section 504 of the federal Rehabilitation Act
4 of 1973 and the federal Individuals with Disabilities Education
5 Act (20 U.S.C. Sec. 1400 et seq.), and that the parent or guardian
6 understands that it is his or her right to request a Section 504 plan
7 or an individualized education program at any time.

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

15 (g) In training employees pursuant to this section, the school
16 district, *county office of education, or charter school* shall ensure
17 the following:

18 (1) A volunteer receives training from a licensed health care
19 professional regarding the administration of an emergency
20 antiseizure medication. A staff member who has completed training
21 shall, if he or she has not administered an emergency antiseizure
22 medication within the prior two years and there is a pupil enrolled
23 in the school who may need the administration of an antiseizure
24 medication, attend a new training program to retain the ability to
25 administer an emergency antiseizure medication.

26 (2) Any agreement by an employee to administer an emergency
27 antiseizure medication is voluntary, and an employee of the school
28 *or charter school* ~~or school district~~ *an employee of the school*
29 *district or county office of education, or the charter school*
30 *administrator*, shall not directly or indirectly use or attempt to use
31 his or her authority or influence for the purpose of intimidating,
32 threatening, coercing, or attempting to intimidate, threaten, or
33 coerce any staff member who does not choose to volunteer,
34 including, but not limited to, direct contact with the employee.

35 (3) Any employee who volunteers pursuant to this section may
36 rescind his or her offer to administer an emergency antiseizure
37 medication up to three days after the completion of the training.
38 After that time, a volunteer may rescind his or her offer to
39 administer an emergency antiseizure medication with a two-week

1 notice, or until a new individual health plan or Section 504 plan
2 has been developed for an affected pupil, whichever is less.

3 (4) The school *or charter school* shall distribute an electronic
4 notice no more than twice per school year per child to all staff that
5 states the following information in bold print:

6 (A) A description of the volunteer request, stating that the
7 request is for volunteers to administer an emergency antiseizure
8 medication to a pupil experiencing a severe epileptic seizure, in
9 the absence of a school nurse, and that this emergency antiseizure
10 medication is an FDA-approved, predosed, rectally administered
11 gel that reduces the severity of epileptic seizures.

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

14 (C) A description of the voluntary nature of the volunteer
15 program, which includes the information described in paragraph
16 (2).

17 (D) The volunteer rescission timelines described in paragraph
18 (3).

19 (5) The electronic notice described in paragraph (4) shall be the
20 only means by which a school *or charter school* solicits volunteers.

21 (h) An employee who volunteers pursuant to this section shall
22 not be required to administer an emergency antiseizure medication
23 until completion of the training program adopted by the school
24 district, *county office of education, or charter school* and
25 documentation of completion is recorded in his or her personnel
26 file.

27 (i) If a school district, *county office of education, or charter*
28 *school* elects to participate pursuant to this section, the school
29 district, *county office of education, or charter school* shall ensure
30 that each employee who volunteers under this section will be
31 provided defense and indemnification by the school district, *county*
32 *office of education, or charter school* for any and all civil liability,
33 in accordance with, but not limited to, that provided in Division
34 3.6 (commencing with Section 810) of Title 1 of the Government
35 Code. This information shall be reduced to writing, provided to
36 the volunteer, and retained in the volunteer's personnel file.

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

1 federal Individuals with Disabilities Education Act (20 U.S.C. Sec.
2 1400 et seq.).

3 (k) A school district, *county office of education, or charter*
4 *school* that elects to participate pursuant to this section shall have
5 in place a school district, *county office of education, or charter*
6 *school* plan that shall include, but not be limited to, all of the
7 following:

8 (1) Identification of existing licensed staff within the district or
9 region who could be trained in the administration of an emergency
10 antiseizure medication and could be available to respond to an
11 emergency need to administer an emergency antiseizure
12 medication. The school district *or charter school* shall consult with
13 the county office of education to obtain this information.

14 (2) Identification of pupils who may require the administration
15 of an emergency antiseizure medication.

16 (3) Written authorization from the parent or guardian for a
17 nonmedical school employee to administer an emergency
18 antiseizure medication.

19 (4) The requirement that the parent or guardian notify the school
20 *or charter school* if the pupil has had an emergency antiseizure
21 medication administered within the past four hours on a schoolday.

22 (5) Notification of the parent or guardian, by the school *or*
23 *charter school* administrator or, if the administrator is not available,
24 by another school staff member, that an emergency antiseizure
25 medication has been administered.

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

28 (A) The pupil's name.

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

30 (C) The prescribed dosage.

31 (D) Detailed seizure symptoms, including frequency, type, or
32 length of seizures that identify when the administration of an
33 emergency antiseizure medication becomes necessary.

34 (E) The method of administration.

35 (F) The frequency with which the medication may be
36 administered.

37 (G) The circumstances under which the medication may be
38 administered.

1 (H) Any potential adverse responses by the pupil and
2 recommended mitigation actions, including when to call emergency
3 services.

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

8 (J) Following a seizure, the pupil's parent and guardian and the
9 school nurse shall be contacted by the school *or charter school*
10 administrator or, if the administrator is not available, by another
11 school staff member to continue the observation plan as established
12 in subparagraph (I).

13 (l) A school district, *county office of education, or charter school*
14 that elects to allow volunteers to administer an emergency
15 antiseizure medication shall compensate a volunteer, in accordance
16 with that employee volunteer's pay scale pursuant to Section
17 45128, when the administration of an emergency antiseizure
18 medication and subsequent monitoring of a pupil requires a
19 volunteer to work beyond his or her normally scheduled hours.

20 (m) (1) The department, in consultation with the State
21 Department of Public Health, shall develop guidelines for the
22 training and supervision of school *and charter school* employees
23 in providing emergency medical assistance to pupils with epilepsy
24 suffering from seizures and shall post this information on the
25 department's Internet Web site by July 1, 2012. The guidelines
26 may be developed in cooperation with interested organizations.
27 Upon development of the guidelines, the department shall approve
28 the guidelines for distribution and shall make those guidelines
29 available upon request.

30 (2) The department shall include, on its Internet Web site, a
31 clearinghouse for best practices in training nonmedical personnel
32 to administer an emergency antiseizure medication to pupils.

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

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

36 (B) Administration of an emergency antiseizure medication.

37 (C) Basic emergency followup procedures, including, but not
38 limited to, a requirement for the school *or charter school*
39 administrator or, if the administrator is not available, another school
40 staff member to call the emergency 911 telephone number and to

1 contact the pupil’s parent or guardian. The requirement for the
2 school *or charter school* administrator or other school staff member
3 to call the emergency 911 telephone number shall not require a
4 pupil to be transported to an emergency room.

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

6 (4) Any written materials used in the training shall be retained
7 by the school *or charter school*.

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

10 (A) A physician and surgeon.

11 (B) A physician assistant.

12 (C) A credentialed school nurse.

13 (D) A registered nurse.

14 (E) A certificated public health nurse.

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

19 (n) (1) The school *or charter school* administrator or, if the
20 administrator is not available, another school staff member shall
21 notify the credentialed school nurse assigned to the school district,
22 *county office of education, or charter school* if an employee at the
23 schoolsite administers an emergency antiseizure medication
24 pursuant to this section.

25 (2) If a credentialed school nurse is not assigned to the school
26 district, *county office of education, or charter school*, the school
27 *or charter school* administrator or, if the administrator is not
28 available, another school staff member shall notify the
29 superintendent of the school district, or his or her designee, *the*
30 *county superintendent of schools, or his or her designee, or the*
31 *charter school administrator, or his or her designee, as*
32 *appropriate*, if an employee at the schoolsite administers an
33 emergency antiseizure medication pursuant to this section.

34 (3) A school *or charter school* shall retain all records relating
35 to the administration of an emergency antiseizure medication while
36 a pupil is under the supervision of school staff.

37 (o) The pupil’s parent or guardian shall provide all materials
38 necessary to administer an emergency antiseizure medication,
39 including the information described in paragraph (6) of subdivision

1 (k). A school *or charter school* shall not be responsible for
2 providing any of the necessary materials.

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

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

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

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